



Duplin County Ordinance Book



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AN ORDINANCE FOR REGULATION OF
MASS GATHERINGS IN DUPLIN COUNTY

Section 1. Purpose

The intent and purpose of this Ordinance is to provide for the protection of the public health, welfare, and safety of those persons in attendance at mass gatherings and of those persons who reside near or are located in proximity to the sites of mass gatherings or are directly affected thereby.

Section 2. Definitions

The following definitions shall apply in the enforcement and interpretation of this Ordinance:

- a. Mass Gatherings - means the congregation or assembly in which admission is charged in reasonable contemplation of profit of more than 500 people for a continuous period of more than six (6) hours in an open space or open air, or in a permanent buildings or structures. A mass gathering in a permanent building or structure shall include only those assemblies which by reason of their size the Duplin County Health Director determines to be likely to pose a threat to public health, safety or welfare through unsatisfactory provision of adequate public safety, fire and sanitary facilities. A mass gathering shall not include an event sponsored by a school or other agency of government or any private school when the assembly is of a size and scope such that there is a reasonably apparent capability to service the needs of that assembly without threatening the public health, welfare or safety, as determined by the County Health Director.
- b. Person - means any person, firm, corporation or legal entity.
- c. Permittee - means any person who is issued a permit under this Ordinance by the County Health Director of Duplin County.

Section 3. Permit Required, Revocation of Permit

- (a) No person shall organize, sponsor or hold any mass gatherings unless a permit has been issued to such person by the County Health Director under the provisions of this Ordinance. A permit shall be required for each mass gathering and is not transferable to other persons.
- (b) A permit may be revoked by the Duplin County Health Director at any time if he finds that the mass gathering is being or has been maintained or operated in violation of this Ordinance, or that prior to the mass gathering, the planning or preparation for the mass gathering is not in compliance with Section 7 of this Ordinance. A permit may be revoked upon request of the permittee or upon abandonment of the operation. A permit will otherwise expire upon satisfactory completion of the post-gathering cleanup following the close of the mass gathering.

Section 4. Application for Permit

- (a) Application for a permit for a mass gathering shall be made to the County Health Director of Duplin County on a form and in a manner prescribed by him, by the person who will organize, sponsor or hold the mass gathering. The application shall be filed with the County Health Director at least 30 days prior to the commencement of the mass gathering. A fee of ten dollars shall accompany the application.
- (b) The application shall contain the following information: identification of the applicant, identification of any

other person(s) responsible for organizing, sponsoring or holding the mass gathering, the location of the proposed mass gathering, the estimated maximum number of persons reasonably expected to be in attendance at any one time, the date or dates and the hours during which the mass gathering is to be conducted, and a statement as to the total time period involved.

- (c) The application shall be accompanied by an outline map of the area to be used, to approximate scale, showing the location of all proposed and existing privies or toilets; lavatory and bathing facilities; all water supply sources including lakes, ponds, streams, wells, storage tanks, etc.; all garbage and refuse storage and disposal areas; all entrances and exits to public highways; and emergency ingress and egress roads.
- (d) The application shall be accompanied by such additional plans, reports and information required by the County Health Director as he shall deem necessary to carry out the provisions of this Ordinance.

Section 5. Provisional Permit; Performance Bond; Liability Insurance

- (a) Within 10 days after the receipt of the application the County Health Director shall review the application and inspect the proposed site for the mass gathering. If it reasonably appears that the requirement of this Ordinance can be met by the applicant, a provisional permit shall be issued.
- (b) If the County Health Director shall deem it necessary to protect the health, welfare and safety of those persons in attendance at mass gatherings and of other persons who may be affected by mass gatherings and to carry out the provisions of this Ordinance, he may require the permittee within five days after issuance of the provisional permit to file with the County Health Director a performance bond or other surety to be executed to the County in the amount of five thousand dollars (\$5,000) for up to 10,000 persons and one thousand dollars (\$1,000) additional for each additional 5,000 persons or fraction thereof, reasonably estimated to attend the mass gathering. The bond, if required, shall be conditioned on full compliance with this Ordinance and shall be forfeitable upon noncompliance and a showing by the County Health Director of any injury, damage or other loss to the county or local governmental agencies caused by the noncompliance. The permittee shall in addition file satisfactory evidence of public liability and property damage insurance in an amount determined by the County Health Director to be reasonable (but not to exceed one million dollars (\$1,000,000) in amount) in relation to the risks and hazards involved in the proposed mass gathering.

Section 6. Issuance of Permit; Revocation; Forfeiture of Bond; Cancellation

- (a) If, upon inspection by the County Health Director fifteen (15) days prior to the starting date of the mass gathering, or earlier upon request of the permittee, the required facilities are found to be in place and satisfactory arrangements are found to have been made for required services, and other applicable provisions of this Ordinance are found to have been met, the County Health Director shall issue a permit for the mass gathering. If, upon such inspection, the facilities, arrangements, or other provisions are not satisfactory, the provisional permit shall be revoked and no permit issued.

- (b) Upon revocation of either the provisional permit or the permit, the permittee shall immediately announce cancellation of the mass gathering in as effective manner as is reasonable possible, including but not limited to the use of whatever methods were used for advertising or promoting the mass gathering.
- (c) If the provisional permit or the permit is revoked prior to or during the mass gathering, the County Health Director may order the permittee to install such facilities and make such arrangements as may be necessary to accommodate those persons who may nevertheless attend or be present at the mass gathering despite its cancellation and to restore the site to a safe and sanitary condition. In the event the permittee fails to comply with the order of the County Health Director, the County Health Director may immediately proceed to install such facilities and make such other arrangements and provisions for cleanup as may be minimally required in the interest of public health and safety, utilizing such county and local funds and resources as may be available to him. Prior to or within 60 days after such action, the Duplin County Health Director may apply to court or competent jurisdiction to order forfeiture of the permittee's performance bond or surety for violation of this Ordinance. The court may order that the proceeds shall be applied to the extent necessary to reimburse the County and other government agencies for expenditures made pursuant to the action taken by the County Health Director upon the permittee's failure to comply with his order. Any excess proceeds shall be returned to the insurer of the bond or to the surety after deducting court costs.

Section 7. Rules and Regulations

The rules and Regulations to protect the health, welfare, and safety of those attending mass gatherings and of other persons who may be affected by mass gatherings adopted on October 28, 1971, and promulgated by the North Carolina Division of Health Services are hereby adopted as the rules and regulations of Duplin County, except where they conflict with any of the provisions of this Ordinance. They are as follows:

Rules and Regulations:

The following standards and requirements, as authorized by G.S. 130-246, are intended to protect the health, welfare, and safety of those attending mass gatherings. In applying these standards and requirements to a particular mass gathering, the State Health Director is hereby authorized to apply more rigid or less rigid standards and requirements as called for by the specific characteristics of the gathering based upon generally recognized public health principles and practices. Any such alteration in the prescribed standards and requirements shall be in writing and shall be sent to the applicant. Necessary facilities and services shall be provided, including, but not limited to the following:

- Item 1. Activity Area. An activity area shall be provided of sufficient size to accommodate the estimated number of personal reasonably expected to be in attendance at any one time. This activity area is an addition to those areas required for parking in Item 7, for camping in Item 4, and for the command post in Item 5.
- Item 2. Distance from Dwellings. No part of the perimeter of the activity and camping areas shall be within 1500 feet of any residence unless the occupant or owner has signed a written waiver. Notarized copies of any such waivers shall accompany the application.
- Item 3. Distance from Certain Public Water Supply Sources. No part of the perimeters of the activity, including camping

areas, shall be located within one mile of a Class I or Class II reservoir, as classified by the Sanitary Engineering Division of the North Carolina Board of Health, or within three miles of protected watershed which drains into an A-1 stream, as classified by the North Carolina Board of Water and Air Resources, and which stream is used as a source of public water supply.

- Item 4. Camping Area. An area of adequate size shall be provided and designated for camping. Such area shall be in addition to the areas provided for activities in Item 1 and for parking in Item 7.
- Item 5. Command Post. An adequate command post at a conveniently accessible location approved by personnel of health, law enforcement, and other governmental agencies shall be provided for use by personnel of health, law enforcement, and other governmental agencies.
- The command post shall consist of at least one building or mobile unit equipped with an adequate number of telephones and other utilities, and an adequate number of parking spaces. The permittee shall insure access to it at all times by such governmental personnel.
- Item 6. Ingress and Egress Roads: Entrances and Exits. The permittee shall provide personnel and arrangements necessary to keep entrances and exits to public highways open to traffic at all times. He shall make arrangements with private parties and/or consult with the State Highway Commission regarding adequate ingress and egress roads.
- Item 7. Parking. Parking facilities shall be provided off public roadways sufficient to service the reasonable expected requirements at a rate of up to 100 passenger cars per acre or 30 buses per acre. One parking space for cars shall be provided for each four people to attend. Camper class vehicles shall park in the camping area provided in Item 4. Parking on shoulders of public highways shall not be permitted and temporary signs shall be erected by applicant to so indicate.
- Item 8. Plan for Limiting Attendance, Exclusion of Non-ticket Holders, Crowd Control, and Security Enforcement. The applications for permit shall be accompanied by a written plan for limiting attendance to the number stated in the application for permit, the exclusion of persons not holding tickets, and a written plan for security guards to be provided for internal and external crowd control and security enforcement. The plan shall be accompanied by a written statement by the sheriff or chief of police, whichever has jurisdiction over the area, that the plan seems adequate. The permittee shall execute the plan.
- Item 9. Dust Control. The application shall be accompanied by a written plan for dust control. The permittee shall execute the plan.
- Item 10. Fire Prevention and Control. The application shall be accompanied by a written plan for fire prevention and control.
- Item 11. Plans for Emergencies. The application shall be accompanied by written plans for dealing with emergency situations involving the occurrence of incidents requiring rapid evacuation, including arrangements for use of emergency egress roads.
- Item 12. Provisions of Adequate Medical Care. The application for permit shall be accompanied by a written plan for the provision of adequate medical care, such plan having been

approved in writing by the Local Health Director. At the time of the inspection required by G. S. 130-245, the structure and all supplies and equipment provided for in the plan shall be in place; and the agreements and statements provided for in the plan shall be determined to be valid. The plan shall include provisions for:

- (a) The name and address of a physician licensed to practice in North Carolina to be responsible for the organization and delivery of emergency medical services. A signed notarized statement by the physician accepting the responsibility shall accompany the plan. He shall determine how many licensed physicians, licensed nurses, and other medical personnel shall be on duty on the premises at any particular time;
- (b) At least one enclosed covered structure to be used as a medical treatment center. The structure or structures shall provide at least a total of 450 square feet and shall have a running water under pressure from an approved source;
- (c) A list of medical supplies and equipment sufficient to support reasonable anticipated medical care requirements;
- (d) Notification of all general public hospitals within 20 miles of the mass gathering location as to scheduled dates and anticipated attendance of the mass gathering;
- (e) The name and address of at least one licensed ambulance service agency to be responsible for providing emergency transportation. A signed notarized statement by an official of the agency accepting the responsibility shall accompany the plan.

- Item 13.
- (a) Water Supply-General. There shall be provided a water supply from an approved source. An approved emergency source shall be provided in addition where necessary. Approved facilities shall be provided for distribution and dispensing and the supply shall be adequate in quantity and quality. The sponsor shall have in his possession, at the time of the inspection as provided in G. S. 130-245, the reports of bacteriological and chemical examinations of water samples by the Laboratory Division of the State Board of Health. The water shall be chlorinated so as to provide a free chlorine residual of at least 1.0 part per million at all outlets at all times during the gathering. The water supply and the facilities for distribution and dispensing shall be provided with effective safeguards to prevent the introduction of hallucinogenic drugs or other contamination.
 - (b) Water Supply-Requirements. If water is to be provided only for drinking and washing, water shall be supplied at a rate of three gallons per person per day and a peak hour at a demand of one and one-half pints per person. If water is to be provided for drinking, washing, and bathing, water shall be supplied at a rate of 12 gallons per day per person and a peak hour demand of six pints per person.
 - (c) Water Supply-Source. Water shall be obtained from a public or community water supply approved by the Sanitary Engineering Division, North Carolina State Board of Health. If a new source of water supply is to be provided, the application shall be accompanied by the necessary plans, engineer's report,

and specifications (in triplicate) as required for review and approval by the Sanitary Engineering Division, North Carolina State Board of Health; and the application shall include plans, engineer's report, and specifications for an emergency source capable of supplying at least three gallons per day per person. If water is to be hauled from an off-site source, storage facilities shall be provided in the area sufficient in volume to supply the needs of the gathering for its duration. Before being filled with water for use during the gathering, all such storage tanks shall be cleaned thoroughly, filled with clean water containing a chlorine residual of at least 100 parts per million, and, after a contact time of at least twenty-four hours, all such tanks shall be emptied. Subsequently, and prior to the issuance of a permit, all such tanks shall be filled with water from an approved source and all inlets to such tanks shall be closed and locked so as to give positive protection against the introduction of contamination.

- (d) Water Supply-Distribution. Water outlets shall be provided at an adequate number of convenient and readily accessible locations properly distributed throughout the activity and camping areas.

- Item 14. Toilet Facilities; Sewage Disposal. Sanitary toilet facilities shall be provided at an adequate number of convenient and readily accessible locations properly distributed throughout the activity and camping areas at a rate of not more than 100 persons per toilet seat.

If chemical toilet rental service is to be employed, all toilets shall be so located as to be readily accessible by service vehicles and shall be serviced as often as necessary. Material removed from such toilets shall be disposed of in a public or community sewerage system, or in a disposal trench to be constructed in the area. Each load of material deposited in such trench shall be covered immediately with earth or lime. At the end of each 24-hour period, the material shall be covered with a layer of at least six inches of earth.

If trench latrines are to be used, all trenches shall be covered with fly-tight seat boxes with hinged lids.

If water-carried sewerage facilities are provided, the sewer system shall be connected to a public or community sewerage system having waste water treatment facilities of adequate capacity to treat the flow of waste water from the mass gathering; and the application shall be accompanied by a signed statement by the North Carolina Department of Water and Air Resources attesting to the adequacy of the treatment facilities. A similar statement shall accompany the application if material removed from chemical toilets is to be disposed of in a public or community sewerage system. No sewage shall be discharged to the surface of the ground or into any watercourse.

- Item 15. Solid Waste Collection and Disposal. Facilities shall be provided for all solid wastes to be collected and stored in lead-proof nonabsorbent containers, and all solid wastes shall be removed daily or oftener and disposed of in a community solid waste disposal facility or in a sanitary landfill to be constructed in the area. Solid wastes shall be placed in the landfill, compacted as densely as possible, and covered after each day of operation with a compacted layer of at least six inches of dirt. Approved receptacles having a maximum capacity of 32 gallons shall be provided at places conveniently located throughout the activity, camping and parking

areas, and at each food service facility for the deposition of solid wastes. If bulk solid waste storage containers are used, at least two four-cubic-yard containers shall be provided per 1,000 persons in the case of once-daily removal, and these containers shall be so located as to be accessible to solid waste service vehicles.

Item 16. Food Dispensing. Sanitary food dispensing facilities shall be provided at accessible and convenient locations, and shall be maintained in a sanitary condition. Perishable food items dispensed from such facilities shall be limited to prepackaged items, such as wrapped sandwiches, prepared in commercial establishments and under official sanitary supervision, and shall be dispensed in the unbroken packages; provided, that chicken, hamburgers, and frankfurters obtained from approved sources may be cooked and packaged at the site if all operations of preparation, cooking and packages for dispensing to individuals are done inside an approved structure or vehicle, in a sanitary manner, and otherwise in compliance with Section 9 of the "Rules and Regulations Governing the Sanitation of Restaurants and Other Foodhandling Establishments" of the North Carolina State Board of Health. Perishable foods shall be stored at or below 45 degrees F., or in the frozen state, until heated or cooked immediately before serving.

Item 17. Insect and Rodent Control. There shall be no fly or mosquito-breeding places, rodent harborages, or undrained areas on the premises. Necessary measures shall be taken to control flies, mosquitoes, rodents, or other vermin.

Item 18. Post-Gathering Clean-Up. Within one week after the end of the gathering, all sanitary landfills and any trenches or pits used for sewage compacted earth material; and the areas and immediate surrounding properties shall be cleaned of all litter and solid wastes attributable to the mass gathering. In addition, any signs, litter, and solid wastes on roads leading from the areas and within one mile of the areas and which can be attributed to the mass gathering shall be removed. All solid wastes shall be disposed of as provided in Item 14. Unless otherwise directed by the owner of the property, all temporary facilities (such as solid waste receptacles and signs) shall be removed from the areas.

Item 19. Noise Level at Perimeter. The application shall be accompanied by detailed plans for amplifying equipment, which shall be so located and operated as to limit the noise level at the perimeter of the site to no more than 70 decibels on the A scale of a sound level meter which meets the specifications of the American National Standards Institute. The applicant shall include a signed statement certifying that the noise level limit as herein specified will not be exceeded.

Item 20. Lighting. The application shall be accompanied by detailed plans for lighting designed to illuminate the site.

Item 21. Signs. Signs shall be posted throughout the area showing the locations of toilet facilities, water supply outlets, solid waste receptacles, food stands, first aid facilities, and the command post.

Section 8. Penalty.

Any person who violates any provision of this Ordinance shall be guilty of a misdemeanor and shall be punished as provided in G. S. Section 14-4. The County Health Director may through a court of competent jurisdiction enjoin violations of this Ordinance.

Section 9. Severability.

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the remaining portions thereof.

Adopted the 20th day of January, 1975, by the Board of Commissioners to become effective april 1, 1975.

Adopted the 30th day of January, 1975, by the Board of Health to become effective April 1, 1975.

Signed and approved this the 30th day of January, 1975.

/S/ J. M. Kornegay
Chairman, Board of Health

/S/ Sue Sanders
Member, Board of Health

/S/ Lloyd M. Whaley
Vice-Chairman, Board of Health

/S/ C. F. Hawes
Member, Board of Health

/S/ Harry Carlton
Member, Board of Health

/S/ Gerald H. Quinn
Member, Board of Health

/S/ Margarett Kenan
Member, Board of Health

ATTESTED: /S/ Joseph L. Costin
Secretary

PROVISIONAL PERMIT

TO: _____ Date: _____

Address: _____

Phone: _____

Performance Bond

Amount: _____

Company: _____

The Duplin County Health Department, Kenansville, North Carolina, has issued this provisional permit for a "Mass Gathering" of persons in Duplin County. This permit is issued for a period of 10 days from above date. A copy of the "Mass Gathering" Ordinance of the Duplin County Board of Health has been delivered to the above applicant.

Signed: _____

Health Administrator
Duplin County Health Department

Signed: _____

Applicant

* * * * *

MASS GATHERING PERMIT

Date: _____

Name: _____

Address: _____

Phone: _____

A permit has been issued to the above allowing a "Mass Gathering" in Duplin County.

Name of Mass Gathering: _____

Location and Site: _____

Dates and Hours: _____

Estimated maximum number of attendees: _____

Regulations to be approved:

Map and Plot Mat

Approved | Not Approved

| | | |
|---|-------|-------|
| 1. Activity Area | _____ | _____ |
| a)2. Distance from Dwellings | _____ | _____ |
| 3. Distance from Public Water Supplies | _____ | _____ |
| 4. Camping Area | _____ | _____ |
| 5. Command Post | _____ | _____ |
| 6. Entrances and Exits | _____ | _____ |
| 7. Parking | _____ | _____ |
| b)8. Limiting Attendance & Security Enforcement | _____ | _____ |
| b)9. Dust Control | _____ | _____ |
| b)10. Fire Control | _____ | _____ |
| b)11. Control of Emergencies | _____ | _____ |
| a&b) 12. Medical Care | _____ | _____ |
| a)13. Water Supply | _____ | _____ |
| a)14. Sewage Disposal | _____ | _____ |
| 15. Solid Waste Disposal | _____ | _____ |
| 16. Food Dispensing | _____ | _____ |
| 17. Insect & Rodent Control | _____ | _____ |
| 18. Post-Gathering Clean-Up | _____ | _____ |
| b)19. Noise Level at Perimeter | _____ | _____ |
| b)20. Lighting | _____ | _____ |
| 21. Signs | _____ | _____ |

- * (a) - Notarized or signed statement required
- (b) - Written plan to be presented for approval

Signed: _____
 Health Administrator
 Duplin County Health Department

* * * * *

MOBILE HOMES REGISTRATION ORDINANCE

TITLE

This ordinance shall be known and may be cited as an ordinance for the registration of mobile homes, house trailers and similar vehicular equipment designed for use for habitation or business quarters in Duplin County.

MOBILE HOME DEFINED

a. Any structure that consist of a single unit completely assembled at the factory, or two (double-wide) or three (triple-wide) principal components, totally assembled at the factory and joined together at the site; and

b. is designed so that the total structure (or in the case of double-wides or triple-wides, each component thereof) can be transported on its own chassis; and

c. is over 34 feet in length and over 8 feet in width; and

d. is designed to be used as a dwelling or place of business and may or may not provide complete, independent living facilities, including permanent provisions for living, sleeping, eating, cooking, and sanitation; and

e. is actually being used, or held ready for use as a dwelling or place of business.

AUTHORITY

Duplin County hereby exercises its authority to adopt and enforce an ordinance to require the annual registration of mobile homes, house trailers and similar vehicular equipment designed for use for habitation or business quarters in Duplin County; and to provide that a sticker obtained from the tax supervisor of Duplin County be displayed on the mobile home, house trailer or similar vehicular equipment as evidence of registration pursuant to General Statute 153A-138.

Be it, therefore, ordained by the Duplin County Board of Commissioners that, pursuant to G. S. 153A-138, after January 1, 1976 all persons, firms, corporations, associations or partnerships, owning or living in a mobile home, house trailer or similar vehicular equipment designed for use for habitation or business quarters shall list with the Duplin County Tax Supervisor or tax lister said vehicle for ad valorem taxes in the township in which the said property is located.

At the time of said registration the said registrant of the mobile home, house trailer or similar vehicular equipment designed for use for habitation or business quarters will be given an official sticker by the list-taker or tax supervisor to be affixed to said mobile home, house trailer or similar vehicular equipment, and it shall be displayed in prominent place on said vehicle. No fee will be charged for the registration sticker.

All persons owning or residing in a mobile home, house trailer or similar vehicular equipment shall annually register with the list-taker or tax supervisor of Duplin County such vehicle and shall display an official sticker provided by Duplin County in a prominent place on said mobile home, house trailer or similar vehicular equipment designed for use for habitation or business quarters.

PARTIAL INVALIDITY

If any provision or clause of this ordinance effective mobile homes, house trailers and similar vehicular equipment designed for use for habitation or business quarters in Duplin County shall be declared invalid by the courts, such declaration shall not invalidate any other provision or clause of said ordinance.

VIOLATIONS

If any person shall violate the rules and regulations of this ordinance, he or she shall be guilty of a misdemeanor and punishable by a fine not to exceed fifty dollars or imprisonment not exceeding thirty days, as provided in the General Statutes of North Carolina.

CONFLICT WITH OTHER ORDINANCE OR REGULATIONS

Where another applicable regulation, ordinance, or statute imposes more restrictive regulations than those contained in this ordinance, the more restrictive ordinance shall govern.

EFFECTIVE DATE

This ordinance was adopted by the Duplin County Board of Commissioners this 3rd day of November, 1975, and shall be in full force and effect on and after the 1st day of January, 1976.

DUPLIN COUNTY BOARD OF COMMISSIONERS

S/S Gerald Quinn, Chairman

ATTEST:

S/S Russell Tucker
Clerk to the Board

AN ORDINANCE TO ESTABLISH
A PLANNING BOARD FOR DUPLIN COUNTY

WHEREAS, the General Statutes of North Carolina, Chapter 153A, Section 320 et. seq. provides for the establishment and operation of County Planning Boards; and

WHEREAS it appears to be advantageous to the welfare of the County of Duplin that a comprehensive and continuous planning program be undertaken; and

WHEREAS the Board of County Commissioners needs the active assistance and constant cooperation of many civic-minded, far-seeing citizens in their efforts to serve the best interest of the people and to direct the county's physical growth along good civic lines; therefore,

BE IT RESOLVED, that the Board of County Commissioners hereby establish

THE DUPLIN COUNTY PLANNING BOARD

hereinafter referred to as the "Planning Board," and ordain that it be governed by the following provisions:

SECTION 1. Membership and Vacancies

The Planning Board shall consist of ten (10) members. The initial term for all members shall be for one year to expire July 1980. New appointments or reappointments shall be staggered at that time so that half of the membership is appointed to serve a one-year term and the other half is appointed to serve a two-year term. Thereafter, beginning in 1981, all members will serve two-year terms.

The Duplin County Board of Commissioners may appoint ex-officio members as they determine needed.

SECTION 2. Organization, Rules, Meetings, and Records

Within thirty days after appointment, the Planning Board shall meet and elect a chairman and create and fill such offices as it may determine. The term of the chairman and other officers shall be one year, with eligibility for reelection. The Board shall adopt rules for transaction of its business and discussions, findings, and recommendations, which record shall be a public record. The Board shall hold at least one meeting monthly, and all of its meeting shall be open to the public. There shall be a quorum of six members for the purpose of taking any official action required by this ordinance.

SECTION 3. General Powers and Duties

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

- (1) To acquire and maintain in current form such basic information and materials as are necessary to an understanding of past trends, present conditions, and forces at work to cause changes in these conditions;
- (2) To prepare and from time to time amend and revise a comprehensive and coordinated plan for the physical development of the area;
- (3) To establish principles and policies for guiding action in the development of the area;
- (4) To prepare and recommend to the Board of County Commissioners ordinances promoting orderly development along the lines indicated in the comprehensive plan;

- (5) To determine whether specific proposed developments conform to the principles and requirements of the comprehensive plan for the growth and improvement of the area;
- (6) To keep the Board of County Commissioners and the general public informed and advised as to these matters;
- (7) To perform any other duties which may lawfully be assigned to it.

SECTION 4. Basic Studies

As background for its comprehensive plan and any ordinances it may prepare, the Planning Board may gather maps and aerial photographs of man-made and natural physical features of the area, statistics on past trends and present conditions with respect to population, property values, the economic base of the area, land use, and such other information as is important or likely to be important in determining the amount, direction, and kind of development to be expected in the area and its various parts.

In addition, the Planning Board may make, cause to be made, or obtain special studies on the location, condition, and adequacy of specific facilities, which may include but are not limited to studies of housing; commercial and industrial facilities; parks, playgrounds, and recreational facilities; public and private utilities; and traffic, transportation, and parking facilities.

All county officials shall, upon request, furnish to the Planning Board such available records or information as it may require in its work. The Board or its agents may, in the performance of its official duties, enter upon lands and make examinations or surveys and maintain necessary monuments thereon.

SECTION 5. Zoning Plan

The comprehensive plan, with the accompanying maps, plats, charts, and descriptive matter, shall be and show the Planning Board's recommendations to the Board of County Commissioners for the development of said territory, including, among other things, the general location, character, and extent of streets, bridges, boulevards, parkways, playgrounds, squares, parks, aviation fields, and other public ways, grounds, and open spaces; the general location and extent of public utilities and terminals, whether publicly or privately owned or operated, for water, light, sanitation, transportation, communication, power, and other purposes; the removal, relocation, widening, narrowing, vacating, abandonment, change of use, or extension of any of the foregoing ways, buildings, grounds, open spaces, property, utilities, or terminals; the most desirable pattern of land use within the area including areas for residential uses, for farming and forestry, for manufacturing and industrial uses, for commercial uses, for recreational uses, for open spaces, and for mixed uses.

The plan and any ordinance or other measures to effectuate it shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted, and harmonious development of the county which will, in accordance with present and future needs, best promote health, safety, morals, and the general welfare, as well as efficiency and economy in the process of development; including, among other things, adequate provision for traffic, the promotion of safety from fire and other dangers, adequate provision for light and air, the promotion of the healthful and convenient distribution of population, the promotion of good civic design and arrangement, wise and efficient expenditure of public funds, and the adequate provision of public utilities, services, and other public requirements.

SECTION 6. Zoning Ordinance

The Planning Board shall prepare and submit to the Board of County Commissioners for its consideration and possible adopting a zoning ordinance for the control of the height, area, bulk, location and use of buildings and premises in the area, in accordance with the provisions of Article 19 of Chapter 160A of the General Statutes of North Carolina, as amended.

The Planning Board may initiate, from time to time, proposals for amendment of the zoning ordinance, based upon its studies and comprehensive plan. In addition, it shall review and make recommendations to the Board of County Commissioners concerning all proposed amendments to the zoning ordinance.

SECTION 7. Subdivision Regulations

The Planning Board shall review, from time to time, the need for regulations for the control of land subdivision in the area and submit to the Board of County Commissioners its recommendations, if any, for adoption or revision of said regulations.

The Planning Board shall review and make recommendations to the Board of County Commissioners concerning all proposed plats of land subdivision.

SECTION 8. Public Facilities

The Planning Board shall review with the county officials and report as recommendations to the Board of County Commissioners upon the extent, location and design of all public structures and facilities, and on the acquisition and disposal of public properties. However, in the absence of a recommendation from the Planning Board, the Board of County Commissioners may if it deems wise, after the expiration of thirty (30) days from the date on which the question has been submitted in writing to the Planning Board for review and recommendation, take final action.

SECTION 9. Miscellaneous Powers and Duties

The Planning Board may conduct such public hearings as may be required to gather information necessary for the drafting, establishment, and maintenance of the comprehensive plan. Before adopting any such plan it shall hold at least one public hearing thereon.

The Planning Board shall have power to promote public interest in and an understanding of its recommendations, and to that end it may publish and distribute copies of its recommendations and may employ such other means of publicity and education as it may determine.

Members or employees of the Planning Board, when duly authorized by the Planning Board, may attend planning conferences or meetings of planning institutes or hearings upon pending planning legislation.

SECTION 10. Annual Report of Activities and Analysis of Expenditures and Budget Request for Ensuing Fiscal Year

The Planning Board shall, in May of each year, submit in writing to the Board of County Commissioners a written report of its activities, an analysis of the expenditures to date for the current fiscal year, and, for review and approval, its requested budget of funds needed for operation during the ensuing fiscal year.

The Planning Board is authorized to receive contributions from private agencies and organizations or from individuals, in addition to any sums which may be appropriated for its use by the Board of County Commissioners. It may accept and disburse such contributions for special purposes or projects, subject to any specific conditions which it deems acceptable, whether or not such projects are included in the approved budget.

The Planning Board is authorized to appoint such committees and employees, and to authorize such expenditures, as it may see fit, subject to limitations of funds provided for the Planning Board by the Board of County Commissioners in the County's annual budget.

SECTION 11. Advisory Council and Special Committees

The Planning Board may seek the establishment of an unofficial Advisory Council and may cooperate with this Council to the end that its investigations and plans may receive fullest consideration, but the Board may not delegate to such advisory council any of its official prerogatives.

The Planning Board may set up special committees to assist it in the study of specific questions and problems.

SECTION 12. Repeal and Date of Effect

Any ordinances or parts of ordinances in conflict with this resolution and ordinance are hereby repealed, and this resolution and ordinance shall be in full force and effect as an ordinance of Duplin County from and after the date of its adoption by the Board of County Commissioners.

SECTION 13. Validity

Should any section, paragraph, sentence, clause, or phrase of this resolution and ordinance be declared unconstitutional or invalid for any reason, the remainder of the resolution and ordinance shall not be affected thereby.

Section 14. Effective Date

This ordinance shall become effective on and after October 1, 1979.

BOARD OF COMMISSIONERS

Chairman

ATTEST:

Clerk

STATE OF NORTH CAROLINA

COUNTY OF DUPLIN

AN ORDINANCE GRANTING A FRANCHISE TO ~~UNIVISION CABLE SYSTEMS OF RICHLANDS, INC.~~, NAME CHANGED TO UNIVISION ASSOCIATES I (EFFECTIVE JANUARY 14, 1986-- APPROVED BY BOARD OF COMMISSIONERS DECEMBER 16, 1985). ITS SUCCESSORS AND ASSIGNS, TO OPERATE AND MAINTAIN A CABLE TELEVISION SYSTEM IN THE COUNTY: SETTING FORTH CONDITIONS ACCOMPANYING THE GRANT AND REGULATION OF THE CABLE TELEVISION SYSTEM AND PRESCRIBING PENALTIES FOR VIOLATION OF THE FRANCHISE PROVISION

WHEREAS, the County of Duplin intends to grant in the mode prescribed by law a franchise for the right and privilege to operate and maintain a cable television system in the unincorporated areas of Duplin County as the same exist or may be hereafter extended or altered, as contained and set out in the following franchise ordinance for the term and upon and subject to the terms, provisions and limitation therein stated.

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF DUPLIN, NORTH CAROLINA:

SECTION 1: SHORT TITLE

This ordinance shall be known and may be cited as the "County of Duplin Cable Television Franchise Ordinance."

SECTION 2: DEFINITIONS

For the purpose of this ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with context, words used in the present tense include the future, words in the plural number include the singular number and include the plural number. The word "shall" is always mandatory and not merely directory.

- a. "County" is the County of Duplin.
- b. "Board" is the Board of Commissioners of Duplin County.
- c. "Person" is any person, firm, partnership, association, corporation, company or organization of any kind.
- d. "Grantee" is ~~Univision Cable Systems of Richlands, Inc.~~ Univision Associates I and its lawful successors and assigns in accordance with the provisions of this franchise .
- e. "Cable Television System" or "CATV System" or "System" shall mean any system which receives and amplifies signals broadcast by one or more television and/or radio stations and which transmits programming originated by the system itself or by another party.
- f. "Franchise" shall mean and include any authorization, right or privilege to construct, erect, operate and maintain in, upon, along, across, above, over and under the streets, alleys, lanes, public ways and public places now laid out or dedicated and all extensions thereof and additions thereto in the County, poles, wires, cables, underground conduits, manholes and other conductors and fixtures necessary to maintain and operate a CATV system in the County.
- g. "Gross Revenues" shall mean any and all compensation, in whatever form, exchange or otherwise, derived from the provision of all cable services in the unincorporated areas of the County.
- h. "Two-way Capacity" shall mean that such system shall maintain a plant having technical capacity for audio and video return communications.

SECTION 3: GRANT OF NONEXCLUSIVE AUTHORITY

a. There is hereby granted by the County to the Grantee the right and privilege to construct, erect, operate and maintain in, upon, along, across, above, over and under the streets, alleys, public ways and public places now laid out or dedicated, and all extensions thereof, and additions thereto, in the unincorporated areas of the County, wires, cables, underground conduits, manholes and other television conductors and fixtures necessary for the maintenance and operation in the unincorporated areas of the county of a CATV system for the interception, sale and distribution of this franchise.

b. The right to use and occupy said streets, alleys, public ways and places for the purposes herein set forth shall not be exclusive, and the County reserves the right to grant a similar use of said street, alleys, public ways and places, to any person at any time during the period of this franchise.

SECTION 4: COMPLIANCE WITH APPLICABLE LAWS AND ORDINANCES

The grantee shall, at all times during the life of this franchise, be subject to all lawful exercise of the police power by the County and to such reasonable regulations as the County shall hereafter provide.

SECTION 5: FRANCHISE TERRITORY

This franchise is operative within the unincorporated area of the County. Cable Service shall be made available to the entire franchise area in accordance with the construction timetable contained in Section 6 of this ordinance.

SECTION 6: SERVICE REQUIREMENTS, CONSTRUCTION TIMETABLE AND LINE EXTENSIONS

a. Within two (2) years from the date of the award of the franchise, the Grantee must make cable television service available every dwelling unit within the County.

b. Any delay beyond the terms of this timetable, unless specifically approved by the Board, will be considered a violation of this ordinance for which the provisions of either Section 36 or 37 of the ordinance shall apply, as determined by the Board.

SECTION 7: LIABILITY AND INDEMNIFICATION

a. The Grantee shall pay, and by its acceptance of this franchise, the Grantee specifically agrees that it will pay all damages and penalties which the County may legally be required to pay as a result of granting this franchise. These damages or penalties shall include, but shall not be limited to, damages arising out of copyright infringements and all other damages arising out of the installation, operation or maintenance of the CATV system authorized herein, whether or not any act or omission complained of is authorized, allowed or prohibited by this franchise.

b. The Grantee shall pay, and by its acceptance of this franchise, specifically agrees that it will pay all expenses incurred by the County in defending itself with regards to all damages and penalties mentioned in Subsection (a) above.

c. The Grantee shall maintain and, by its acceptance of this franchise, specifically agrees that it will maintain throughout the terms of this franchise liability insurance insuring the County and the Grantee with regard to all damages mentioned Subsection (a) above in the minimum amounts of:

- (1) \$500,000 for bodily injury or death resulting from any one accident;
- (2) \$500,000 for property damage resulting from any one accident; and
- (3) \$1,000,000 for all other types of liability.

d. The insurance policy obtained by the Grantee in compliance with this section must be approved by the County Attorney and such insurance policy, along with written evidence of payment of required premiums, shall be filed and maintained with the County Manager during the term of the franchise and may be changed from time to time to

reflect changing liability limits. The Grantee shall immediately advise the County Attorney of any litigation that may develop that would affect this insurance.

e. Neither the provisions of this section nor any damages recovered by the County thereunder, shall be construed to or limit the liability of the Grantee under any franchise issued hereunder or for damages.

f. All insurance policies maintained pursuant to this franchise shall contain the following endorsement:

It is hereby understood and agreed that this insurance policy may not be canceled by the surety nor the intention not to renew be stated by the surety until thirty (30) days after receipt by the County, by registered mail, of written notice of such intention to cancel or not to renew.

SECTION 8: SERVICE QUALITY REQUIREMENTS

The Grantee shall:

(1) Produce a picture -- whether in black and white or in color -- that is undistorted, free of ghost images and accompanied with proper sound on typical standard production television sets in good repair and as good as the state-of-the-art allows;

(2) Transmit signals of adequate strength to produce good pictures with good sound of all outlets without causing cross modulation in the cables or interfering with other electrical or electronic systems;

(3) Limit failures to a minimum by locating and correcting malfunctions promptly, but in no event longer than twenty-four (24) hours;

(4) Notify subscribers affected twenty-four (24) hours prior to any planned interruption of service; and

(5) Demonstrate upon request by instruments and otherwise to subscribers that a signal of adequate strength and quality is being delivered.

SECTION 9: OPERATION AND MAINTENANCE OF SYSTEM

The Grantee shall render efficient service, make repairs promptly and interrupt service only for good cause and for the shortest time possible. Such interruptions insofar as possible shall be preceded by notice and shall occur during periods of minimum use of system.

SECTION 10: SERVICE TO PUBLIC BUILDINGS

The Grantee shall provide a single connection to each public building located within two hundred and fifty (250) feet of its plant within the County upon request by the County and at no cost to it or any public agency. The Grantee may, at its election, provide similar services without cost to accredited institutions such as private schools--including parochial or other religious schools. Connections to public buildings further than two hundred fifty (250) feet from the plant of Grantee shall be provided at the direct cost, whether initial or ongoing, of grantee,

SECTION 11: EMERGENCY USE OF FACILITIES

In the case of an emergency or disaster, the Grantee shall upon request of the County make available its facilities to the County for emergency use during an emergency or disaster period. The Grantee shall be held harmless from any liability or damage occurring during the County's use of the Grantee's system as provided in this paragraph which arises as a result of the negligence of officers or agents of the County.

SECTION 12: OTHER BUSINESS ACTIVITIES

a. The Grantee shall not engage in the business of selling, repairing or installing television or radio receivers or accessories for such receivers except such equipment as necessary to provide cable television service within the unincorporated areas of the County during the term of this franchise.

b. This franchise authorizes the operation of a CATV system as provided for herein, and takes the place of any other franchise, license or permit which might be required by law of the Grantee to operate such a business within the County.

SECTION 13: SAFETY REQUIREMENTS

a. The Grantee shall at all times employ ordinary care and shall install and maintain in use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries or nuisances to the public.

b. The Grantee shall install and maintain its wires, cables, fixtures and other equipment in accordance with the requirements of:

(1) National Electrical Safety Code of the Institute of Electrical and Electronic Engineers;

(2) National Electrical code of the National Fire Protection Association;

(3) Bell System code of the National Fire Protection Association;

(4) Applicable Federal, State and local regulations.

c. All structures and all lines, equipment and connections in, over, under and upon the streets, sidewalks, alleys and public ways or places of the County, wherever situated or located, shall at all times be kept and maintained in a safe, suitable, substantial condition and in good order and repair.

d. The Grantee shall maintain a force of one or more agents or employees at all times and shall have sufficient employees at all times and shall have sufficient employees to provide safe, adequate, and prompt service for its facilities.

SECTION 14: NEW DEVELOPMENTS

It shall be the policy of the County liberally to amend this franchise, upon application of the Grantee, when necessary to enable the Grantee to take advantage of any developments in the field of transmission of television and radio signals which will afford it an opportunity more effectively, efficiently or economically to serve its customer; provided, however, that this section shall not be construed to require the County to make any amendment or to prohibit it from unilaterally changing its policy stated herein.

SECTION 15: CONDITIONS ON STREET OCCUPANCY

a. All transmissions and distribution structures, lines and equipment erected by the Grantee within the County shall be so located as to cause minimum interference with the proper use of streets, alleys and other public ways and places, and to cause minimum interference with the rights and reasonable convenience of property owners who join any of the said streets, alleys or other public ways and places as determined by the County.

b. In the event the relocation, construction, reconstruction, maintenance or repair by the County of any street, alley, lanes or other public places, or any of its sewer, gas or water mains, or electric fire, alarm, police communication, traffic control facilities or any part thereof, or in the event access to any street, alley, lane or other public place to or from any property of the County is required, and it is necessary to move, alter or relocate, either permanently or temporarily, any of the Grantee's poles, wires, electrical conductors, conduits, subways, manholes, fixtures, appliances, and appurtenances, or any part thereof, in order for the County to relocate, construct, reconstruct, maintain or repair any such street, alley or other public place or any such sewer, gas or water main, or electric, fire alarm, police communications or traffic control facility, or any part thereof, may be removed, altered or relocated by the County at the cost of the Grantee and the County shall not be liable to the Grantee for damages

resulting from such removal, alteration or relocation.

c. The Grantee shall place its cables, wires or other like facilities underground as may be required by the provisions of law of the State of North Carolina, the ordinances and resolutions of the County and as they may be amended and any pertinent subdivision restriction, as revised, during the life of the franchise. It shall be the policy of the County that the Grantee may install its plant on existing pole lines, after obtaining proper authorization from the owner thereof; and install its plant underground where all other utilities are underground.

d. Any poles or other fixture place in any public way by the grantee shall be placed in such manner as not to interfere with the usual travel on such public way or adversely effect the aesthetic quality. No poles shall be installed by Grantee without the prior approval of the County.

e. The Grantee shall, on the request of any person holding a building moving permit issued by the County, temporarily raise or lower its wires to permit the moving of buildings. The expense of such temporary removal or raising or lowering of wires shall be paid by the person requesting the same, and the Grantee shall have the authority to require such payment in advance. The Grantee shall be given not less than forty-eight (48) hours advance notice to arrange for such temporary wire changes.

SECTION 16: RIGHTS OF INDIVIDUALS

a. Grantee shall not deny service, deny access, or otherwise discriminate against subscribers channel users or general citizens on the basis of race, color, religion, national origin or sex. Grantee shall comply at all times with all other applicable Federal, State and local laws and regulations, and all executive and administrative orders relating to nondiscrimination which are hereby incorporated and made part of this ordinance by reference.

b. Grantee shall strictly adhere to the equal employment opportunity requirements of Federal, State and local regulations, and as amended from time to time.

c. No signals shall be transmitted from a subscriber terminal for purposes of monitoring individual viewing patterns or practices without the express written permission of the subscriber. The request for such permission shall be contained in a separate document with a prominent statement that the subscriber is authorizing the permission in full knowledge of its provision. The authorization shall be revokable at any time by the subscriber without penalty of any kind whatsoever. Such authorization is required for each type or classification of two-way cable communications activity planned; provided, however, that the Grantee shall be entitled to conduct system wide or individually addressed "sweeps" for the purpose of verifying system integrity, controlling return-path transmission or billing for pay services.

d. The Grantee, or any of its agents or employees, shall not, without the specific written authorization of the subscriber involved, sell or otherwise make available to any party:

(1) Lists of the names and addresses of such subscribers; or

(2) Any list which identifies the individual viewing habits of subscribers.

SECTION 17: REMOVAL OF FACILITIES ON REQUEST

Upon termination of service to any subscriber, the Grantee shall promptly remove all its facilities and equipment from the premises of such subscriber upon his request.

SECTION 18: TRANSFERS AND ASSIGNMENTS

a. This franchise shall not be assigned or transferred, either in whole or in part or leased, sublet or mortgaged in any manner, nor shall title thereto, either legal or equitable or any right, interest or property therein, pass to or vest in any person without the prior written consent of the County. The proposed assignee must show financial responsibility as determined by the County and must agree to comply with all provisions of the franchise. County shall be deemed to have consented to a proposed transfer or assignment in the event its

refusal to consent is not communicated in writing to Grantee within sixty (60) days following receipt of written notice of the proposed transfer or assignment.

b. The Grantee shall promptly notify the County of any actual or proposed change in, or transfer of, or acquisition by any other party of, control of the Grantee. The work "control" as used herein is not limited to major stockholders but includes actual working control in whatever manner exercised. Every change, transfer or acquisition of control of the Grantee shall have consented thereto, which consent will not be unreasonably withheld. For the purpose of determining whether it shall consent to such change, transfer or acquisition of control, the County may inquire into the qualifications of the prospective controlling party, and the Grantee shall assist the County in any such inquiry.

c. The consent or approval of the County Board to any transfer of the franchise shall not constitute a waiver or release of the rights of the County subordinate to the terms and conditions of this franchise.

d. In any absence of extraordinary circumstances, the County will not approve any transfer or assignment of the cable system. Any assignee to this franchise expressly agrees that any negotiated sale value which the Board (acting upon professional advice) deems unreasonable will not be considered in the rate base for any subsequent request for rate increases.

e. In no event shall a transfer of ownership or control be approved without successor in interest becoming a signatory to this franchise agreement.

SECTION 19: FILINGS AND COMMUNICATIONS WITH REGULATORY AGENCIES

Copies of all petitions, applications and communications submitted by the Grantee to the Federal Communications Commission, Securities and Exchange Commissioner or any other Federal or State regulatory commission or agency having jurisdiction in respect to this franchise shall be simultaneously submitted to the County.

SECTION 20: POWERS RETAINED BY THE COUNTY

This franchise is subject to all franchises and permits heretofore granted by the Board to use the street, alleys, lanes and public places of the County by public utility or public service corporations. It is not intended by the grant of this franchise to abridge the exercise of the police power of the County. The grant of this franchise is subject to all ordinances and resolutions of the Board of the County as the same now exist or may be hereafter amended, revised or modified.

SECTION 21: COUNTY RIGHTS ON FRANCHISE

a. The right is hereby reserved to the County or County Board to adopt in addition to the provisions contained herein and in existing applicable ordinances, such additional regulations as it shall find necessary.

b. The County shall have the right to inspect the books, records, maps, plans, income tax returns and other like materials of the Grantee upon reasonable notice and at any time during normal business hours.

c. The County shall have the right to inspect and enforce compliance of all construction or installation work performed subject to the provision of this franchise and make such inspections as it shall find necessary to insure compliance with the terms of this franchise and other pertinent provisions of the law.

d. Upon the proposed transfer of the cable television system by the Grantee to any other person, the County shall have the right of first refusal to purchase the system by paying an amount equal to any bona fide offer under consideration by the Grantee.

e. After the expiration of the term for which this franchise is granted or after its termination and cancellation, as provided for herein, the County shall have the right to determine whether the Grantee shall continue to operate and maintain the CATV system pending the decision of the County as to the future maintenance and operation of such system.

SECTION 22: RIGHTS OF THE GRANTEE

a. The Grantee shall have the right to construct, erect, operate and maintain in, on, along, across, above, over and under the streets, alley, lanes and public places of the County, poles, wires, cables, underground conduits, manholes and other conductors and fixtures necessary for the maintenance and operation in the County of a cable television system at such locations only by first obtaining approval from the County.

b. The Grantee shall have the right to maintain and operate, subject to the provisions, terms, conditions and limitations prescribed in this franchise, a cable television system as hereinbefore and hereinafter defined.

c. The Grantee shall have the right, with the prior approval of the County, to remove trim, cut and keep clear of its poles, wires or cables, the trees in and along the streets, alleys, lanes and other public places of the County, but in the exercise of such right, the Grantee shall not cut or otherwise injure said trees to any greater extent than is reasonably necessary for the continued integrity of its poles, wires or cables.

d. The Grantee, in exercise of any right granted to it by this franchise shall reconstruct, replace, restore or repair any street, alley, lane or public place, and any sewer, gas or water main, pipe, or electric, fire alarm, police communications, off or on County property or right-of-way or traffic control facility of the County which may be damaged, distributed or destroyed by the exercise of any such right, in a manner, with such materials, and to the satisfactions of the County as shall be designated by the County Board of this County. The County shall reserve the right to determine whether the Grantee has properly complied with the provisions of this paragraph and in the event it is determined that the grantee has failed to do so, the County shall have the right to carry out such provisions, and the Grantee shall reimburse the County in full for all expenses incurred by the County in carrying out all or part of such provision.

SECTION 23: MAPS, PLATS, AND REPORTS

a. The Grantee shall provide maps and plats of the system upon request.

b. The Grantee shall file annually with the County not later than sixty (60) days after the end of the Grantee's fiscal year, a copy of its report to its stockholders (if it prepares such a report), and income statement applicable to its operations during the preceding twelve (12) month's period, a balance sheet and a statement of its properties devoted to CATV operations, by categories, giving its investment in such properties on the basis of original cost, less applicable depreciation. These reports shall be prepared or approved by a Certified Public Accountant and there shall be submitted along with them such other reasonable information as the County Council shall request with respect to the Grantee's properties and expenses related to its CATV operations within the County.

c. The Grantee shall keep on file with the County Manager a current list of its shareholders and bondholders.

d. Maintain a written record listing full details of all customer complaints and resolution of said complaints, disconnections and new subscribers. Such records shall be available for inspection by the County.

SECTION 24: PAYMENTS TO THE COUNTY

The Grantee shall pay the following costs and fees to the County.

a. All costs, fees, including attorney fees and other obligations incurred by the County and which the County may legally be required to pay in preparing, advertising and awarding of the franchise. These costs, fees and other obligations shall include but shall not be limited to consulting fees, printing, advertising and all other costs as deemed appropriate by the County Board.

b. An annual fee of not less than three percent (3%) of the gross annual revenues from all sources attributable to the operations of the Grantee within the unincorporated areas of the County.

The above fee schedule shall be effective upon the award of

the franchise and shall remain in effect during the term of the franchise unless superseded by actions of Federal, State or other regulatory agencies.

c. The franchise fee and any other cost or penalties assessed shall be payable annually to the County Finance Officer. The Grantee shall file a complete and accurate verified statement of all gross revenue within the County during the period for which said payment is made, and said payment shall be made to the County not later than forty-five (45) days after the expiration of the Grantee's fiscal year.

d. The County shall have the right to inspect the Grantee's income records and the right to audit and to recompute any amounts determined to be payable under this ordinance; provided, however, that such audit shall take place within thirty-six (36) months following the close of each of the Grantee's fiscal years. Any additional amount due to the County as a result of the audit shall be paid within thirty (30) days following written notice to the Grantee by the County which notice shall include a copy of the audit report.

e. In the event that any franchise payment or recomputed amount, cost or penalty, is not made on or before the applicable dates heretofore specified, interest shall be charged daily from such date at the annual rate of twelve percent (12%).

SECTION 25: FRANCHISE TERM AND RENEWAL

a. The term of this franchise shall be for a period of fifteen (15) years from the date of this ordinance. Upon expiration, the Grantee may, at the option of the County, renew this franchise for a period not to exceed fifteen (15) years.

SECTION 26: COUNTY'S RIGHT OF INTERVENTION

The Grantee agrees not to oppose intervention by the County in any suit or proceeding to which the Grantee is a party.

SECTION 27: FURTHER AGREEMENT AND WAIVER BY GRANTEE

The Grantee agrees to abide by all provisions of this franchise and further agrees that it will not at any future time set up as against the County or the County Board the claim that the provisions of this franchise are unreasonable, arbitrary or void.

SECTION 28: ACCEPTANCE

The franchise, right and privilege is hereby granted to establish, maintain and operate in the unincorporated areas of the County, a cable television system upon the condition that within sixty (60) days after the date of the passage of this ordinance the Grantee shall file with the County Manager its by its provisions, terms and conditions. Such acceptance and promise shall be in writing duly executed and sworn to, by or on behalf of the Grantee before a notary public or other officer authorized by law to administer oaths; provided, of acceptance, the Grantee shall acquire no right, privileges or authority under this franchise whatever.

SECTION 29: GRANTEE'S APPLICATION INCORPORATED

By its acceptance of the franchise, Grantee specifically grants and agrees that its application is thereby incorporated by reference and made a part of this ordinance. In the event of a conflict between proposed services listed in said application and the provisions of this ordinance, that provision which provides the greatest benefit to the County, in the opinion of the County Board, shall prevail. Failure to provide services as promised in Grantee's application as incorporated herein shall be deemed a breach of this ordinance to which the provisions either of Sections 36 or 37 of this ordinance shall apply as determined by the Board.

SECTION 30: RATES

a. The rates and charges for cable television service distributed hereunder shall be fair, reasonable and nondiscriminatory.

b. Except as hereinafter provided, the charges for Grantee's service shall not be increased for a period of at least two (2) years from the effective date of this ordinance or until completion of initial construction and full activation of the system in accordance with Section 6, whichever is greater.

Thereafter, all requests for adjustments in existing rates or the establishment of rates for new services, shall be subject to approval or disapproval of the County Board after an appropriate public hearing is held at which all interested parties are heard.

c. Initial rates shall be as provided for in the bid proposal.

SECTION 31: SERVICE TO MULTIPLE DWELLING UNITS

The Grantee may negotiate bulk rates for multiple dwelling units, provided such installation rates do not exceed the single dwelling unit rates for each unit served.

SECTION 32: REQUIRED SERVICES AND FACILITIES

a. The cable television system shall have a minimum capacity of thirty-five (35) channels available for immediate use.

b. Such system shall maintain a plant having the technical capacity for return or two-way communications.

c. The Grantee shall maintain at least one (1) specially designated, non-commercial composite access channel and necessary broadcast equipment for use by the County, educational authorities and residents of the County at no charge which shall be available on a first-come, nondiscriminatory basis.

d. At times when there is no demand for use of the access channel, the Grantee may use the channel for its own purpose; provided, however, that access channel users will have priority in using the channel.

e. The Grantee shall incorporate into its cable television system the capacity which will permit the County, in times of emergency, to override--by remote control--the audio of all channels simultaneously. The Grantee shall designate a channel which will be used for emergency broadcasts of both audio and video. The Grantee shall cooperate with the County in the use and operation of the emergency alert override system.

f. The Grantee may be required to interconnect its system with other broadband communications facilities. Such interconnection shall be made within the time limit established by the County. The interconnection shall be made within the time limit established by the County. The interconnection shall, at the County's discretion, be accomplished according to the method and technical standards determined by the County and generally accepted in industry practices. "Broadband communications facility," as used herein, means any network of cable, optical, electrical or electronic equipment, including cable television systems, used for the purpose of transmitting telecommunications signals.

g. The Grantee shall permit the County to utilize the cable television system at rates not to exceed Grantee's actual cost to implement such services as the County finds technically and economically feasible and desirable including but not limited to data transmission, traffic monitoring, home security services, energy load management monitoring, utility meter reading and subscriber peak energy load warning systems. The Grantee shall provide all reasonable assistance to the County in the implementation, operation and maintenance of such services.

SECTION 33: LETTER OF CREDIT

a. Upon acceptance of this franchise, the Grantee shall deposit with the County a letter of credit from a financial institution in the amount of \$5,000. The form and content of such letter of credit shall be approved by the County Attorney. The letter of credit shall be used to insure the faithful performance by the Grantee of all provisions of this franchise; and compliance with all orders, permits and directions of any agency, commission, boards, department, division or office of the County having jurisdiction over its acts or defaults under this franchise, and the payment by the Grantee of any claims, liens and taxes due the County which arise by reason of the construction, operation or maintenance of the system.

b. The letter of credit shall be maintained at \$5,000 during the entire term of this franchise, even if amounts have to be withdrawn pursuant to subdivision (a) or (c) of this section.

c. If the Grantee fails to pay to the County any compensation within the time fixed herein; or fails, after ten (10) days notice to pay to the County any taxes due and unpaid; or fails to repay the County within ten (10) days any damages, costs or expenses which the County is compelled to pay by reason of any act or default of the Grantee in connection with this franchise; or fails, after three (3) days notice of such failure by the County to comply with any provision of this franchise which the County reasonably determines can be remedied by demand on the letter of credit, the County may immediately request payment of the amount thereof, with interest and any penalties, from the letter credit. Upon such request for payment, the County shall notify the Grantee of the amount and date thereof.

d. The rights reserved to the County with respect to the letter of credit are in addition to all other rights of the County, whether reserved by this franchise or authorized by law and not action, proceeding or exercise of a right with respect to such right letter of credit shall affect any other right the County may have.

e. The letter of credit shall contain the following endorsement: "It is hereby understood and agreed that this letter of credit may not be canceled by the surety nor the intention not to renew be stated by the surety until sixty (60) days after receipt by the County, by registered mail, of written notice of such intention not to renew."

SECTION 34: CONSTRUCTION BOND

a. Within thirty (30) days after the award of this franchise, the Grantee shall obtain and maintain at its costs and expense, and file with the County Manager, a corporate surety bond in a company authorized to do business in the State of North Carolina, and found acceptable by the County Attorney, in the amount of One Hundred Thousand Dollars (\$100,00) to guarantee the timely construction and full activation of the CATV System.

The Bond shall provide, but not be limited to, the following condition: There shall be recoverable by the County, jointly and severally from the principal and surety, any and all damages, loss or costs suffered by the County resulting from the failure of the Grantee to satisfactorily complete and fully activate the CATV system throughout the franchise area pursuant to the terms and conditions of this franchise.

b. Any extension to the prescribed time limit must be authorized by the Board. Such extension shall be authorized only when the Board finds that such extension is necessary and appropriate due to causes beyond the control of the Grantee.

c. The construction bond shall be terminated only after the Board finds that the Grantee has satisfactorily completed initial construction and activation of the CATV system pursuant to the terms and conditions of this franchise.

d. The rights reserved to the County with respect to the construction bond are in addition to all other rights of the County, whether reserved by this ordinance or authorized by law, and no action, proceeding or exercise of a right with respect to such construction bond shall affect any other rights the County may have.

e. The construction bond shall contain the following endorsement: "It is hereby understood and agreed that this bond may not be canceled by the surety nor the intention not to renew be stated by

the surety until sixty (60) days after receipt by the County, by registered mail, of written notice of such intent to cancel or not to renew."

SECTION 35: CONTINUITY OF SERVICE MANDATORY

a. It shall be the right of all subscribers to continue receiving service insofar as their financial and other obligations to the Grantee are honored. In the event that the Grantee elects to overbuild, rebuild, modify or sell the system, or the County gives notice of intent to terminate or fails to renew this franchise, the Grantee shall act so as to ensure that all subscribers receive continuous, uninterrupted service regardless of the circumstances.

In the event of a change of franchisee, or in the event a new operator acquires the system, the Grantee shall cooperate with the County, new franchise or operator in maintaining continuity of service to all subscribers. During such period, Grantee shall be entitled to the revenues for any period during which it operates the system and shall be entitled to reasonable costs for its services when it no longer operates the system.

b. In the event Grantee fails to operate the system for seven (7) consecutive days without prior approval of the County or without just cause, the County may, at its option operate the system or designate an operator until such time as Grantee restores service under conditions acceptable to the County or a permanent operator is selected. If the County is required to fulfill this obligation for the Grantee, the Grantee shall reimburse the County for all reasonable costs or damages in excess of revenues from the system received by the County that are the result of the Grantee's failure to perform.

Grantee shall not allow its cable or other operations to interfere with television reception of persons not served by Grantee, nor shall the system interfere with, obstruct or hinder in any manner, the operation of the various utilities serving the residents of the County.

SECTION 36: FORFEITURE AND TERMINATION

a. In addition to all other rights and power retained by the County under this franchise or otherwise, the County reserves the right to forfeit and terminate the franchise and all rights and privileges of the Grantee hereunder in the event of a substantial breach of its terms and conditions. A substantial breach by grantee shall include, but shall not be limited to the following:

(1) Violation of any material provision of the franchise or any material rule, order, regulation or determination of the County made pursuant to the franchise;

(2) Attempt to evade any material provision of the franchise or practices any fraud or deceit upon the County or its subscribers or customers;

(3) Failure to begin or complete system construction or system extension as provided under the franchise;

(4) Failure to provide the types of services promised herein;

(5) Failure to restore service after ninety-six (96) consecutive hours of interrupted service, except when approval of such interruption is obtained from the County; or

(6) Material misrepresentation of fact in the application for or negotiation of the franchise.

b. The foregoing shall not constitute a major breach if the violation occurs but it is without fault of the Grantee or occurs as a result of circumstances beyond its control. Grantee shall not be excused by mere economic hardship not by misfeasance or malfeasance of its directors, officers or employees.

c. The County may make a written demand that the Grantee comply with any such provision, rule, order, or determination under or pursuant to this franchise. If the violation by the Grantee continues for a period of thirty (30) days following such written demand without written proof that the corrective action has been taken or is being actively and expeditiously pursued, the County may place the issue of termination of the franchise before the County Board. The County shall cause to be served upon Grantee, at least twenty (20) days prior to the date of such a Board meeting, a written notice of intent to request such

termination and the time and place of the meeting. Public notice shall be given of the meeting and issue which the Board is to consider.

d. The County Board shall hear and consider the issue and shall hear any person interested therein, and shall determine in its discretion, whether or not any violation by the Grantee has occurred.

e. If the County Board shall determine the violation by the Grantee was the fault of Grantee and within its control, the Board may, by resolution, declare that the franchise of the Grantee shall be forfeited and terminated unless there is compliance within such period as the County Board may fix, such period not to be less than sixty (60) days, provided no opportunity for compliance need be granted.

f. The issue of forfeiture and termination shall automatically be placed upon the Board agenda at the expiration of the time set by it for compliance. The Board then may terminate the franchise forthwith upon finding that Grantee has failed to achieve compliance or may further extend the period, in its discretion.

SECTION 37: PENALTIES

For the violation of any of the following provisions of this franchise, penalties shall be chargeable to the letter of credit as follows:

a. For failure to complete system construction in accordance with Section 6, unless the Board specifically approves the delay by motion or resolution, due to the occurrence of conditions beyond Grantee's control, Grantee shall pay Three Hundred Dollars (\$300) per day for each day, or part thereof, the deficiency continues.

b. For failure to provide data, documents, reports, information or to cooperate with County during an application process or CATV System review, Grantee shall pay One Hundred Fifty Dollars (\$150) per day each violation occurs or continues.

c. For failure to test, analyze and report on the performance of the system following a request pursuant to this franchise, Grantee shall pay to that such noncompliance continues.

d. Forty-five (45) days following adoption of a resolution of the Board determining a failure of Grantee to comply with operation or maintenance standards, Grantee shall pay to County Five Hundred Dollars (\$500) per day for each day, or part thereof, that such noncompliance continues.

SECTION 38: COMPLAINT PROCEDURE

a. The County Manager is specified by the County as having primary responsibility for the continuing administration of the franchise and implementation of complaint procedures.

b. The Grantee shall maintain an office in the County, which shall be open during all usual business hours, and have a publicly listed telephone and be so operated that complaints or requests for repairs or adjustments may be received on a twenty-four (24) hour basis.

c. The Grantee shall maintain a repair and maintenance crew capable of responding to subscriber complaints or requests for service within forty-eight (48) hours after receipt of the complaint or request. No charge shall be made to the subscriber for this service.

d. The Grantee shall establish procedures for receiving, acting upon and resolving subscriber complaints to the satisfaction of the County Manager. The Grantee shall furnish a notice of such procedures to each subscriber at the time of initial subscription to the system.

e. In the event that a customer complaint is not resolved to the mutual satisfaction of the customer or the Grantee, either the customer or the Grantee may request that the matter be presented to the Board for a hearing and resolution.

f. When there have been similar complaints made or when there exists other evidence, which, in the judgement of the Board casts doubt on the reliability or quality of cable service, the Board shall have the right and authority to compel the Grantee to test, analyze and report on the performance of the system. Such report shall be delivered to the Board no later than fourteen (14) days after the Board formally notifies the Grantee and shall include the following information: The nature of the complaints which precipitated the special tests; what system component was tested, the equipment used and procedures employed in said testing; the results of such tests; and the method in which said

complaints were resolved.

Said tests and analysis shall be supervised by a professional engineer not on the permanent staff of the company. The aforesaid engineer shall sign all records of the special test and forward to the Board such records with a report interpreting the results of the tests and recommending actions to be taken by the County.

g. The Grantee shall maintain a written record listing full details of all details of all customer complaints and resolution of said complaints, disconnects and new subscribers. Such records shall be available for inspection by the County during normal business hours.

SECTION 39: PERFORMANCE EVALUATION SESSIONS

a. The County Board may require cable television system performance evaluation sessions within thirty (30) days of the third, sixth and tenth anniversary dates of the Company's award of the franchise. All such evaluation sessions shall be open to the public.

b. Special evaluation sessions may be held at any time during the term of the franchise at the request of the Board or the Grantee.

c. All evaluation sessions shall be open to the public and announced in a newspaper or general circulation in accordance with legal notice requirements.

d. Topics which may be discussed at any scheduled or special evaluation session may include, but not be limited to, services rate structures; franchise fee; penalties; free or discounted services; application of new technologies; system performance; services provided; programming offered; customer complaints; privacy; amendments to this ordinance; judicial and FCC rulings line extension policies; and Grantee or County rules.

e. Members of the general public may add topics by working through the County or Grantee.

f. During a review and evaluation by the County, Grantee shall fully cooperate with the County and shall provide such information and documents as the County may request to reasonably perform the review.

SECTION 40: FORECLOSURE

Upon the foreclosure or other judicial sale of all or a substantial part of the cable television system, or upon termination of any lease covering all or a substantial part of the cable television system, the Grantee shall notify the County of such fact, and such notification shall be treated as a provisions of this franchise governing the consent of the County Board to such change in control of the Grantee shall apply.

SECTION 41: RECEIVERSHIP

a. The County Board shall have the right to cancel this franchise one hundred twenty (120) days after the appointment of a receiver or trustee, to take over and conduct the business of the Grantee, whether in receivership, or trusteeship shall have been vacated prior to the expiration of said one hundred twenty (120) days, or unless:

(1) Within one hundred twenty (120) days after his election or appointment, such receiver or trustee shall have fully complied with all the provisions of this ordinance and remedied all defaults thereunder; and

(2) Such receiver or trustee, within said one hundred twenty (120) days, shall have executed an agreement, duly approved by the court having jurisdiction in the premises, whereby such receiver or trustee assumes and agrees to be bound by each and every provision of this ordinance and the franchise granted to the Grantee.

SECTION 42: ABANDONMENT OF SERVICE

Notwithstanding the provisions of this franchise, the Grantee shall not abandon any cable television service or any portion thereof without having given three (3) months prior written notice to the County. The Grantee shall not abandon any cable television service or any portions thereof without compensating the County for damages resulting to it from such abandonment.

SECTION 43: REMOVAL OF CABLE TELEVISION SYSTEM

At the expiration of the term for which this franchise is granted unless such franchise is renewed, or upon its termination as provided herein, Grantee shall forthwith, upon notice by the County, remove at its own expense all designated portions of the cable television system from all highways, streets, sidewalks, easements, dedications and public property within the County. If Grantee fails to do so, the County may perform the work at Grantee's expense.

SECTION 44: PUBLICATION COSTS

The Grantee shall assume the cost of publication of this franchise as such publication is required by law and such is payable upon the Grantee's filing of acceptance of this franchise.

SECTION 45: SEPARABILITY

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

SECTION 46: ORDINANCES REPEALED

All ordinances or parts of ordinances in conflict with provisions of this ordinance are hereby repealed.

SECTION 47: EFFECTIVE DATE

This ordinance shall take effect upon its passage and approval.

* * * * *

Adopted this 2nd day of November, 1981.

DUPLIN COUNTY BOARD OF COMMISSIONERS

Chairman

ATTEST:

Clerk

CABLE TELEVISION ORDINANCE

NORTH CAROLINA

DUPLIN COUNTY

The Commissioners, for the County of Duplin, exercising the powers granted to them under the Constitution of the State of North Carolina, do hereby prohibit the installation, maintenance, and operation of Cable Television systems within the unincorporated portions of Duplin County by any firm, person or corporation, without such firm, person or corporation having first been granted a franchise by the County of Duplin.

This the 2nd day of March, 1981.

_____ Chairman

_____ Commissioner

_____ Commissioner

_____ Commissioner

_____ Commissioner

_____ Clerk

STATE OF NORTH CAROLINA

COUNTY OF DUPLIN

AN ORDINANCE GRANTING A FRANCHISE TO UNIVISION CABLE SYSTEMS OF RICHLANDS, ITS SUCCESSORS AND ASSIGNS, TO OPERATE AND MAINTAIN A CABLE TELEVISION SYSTEM IN THE COUNTY: SETTING FORTH CONDITIONS ACCOMPANYING THE GRANT AND REGULATION OF THE CABLE TELEVISION SYSTEM AND PRESCRIBING PENALTIES FOR VIOLATION OF THE FRANCHISE PROVISION

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF DUPLIN that the above named Cablevision Ordinance for Duplin County effective the 2nd day of November 1981, be revised as follows:

SECTION 34: CONSTRUCTION BOND

a. Within thirty (30) days after the award of this franchise, the Grantee shall obtain and maintain at its costs and expense, and file with the County Manager, a corporate surety bond in a company authorized to do business in the State of North Carolina, and found acceptable by the County Attorney, in the amount of Fifty Thousand Dollars (\$50,000) to guarantee the timely construction and full activation of the CATV System.

The Bond shall provide, but not be limited to, the following condition: There shall be recoverable by the County, jointly and severally from the principal and surety, any and all damages, loss or costs suffered by the County resulting from the failure of the Grantee to satisfactorily complete and fully activate the CATV System throughout the franchise area pursuant to the terms and conditions of this franchise.

This ordinance revision shall be in full force and effect from and after the 1st day of March, 1982.

Chairman
Duplin County Board of Commissioners

ATTEST:

Clerk

STATE OF NORTH CAROLINA

COUNTY OF DUPLIN

AN ORDINANCE GRANTING A FRANCHISE TO UNIVISION CABLE SYSTEMS OF RICHLANDS, INC. ITS SUCCESSORS AND ASSIGNS, TO OPERATE AND MAINTAIN A CABLE TELEVISION SYSTEM IN THE COUNTY: SETTING FORTH CONDITIONS ACCOMPANYING THE GRANT AND REGULATION OF THE CABLE TELEVISION SYSTEM AND PRESCRIBING PENALTIES FOR VIOLATION OF THE FRANCHISE PROVISION

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF DUPLIN that the above named Cablevision Ordinance for Duplin County effective the 2nd day of November, 1981, be revised as follows:

SECTION 6: SERVICE REQUIREMENTS CONSTRUCTION TIMETABLE AND LINE EXTENSIONS

a. Grantee must provide access to cablevision to 80% of the homes in Duplin County within two years and within these two years a plan shall be formulated by the Grantee for coverage of the remaining 20% of the homes in Duplin County.

This ordinance shall be in full force and effect from and after the 17th day of May, 1982.

Chairman
Duplin County Board of Commissioners

ATTEST: _____
Clerk

STATE OF NORTH CAROLINA

DUPLIN COUNTY

AN ORDINANCE GRANTING A FRANCHISE TO UNIVISION CABLE SYSTEMS OF RICHLANDS, INC., ITS SUCCESSORS AND ASSIGNS, TO OPERATE AND MAINTAIN A CABLE TELEVISION SYSTEM IN THE COUNTY: SETTING FORTH CONDITIONS ACCOMPANYING THE GRANT AND REGULATIONS OF THE CABLE TELEVISION SYSTEM AND PRESCRIBING PENALTIES FOR VIOLATION OF THE FRANCHISE PROVISION

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF DUPLIN, that the above-named Cablevision Ordinance for Duplin County effective November, 1981 the same is hereby revised as follows:

SECTION 6: SERVICE REQUIREMENTS, CONSTRUCTION TIMETABLE AND LINE EXTENSIONS

To read as follows: Grantee shall extend cable television service where the number of potential subscribers is thirty (30) occupied dwellings or more per mile of cable. "Mile of cable" is determined by measuring the distance from nearest active cable television line to the dwelling of the person requesting the service. Distance is to be measured using existing utility right-of-ways and only occupied dwellings within two hundred and fifty feet (250) of right-of-way are to be used in house count.

In addition, Grantee shall extend cable television service to areas of less density upon the written request of any six (6) or more potential customers living within a half mile radius of each other, as follows:

1. Grantee shall determine its then current cost of constructing and extending its cable television service to such customers.
2. Grantee will pay fifty (50%) percent of total cost of construction with remaining fifty (50%) percent being paid, in advance, by customers requesting service.
3. The amount of contribution paid by customers shall be assumed and paid by customer pro-rata. For two (2) years subsequent to completion of the extension (or until thirty (30) occupied dwellings per mile of cable along such extension), said pro rata shares shall be recalculated as additional customers request service. These customers shall pay their pro rata share of the construction cost and customers already having made such payments shall receive a refund equal to the excess of their original pro rata payment over the recalculated pro rata share. At the end of said two (2) year period, all payments for construction remaining in Grantee's possession shall be credited to its capital plant account.

SECTION 34: CONSTRUCTION BOND

The \$50,000 letter of credit required under Section 34 heretofore will be utilized by Southern Cablevision to build and extend cable into areas of the county that may not otherwise be feasible to build. The franchisee will prepare a list of areas to build, a cost break down and a time table for their completion. In lieu of the construction bond required under Section 34, the letter of credit required under Section 33 of the Cablevision Ordinance shall remain at \$2,000.00 and no construction bond shall be required.

DUPLIN COUNTY INSPECTION DEPARTMENT
ADMINISTRATIVE PROCEDURES ORDINANCE

BE IT ORDAINED BY THE DUPLIN COUNTY BOARD OF COMMISSIONERS:

Article I. ADOPTION OF REGULATORY CODES BY REFERENCE
(Authority: G. S. 153A-350-375; 143-138(d), (e))

Section 1-1 SCOPE OF ORDINANCE AND CODES.

The provision of this ordinance and of the regulatory codes herein adopted shall apply to the following:

- (a) The location, design, materials, equipment, construction, reconstruction, alteration, repair, maintenance, moving, demolition, removal, use, and occupancy of every building or structure or any appurtenances connected or attached to such building or structure;
- (b) The installation, erection, alteration, repair, use and maintenance of plumbing systems consisting of house sewers, building drains, waste and vent systems, hot and cold water supply systems, and all fixtures and appurtenances thereof;
- (c) The installation, erection, alteration, repair, use and maintenance of electrical systems and appurtenances thereof;

The adoption of this ordinance and the codes herein adopted by reference shall constitute a resolution within the meaning of G. S. 143-138 making the regulatory codes herein adopted applicable to dwellings and out buildings used in connection therewith and to apartment buildings and all commercial structures wherever situated in the county.

Section 1-2 BUILDING CODE ADOPTED

The 1978 edition of the North Carolina State Building Code, Volume I, General Construction, as adopted by the North Carolina Building Code Council and as amended, is hereby adopted by reference as fully as though set forth herein as the Building Code of Duplin County to the extent such Code is applicable for safe and stable design, methods of construction, minimum standards, and use of materials in buildings or structures hereafter erected, enlarged, altered, repaired, or otherwise constructed or reconstructed.

Section 1-3 RESIDENTIAL BUILDING CODE

The 1978 edition or later edition of the North Carolina Uniform Residential Building Code, Vol. 1B, as adopted by the North Carolina Building Code Council is hereby adopted by reference as fully as though set forth herein as the Residential Building Code for one and two family residential buildings in Duplin County.

Section 1-4 PLUMBING CODE ADOPTED

The 1980 edition of the North Carolina Plumbing Code (North Carolina State Building Code, Volume II, Plumbing) as adopted and published by the North Carolina Building Code Council and as amended, is hereby adopted by reference as fully as though set forth herein as the Plumbing Code for Duplin County.

Section 1-5 HEATING CODE ADOPTED

The 1980 edition of the North Carolina Heating Code (North Carolina State Building Code, Volume III, Heating) as adopted and published by the North Carolina Building Code Council and as amended, is hereby adopted by reference as fully as though set forth herein as the Heating Code for Duplin County.

Section 1-6 ELECTRICAL CODE ADOPTED

The 1981 edition of the National Electric Code of the National Fire Protection Association, as adopted by the North Carolina Building Code Council and as amended, is hereby adopted by reference as fully as though set forth herein as the Electrical Code for Duplin County.

Section 1-7 MOBILE AND MODULAR HOME REGULATIONS ADOPTED

The 1979 edition of the North Carolina State Regulations for Mobile Homes and Modular Housing as adopted and published by the North Carolina Department of Insurance and as amended is hereby adopted by reference as fully as though set forth herein as the Mobile Home and Modular Housing Code for Duplin County.

Section 1-8 COMPLIANCE WITH CODES

- (a) All buildings or structures which are hereafter constructed, reconstructed, erected, altered, extended, enlarged, repaired, demolished, or moved shall conform to the requirements, minimum standards, and other provisions of either the North Carolina State Building Code, General Construction Volume I, or the North Carolina Uniform Residential Building Code, whichever is applicable, or of both if both are applicable.
- (b) Every building or structure intended for human habitation, occupancy, or use shall have plumbing, plumbing systems, or plumbing fixtures installed, constructed, altered, extended, repaired or reconstructed in accordance with the minimum standards, requirements, and other provisions of the North Carolina Plumbing Code (North Carolina State Building Code, Volume II, Plumbing)
- (c) All mechanical systems consisting of heating, ventilating, air conditioning, and refrigeration systems, fuel burning equipment, and appurtenances shall be installed, erected, altered, repaired, used and maintained in accordance with the minimum standards, requirements, and other provisions of the North Carolina Heating Code (North Carolina State Building Code, Volume III, Heating).
- (d) All electrical wiring, installations, and appurtenances shall be erected, altered, repaired, used and maintained in accordance with the minimum standards, requirements, and other provisions of the North Carolina Electrical Code (North Carolina State Building Code, Volume IV, Electrical).

Section 1-9 COPIES OF CODES FILED WITH THE COUNTY BUILDING INSPECTOR

An official copy of each regulatory code adopted herein, and official copies of all amendments thereto, shall be kept on file in the office of the County Building Inspector. Such copies shall be the official copies of the codes and the amendments.

Article II. INSPECTION DEPARTMENT

Section 2-1 ORGANIZATION OF DEPARTMENT

The Inspection Department shall consist of a Chief Inspector and an Assistant Inspector, and such other Inspectors or positions as may be authorized by the Governing Body. The Duplin County Board of Commissioners may designate a Director of Inspections.

Section 2-2 GENERAL DUTIES OF DEPARTMENT AND INSPECTORS

It shall be the duty of the Inspection Department to enforce all of the provisions of this ordinance and of the regulatory codes adopted herein, and to make all inspections necessary to determine whether or not the provisions of this ordinance and such codes are being met.

Section 2-3 CONFLICTS OF INTEREST

No officer or employee of the Inspection Department shall be financially interested in the furnishing of labor, material, or appliances for the construction, alteration, or maintenance of a building or any part thereof, or in the making of plans or specifications therefore, unless he is the owner of such building. No officer or employee of the Inspection Department shall engage in any work which is inconsistent with his duties or with the interests of the County.

Section 2-4 REPORTS AND RECORDS

The Inspection Department, and each Inspector, shall keep complete, permanent, and accurate records in convenient form of all applications received, permits issued, inspections, and reinspections made, and all other work and activities of the Inspection Department. Periodic reports shall be submitted to the Duplin County Board of Commissioners, and to other agencies, as required.

Section 2-5 INSPECTION PROCEDURE

- (a) Inspections. The Inspection Department shall inspect all buildings and structures and work therein for which a permit of any kind has been issued as often as necessary in order to determine whether the work complies with this ordinance and the appropriate codes.

When deemed necessary by the appropriate Inspector, materials and assemblies may be inspected at the point of manufacture or fabrication, or inspections may be made by approved and recognized inspection organizations; provided, no approval shall be based upon reports of such organizations unless the same are in writing and certified by a responsible officer of such organization.

- (1) Foundation Inspection. To be made after trenches are excavated and the necessary reinforcement and forms are in place, and before concrete is placed. Drilled footings, piles, and similar types of foundation shall be inspected as installed.
 - (2) Framing Inspection. To be made after all structural framing is in place and all roughing-in of plumbing, electrical and heating has been installed, after all fire blocking, chimneys, bracing and vents are installed, but before any of the structure is enclosed or covered. Poured in place concrete structural elements shall be inspected before each pour of any structural member.
 - (3) Insulation Inspection. To be made after all insulation which will be rendered inaccessible by wall or ceiling coverings is in place with required vapor barrier.
 - (4) Final Inspection. To be made after building or structure has all doors hung, fixtures set, and ready for occupancy, but before the building is occupied.
- (b) Calls for Inspection. Request for inspections may be made to the office of the Inspection Department. The Inspection Department shall make inspections as soon as practicable after request is made.

Reinspections may be made at the convenience of the Inspector. No work shall be inspected until it is in proper and completed condition ready for inspection. All work which has been concealed before the inspection and approval shall be uncovered at the request of the Inspector and placed in condition for proper inspection. Approval or rejection of the work shall be furnished by the appropriate Inspector in the form of a notice posted on the building or given to the permit holder

or his agent. Failure to call for inspections or proceedings without approval at each state of construction shall be deemed a violation of this ordinance.

- (c) Street or Alley Lines. Where the applicant for a permit proposes to erect any building or structure on the line of any street, alley, or other public place, he shall secure a survey of the line of such street, alley, or other public place, adjacent to the property upon which such building or structure is to be erected before proceeding with construction of such building or structure. It shall be the duty of the Building Inspector to see that the building does not encroach upon such street, alley, or other public place.
- (d) Certificate of Occupancy. No new building or part thereof shall be occupied, and no addition or enlargement of any existing building shall be occupied, and no existing building after being altered or moved shall be occupied, and no change of occupancy shall be made in any existing building or part thereof, until the Inspection Department has issued a certificate of occupancy therefore. A temporary certificate of occupancy may be issued for a portion or portions of a building which may safely be occupied prior to final completion and occupancy of the entire building. Application for a certificate of occupancy may be made by the owner or his agent after all final inspections have been made for new buildings, or, in the case of existing buildings, after supplying the information and data necessary to determine compliance with this ordinance, the appropriate regulatory codes and the zoning ordinance for the occupancy intended. The Inspection Department shall issue a certificate of occupancy when, after examination and inspection, it is found that the building in all respects conforms to the provisions of this ordinance, the regulatory codes, and the zoning ordinance for the occupancy intended.

Section 2-6 OVERSIGHT NOT TO LEGALIZE VIOLATION

No oversight or dereliction of duty on the part of any Inspector or other official or employee of the Inspection Department shall be deemed to legalize the violation of any provision of this ordinance or any provision of any regulatory code herein adopted.

Section 2-7 POWERS OF INSPECTION OFFICIALS

- (a) Authority. Inspectors are hereby authorized, empowered, and directed to enforce all the provisions of this ordinance and the regulatory codes herein adopted.
- (b) Right-of-Entry. Inspectors shall have the right-of-entry on any premises within the jurisdiction of the regulatory codes herein adopted at reasonable hours for the purpose of inspection or enforcement of the requirements of this ordinance and the regulatory codes, upon presentation of proper credentials.
- (c) Stop Orders. Whenever any building or structure or part thereof is being demolished, constructed, reconstructed, altered, or repaired in a hazardous manner, or in violation of any provision of this ordinance or any other Duplin County ordinance or in violation of any provision of any regulatory code herein adopted, or in violation of the terms of the permit or permits issued therefore, or in such manner as to endanger life or property, the appropriate Inspector may order such work to be immediately stopped. Such order shall be in writing to the owner of the property or to his agent, or to the person doing the work, and shall state the reasons therefore and the conditions under which the work may be resumed.

Article III. ENFORCEMENT**Section 3-1 REGISTRATION OF CONTRACTORS**

Every person carrying on the business of building contractor, plumbing contractor, heating-air conditioning contractor, electrical contractor, or insulation contractor within Duplin County shall register at the office of the Inspection Department, giving name and place of business.

Section 3-2 PERMITS REQUIRED

- (a) **Building Permit.** No person shall commence or proceed with the construction, reconstruction, alteration or repair of any building or other structure or any part thereof, without a written permit therefore from the Inspection Department; provided, however, that no building permit shall be required for work the total cost of which does not exceed \$2,500 and which does not involve any change of the structural parts or the stairways, elevators, fire escapes or other means of egress of the building or the structure in question. Duplin County Health Department approval of property for septic tank usage shall be required where the sewage system will not be connected to a city system.
- (b) **Plumbing permit.** No person shall commence or proceed with the installation, extension, or general repair of any plumbing system without a written permit therefore from the Inspection Department; provided, however, no permit shall be required for minor repairs or replacements on the house side of a trap to an installed system of plumbing if such repairs or replacements do not disrupt the original water supply or waste or ventilating systems. Duplin County Health Department approval of property for septic tank usage shall be required where the sewage system cannot be connected to city sewer.
- (c) **Heating-Air Conditioning Permit.** No person shall commence or proceed with the installation, extension, alteration or general repair of any heating or cooling equipment system without a written permit from the Inspection Department; provided, however, no permit shall be required for minor repairs or minor burner services or filter replacements of warm air furnaces or cooling system.
- (d) **Electrical Permit.** No person shall commence or proceed with the installation, extension, alteration, or general repair of any electrical wiring, devices, appliances or equipment without a written permit therefore from the Inspection Department; provided further, no permit shall be required for the installation, alteration, or repair of the electrical wiring, devices, appliances, and equipment installed by or for an electrical public utility corporation for the use of such corporation in the generation, transmission, distribution, or metering of electrical energy, or for the use of such corporation in the operation of signals or the transmission of intelligence.

Section 3-4 APPLICATION FOR PERMIT

Written applications shall be made for all permits required by this ordinance, and shall be made on forms provided by the Inspection Department. Such application shall be made by the owner of the building or structure affected or by his authorized agent or representative, and, in addition to such other information as may be required by the appropriate Inspector to enable him to determine whether the permit applied for should be issued, shall show the following:

- (a) Name, residence, and business address of owners;
- (b) Name, residence, and business of authorized representative or agent, if any;

- (c) Name and address of the contractor, if any, together with evidence that he has obtained a certificate from the appropriate state licensing board for such contractors, if such be required for the work involved in the permit for which application is made.

Section 3-5 PLANS AND SPECIFICATIONS

Detailed plans and specifications shall accompany each application for permit when the estimated total cost of the building or structure is in excess of \$20,000, and for any other building or structure where plans and specifications are deemed necessary by the appropriate Inspector in order for him to determine whether the proposed work complies with the appropriate regulatory codes. Plans shall be drawn to scale with sufficient clarity to indicate the nature and extent of the work proposed, and the plans and specifications together shall contain information sufficient to indicate that the work proposed will conform to the provisions of this ordinance and the appropriate regulatory codes. Where plans and specifications are required, a copy of the same shall be kept at the work until all authorized operations have been completed and approved by the appropriate Inspector.

Section 3-6 LIMITATIONS ON ISSUANCE OF PERMITS

- (a) No building permit shall be issued for any building or structure the estimated total cost of which is more than \$30,000 unless the work is to be performed by a licensed general contractor.
- (b) No building permit shall be issued for any building or structure, other than a one or two family dwelling, of 2500 sq. ft. or more or the total cost of which is more than \$90,000, unless the plans bear the North Carolina seal of a registered architect or a registered engineer.
- (c) Where any provision of the General Statutes of North Carolina or of any ordinance requires that work be done by a licensed specialty contractor of any kind, no permit for such work shall be issued unless it is to be performed by such licensed specialty contractor.
- (d) Where detailed plans and specifications are required under this ordinance, no building permit shall be issued unless such plans and specifications have been provided.

Section 3-7 ISSUANCE OF PERMIT

When permit application for a permit has been made, and the appropriate Inspector is satisfied that the application and the proposed work comply with the provisions of this ordinance and the appropriate regulatory codes, he shall issue such permit, upon payment of the proper fee or fees as hereinafter provided in Section 3-11.

Section 3-8 REVOCATION OF PERMITS

The appropriate Inspector may revoke and require the return of any permit by notifying the permit holder in writing stating the reason for such revocation. Permits shall be revoked for any material departure from the approved application, plans or specifications; for refusal or failure to comply with proper orders of the Inspector; for refusal or failure to comply with requirements of this ordinance and the appropriate regulatory codes; or for false statements or misrepresentations made in securing such permit.

Section 3.9 TIME LIMITATIONS ON VALIDITY OF PERMITS

All permits issued under this ordinance shall expire by limitation six (6) months after the date of issuance if the work authorized by the permit has not been commenced. If after commencement the work is discontinued for a period of twelve (12) months, the permit

therefore shall immediately expire. No work authorized by any permit which has been expired shall thereafter be performed until a new permit therefore has been secured.

Section 3-10 CHANGES IN WORK

After a permit has been issued, changes or deviations from the terms of the application and permit, or changes or deviations from the plans or specifications involving any work under the jurisdiction of this ordinance or of any regulatory code adopted herein, shall not be made until specific written approval of such changes or deviations has been obtained from the appropriate Inspector.

Section 3-11 PERMIT FEES

Permit fees shall be as specified in Appendix A.

Article IV. Condemnation, Repair, and Demolition of Unsafe Buildings

Section 4-1 DUTY OF BUILDING INSPECTOR

Any building or structure or part thereof, partially destroyed or otherwise, which is found by the Building Inspector to be in such a dilapidated state of disrepair or other substandard condition as to be dangerous to life, health, or other property, or to constitute a fire or safety hazard or a public nuisance shall be declared by the Building Inspector to be unsafe.

Such unsafe condition may be caused by defective construction, overloaded structural parts, decay, susceptibility to fire, exits, or any other hazardous conditions or circumstances.

The Building Inspector shall have authority, and it shall be his duty, to declare all such buildings or structures unsafe and to take appropriate action to have such conditions corrected or removed.

Such declaration by the Building Inspector shall constitute an order of condemnation for the purposes of this article.

Section 4-2 DUTY OF OWNER: PROCEDURE

Whenever any building or structure has been condemned by the Building Inspector, and the existence of such building or structure in a dilapidated state of disrepair or other substandard condition is found and determined by the Building Inspector or, upon appeal from or report by the Building Inspector as hereafter provided, by the Board of Commissioners to be dangerous to life, health, or other property, or is in such condition as to constitute a fire or safety hazard or a public nuisance, the owner or owners of such building or structure shall be required to demolish and remove the same and remedy such conditions under the regulations and procedures herein provided; and in the event such owner fails or refuses to do so within the time directed by the Building Inspector or by the Board of Commissioners, as hereinafter provided, the Board of Commissioners may, in its judgment, cause the same to be demolished and removed or such other steps taken as it may find to be necessary to suppress and abate the nuisance and remove the fire or safety hazard and the danger to life, health, or other property found to exist, and specially assess the cost and expense of doing said work against the lot or parcel of land on which the said building or structure is located..

Section 4-3 NOTICE AND HEARING

Before any building or structure may be ordered to be demolished and removed as provided in Section 4-2 herein, the Building Inspector shall notify the owner or owners thereof, in writing by certified or registered mail to the last known address of such owner, or by personal service of such notice by said Building Inspector or his assistant or by posting notice as hereinafter

provided, that said building or structure is in such condition as appears to constitute a fire or safety hazard or dangerous to life, health, or other property, or to be a public nuisance, and that a hearing will be held before said Building Inspector at such written notice, at a designated place at a time not less than ten (10) days after the notice of such written notice, at which time and place the owner shall be entitled to be heard in person or by counsel upon all legal or factual questions relating to the matter and shall be entitled to offer such evidence as he may desire which is relevant or material to the questions sought to be determined or the remedies sought to be effected. If the name or whereabouts of the owner cannot, after due diligence, be discovered, the notice herein referred to shall be considered properly and adequately serviced if a copy thereof is posted on the outside of the building or structure in question at least ten (10) days prior to the date fixed for the hearing and a notice of the hearing is published one time in a newspaper having general circulation in the County at least one week prior to the date fixed for such hearing. Such notice shall state the address or location of the building or structure and the time, place and purpose of the hearing.

Section 4-4 ORDER TO REMEDY OR DEMOLISH

If, upon such hearing, the Building Inspector shall find that the building or structure in question is in such a dilapidated or substandard state of disrepair as to constitute a fire or safety hazard or to be dangerous to life, health, or other property, or is a public nuisance, he shall make an order in writing, directed to the owner of said building or structure, requiring the owner to remedy such conditions so found to exist by demolishing and removing said buildings or structure or taking such other steps as may be necessary to abate the nuisance and remove the hazards, within such period, not less than sixty (60) days, as the Building Inspector may prescribe.

Section 4-5 APPEAL: FINALITY OF ORDER IF NOT APPEALED

The owner of any building or structure ordered by the Building Inspector to be demolished and removed, or who is directed by the Building Inspector to take any other steps to abate a nuisance or remove hazards found by the Building Inspector to exist, shall have the right of appeal from such orders to the Board of Commissioners; provided, such owner gives notice of appeal to the Building Inspector at the time of the hearing at which the order is made, or within ten (10) days after such order is made filed with the Building Inspector a written notice of such appeal. Notice of appeal shall state the grounds therefore. Unless an appeal is taken with the time and in the manner herein prescribed, the action of the Building Inspector shall be deemed final, subject only to such action as the Board of Commissioners may take as herein elsewhere provided. Where an appeal has been properly taken and notice thereof given in accordance with the provisions of this section, it shall be the duty of the Building Inspector to report the same to the County Manager who shall cause the matter to be placed on the agenda for action by the Board of Commissioners at its next ensuing regular meeting. The Board of Commissioners shall have the right to continue the hearing of the appeal from time to time, at its discretion.

Section 4-6 REPORT WHEN OWNER FAILS TO COMPLY

In the event the owner does not appeal from the final order or direction of the Building Inspector requiring that the building or structure be demolished and removed or the taking of such other steps as may be required to abate such nuisance and remove the hazards, and fails or refuses to comply with such order and direction, it shall be the duty of the Building Inspector to file a written report thereof with the Duplin County Manager who shall cause such report to be placed on the agenda for action by the Board of Commissioners at its next ensuing regular meeting or to some subsequent meeting to which the Board of Commissioners may continue the same. The Building Inspector shall mail a copy of

said report by certified or registered mail to the owner at his last known address, or have a copy of said report delivered to said owner. Said report shall specify the date of the meeting of the Board of Commissioners for which the matter will be docketed for action.

Section 4-7 ORDER OF BOARD OF COMMISSIONERS: ASSESSMENT OF COSTS

In all cases referred to in this ordinance which reach the Board of Commissioners for action, either upon appeal of the owner from the ruling of the Building Inspector or upon report of the Building Inspector that the owner fails or refuses to comply with his order or direction, the Board of Commissioners shall hear the matter, and if it finds and determines that the building or structure in question is in such a dilapidated or substandard state of disrepair as to constitute a fire or safety hazard, or to be dangerous to life, health, or other property, or is a public nuisance, and that the owner of said building or structure has failed or refused to abate the nuisance and has failed or refused to take such other steps as may be necessary to abate the nuisance and remove the hazards found to exist, to be done, or effect such other remedies as may be necessary to abate the nuisance and remove the hazards, and specially assess the cost of such work against the lot or parcel of land on which the building or a structure was situated; and such assessment shall constitute a specific lien upon said lot or parcel of land, which may be enforced by an action instituted in the name of Duplin County in the nature of an action to foreclose a mortgage as provided by G.S. 105-414 in the case of ad valorem taxes and local improvement assessments.

Section 4-8 WHEN NOTICE OF BOARD OF COMMISSIONERS HEARING REQUIRED

In cases in which the Building Inspector has been unable to give the owner actual notice of hearing in the manner hereinabove provided, and has given such notice by posting and publishing the same as authorized in Section 4-3, and the owner has failed or refused to comply with the order or direction of the Building Inspector to demolish and remove the building or structure, or take such other remedial action as will remove the hazards and such case is referred to the Board of Commissioners for action, the Board of Commissioners shall before taking such action, cause to be posted on the outside of the building or structure in question at least ten (10) days prior to the date fixed for the hearing, and published one time in a newspaper having general circulation in the County at least one week prior to the date fixed for such hearing, a written notice stating the address or location of the building or structure involved and the time, place, and purpose of the hearing, and such other information as the Board of Commissioners deem advisable.

Section 4-9 PRESUMPTION OF DANGER TO PUBLIC

In all cases in which the Board of Commissioners, under authority of this Article, causes the demolition and removal of any building or structure to be carried out, or directs such other remedial steps to be taken as may be necessary to abate the nuisance and remove the hazards, it shall be conclusively presumed that the public nuisance and the fire and safety hazard and danger to life, health or other property, created and maintained by the continued presence of said building or structure in such condition as is found to exist, constitute a clear as present danger amounting to a situation of emergency involving the public health, safety and general welfare, which requires entry upon private property for the summary statement and removal of such danger, in the public interest.

Section 4-10 WILLFUL FAILURE OR REFUSAL TO COMPLY WITH ORDER

It shall be unlawful for any person to willfully fail or refuse to comply with any final order or direction of the Building Inspector or Board of Commissioners made by virtue and in pursuance of this Article, and any person violating this Article shall, upon conviction, be punished as provided by G.S. 14-4 for the violation of local ordinances, and every day such person shall willfully fail or refuse to comply with any final order or direction of the Building Inspector or the Board of Commissioners made by virtue and in pursuance of this Article shall constitute a separate and distinct offense.

Section 4-11 CONSTRUCTION OF ARTICLE

It is the legislative intent of the Board of Commissioners in enacting this Article that each section and subdivision is separate and divisible from any other section, and if any provision hereof should be held or declared by a court of competent jurisdiction to be invalid for any reason, such decision or holding shall not affect the validity of any other section or provision hereof.

This article is an addition to, and not in substitution for, any other ordinance affecting the same subject matter.

Article V. ENFORCEMENT OF HOUSING CODE**Section 5-1 DUTY OF INSPECTION DEPARTMENT**

The Inspection Department shall be responsible for the enforcement of any ordinances or codes adopted by the Board of Commissioners relating to the repair, closing, and demolition of dwellings unfit for human habitation, pursuant to Article 15, Chapter 160, of the General Statutes of North Carolina.

APPENDIX A

PERMIT FEES

A. BUILDING PERMITS

1. New dwellings
 - (a) Up to 1200 sq. ft. \$ 75.00
 - (b) 1201 to 2500 sq. ft. \$ 95.00
 - (c) Over 2500 sq. ft. \$150.00
2. Dwelling additions
 - (a) 0 to 400 sq. ft. \$ 20.00
 - (b) Over 400 sq. ft. \$ 50.00
3. Multi-family dwellings
 - (a) 2 to 4 units \$150.00
 - (b) Next 5 to 10 units \$ 50.00 each
 - (c) All over 10 units \$ 40.00 each
4. Mobile, modular and relocated homes permit fee to include set-up, tie down and plumbing connections, but not electrical
 - (a) Mobile homes \$ 30.00
 - (b) Modular and relocated homes \$ 40.00
5. Reinspection shall be \$20.00 per trip if more than one trade is involved in reinspection fee shall be equally divided.
6. Nonresidential construction, and residential renovations.
 - (a) Up to 2500 No fee required*
 - (b) 2501 to 50,000 \$20.00 + 1.50 per 1,000 over 1,000 or fraction thereof
 - (c) 50,001 to 75,000 \$ 95.00 + \$1.25 per 1,000 over 50,000 or fraction thereof
 - (d) 75,001 to 100,000 \$125.00 + \$1.00 per 1,000 over 75,000 or fraction thereof
 - (e) Over 100,000 \$150.00 per 1,000 or fraction thereof

*Not involving changes in load bearing structure.

- B. INSULATION INSPECTIONS existing dwellings \$10.00
- New \$20.00

C. ELECTRICAL PERMITS

1. Permanent service poles and service changes \$ 20.00
2. New dwellings
 - (a) 100 to 175 amp \$ 25.00
 - (b) 200 to 350 amp \$ 40.00
 - (c) 400 amp and over \$ 50.00
3. Multi-family dwellings

| | SIZE OF SERVICE | | | |
|------------------|-----------------|------------|------------|--|
| | 100 to 175 | 200 to 300 | 400 & over | |
| (a) No. of units | 100 to 175 | 200 to 300 | 400 & over | |
| (b) First 2 to 4 | 20 | 30 | 35 | |
| (c) Next 5 to 10 | 15 | 25 | 30 | |
| (d) All over 10 | 10 | 15 | 25 | |

4. Nonresidential

- (a) 100 to 175 amp \$ 25.00
- (b) 200 to 350 amp \$ 40.00
- (c) 400 to 500 amp \$ 50.00
- (d) 600 amp and over \$ 10.00 per 100 amp

5. Farm buildings

Farm buildings shall be based on the nonresidential fee for size of service. Bulk barns shall be \$20.00 for first barn, \$10.00 for the second barn and \$5.00 for each additional barn inspected at the same time and location.

D. PLUMBING PERMITS

1. New dwellings

- (a) Up to 1200 sq. ft. \$ 20.00
- (b) 1201 to 2500 sq. ft. \$ 35.00
- (c) Over 2500 sq. ft. \$ 40.00

2. Nonresidential buildings and residential additions

Each of the following and all similar items shall have a \$2.00 permit fee:

- | | |
|----------------------------------|-----------------------------|
| Soil or Vent Stack | Floor Drain |
| House or building sewer | Sand trap or bar connection |
| Water closet | Soda Fountain |
| Bath tub | Wash rack |
| Shower bath | Water distribution pipes |
| Drinking fountain | Washer drain |
| Refrigeration w/water connection | Dishwasher |
| Urinal | Garbage disposal |
| Slop sink | Water heater |
| Wash basin or sink | Laundry equipment, etc. |

A minimum fee of \$10.00 shall be charged for each plumbing inspection not in conjunction with other trade inspections.

E. HEATING AND AIR CONDITIONING PERMIT FEES

- 1. For each air conditioning unit up to 3 ton capacity \$ 20.00
 - 2. For each air conditioning unit 3 to 10 ton capacity \$ 30.00
 - 3. For each air conditioning unit over 10 ton capacity \$ 50.00
- For each space heating unit (dry) \$ 10.00
- For each central heating unit \$ 20.00

Heat pumps (combination units) shall be charged at the air conditioning rate.

In the case of multi-units at one location the permit fee for all units over 4, the inspection fee shall be 1/2 the individual fee.

* * * * *

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

This ordinance shall become effective on and after December 1, 1981.

DUPLIN COUNTY BOARD OF COMMISSIONERS

Chairman

ATTEST:

Clerk

Revised 9/7/82 - 07

STATE OF NORTH CAROLINA
COUNTY OF DUPLIN

DUPLIN COUNTY INSPECTION DEPARTMENT
ADMINISTRATIVE PROCEDURES ORDINANCE

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF DUPLIN that the above named Ordinance for Duplin County effective on and after December 1, 1981, be revised as follows:

Article III. ENFORCEMENT

Section 3-1 PERMIT FEES

Permit fees shall be as specified in Appendix A except that buildings constructed and owned by incorporated towns shall not be charged inspection fees.

This ordinance revision shall be in full force and effect retroactive to December 1, 1981.

Chairman
Duplin County Board of Commissioners

ATTEST:

Clerk

DUPLIN COUNTY
EMERGENCY MANAGEMENT DISASTER RELIEF AND ASSISTANCE PLAN
ANNEX A - ORDINANCE
Duplin County Emergency Management Agency

The County of Duplin ordains: Article 1 Duplin County Emergency Management Agency.

Section 1. Short Title

This ordinance shall be known and may be cited and referred to as "Emergency Management Ordinance for the County of Duplin."

Section 2. Intent and Purpose

- (1) It is the intent and purpose of this Ordinance to establish an office that will insure the complete and efficient utilization of all of the County of Duplin's resources to combat disaster resulting from enemy actions or other disasters as defined herein.
- (2) The Duplin County Office of Emergency Management will be the coordinating agency for all activity in connection with Emergency Management; it will be the instrument through which the Duplin County Board of Commissioners may exercise the authority and discharge the responsibilities vested in them during disaster emergencies.
- (3) This Ordinance will not relieve any City or County Department of the moral responsibilities or authority given to it in the City or County Charter or by local ordinances, nor will it adversely affect the work of any volunteer agency organized for relief in disaster emergencies.

Section 3. Definitions

- (1) The following definitions shall apply in the interpretation of this article.
 - (a) **Emergency Management** shall mean those plans, actions and procedures necessary to provide protection to the people against loss of life, injury, and loss or damage to property caused by natural phenomena or man-made causes such as war, insurrection, riot or accidents; and those measures necessary to mitigate the effects of the destructive forces of man and nature, to provide for response to disaster conditions and for the relief of suffering and hardship resulting from such conditions and to initiate rehabilitation of persons and restoration of essential services and acceptable standards of living (GS 166-2 (1) Extract).
 - (b) **Attack** shall mean direct or indirect assault against the County of Duplin, its government, its environs, or of the nation, by the forces of a hostile nation or the agents thereof, including assault by bombing, conventional or nuclear, chemical or biological warfare, or sabotage.
 - (c) **Disaster** includes but is not limited to actual or threatened enemy attack, sabotage, extraordinary fire, flood, storm, epidemic or other impending or actual calamity endangering or threatening to endanger health, life or property of constituted government.
 - (d) **Emergency Management Forces** shall mean the employees, equipment and facilities of all City and County department, boards, councils, institutions and commissions; and, in addition, it shall include all volunteer personnel, equipment and facilities contributed by, or obtained from volunteer persons or agencies.

- (e) **Volunteer** shall mean contributing a service, equipment or facilities to the Emergency Management Agency without remuneration.
- (f) **Emergency Management Volunteer** shall mean any person duly registered, identified and appointed by the Coordinator of the Duplin County Emergency Management Agency and assigned to participate in the Emergency Management activity.
- (g) **Director** shall mean the Director of the Duplin County Emergency Management Agency, appointed as prescribed in this Ordinance.
- (h) **Regulations** shall include plans, programs and other emergency procedures deemed essential to Emergency Management

Section 4. Organization and Appointments

- (1) The organization shall consist of the following
 - (a) An agency of Emergency Management within the executive department of the Duplin County Government under the direction of the Duplin County Board of Commissioners. The agency head of the Duplin County Emergency Management Agency shall be known as the Director, and such assistants and other employees as are deemed necessary for the proper functioning of the agency will be appointed.
 - (b) The employees, and resources of all Duplin County departments boards, institution, and councils will participate in the Emergency Management activities. Duties assigned to City or County Departments shall be the same or similar to the normal duties of the Department, where possible.
 - (c) Volunteer personnel and agencies offering service to, and accepted by the city and county.
- (2) The Duplin County Board of Commissioners shall appoint a Director of the Duplin County Emergency Management Agency who shall be a person well versed and trained in planning operations involving the activities of many different agencies which will operate to protect the public health, safety and welfare in the event of danger from enemy action or disaster as defined in this ordinance.
- (3) The Director shall designate and appoint Deputy Directors to assume the emergency duties of the Director in the event of his absence or inability to act.

Section 5. Emergency Powers and Duties

- (1) Director of Duplin County Emergency Management Agency.
 - (a) During any period when disaster or when Duplin County has been struck by disaster, within the definition of this Ordinance, the Emergency Management Director may promulgate such regulations as he deems necessary to protect life and property and preserve critical resources. This promulgation of regulations solely by the Director will be only when immediacy of necessary action precludes contact and discussion with the Duplin County Commissioners. Such regulations may include, but shall not be limited to the following:
 - 1. Regulations prohibiting or restricting the movement of vehicles in order to facilitate the mass movement of personnel from critical areas within the county.

2. Regulations pertaining to the movement of persons from areas deemed to be hazardous or vulnerable to disaster.
3. Such other regulations necessary to preserve public peace, health and safety.
4. Regulations promulgated in accordance with the authority above will be given widespread circulation through all avenues of the news media.

Section 6. Day to Day Duties and Responsibilities of the Director

- (1) The Director shall be responsible to the Duplin County Board of Commissioners in regard to all phases of the Emergency Management activity. The Director shall be responsible for the planning, coordination and operation of the Emergency Management preparedness activities in Duplin County. The Director shall maintain liaison with the State and Federal authorities and the authorities of nearby political subdivisions so as to insure the most effective operation of the Emergency Management plans. The Director's duties shall include, but not be limited to, the following:
 - (a) Coordinating the recruitment of volunteer personnel and agencies to augment the personnel and facilities of the County of Duplin for Emergency Management purposes.
 - (b) Development and coordination of plans for the immediate use of all facilities, equipment, manpower and other resources of the county for the purpose of minimizing or preventing damage to persons and property, and protecting and restoring to usefulness governmental services and public utilities necessary for the public health, safety, and welfare.
 - (c) Negotiating and concluding agreements with owners or persons in control of building or other property for the use of such building or other property for the Emergency Management purposes and designating suitable buildings as public shelters.
 - (d) Through public informational programs, educating and populace as to actions necessary and required for the protection of their persons and property in case of enemy attack or disaster as defined herein, either impending or present.
 - (e) Conducting public practice alerts to insure the efficient operation of the Emergency Management forces and to familiarize residents with Emergency Management regulations, procedures and operations.
 - (f) Coordinating the activity of all other public and private agencies engaged in any Emergency Management activities.

Section 7. Emergency Management Plans

- (1) Comprehensive Emergency Management plans to be adopted and maintained by resolution of the Duplin County Board of Commissioners: In the preparations of these plans as it pertains to city and county organization, it is intended that the services equipment and facilities and personnel of all existing departments and agencies shall be utilized to the fullest extent. When approved, it shall be the duty of all municipal departments and agencies to perform the functions assigned by these plans and to maintain their portions of the plans in a current state of readiness at all times. The Basic Emergency Operations Plan and Disaster Operations Plan shall have the effect of law whenever a disaster, as defined in the Ordinance, has been proclaimed.

- (2) The Director shall prescribe in the emergency plans those positions within the disaster organization, in addition to his own, for which lines of succession are necessary. In each instance, the responsible person will designate and keep on file with the Director a current list of three (3) persons as successors to his position. The list will be in order of succession and will nearly as possible designate persons best capable of carrying out all assigned duties and functions.
- (3) Each service chief and department head assigned responsibility in the basic plan shall be responsible for carrying out all duties and functions assigned therein. Duties will include the organization and training of assigned employees and where needed volunteers. Each chief shall formulate the operational plan for his service which, when approved, shall be an annex to and a part of the Basic Plan.
- (4) Amendments to the Basic Plan shall be submitted to the Director. If approved, the Director, will then submit the amendments to the Duplin County Board of Commissioners with his recommendation for their approval. Such amendments shall take effect 30 days from the date of approval.
- (5) When a required competency or skill for a disaster function is not available within local government, the Director is authorized to seek assistance from persons outside of government. The assignment of duties, when of a supervisory nature, shall also grant authority for the persons so assigned to carry out such duties prior, during, and after the occurrence of a disaster. Such services from persons outside of government may be accepted by local government on a volunteer basis. Such citizens shall be enrolled as Emergency Management volunteers in cooperation with the heads of local government departments affected.

Section 8. No Municipal or Private Liability

- (1) This ordinance is an exercise by the County of Duplin of its governmental function for the protection of the public peace, health, and safety, and neither the County of Duplin nor agents and representatives if some, or any individual, receiver, firm, partnership, corporation, association, or trustees, or any of the agents thereof in good faith carrying out, complying with or attempting to comply with any order, rule or regulation promulgated pursuant to the provisions of this Ordinance shall be liable for any damage sustained to persons or property as the result of said activity.
- (2) Any person owning or controlling real estate or other premises who voluntarily and without compensation grants the County of Duplin the right to inspect, designate and use the whole or any part or parts of such real estate or premises for the purposes of sheltering persons during an actual, impending or practice disaster situation shall not be civilly liable for the death of, or injury to, any persons on or about such real estate or premises under such license, privilege or other permission; or for loss of, or damage to, the property of such person.

Section 9. Violation of Regulations

It shall be unlawful for any person to violate any of the provisions of this Ordinance or of the regulations or plans issued pursuant to the authority contained herein, or to willfully obstruct, hinder or delay any member of the Emergency Management organization as herein defined in the enforcement of the provisions of this Ordinance or any regulations or plan issued thereunder.

Section 10. Severability

Should any provision of this Ordinance be declared invalid for any reason, such declaration shall not affect the validity of other

provisions, or of this Ordinance, as a whole, it being the legislation intent that the provisions of this Ordinance shall be severable and remain valid notwithstanding such declaration.

Section 11. Conflicting Ordinance, Orders, Rules and Regulations Suspended

At all times when the orders, rules and regulations made and promulgated pursuant to this Article shall be in effect, they shall supersede all existing ordinances, orders, rules and regulations insofar as the latter may be inconsistent therewith.

Section 12. Effective Date

This ordinance shall take effect on the 21st day of March, 1983.

William J. Costin, Chairman
Duplin County Board of Commissioners

ATTEST: _____
Clerk

Daniel H. Ginnion, CLERK TO THE BOARD

STATE OF NORTH CAROLINA

85-01

DUPLIN COUNTY

STATE OF EMERGENCY ORDINANCE

Preface

Occasionally, whether by accident or acts of nature, it becomes desirable to restrict public access to a particular area, and/or to restrict the movement of certain items/materials. This need can be for the purpose of allowing emergency vehicles and personnel into the stricken area, for riot control, the prevention of plunder, etc., or for the purpose of reducing the dangerous effects of a hazardous materials accident. For whatever the reason, government has a responsibility within its capability, to protect its innocent citizens from exposure to unnecessary danger. This can be helped through the element of "crisis management". Thus, the principle reason for this ordinance is to assist public officials in providing "crisis management" where necessary and thus lessen the risk of personal danger and property damage.

s/Calvin Turner
Chairman

DUPLIN COUNTY STATE OF EMERGENCY ORDINANCE

AN ORDINANCE AUTHORIZING THE PROCLAMATION OF A STATE OF EMERGENCY AND THE IMPOSITION OF PROHIBITIONS AND RESTRICTIONS DURING A STATE OF EMERGENCY.

Section I. Purpose

The purpose of the ordinance is to provide an avenue whereby the Chairman of the Board of County Commissioners can take action, on an emergency basis, to minimize possible suffering of citizens or possible property damage by limiting access to certain areas, and/or to limit the movement of objects or people during certain periods.

Section II. Authority

This Ordinance issued under the authority of Chapter 14, Article 36A, as amended, of the North Carolina General Statutes.

Section III. State of Emergency; Restrictions Authorized

(a) A state of emergency shall be deemed to exist whenever, during times of public crisis, disaster, rioting, catastrophe, or similar public emergency, for any reason, public safety authorities are unable to maintain public order or afford adequate protection for lives, safety or property, or whenever the occurrence of any such condition is imminent.

(b) In the event of an existing or threatened state of emergency endangering the lives, safety, health and welfare of the people within Duplin County or any part thereof, or threatening damage to or destruction of property, the Chairman of the Board of Commissioners of Duplin County is hereby authorized and empowered under Section 14-288.13 to issue a public proclamation declaring to all persons the existence of such a state of emergency, and, in order to more effectively protect the lives and property of people within the county, to place in effect any or all of the restrictions hereinafter authorized.

(c) The Chairman is hereby authorized and empowered to limit by the proclamation the application of all or any part of such restrictions to any area specifically designated or described within the county and to specific hours of the day or night; and to exempt from all or any part of such restrictions, while acting in

the line of and within the scope of their respective duties, law enforcement officers, firemen and other public employees, rescue squad members, doctors, nurses, employees of hospitals and other medical facilities, on-duty military personnel whether state or federal, on-duty employees of public utilities, public transportation companies, and newspaper, magazine, radio broadcasting, and television broadcasting corporations operated for profit, and such other classes of persons as may be essential to the preservation of public order and immediately necessary to serve the safety, health and welfare needs of the people within the county.

Section IV. Proclamation Imposing Prohibitions and Restrictions

(a) The Chairman of the Board of Commissioners of Duplin County by proclamation may impose the prohibitions and restrictions specified in Sections V through IX of this ordinance in the manner described in those sections. The Chairman may impose as many of those specified prohibitions and restrictions as he finds are necessary, because of an emergency, to maintain an acceptable level of public order and services, and to protect lives, safety, and property. The Chairman shall recite his findings in the proclamation.

(b) The proclamation shall be in writing. The Chairman shall take reasonable steps to give notice of the terms of the proclamation to those affected by it and shall post a copy of it in the County Courthouse. The Chairman shall retain a text of the proclamation and furnish upon request certified copies of it for use as evidence.

Section V. Curfew

(a) The proclamation may impose a curfew prohibiting in certain areas and during certain periods the appearance in public of anyone who is not a member of an exempted class. The proclamation shall specify the geographical area or areas and the period during each 24-hour day to which the curfew applies. The Chairman may exempt from some or all of the curfew restrictions classes of people whose exemption the Chairman finds necessary for the preservation of the public health, safety, and welfare. The proclamation shall state the exempted classes and the restrictions from which each is exempted.

(b) Unless otherwise specified in the proclamation, the curfew shall apply during the specified period each day until the Chairman by proclamation removes the curfew.

Section VI. Restrictions on Possession, Consumption, or Transfer of Alcoholic Beverage

The proclamation may prohibit the possession or consumption of any intoxicating liquor; including beer and wine, other than on one's own premises, and may prohibit the transfer, transportation, sale or purchase of any intoxicating liquor within the area of the County described in the proclamation. The prohibition, if imposed, may apply to transfers of intoxicating liquor by employees of Alcoholic Beverage Control stores as well as by anyone else within the geographical area described.

Section VII. Restrictions on Possession, Transportation, and Transfer of Dangerous Weapons and Substances

(a) The proclamation may prohibit the transportation or possession off one's own premises, or the sale or purchase of any dangerous weapon or substance. The Chairman may exempt from some or all of the restrictions classes of people whose possession, transfer, or transportation of certain dangerous weapons or substances is necessary to the preservation of the public health, safety, or welfare. The proclamation shall state the exempted classes and the restrictions from which each is exempted.

(b) "Dangerous weapon or substance" means:

- (1) Any deadly weapon, ammunition, incendiary device, explosive, gasoline, or other instrument or substance designed for a use that carries a threat of serious bodily injury or destruction of property.
- (2) Any other instrument or substance that is capable of being used to inflict serious bodily injury or destruction of property, when the circumstances indicate that there is some probability that such instrument or substance will be so destructively used.
- (3) Any part or ingredient in any instrument or substance included above.

(c) If imposed, the restrictions shall apply throughout the jurisdiction of the County or such part thereof as designated in the proclamation.

Section VIII. Restrictions on Access to Areas

(a) The proclamation may prohibit obtaining access or attempting to obtain access to any area, designated in the manner described in this section, in violation of any order, clearly posted notice, or barricade indicating that access is denied or restricted.

(b) Areas to which access is denied or restricted shall be designated by the Sheriff and his subordinates when directed in the proclamation to do so by the Chairman. When acting under this authority, the Sheriff and his subordinates may restrict or deny access to any areas, street, highway or location within the County if that restriction or denial of access or use is reasonably necessary to promote efforts being made to overcome the emergency or to prevent further aggravation of the emergency.

Section IX. The Proclamation May Prohibit or Restrict

(a) Movements of people in public places;

(b) The operation of offices, business establishments, and other places to or from which people may travel or at which they may congregate; and

(c) Other activities or conditions the control of which may be reasonably necessary to maintain order and protect lives or property during the state of emergency within the area designated in the proclamation.

Section X. Amendments of the Proclamation

The Chairman may amend or extend the proclamation from time to time, making such modifications as he would have been authorized to include in the original proclamation.

Section XI. Removal of Prohibitions and Restrictions

The Chairman shall by proclamation remove the prohibitions and restrictions as the emergency no longer requires them, or when directed to do so by the Board of Commissioners. However, the proclamation shall expire five days after its last imposition unless sooner terminated.

Section XII. Separate and Superseding Proclamations

The Chairman in his discretion may invoke the restrictions authorized by this ordinance in separate proclamations, and may amend any proclamation by means of a superseding proclamation.

Section XIII. In case of Absence or Disability of Chairman

In case of the absence or disability of the Chairman, the Vice-Chairman of the Board of Commissioners, or such other person as may be designated by the Board of Commissioners, shall have and exercise all of the powers herein given the Chairman.

Section XIV. Penalty for Violation

Any person violating any prohibition or restriction imposed by a proclamation authorized by this ordinance shall be guilty of a misdemeanor, punishable upon conviction by a fine not exceeding \$50 or imprisonment not exceeding 30 days, as provided by G.S. 14-4.

Section XV. Repeal of Conflicting Ordinances

All ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section XVI. Territorial Applicability

This ordinance shall not apply within the corporate limits of any Municipality, or within any area of the County over which the Municipality has jurisdiction to enact general police-power ordinances, unless the Municipality by resolution consents to its application, in which event it shall apply to such areas as fully and to the same extent as elsewhere in the County.

Section XVII. Validity

If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Commissioners hereby declares that it would have passed this ordinance and each section, subsection, sentences, clauses, or phrases be declared invalid.

Section XVIII. Effective Date of Ordinance

This ordinance shall take effect the 1st day of August, 1985.

s/Calvin C. Turner
Calvin C. Turner, Sr., Chairman
Duplin County Board of Commissioners

ATTEST: s/Ralph Cottle

FIRE PREVENTION ORDINANCE

AN ORDINANCE ADOPTING A FIRE PREVENTION CODE PRESCRIBING REGULATIONS GOVERNING CONDITIONS HAZARDOUS TO LIFE AND PROPERTY FROM FIRE OR EXPLOSION, AND ESTABLISHING A BUREAU OF FIRE PREVENTION THROUGH THE OFFICE OF THE DUPLIN COUNTY FIRE Marshal AND PROVIDING OFFICERS THEREFOR AND DEFINING THEIR POWERS AND DUTIES

Be it ordained by the Board of Commissioners for the County of Duplin:

Section 1. Adoption of Fire Prevention Code.

a. There is hereby adopted by the Board of Commissioners for the County of Duplin for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, that certain code known as the Fire Prevention Code NFPA 1 1982 of the National Fire Prevention Association, as recommended by the N. C. Bldg. Code Council, save and except such portions as are hereinafter deleted, modified or amended, of which one copy of same will be filed in the Office of the Fire Marshal for the County of Duplin and the same are hereby adopted and incorporated as fully as set out at length herein, and from the date on which this ordinance shall take effect, the provisions thereof shall be controlling within the limits of Duplin County, except within the corporate limits of the municipality therein.

b. The requirements of the Fire Prevention Code are designed to be used to maintain the life safety requirements of the State Building Code. They shall not be construed as additional requirements to those in the Building Code and where a conflict exists between these two codes, the requirements of the State Building Code shall prevail. In accordance with GS 143-140 and 143-141 only those decisions and interpretations of local enforcement agencies relating to the provisions of the North Carolina State Building Code may be appealed to the North Carolina Building Code Council.

Section 2. Establishment and Duties of Bureau of Fire Prevention of the Office of the Duplin County Fire Marshal.

a. The Fire Prevention Code shall be enforced by the Bureau of Fire Prevention of the Office of the Fire Marshal of the County of Duplin which is hereby established and which shall be operated under the supervision of the Fire Marshal.

b. The Fire Marshal in charge of the Bureau of Fire Prevention shall be appointed by the Board of Commissioners for the County of Duplin on the basis of examination to determine his qualifications. His appointment shall continue during good behavior and satisfactory service, and he shall not be removed from office except for due cause.

c. The Fire Marshall may detail some member of his office as well as any Fire Chiefs in the County to act as inspectors from time to time if necessary.

d. A report of the Bureau of Fire prevention of the Fire Marshal's Office shall be made annually and transmitted to the Board of Commissioners; it shall contain all proceedings under this code, with such statistics as the Fire Marshal may wish to include therein; the Fire Marshall shall also recommend any amendments to the code which, in his judgment, shall be desirable.

e. The Fire Marshall may request and shall receive so far as may be necessary, in the discharge of his duties, the assistance and cooperation of other officials of the municipality.

Section 3. Definitions

a. Wherever the word "Municipality" is used in the Fire Prevention Code, it shall be held to mean the County including all areas

of Duplin County, except within corporate limits of municipalities located therein.

b. Wherever the term "Corporation Counsel" is used in the Fire Prevention Code, it shall be held to mean the Attorney for the Board of Commissioners for the County of Duplin.

c. Wherever in the code the word "Fire Chief" is used it shall be deemed to mean "Fire Marshal"; wherever the word "Chief of Police" is used it shall be deemed to mean "Sheriff" and wherever similar generic terms are used which describe municipal offices and departments, they shall be deemed to mean the appropriate corresponding county office or department.

Section 4. Modification

See Section 1-3.3 Alternative of NFPA 1 1982

Section 5. Appeals

Whenever the Fire Marshall shall disapprove an application or refuse to grant a permit applied for, or when it is claimed that the provisions of the code do not apply or that the true intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the Fire Marshal to the Board of Commissioners for the County of Duplin within 30 days from the date of the decision appeal.

Section 6. Penalties

a. Any person who shall violate any of the provisions of the Fire Prevention Code hereby adopted or fail to comply therewith, or who shall violate or fail to comply with any order made thereunder, or who shall build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit used thereunder, and from which no appeal has been taken, or who shall fail to comply with such an order as affirmed to modified by the Fire Marshal or by a court of competent jurisdiction, within the time fixed herein, shall severally for each and every such violation and noncompliance respectively, be guilty of a misdemeanor, punishable by a fine of not more than \$50 or by imprisonment for not more than 30 days or by both such fine and imprisonment. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within reasonable time; and when not otherwise specified, each ten days that prohibited conditions are maintained shall constitute a separate offense.

b. Any violation under the provisions of this ordinance may subject the offender to a civil penalty for the costs to the county to correct such violation in the interest of the public health, safety and welfare. Such penalty shall be assessed by the Fire Marshal and shall be supported by a written statement of costs incurred by this county to correct such violation. Such penalty shall be paid within ten days of notification to the offender. If the offender does not pay the penalty within ten days after receiving notice, such penalty shall be recovered by the county in a civil action in the nature of the debt.

c. In an appropriate case the provisions of this ordinance may be enforced by equitable remedy upon application to the General Court of Justice. Such equitable remedy shall include order of abatement, mandatory injunction, and prohibitory injunction.

Section 7. Repeal of Conflicting Ordinances

All former ordinances thereof conflicting or inconsistent with the provisions of this ordinance or of the Fire Prevention Code hereby adopted are hereby repealed.

Section 8. Validity

The Board of Commissioners for the County of Duplin hereby declares that should any section, paragraph, sentence, or word of this ordinance or of the code hereby adopted be declared for any reason to be invalid, it is the intent of the Board of Commissioners for the County of Duplin that it would have passed all other portions of this ordinance independent of the elimination herefrom of any such portion as may be declared invalid.

Section 9. Date of Effect

This Ordinance shall take effect thirty days from the publication hereof in a newspaper qualified for legal advertising in Duplin County, which publication shall be accomplished after approval hereof by the State Building Code Council and the effective date shall be set out in the publication.

Calvin C. Turner
Calvin C. Turner, Sr., Chairman
Duplin County Board of Commissioners

ATTEST: Ralph Cottle
Clerk

Minutes of Building Code Council
December 10, 1985
Page Four

Duplin County Manager's
Office

Mr. Woods made a motion to adopt changes as shown on the agenda. These changes add Class C asphalt covering as a suitable roof covering and inserts the words "licensed architect" in sections that list "registered engineer". Mr. Stewart seconded the motion and the motion carried without dissent.

Mr. Hauser noted that staff had received letters from AIA and PENC supporting the addition of the words "licensed architect" as proposed.

ITEM III - REQUEST BY HIRAM BRINSON, DUPLIN COUNTY FIRE MARSHALL, FOR APPROVAL OF COUNTY ORDINANCE ADOPTING NFPA-1-1982 AS COUNTY FIRE PREVENTION ORDINANCE.

Mr. Hauser stated that staff has reviewed this ordinance and found it to be in line with other ordinances which had previously been approved by the Council. Mr. Stewart made a motion to approve this ordinance. Mr. Harrower seconded the motion and the motion carried without dissent.

ITEM IV - REQUEST BY MARY OLIVE JOHNSON, CHAIRPERSON, CHARLOTTE ZONING BOARD OF ADJUSTMENT TO AMEND SECTION 25 OF VOLUME I-B.

Ms. Johnson was present for the Council meeting and explained the problem her Zoning Board had experienced with a concrete block wall which was felt to create a hazard.

Mr. Jack Wade stated that the Building Code Revision Committee of the Building Inspectors Association met in November and felt that fences should be controlled through zoning and not be a part of the Building Code.

After considerable discussion, Mr. Adams made a motion to revise Section 25 of Volume I-B as follows:

"Exterior non-bearing walls and fences shall be constructed in accordance with Volume I General Construction."

Mr. Andrew seconded the motion and the motion carried without dissent.

ITEM V - REQUEST FROM CARSON R. MARSH, JR., ASSOCIATE DIRECTOR OF PLANNING AND DEVELOPMENT, CITY OF HIGH POINT TO REVISE VOLUMES I and II REQUIREMENTS RELATING TO ACCESSIBILITY REQUIREMENT OF PLUMBING FIXTURES.

Mr. James Peace, High Point Plumbing Inspector and Mr. Mat Hawley, Ridge Plumbing and Heating presented questions which the present wording was creating.

FIRE PREVENTION ORDINANCE
ADOPTING A FIRE PREVENTION CODE PRESCRIBING REGULATIONS GOVERNING HAZARDOUS TO LIFE AND PROPERTY FROM FIRE OR EXPLOSION, AND ESTABLISHING A BUREAU OF FIRE PREVENTION THROUGH THE OFFICE OF THE DUPLIN COUNTY FIRE MARSHAL AND PROVIDING FOR THE DEFINING THEIR DUTIES

Enacted by the Board of Commissioners for the County of Duplin.

Section 1. Adoption of Fire Prevention Code.

There is hereby adopted by the Board of Commissioners for the County of Duplin for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, that certain code known as the Fire Prevention Code NFPA 1 1982 of the National Fire Prevention Association, recommended by the N.C. Code Council, save and except such portions as are hereinafter deleted, modified

of amended, of which one copy of same will be filed in the Office of the Fire Marshal for the County of Duplin and the same are hereby adopted and incorporated as fully set out at length herein, and from the date on which this ordinance shall take effect, the provisions thereof shall be controlling within the limits of Duplin County, except within the corporate limits of the municipality therein.

b. The requirements of the Fire Prevention Code are designed to be used to maintain the life safety requirements of the State Building Code. They shall not be construed as additional requirements to those in the Building Code and where a conflict exists between these two codes, the requirements of the State Building Code shall prevail. In accordance with GS 143-140 and 143-141 only those decisions and interpretations of local enforcement agencies relating to the provisions of the North Carolina State Building Code may be appealed to the North Carolina Building Code Council.

Section 2. Establishment of Bureau of Fire Prevention of the Office of the Duplin County Fire Marshal.

a. The Fire Prevention Code shall be enforced by the Bureau of Fire Prevention of the Office of the Fire Marshal of the county of Duplin which is hereby established and which shall be operated under the supervision of the Fire Marshal.

b. The Fire Marshal in charge of the Bureau of Fire Prevention shall be appointed by the Board of Commissioners for the County of Duplin on the basis of examination to determine his qualifications. His appointment shall continue during good behavior and satisfactory service, and he shall not be removed from office except for due cause.

c. The Fire Marshal may detail some member of his office as well as any Fire Chiefs in the County to act as inspectors from time to time if necessary.

d. A report of the Bureau of Fire Prevention of the Fire Marshal's Office shall be made annually and transmitted to the Board of Commissioners; it shall contain all proceedings under this code, with such statistics as the Fire Marshal may wish to include therein; the Fire Marshal shall also recommend any amendments to the code which, in his judgment, shall be desirable.

e. The Fire Marshal may request and shall receive so far as may be necessary, in the discharge of his duties, the assistance and cooperation of other officials of the municipality.

Section 3. Definitions.

a. Whenever the word "Municipality" is used in the Fire Prevention Code, it shall be held to mean the County including all areas of Duplin County, except within corporate limits of municipalities located therein.

b. Whenever the term "Corporation Counsel" is used in the Fire Prevention Code, it shall be held to mean the Attorney for the Board of Commissioners for the County of Duplin.

c. Whenever in the code the word "Fire Chief" is used it shall be deemed to mean "Fire Marshal"; wherever the word "Chief of Police" is used it shall be deemed to mean "Sheriff"; and wherever similar generic terms are used which describe municipal offices and departments, they shall be deemed to mean the appropriate corresponding county office or department.

Section 4. Modifications.
See Section 1-3.3 Alternative of NFPA 1 1982.

Section 5. Appeals.

Whenever the Fire Marshal shall disapprove an application or refuse to grant a permit applied for, or when it is claimed that the provisions of the code do not apply or that the true intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the Fire Marshal to the Board of Commissioners for the County of Duplin within 30 days from the date of the decision appealed.

Section 6. Penalties.

a. Any person who shall violate any of the provisions of the Fire Prevention Code hereby adopted or fail to comply therewith, or who shall violate or fail to comply with any order made thereunder, or who shall build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or who shall fail to comply with such an order as affirmed or modified by the Fire Marshal or by a court of competent jurisdiction, within the time fixed herein, shall severally for each and every such violation and noncompliance respectively be guilty of a misdemeanor, punishable by a fine of not more than \$50 or by imprisonment for not more than 30 days or by both such fine and imprisonment. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within reasonable time; and when not otherwise specified, each ten days that prohibited conditions are maintained shall constitute a separate offense.

b. Any violation under the provisions of this ordinance may subject the

offender to a civil penalty for the costs to the county to correct such violation in the interest of the public health, safety and welfare. Such penalty shall be assessed by the Fire Marshal and shall be supported by a written statement of cost incurred by this county to correct such violation. Such penalty shall be paid within ten days of notification to the offender. If the offender does not pay the penalty within ten days after receiving notice, such penalty shall be recovered by the county in a civil action in the nature of the debt.

c. In an appropriate case the provisions of this ordinance may be enforced by equitable remedy upon application to the General

Court of Justice. Such equitable remedy shall include order of abatement, mandatory injunction, and prohibitory injunction.

Section 7. Repeal of Conflicting Ordinances.

All former ordinances thereof conflicting or inconsistent with the provisions of this ordinance or of the Fire Prevention Code hereby adopted are hereby repealed.

Section 8. Validity.

The Board of Commissioners for the county of Duplin hereby declares that should any section, paragraph, sentence, or word of this ordinance or of the code hereby adopted be declared for any reason to be invalid, it is the intent of the Board of Commissioners for the County of

Duplin that it would have passed all other portions of this ordinance independent of the elimination herefrom of any such portion as may be declared invalid.

Section 9. Date of Effect.

This Ordinance shall take effect thirty days from the publication hereof in a newspaper qualified for legal advertising in Duplin County, which publication shall be accomplished after approval hereof by the State Building Code Council and the effective date shall be set out in the publication.

Calvin C. Turner, Chairman
Duplin County Board of Commissioners

ATTEST: Ralph Cottle,
Clerk
5-29-11-RT-296

Rec'd 5/29/80

Duplin Times

ABOLISHED 4/17/17AN ORDINANCE REGULATING AMBULANCE SERVICE AND GRANTING
OF FRANCHISES TO AMBULANCE OPERATORS

An ordinance governing the granting of franchises for ambulance services and other pre-hospital emergency medical services. The County of Duplin Board of Commissioners does ordain the following:

SECTION I. DEFINITIONS

Unless the context otherwise requires, the following definitions shall apply in the interpretation and enforcement of this ordinance:

1.1 AMBULANCE

The term "Ambulance" means any privately or publicly owned motor vehicle, aircraft, or vessel that is specially designed, constructed, or modified and equipped and is intended to be used for and is maintained or operated for the transportation on the streets or highways, waterways or airways of this State of persons who are sick, injured, wounded, or otherwise incapacitated and helpless.

1.2 AMBULANCE ATTENDANT

The term "Ambulance Attendant" means an individual who has completed a training program in emergency medical care and first aid approved by the North Carolina Department of Human Resources and has been certified as an ambulance attendant by the Department of Human Resources, Office of Emergency Medical Services.

1.3 EMERGENCY MEDICAL TECHNICIAN

The term "Emergency Medical Technician" means an individual who has completed a training program in emergency medical care at least equal to the National Standard Training Program for Emergency Medical Technicians as defined by the United States Department of Transportation and has been certified as an Emergency Medical Technician by the Department.

1.4 AMBULANCE PROVIDER

The term "Ambulance Provider" means an individual, firm, corporation or association who engages or professes to engage in the business or service of transporting patients in an ambulance.

1.5 APPROVED

The term "Approved" shall mean approved by the North Carolina Medical Care Commission pursuant to the latter's rules and regulations promulgated under N. C. General Statutes 143B-165.

1.6 SECONDARY AMBULANCE PROVIDER

The term "Secondary Ambulance Provider" shall mean the system of personnel and equipment meeting the same criteria as a primary ambulance provider, but not normally dispatched on first call response.

1.7 COUNCIL

The term "Council" shall mean the Duplin County Emergency Medical Services Council.

1.8 COUNTY

The term "county" shall mean the County of Duplin Board of Commissioners or their designated representative.

1.9 DISPATCHER

The term "Dispatcher" shall mean a person who is available at all times to receive requests for emergency services, to dispatch emergency services, and to advise local law enforcement agencies and emergency medical facilities of any existing or threatened emergency.

1.10 EMERGENCY

The terms "Emergency" and "Emergency Transportation Service" shall mean the use of an ambulance, its equipment and personnel to provide medical care and transportation of a patient who is in need of immediate medical treatment in order to prevent loss of life or further aggravation or physiological or psychological illness or injury.

1.11 FIRST RESPONDER

The term "First Responder" shall mean an organization with personnel trained in emergency medical care that is dispatched to the scene of a medical emergency for the primary purpose of providing emergency medical assistance to a patient until the ambulance and additional medical aid arrives.

1.12 FRANCHISE

The term "Franchise" shall mean a permit issued by the County to a person for the operation of an ambulance service.

1.13 FRANCHISEE

The term "franchisee" shall mean any person having been issued a franchise by the County for the operation of an ambulance service.

1.14 LICENSE

The term "License" shall mean any driver's license or permit to operate a motor vehicle issued under or granted by the laws of the State of North Carolina.

1.15 NON-EMERGENCY TRANSPORTATION SERVICES

The term "Non-Emergency Transportation Service" shall mean the operation of an ambulance for any purpose other than transporting emergency patients.

1.16 OPERATOR

The term "Operator" shall mean a person in actual physical control of an ambulance which is in motion or which has the engine running.

1.17 OWNER

The term "Owner" shall mean a person or entity who owns an ambulance.

1.18 PATIENT

The term "Patient" means an individual who is sick, injured, wounded, or otherwise incapacitated or helpless such that the need for some medical assistance might be anticipated while being transported to or from a medical facility.

1.19 PERSON

The term "Person" shall mean any individual, firm, partnership, association, corporation, company, group of individuals acting together for a common purpose, or organization of any kind, including, any governmental agency other than the United States.

1.20 RESCUE

The term "Rescue" shall mean situations where the victim cannot escape an area through the normal exit or under his own power.

SECTION II. FRANCHISE REQUIRED

- 2.1 No person either as owner, agent or otherwise, shall furnish, operate, conduct, maintain, advertise, or otherwise be engaged in or profess to be engaged in the business or service of emergency and /or non-emergency transportation of patients within the County of Duplin unless the person holds a valid permit for each ambulance used in such business or service issued by the North Carolina Department of Human Resources, Office of Emergency Medical Services, and has been granted a franchise for the operation of such business or service by the County pursuant to this Ordinance.
- 2.2 No person shall drive an ambulance, attend a patient in one, or permit one to be operated when transporting a patient within the County of Duplin unless he or she holds a currently valid certificate as an ambulance attendant, emergency medical technician, EMT-Intermediate, or EMT-Paramedic issued by the North Carolina Department of Human Resources, Office of Emergency Medical Service.
- 2.3 NO FRANCHISE SHALL BE REQUIRED FOR:
- (A) Any entity rendering assistance to a franchised ambulance service in the case of a major catastrophe, mutual aid or emergency with which the services franchised by the County of Duplin are insufficient or unable to cope; or,
 - (b) Any entity operated from a location or headquartered outside of the County of Duplin in order to transport patients who are picked up beyond the limits of the County of Duplin, to facilities located within the County of Duplin, or to pick up patients within the County of Duplin for transporting to locations outside the County of Duplin; or,
 - (c) Ambulances owned and operated by an agency of the United States Government.

SECTION III. APPLICATION FOR AMBULANCE FRANCHISE

- 3.1 Application for a franchise to operate ambulances in the County of Duplin shall be made by the ambulance provider upon such forms as may be prepared or prescribed by the County and shall contain;
- (a) The name and address of the ambulance provider and the owner of the ambulances(s).
 - (b) The trade or other fictitious names, if any, under which the applicant does business, along with a certified copy of an assumed name certificate stating such name or articles of incorporation stating such name.
 - (c) A resume of the training and experience of the applicant in the transportation and care of patients.
 - (d) A full description of the type and level of service to be provided including the location of the place or places from which it is intended to operate, the manner in which the public will be able to obtain assistance and how the vehicles will be dispatched. An audited financial statement of the applicant as the same pertains to the operations in the County of Duplin, said financial statement to be in such form and such detail as may be required by the County.
 - (e) A description of the applicant's capability to provide twenty-four hour coverage, seven days per week for the district covered by the franchise applied for, and an accurate estimate of the minimum and maximum times for a response to calls within such district.
 - (f) Any information the county shall deem reasonable necessary for a fair determination of the capability of the applicant to provide ambulance services in the County of Duplin in accordance with the requirements of State Laws and the provisions of these regulations.

SECTION IV. GRANTING OF FRANCHISE

- 4.1 Prior to accepting applications for the operation of an ambulance service, the Board of Commissioners may designate specific service areas as franchise districts. Said districts will be established using criteria that includes geographic size, road access, the location of existing medical transportation services, population, and response time. The county shall have the authority to redistrict or rearrange existing districts at any time at their discretion.
- 4.2 An applicant may apply for a franchise to operate either emergency transportation service or non-emergency transportation service or both. If both types of service are to be provided, separate applications must be filed for each type.
- 4.3 Upon receipt of an application for a franchise, the County shall schedule a time and place for hearing the applicant. Within 30 days after hearing, the County shall cause such investigation as it may deem necessary to be made of the applicant and his proposed operations.

- 4.4 A franchise may be granted if the County finds that:
- (a) The applicant shows a reasonable effort to meet state standards and standards outlined in the franchise ordinance.
 - (b) The proposed service will fit within the existing service so as not to adversely affect the level of services or operations of other franchises to render service.
 - (c) A need exists for the proposed service in order to improve the level of ambulance services available to residents of the county and that this is a reasonable and cost effective manner of meeting the need.
 - (d) All providers of rescue and ambulance services in Duplin County shall be issued a franchise at the time the ordinance takes effect.

SECTION V. TERM OF FRANCHISE

- 5.1 The County may issue a franchise hereunder to an ambulance provider, to be valid for a term to be determined by the county, provided that either party as its option, may terminate the franchise upon 60 days prior written notice to the other party. After a notice of service termination is given, the ambulance provider may reapply for a franchise if continued service is desired.
- 5.2 Upon suspension, revocation, or termination of a franchise granted hereunder, such franchised ambulance service immediately shall cease operations. Upon suspension, revocation or termination of a driver's license or attendant's certificate, or emergency medical technician certificate, such persons shall cease to drive an ambulance or provide medical care in conjunction with an ambulance service, or attend an ambulance. The franchise shall not permit such an individual to drive an ambulance or provide medical care in conjunction with the ambulance service.
- 5.3 Each franchised ambulance service shall comply at all times with the requirements of this ordinance, the franchise granted hereunder, and all applicable state and local laws relating to health, sanitation, safety, equipment, and ambulance design and all other laws and ordinances.
- 5.4 Prior approval of the County shall be required where ownership or control of more than 10 percent or more of such right of control, singularly or collectively, at the date of the franchise. By its acceptance of the franchise, the franchisee specifically agrees that any such acquisition occurring without prior approval of the County shall constitute a violation of the franchise by the franchisee and shall be cause for termination at the option of the County.
- 5.5 Any change of ownership of a franchised ambulance service without the approval of the county shall terminate the franchise and shall require a new application and a new franchise and conformance with all the requirements of this Ordinance as upon original franchising.
- 5.6 No franchise may be sold, assigned, mortgaged, or otherwise transferred without the approval of the county; and a finding of conformance with all requirements of this ordinance as upon original franchising. Each franchised ambulance service, its equipment and the

premises designated in the application and all records relating to its maintenance and operation, as such, shall be open to inspection by the State, the county, or their designated representatives.

- 5.7 A franchise may not be defaced, removed, or obliterated.

SECTION VI. STANDARDS FOR DRIVERS AND ATTENDANTS

- 6.1 Standards for drivers and attendants as developed by the North Carolina Medical Care Commission as requirements for certification of ambulance attendants and emergency medical technician pursuant to Article 26, Chapter 130-233, and Article 67, Chapter 143, of the General Statutes of North Carolina, and shall be applied and the same are incorporated herein by reference.

SECTION VII. STANDARDS FOR VEHICLES AND EQUIPMENT

- 7.1 Vehicle and equipped standards as developed by the North Carolina Medical Care Commission pursuant to Article 26, Chapter 130, and Article 56, Chapter 143, of the General Statutes of North Carolina, and shall be applied and the same are incorporated herein by reference.

SECTION VIII. STANDARDS FOR COMMUNICATIONS

- 8.1 Each ambulance vehicle shall be equipped with an operational two-way radio capable of establishing good quality voice communications from within the geographic confines of the County to each hospital(s) emergency department in the County in which the ambulance is based. Each ambulance vehicle shall be equipped with two-way radio capable of establishing good quality voice communications from within the geographic confines of the county in which the ambulance dispatching agency within the County.
- 8.2 Each ambulance provider shall maintain current authorizations of Federal Communication Commission licenses for all frequencies and radio transmitters operated by that provider. Copies of all authorizations and licenses shall be on display and available for inspection per Federal Communication Commission's Rules and Regulations.
- 8.3 Each base of operations must have at last one open telephone line. Telephone numbers must be registered with each law enforcement agency and communication center in the County of Duplin.

SECTION IX. INSURANCE

- 9.1 No ambulance franchise shall be issued under this Ordinance, nor shall such franchise be valid after issuance, nor shall any ambulance be operated in the County of Duplin unless the franchisee has at all times in force and effect insurance coverage, issued by an insurance company licensed to do business in the State of North Carolina, for each and every ambulance owned and or operated by or for the ambulance service providing for the payment of damages:
- (a) In the sum of \$500,000 for injury to or death of individuals in accidents resulting from any cause for which the owner of said vehicle would be liable on account of liability imposed on him by law, regardless of whether the ambulance was being driven by the owner or his agency; and,

- (b) In the sum of \$50,000 for the loss of or damage to the property of another, including personal property, under like circumstances, in sums as may be required by the State or as approved by the County of Duplin.
- (c) Each ambulance provider shall have Workers' Compensation Insurance at all times.

SECTION X. RECORDS

- 10.1 Each franchisee shall maintain the following records:
- (a) Record of Dispatch - shall show time call was received, time ambulance dispatched, time arrived on scene, time arrived at destination, time in service, and time returned to base.
 - (b) Trip Record - shall state all information required in Section (a) in addition to information on a form approved by the County. The trip record shall be so designed as to provide the patient with a copy thereof containing all required information. A copy of the trip record may serve as a receipt for any charges paid.

SECTION XI. RATES AND CHARGES

- 11.1 Each franchisee shall submit a schedule of rates to the county for approval and shall not charge more nor less than the approved rates without specific approval by the County.
- 11.2 No ambulance service shall attempt to collect rates on emergency calls until the patient has reached the point of destination, has received medical attention and is in a condition deemed by the physician fit to consult with the ambulance service, but such service may attempt to collect rates with family or guardian of the patient once the patient is in the process of receiving medical attention.
- 11.3 On non-emergency calls, or calls where a person requires transportation to a non-emergency facility, attempts to collect payment can be made before the ambulance begins its trip.
- 11.4 It shall be a misdemeanor for any person to obtain or receive ambulance service without intending at the time of obtaining or receiving such services to pay, if financially able, the necessary charges. A determination that the recipient of such services has failed to pay for the services rendered for a period of ninety (90) days after request of payment, and that the recipient is financially able to do so, shall raise a presumption that the recipient of the services did not intend to pay for the services at the time they were obtained or received.

SECTION XII. ENFORCEMENT

- 12.1 The Duplin County Emergency Medical Services Advisory Council shall be the enforcing agency for the regulation contained in this Ordinance. Such office will:
- (a) Receive all franchise proposals from potential Providers.
 - (b) Study each proposal for conformance to this Ordinance.
 - (c) With the approval of the Council recommend to the Board of Commissioners the Award of the

- franchises(s) to the applicants submitting the best proposal(s).
- (d) Inspect the premises, vehicles, equipment, and personnel of franchisees to assure compliance to this Ordinance and perform any other inspections that may be required.
 - (e) With the approval of the Council, recommend to the Board of Commissioners the temporary or permanent suspension of a franchise in the event of noncompliance with the franchise terms of this Ordinance. Recommend the imposition of misdemeanor or civil penalties as provided therein.
 - (f) Insure by cooperative agreement with other ambulance services the continued service in a district where an ambulance service franchise has been suspended.
 - (g) Receive monthly reports from ambulance services and consolidate the same into a quarterly summary for review by the Council and the County.
 - (h) Receive complaints from the public, other enforcing agencies, and ambulance services regarding franchise infractions. Review the complaint with the council. Obtain corrective action with the approval of the Council.
 - (i) With the approval of the Council, recommend improvements to the County which will insure better medical transportation.
 - (j) Maintain all records required by this Ordinance and other applicable County regulations.
 - (k) Perform such of the above functions as may be requested by any municipality within the County of Duplin.
 - (l) Violation of this ordinance, or the terms of any franchises granted hereunder, shall be a misdemeanor as provided by the N. C. General Statutes 14-4. Each such violation also shall subject the offender (Franchisee) to civil penalty in the amount of \$100 for each separate breach of the franchise or violation of this ordinance. This civil penalty must be paid within 10 days after the hearing as provided in Section 5.2 above on said citation has been held. If not so paid, such penalty may be recovered by County as provided by N. C. General Statutes 153A-123(c). If the civil penalty is not paid within the ten (10) days as provided for above, County may suspend or revoke the franchise.

SECTION XIII. MISCELLANEOUS

- 13.1 The County may inspect a franchisee's records, premises, and equipment at any time in order to insure compliance with this Ordinance and any franchise granted hereunder.

SECTION XIV. DUPLIN COUNTY EMERGENCY MEDICAL SERVICES ADVISORY COUNCIL

- 14.1 There is hereby created the Duplin County Emergency Medical Services Advisory Council whose membership shall be appointed by the Board of County commissioners.

14.2 The Council shall have the responsibility and duty of advising the Duplin County Commissioners on matters relating to the enforcement of this Ordinance as specified in Section XII above and shall develop and recommend for approval by the Board of County Commissioners such standards of care, policies, procedures, and actions which will maintain and improve the quality of emergency medical services for the residents of Duplin county.

14.3 Membership in the Council shall consist of:

- (a) President of Duplin County Rescue Squad Association
- (b) Secretary of Duplin County Rescue Squad Association
- (c) President of the Duplin County Fire Association
- (d) President of the Duplin County Law Enforcement Association
- (e) Medical Doctor
- (f) Hospital
- (g) County Commissioner
- (h) Director EMS
- (i) Business/Industry Representative
- (j) James Sprunt Community College Representative
- (k) Duplin County Health Dept. Representative

14.4 All members of the Council shall have full and equal voting rights on all other matters to be considered by the Council with the exception of:

- (a) Representatives from the franchised providers when the council considers matters relating to the granting of franchises and/or reviewing complaints from the public and investigations regarding franchised services of said provider. Representatives from franchised services shall have full and equal voting rights on all other matters not excluded by this provision.

SECTION XV. ADDENDUMS TO ORDINANCE

15.1 The Board of Commissioner of the County of Duplin may, through appropriate actions, amend or expand this Ordinance to include other emergency departments or agencies as deemed necessary.

SECTION XVI. EFFECTIVE DATE

This Ordinance shall take effect on the 1st day of June, 1987.

s/D J. Fussell, Sr.

Chairman
Duplin County Board of Commissioners

ATTEST: s/Ralph Cottle
Clerk

ABOLISHED 07/01/05

88-02

NATIONAL FLOOD INSURANCE
FLOOD DAMAGE PREVENTION ORDINANCERegular PhaseARTICLE I. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE
AND OBJECTIVESSECTION A. STATUTORY AUTHORIZATION

The Legislature of the State of North Carolina has in Parts 3, 5, and 8 Article 19 of Chapter 160A; and Article 8 of Chapter 160A of N. C. General Statutes, delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry.

Therefore, the Board of Commissioners of Duplin County, North Carolina does ordain as follows:

SECTION B. FINDINGS OF FACT

- (1) The flood hazard areas of Duplin County are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
- (2) These flood losses are caused by the cumulative effect of obstructions in flood plains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, flood-proofed, or otherwise unprotected from flood damages.

SECTION C. STATEMENT OF PURPOSE

It is the purpose of this ordinance 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:

- (1) restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) control the alteration of natural flood plains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
- (4) control filling, grading, dredging and other development which may increase erosion or flood damage, and;
- (5) prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

SECTION D. OBJECTIVES

The objectives of this ordinance are:

- (1) to protect human life and health;
- (2) to minimize expenditure of public money for costly flood control;

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- (3) to minimize the needs for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) to minimize prolonged business interruptions;
- (5) to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in flood plains;
- (6) to help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas, and;
- (7) to insure that potential home buyers are notified that property is in a flood area.

ARTICLE 2. DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

"Appeal" means a request from a review of the local administrator's interpretation of any provision of this ordinance or a request for a variance.

"Addition (to an existing building)" means any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a fire wall. Any walled and roofed addition which is connected by a fire wall or is separated by independent perimeter load-bearing walls as is new construction.

"Area of shallow flooding" means a designated AO or VO Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths 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" is the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year.

"Base flood" means the flood having a one percent chance of being equaled or exceeded in any given year.

"Basement" means that lowest level or story which has its floor subgrade on all sides.

"Breakaway wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces with causing damage to the elevated portion of the building or the supporting foundation system. A breakaway wall shall have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot. A wall with loading resistance of more than 20 pounds per square foot requires an architect or professional engineer's certificate.

"Building" means any structure built for support, shelter, or enclosure for any occupancy or storage.

"Development" means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

"Elevated building" means a non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers), shear walls, or breakaway walls.

"Existing manufactured home park or manufactured home subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale for which the construction of facilities for servicing the lot on which the manufactured home is to be affixed (including at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed before the effective date of this ordinance.

"Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) the overflow of inland or tidal waters;
- (2) the unusual and rapid accumulation of runoff of surface waters from any sources.

"Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined as Zone A.

"Flood Insurance Rate Map (FIRM)" means an official map of a community on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

"Flood Insurance Study" is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary Floodway Map and the water surface elevation of the base flood.

"Floodway" means 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.

"Floor" means the top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.

"Functionally dependent facility" means a facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, ship repair, or seafood processing facilities. The term does not include long-term storage, manufacture, sales, or service facilities.

"Highest Adjacent Grade" means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of the structure.

"Levee" means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

"Levee System" means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

"Lowest Floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or floor resistant enclosure, unable 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 provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers, and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.

"Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"Mean Sea Level" means the average heights of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the flood plain. For purposes of this ordinance, the term is synonymous with National Geodetic Vertical Datum (NGVD).

"National Geodetic Vertical Datum (NGVD)" as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the flood plain.

"New construction" means structures for which the "start of construction" commenced on or after the effective date of this ordinance.

"Remedy a violation" means to bring the structure or other development into compliance with State or local flood plain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development.

"Start of construction" (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (P. L. 97-348)), includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure (including a manufactured home) 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.

"Structure" means a walled and roofed building that is principally above ground, a manufactured home, a gas or liquid storage tank, or other man-made facilities or infrastructures.

"Substantial improvement" means any repair, reconstruction, or improvement of a structure, either (1) before the improvement or repair is started, or (2) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state and local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or (2) any alteration of a structure listed on the National Register of Historic Places or a State inventory of Historic Places.

"Variance" is a grant of relief to a person from the requirements of this which permits construction in a manner otherwise prohibited by this ordinance where specific enforcement would result in unnecessary hardship.

"Violation" means the failure of a structure or other development to be full compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Articles 4 and 5 is presumed to be in violation until such times as that documentation is provided.

ARTICLE 3. GENERAL PROVISIONS

SECTION A. LANDS TO WHICH THIS ORDINANCE APPLIES.*

This ordinance shall apply to all areas of special flood hazard within the jurisdiction of Duplin County.

SECTION B. BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD.

The areas of special flood hazard identified by the Federal Emergency Management Agency in its Flood Insurance Rate Map, number 370083, with accompanying maps and other supporting data, and any revision thereto are adopted by reference and declared to be a part of this ordinance.

SECTION C. ESTABLISHMENT OF DEVELOPMENT PERMIT.

A Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities.

SECTION D. COMPLIANCE.

No structure or land shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.

SECTION E. ABROGATION AND GREATER RESTRICTIONS.

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

SECTION F. INTERPRETATION.

In the interpretation and application of this ordinance all provisions shall be: (1) considered as minimum requirements; (2) liberally construed in favor of the governing body, and; (3) deemed neither to limit nor repeal any other powers granted under state statutes.

SECTION G. WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the area of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of Duplin County or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

SECTION H. PENALTIES FOR VIOLATION.

Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$50 or imprisoned for not more than 30 days, or both, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the County of Duplin from taking such other lawful action as is necessary to prevent or remedy any violation.

ARTICLE 4. ADMINISTRATIONSECTION A. DESIGNATION OF LOCAL ADMINISTRATOR.

The Building Inspector is hereby appointed to administer and implement the provisions of this ordinance.

SECTION B. PERMIT PROCEDURES.

Applicant for a Development Permit shall be made to the local administrator on forms furnished by him or her prior to any development activities, and may include, but not be limited to, the following plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

- (1) Elevation in relation to mean sea level of the proposed lowest floor (including basement) of all structures;
- (2) Elevation in relation to mean sea level to which any non-residential structure will be flood-proofed;
- (3) Provide a certificate from a registered professional engineer or architect that the non-residential flood-proofed structure meets the flood-proofing criteria in Article 5, Section B (2);
- (4) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development, and;
- (5) Provide a floor elevation or flood-proofing certification after the lowest floor is completed, or in instances where the structure is subject to the regulations applicable to Coastal High Hazard Areas, after placement of the horizontal structural members of the lowest floor. Within twenty-one (21) calendar days of establishment of the lowest floor elevation, or flood-proofing by whatever construction means, or upon placement of the horizontal structural members of the lowest floor, whichever is applicable, it shall be the duty of the permit holder to submit to the local administrator a certification of the elevation of the lowest floor, flood-proofed elevation, or the elevation of the bottom of the horizontal

structural members of the lowest floor, whichever is applicable, as built, in relation to mean sea level. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or utilized for a particular building, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. Any work done within the twenty-one (21) day calendar period and prior to submission of the certification shall be at the permit holder's risk. The local administrator shall review the floor elevation survey data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the survey or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

SECTION C. DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR.

Duties of the Building Inspector shall include, but not be limited to:

- (1) Review all development permits to assure that the permit requirements of this ordinance have been satisfied.
- (2) Advise permittee that additional federal or state permits may be required, and if specific federal or state permits are known, require that copies of such permits be provided and maintained on file with the development permit.
- (3) Notify adjacent communities and the N. C. 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.
- (4) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
- (5) Prevent encroachments within floodways unless the certification and flood hazard reduction provisions of Article 5 are met.
- (6) Verify and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, in accordance with Article 4, Section B (5).
- (7) Verify and record the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been flood-proofed, in accordance with Article 4, Section B (5).
- (8) When flood-proofing is utilized for a particular structure, the local administrator shall obtain certifications from a registered professional engineer or architect in accordance with Article 5, Section B (2).
- (9) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions the local administrator shall make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.

- (10) When base flood elevation data has not been provided in accordance with Article 3, Section B, then the local administrator shall obtain, review and reasonably utilize any base flood elevation data available from a federal, state or other source, including data developed pursuant to Article 5, Section D (4), in order to administer the provisions of this ordinance.
- (11) All records pertaining to the provisions of this ordinance shall be maintained in the office of the local administrator and shall be open for public inspection.

SECTION D. VARIANCE PROCEDURES.

- (1) The Planning Board as established by the Board of Commissioners shall hear and decide appeals and requests for variances from the requirements of this ordinance.
- (2) The Planning Board shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the local administrator in the enforcement or administration of this ordinance.
- (3) Any person aggrieved by the decision of the Planning Board or any taxpayer may appeal such decision to Superior Court, as provided in Chapter 7A of the N. C. General Statutes.
- (4) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places without regard to the procedures set forth in the remainder of this section.
- (5) In passing upon such applications, the Planning Board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:
 - (a) the danger that materials may be swept onto other lands to the injury of others;
 - (b) the danger to life and property due to flooding or erosion damage;
 - (c) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (d) the importance of the services provided by the proposed facility to the community;
 - (e) the necessity to the facility of a waterfront location, where applicable;
 - (f) the availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 - (g) the compatibility of the proposed use with existing and anticipated development;
 - (h) the relationship of the proposed use to the comprehensive plan and flood plain management program for that area;
 - (i) the safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (j) the expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected the site, and;

- (k) the costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- (6) Upon consideration of the factors listed above and the purposes of this ordinance, the Planning Board may attached such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.
- (7) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (8) Conditions for Variances:
 - (a) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;
 - (b) Variances shall only be issued upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship, and; (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances;
 - (c) Any application to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the structure is to be built and a written statement that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. Such notification shall be maintained with a record of all variance actions.

ARTICLE 5. PROVISIONS FOR FLOOD HAZARD REDUCTION

SECTION A. GENERAL STANDARDS.

In all areas of special flood hazard the following provisions are required:

- (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure;
- (2) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces;
- (3) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;
- (4) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damages;
- (5) 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;

- (6) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (7) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;
- (8) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding, and;
- (9) Any alteration, repair, reconstruction of improvements to a structure which is in compliance with the provisions of this ordinance, shall meet the requirements of "new construction" as contained in this ordinance.

SECTION B. SPECIFIC STANDARDS.

In all areas of special flood hazard where base flood elevation data has been provided, as set forth in Article 3, Section B, or Article 4, Section C (12), the following provisions are required:

- (1) Residential Construction. New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated no lower than two feet above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, opening sufficient to facilitate the unimpeded movements of flood waters shall be provided.
- (2) Non-residential Construction. New construction or substantial improvement of any commercial, industrial, or non-residential structure shall have the lowest floor, including basement, elevated no lower than two feet above the level of the base flood elevation. Structures located in A-zones may be flood-proofed in lieu of elevation provided that all areas of the structure below the required elevation are water tight 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. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in Article 4, Section B (5).
- (3) Elevated Buildings. New construction or substantial improvements of elevated buildings that include fully enclosed areas formed by foundation and other exterior walls below the base flood elevation shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.
 - (a) Designs for complying with the requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:
 - (i) Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
 - (ii) The bottom of all openings shall be no higher than one foot above grade; and,
 - (iii) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
 - (b) Electrical, plumbing, and other utility connections are prohibited below the base flood elevations;

- (c) Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator); and,
 - (d) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.
- (4) Floodways. Located within areas of special flood hazard established in Article 3, Section B, are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and has erosion potential, the following provisions shall apply:
- (a) Prohibit encroachments, including fill, new construction, substantial improvements and other developments unless certification (with supporting technical data) by a registered professional engineer is provided demonstrating that encroachments shall not result in any increase in flood levels during occurrence of the base flood discharge;
 - (b) If Article 5, Section B(4)(a) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article 5;
 - (c) Prohibit the placement of manufactured homes (mobile homes), except in an existing manufactured homes (mobile homes) park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring standards of Article 5, Section A(2), and the elevation standards of Article 5, Section B(1) are met.

SECTION C. STANDARDS FOR STREAMS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS AND/OR FLOODWAYS.

Located within the areas of special flood hazard established in Article 3, Section B, where small streams exist but where no base flood data has been provided or where no floodways have been provided, the following provisions apply:

- (1) No encroachments, including fill material or structures shall be located within a distance of the stream bank equal to two (2) times the width of the stream at the top of bank or twenty feet each side from top of bank, whichever is greater, unless certification 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.
- (2) New construction or substantial improvements of structures shall be elevated or flood-proofed in accordance with elevations established in accordance with Article 4, Section C(12). When base flood elevation data is not available from a federal, state or other source, the lowest floor, including basement, shall be elevated, at least two (2) feet above the highest adjacent grade.

SECTION D. STANDARDS FOR SUBDIVISION PROPOSALS.

- (1) All subdivision proposals shall be consistent with the need to minimize flood damages;
- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;

- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards, and;
- (4) Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivision proposals and other development (including manufactured home parks and subdivisions) which is greater than the lesser of fifty lots or five acres.

SECTION E. STANDARDS FOR AREAS OF SHALLOW FLOODING (AO ZONES).

Located within the areas of special flood hazard established in Article 3, Section B, are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of one to three feet (1'-3' where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply:

- (1) All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated to the depth number specified on the Flood Insurance Rate Map, in feet, above the highest adjacent grade. If no depth number is specified, the lowest floor, including basement, shall be elevated, at least two (2) feet above the highest adjacent grade.
- (2) All new construction and substantial improvements of non-residential structures shall:
 - (a) have the lowest floor, including basement, elevated to the depth number specified on the Flood Insurance Rate Map, in feet above the highest adjacent grade. If no depth number is specified, the lowest floor, including basement shall be elevated at least two (2) feet above the highest adjacent grade, or;
 - (b) together with attendant utility and sanitary facilities be completely flood-proofed to or above that level and, so that, any space 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 efforts of buoyancy.

Adopted on September 6, 1988.

By: William J. Costin
Willis Sholar
Vance Alphin
D. J. Fussell, Sr.
Dovie L. Penney

Certified by: Ralph Cottle
 Date: September 6, 1988

This ordinance to become effective October 1, 1988.

DUPLIN COUNTY
NORTH CAROLINA

89-01

THE MOBILE HOME AND TRAVEL TRAILER PARK ORDINANCE

ENACTMENT

This is an ordinance establishing regulations for mobile home and travel trailer parks within the jurisdiction of Duplin County, North Carolina and providing for the administration enforcement and amendment thereof and repealing the Duplin County Mobile Home and Travel Trailer Park Ordinance effective September 1, 1984

PREAMBLE

WHEREAS, in the opinion of the Duplin County Board of Commissioners to promote the health, safety, morals, and general welfare of the residents of Duplin County it is necessary and advisable to establish regulations to further the orderly layout of mobile home and travel trailer parks, to secure safety from fire, flood and other dangers, to insure adequate facilities for transportation, parking, water, sewerage, and recreation, and

WHEREAS, the Duplin County Planning Board has developed this ordinance with due consideration and has submitted final recommendations to the Duplin County Commissioners, and

WHEREAS, the Duplin County Commissioners have given due notice of public hearing and have conducted such public hearing, and

WHEREAS, all applicable requirements of the General Statutes of North Carolina have been met.

NOW, THEREFORE BE IT ORDAINED BY THE COUNTY COMMISSIONERS OF THE COUNTY OF DUPLIN AS FOLLOWS:

ARTICLE I AUTHORITY

SECTION 10

The provisions of this ordinance are adopted under authority granted by North Carolina General Statute 153A-121.

ARTICLE II JURISDICTION

SECTION 20

This regulation shall govern the establishment of each and every new mobile home and travel trailer park and the alteration or expansion of existing mobile home and travel trailer parks within the jurisdiction of Duplin County.

ARTICLE III APPLICABILITY

SECTION 30

After the effective date of this ordinance it shall be unlawful for any person to establish, operate or expand a mobile home park or travel trailer park in a manner which is inconsistent with the provisions and requirements of this ordinance.

ARTICLE IV TITLE

SECTION 40

This ordinance shall be known and referred to as The Mobile Home and Travel Trailer Park Ordinance of Duplin County, North Carolina.

ARTICLE V INTERPRETATIONS

SECTION 50

Tense and Number

- (1) The present tense includes the future tense and the future tense includes the present tense.
- (2) The singular number includes the plural number and the plural number includes the singular number.

SECTION 51

Word Interpretations

For the purposes of this ordinance the following words shall be interpreted as specified below:

- (1) The word "may" is permissive.
- (2) The words "shall" and "will" are mandatory.
- (3) The word "County" shall mean the County of Duplin, North Carolina.
- (4) The words "Planning Board" shall refer to the Duplin County Planning Board.
- (5) The words "County Commissioners" shall refer to the Duplin County Board of Commissioners.
- (6) The word "Person" shall include firm, organization, association, company, trust, corporation or other entity.
- (7) The words "used" or "occupied" includes intended, designed and arranged.

SECTION 52

DEFINITIONS

For the purposes of this ordinance the following terms shall be defined as specified below. Unless specifically defined, words or phrases used in this ordinance shall be interpreted to give them the meaning they have in common usage and to give this ordinance the most reasonable application.

- (1) Buffer Strip
A 20 foot wide strip of living plant material planted with one or more species of trees and or shrubs at spacings which will provide a permanent, solid, continuous, year-round opaque, visual screen extending from the surface of the ground to a minimum height of six (6) feet at maturity.
- (2) Construction Permit
A permit issued by the enforcement officer authorizing the mobile home park owner to construct a mobile home park or travel trailer park in accordance with a plan approved by the Planning Board.
- (3) Developer
Any person, firm, trust, partnership, association or corporation engaged in development or proposed development of a mobile home or travel trailer park.
- (4) Enforcement Officer
This ordinance shall be enforced by the Duplin County Planning Department.
- (5) Mobile Home
A portable manufactured housing unit designed for transportation on its own chassis and placement on a temporary or semipermanent foundation having a measurement of over 32 feet in length and over 8 feet in width. As used in this ordinance, mobile home also means a double wide mobile home which is two or more portable manufactured housing units designed for transportation on their own chassis, which connect on site for placement on a temporary or semipermanent foundation having a measurement of over 32 feet in length and over 8 feet in width.
- (6) Mobile Home Park
Shall mean and include any place, area or tract of land maintained, offered or used for the parking of more than two mobile homes used or intended to be used for human habitation purposes. Provided further that this Regulation shall not apply where up to three mobile homes are used by an immediate family relationship such as father and son or a relationship considered by the Health Department as equal to this and no rent is charged or paid. Also provided that this ordinance shall not apply to permitted migrant labor camps.
- (7) Mobile Home Lot
Any parcel of ground within a mobile home park designated for the exclusive use of one mobile home.

- (8) Operation Permit
A permit issued by the Enforcement Officer to a mobile home or travel trailer park owner, upon the completion of a mobile home park which authorizes the lease or rental of spaces and operation of the park.
- (9) Permitted Migrant Labor Camp
Mobile homes under valid permit by the Duplin County Health Department and other applicable agencies for use as housing for migrant laborers. Mobile home parks as defined by this ordinance will be subject to the requirements of this ordinance when not under valid permit as a migrant labor camp.
- (10) Site Plan
A plan of a proposed mobile home or travel trailer park, prepared by the developer in accordance with this regulation and presented to the Duplin County Planning Board for approval.
- (11) Travel Trailer
A wheeled vehicular portable structure built on a chassis, designed to be used as a temporary dwelling for travel and/or recreational purposes, having a body width not exceeding 8 feet. This is also intended to include structures mounted on auto or truck bodies commonly referred to as campers.
- (12) Travel Trailer Park
Any site or tract of land upon which is located six or more travel trailer spaces, regardless of whether or not a charge is made for such services.
- (13) Travel Trailer Space
A plot of land within a travel trailer park designed for the accommodation of one travel trailer.
- (14) Variance
A modification of terms of this ordinance where, owing to conditions peculiar to the property, a literal enforcement of this ordinance would result in an unnecessary hardship.

ARTICLE VI MOBILE HOME PARK DESIGN STANDARDS

SECTION 60

Suitability of Land

Land subject to flooding, improper drainage, erosion, or that is for topographical or other reasons unsuitable for residential use as determined by the Planning Board, shall not be developed for mobile home parks if such use would continue or increase the danger to health, safety, or property unless the hazards can be, and are corrected or avoided. However, the Planning Board, in carrying out this directive, shall not, solely on the grounds of flood danger, prohibit mobile home park development or use if any County flood plain or flood hazard ordinance allows such development or use. The Planning Board shall require any known flood plain or flood hazard area to be identified on the site plan, and when the Planning Board deems it advisable, may require the developer to give notice to potential tenants of the flood plain or flood hazard area prior to the tenants legally binding themselves to lease spaces.

SECTION 61

General Requirements

- (1) The owner/operator of a mobile home park shall not sell mobile homes on or within a mobile home park unless the mobile home unit for sale is individually and separately located upon an existing mobile lot where all design standards have been met and all utilities have been installed as required by this ordinance. An individual mobile home owner residing in the park may sell his own mobile home.
- (2) The transfer of individual mobile home lots within the park by sale or other means shall be prohibited while the park is in operation.

- (3) No enclosed structure in excess of 500 square feet shall be attached to any mobile home. Such additions shall not encroach into the minimum setbacks or separation requirements.
- (4) Open porches and decks shall not be constructed nearer than five feet to adjacent interior or exterior lot lines.
- (5) Only mobile homes shall be located within mobile home parks.
- (6) Mobile home park identification signs shall not exceed thirty-two (32) square feet in area per side. Only diffused non-flashing lighting will be allowed. Lighting shall not directly illuminate the public roadway or reflect light beams or glare that would impair the vision of motorists or interfere with the operation of vehicles. Signs shall not be located within the public right-of-way and shall be located at least 10 feet from any mobile home.
- (7) Each mobile home shall be identified by a lot identification number at least 3 inches high and erected in a conspicuous location on the facade of the structure facing the road.
- (8) Buffer strips are intended to protect adjoining land uses, from the noise, dust, lights, threats to privacy, and aesthetic impacts of more intense land uses. Any portion of any mobile home or travel trailer park boundary which is Both within 500 feet AND is visible from any residence (other than that of the park owner) shall be screened from view with a buffer strip, as defined by this ordinance, along the boundary line facing the residence. The buffer requirement may be satisfied by existing natural vegetation meeting the intent of this ordinance provided that the natural vegetation is owned by the mobile home park owner.
 - A. No particular species of plant materials are specified; however, performance of plant materials and methods used shall be in accordance with the requirements and intent of this ordinance. (See Appendix for chart of recommended plant materials and spacings.)
 - B. Plant materials shall average a minimum of 12" in height at the time of planting.
 - C. Persons operating mobile home and travel trailer parks shall utilize good husbandry techniques with regard to plant materials including but not limited to proper planting, mulching, fertilization, pruning continuous solid vegetative screen as soon after planting as possible.
 - D. Diseased, dead or damaged plant materials shall be replaced at the earliest appropriate planting time.
- (9) Within a mobile home park, one mobile home may be used as an administrative office.
- (10) Convenience establishments of a commercial nature, including food stores, coin-operated laundries and dry cleaning establishments, laundry and dry cleaning pickup stations, beauty parlors, and barber shops may be permitted in mobile home and travel trailer parks subject to the following restrictions:
 - A. Such establishments shall be located, intended and designed to serve only the trade or service needs of persons residing in the park.
 - B. Such establishments shall be subordinate to the residential use and character of the park.
 - C. Off-street parking for commercial establishments shall be provided at a ratio of one (1) space for every four hundred (400) square feet of gross floor area.
 - D. Vehicular access to such establishments shall be from interior streets.

E. Signs serving such establishments inside the mobile home park shall be limited to twenty (20) square feet in area, non-illuminated, and shall be attached to the establishment.

- (11) The mobile home owner shall provide anchors, tie-downs and footings as specified in the "State of North Carolina Regulations for Mobile Homes and Modular Housing".

SECTION 62

Lots

- (1) Generally, lot sizes, shapes and locations shall be made with due regard to topographic conditions, soil conditions, and the surrounding land usage.
- (2) The area required for each mobile home lot shall be determined by the Duplin County Health Department after an investigation of soil conditions, proposed methods of sewage disposal, and water supply. However in no case shall the area of a mobile home lot be less than six thousand (6,000) sq. ft.
- (3) Minimum lot areas shall be as specified below:

Water and Sewer ServiceMinimum Lot Size

- | | |
|--|-------------------|
| (A) Lots served by <u>both</u> off-site water supply and off-site sewage disposal. | 6,000 square ft. |
| (B) Lots served by <u>either</u> off-site water supply <u>or</u> off-site sewage disposal. | 8,000 square ft. |
| (C) Lots served by <u>neither</u> off-site water supply <u>nor</u> off-site sewage disposal. | 20,000 square ft. |
- (4) Each mobile home lot shall have a minimum average width of sixty (60) feet and a minimum road frontage of twenty (20) feet.
- (5) Mobile home minimum setbacks on the lots shall be as follows: No portion of any setback shall be within the required buffer strip.
- (A) 10 feet from any interior side or rear lot line
- (B) 15 feet from any exterior park boundary line
- (C) 15 feet from any interior street right-of-way line
- (D) 30 feet from any public road right-of-way line
- (E) 20 feet from any building, other mobile home or mobile home park identification sign
- (6) Each mobile home lot shall be clearly defined on the ground by means of a concrete or iron marker at each lot corner.
- (7) Each mobile home lot shall abut on an interior street which has direct access to a public road.

SECTION 63

Streets and Parking

- (1) Interior streets shall be private streets, owned and maintained by the mobile home park owner. Neither the County nor the State assumes any responsibility for maintenance of any streets, parking areas, drainage structure or open spaces.
- (2) Interior streets shall have a traveled way, a minimum of twenty (20) feet wide and graded drained and stabilized to insure all weather travel by passenger vehicles.
- (3) Streets shall be approximately centered in a right-of-way not less than forty-five (45) feet wide.
- (4) Permanent dead end or cul-de-sac streets shall not exceed one thousand (1,000) feet in length and shall have a bulb or other suitable means for vehicles to turn around at the closed end. Bulbs shall have a right-of-way diameter of ninety-five (95) feet and a traveled portion with a diameter of seventy (70) feet. Other provisions for turning around may be allowed subject to approval by the Planning Board.

- (5) Streets and drives within the mobile home park shall intersect as nearly as possible at right angles to other streets. No streets shall intersect at an angle of less than sixty (60) degrees.
- (6) Interior streets may be named by the mobile home park developer. Names shall not duplicate or be similar to existing County road names. The developer shall be responsible for erecting street name signs. Signs on public rights-of-way shall conform to the style and design of existing street name signs within the County jurisdiction.
- (7) Two automobile parking spaces shall be provided for each mobile home lot. No portion of the required spaces shall be within any street right-of-way.

SECTION 64

UTILITIES

- (1) Each mobile home lot shall be provided with an approved water supply and distribution system, sewage disposal system and electrical service.
- (2) When public or community water systems or sewage systems are available, the developer shall, at his expense, make connection to those systems. Availability will be determined by the Planning Board.
- (3) All street shall be illuminated from sunset to sunrise. Lights shall be pole mounted overhead style of a design suitable for the purpose. Light poles shall be located approximately along the right-of-way lines of interior streets. Street lamps shall be a minimum of 175 watt mercury vapor or its equivalent, spaced at intervals of not more than three hundred (300) feet.
- (4) Lighting shall be located to illuminate the entrance street at its intersection with the public right-of-way and shall not cast light or glare onto the public road of such intensity as to impair the vision of motorists or interfere with the operation of vehicles.
- (4) Off-site County owned bulk refuse containers shall serve as refuse collection facilities. Private collection may be provided by the mobile home park owner/operator subject to approval by the Health Department.

SECTION 65

Recreation Area

Each mobile home park shall provide four hundred (400) feet of recreation area for each mobile home lot that is less than eight thousand (8,000) sq. ft. in area. No recreation area shall be less than 2,500 sq. ft. in area. Maintenance of the mobile home park owner/operator.

Article VII Travel Trailer Park Design Standards

SECTION 70

Suitability of Land

Land subject to flooding, improper drainage, erosion, or that is for topographical or for other reasons unsuitable for travel trailer use as determined by the Planning Board, shall not be developed for travel trailer parks if such use would continue to increase the danger to health, safety, or property unless the hazards can be and are corrected or avoided.

SECTION 71

General Requirements

- (1) It shall be unlawful for a person to park or store a mobile home in a travel trailer park. However, one (1) mobile home may be allowed within a travel trailer park to be used as an office or residence of persons responsible for the operation and maintenance of the travel trailer park.
- (2) Travel trailer park identification signs shall be limited to one (1) sign located at the park entrance. No sign shall exceed thirty-two (32) square feet in area per side.
- (3) All building shall be constructed in accordance with applicable building codes of the County.
- (4) Commercial uses - Same as Article VI Section 61 (10).
- (5) Buffer Strips - See Article VI Section 61 (8).

SECTION 72

Lots

- (1) Generally, lot sizes, shapes and locations shall be made with due regard to topographic conditions, soil conditions, and the surrounding land usage.
- (2) All spaces shall be located on sites with elevations that are not susceptible to flooding. Each space shall be properly graded to obtain a reasonably flat site and to provide adequate drainage away from the space. All ditch banks shall be sloped and seeded.
- (3) Each space shall consist of a minimum of fifteen hundred (1,500) square feet.
- (4) There shall be a minimum distance of fifteen (15) feet between each travel trailer or structure.
- (5) No space shall have direct vehicular access into a public road.
- (6) All spaces developed adjacent to public road shall be set back a minimum of forty (40) feet from the right-of-way line.

SECTION 73

Streets and Parking

- (1) Interior streets shall be private streets, owned and maintained by the travel trailer park owner. Neither the County nor the State assume any responsibility for maintenance of any streets, parking areas, drainage structures or open spaces.
- (2) No method of sewage disposal shall be installed, altered or used without the approval of the Duplin County Health Department. All sewage wastes from each park, including wastes from toilets, showers, bathtubs, lavatories, wash basins, sinks, and water-using appliance not herein mentioned shall be piped into the sewage disposal system or systems.
- (3) Cul-de-sacs or dead-end roads shall not exceed one thousand (1,000) feet in length. Any road designed to be permanently closed shall have a turnaround at the closed end with a minimum diameter of eighty (80) feet. The entire area of the turnaround shall be graded and have an all-weather surface. Other provisions for turning around may be allowed subject to approval by the Planning Board.

SECTION 74

Utilities

- (1) Each travel trailer lot shall be provided with an approved water, sewer and electrical service.
- (2) No method of sewage disposal shall be installed, altered or used without the approval of the Duplin County Health Department. All sewage wastes from each park, including wastes from toilets, showers, bathtubs, lavatories, wash basins, sinks, and water-using appliance not herein mentioned shall be piped into the sewage disposal system or systems.
- (3) Sewage dumping stations shall be approved by the Duplin County Health Department. Each park shall provide at least one (1) sewage dumping station.
- (4) All toilet, shower, lavatory and laundry facilities shall be provided and maintained in a clean and sanitary condition and kept in good repair at all times. They shall be safely and adequately lighted. Facilities shall be easily accessible and conveniently located. All toilet, shower, lavatory and laundry room facilities shall be acceptable to the Duplin County Health Department and shall be in conformity with all applicable codes.
- (5) Each park shall have a central structure or structures that provide separate toilet facilities for both sexes. This structure may also contain coin-operated machines for the park residents' use only, provided there is no exterior advertising. Vending machines may also be permitted in an enclosed area.
- (6) Where electrical service is used, the installation and use of such facilities shall conform with all applicable codes. Such facilities shall be inspected by the County Building Inspector.

- (7) The park owner is responsible for refuse collection. All refuse shall be collected at least twice weekly, or more if the need is indicated during peak usage period.
- (8) Storage, collection, and disposal of refuse shall be so managed as not to create health hazards, rodent harbor-age, insect-breeding areas, accidents, fire hazards, or air pollution.
- (9) All refuse shall be stored in conveniently located leak-proof, rodent-proof containers with tight-fitting lids. The owner shall provide one such container with a capacity of at least twenty (20) gallons for every two (2) spaces. Garbage containers shall be located no farther than one hundred and fifty (150) feet from any trailer space.
- (10) The travel trailer park owner shall provide racks or platforms designed for the secure storage of all refuse containers.

SECTION 75

Recreation Area

- (1) Each park shall provide recreation areas to serve the needs of the anticipated users. One half (1/2) acre of level well-drained ground for every fifteen (15) spaces shall be utilized as a recreation area. The park owner is responsible for the development and maintenance of the recreation areas.
- (2) No swimming pool or bathing area shall be installed, altered, improved, or used without compliance with applicable regulations. No bathing area shall be used without the approval of the Duplin County Health Department.

ARTICLE VIII MOBILE HOME AND TRAVEL TRAILER PARK OPERATION

SECTION 80

Maintenance

The mobile home and travel trailer park owner/operator shall be responsible for the continuous maintenance of the park. Streets, driveways rights-of-way, ditches, surface and subsurface drainage structures, erosion control structures, open space, recreation areas, utilities and signs shall be properly maintained to insure the safety and convenience of the public. Parks shall be maintained in a sanitary condition to minimize the harborage and breeding of insects and vermin.

SECTION 81

Review By Other Agencies

Compliance with this ordinance does not relieve the mobile home and travel park developer from the compliance with regulations adopted and enforced by other local, state and federal agencies which regulate construction of roads, driveway access, water supply and distribution, sewage disposal, electrical supply, health standards, building standards, erosion and sedimentation control, drainage and flood control. The developer will be advised of regulations applicable to each park prior to issuance of the construction permit.

SECTION 82

Registration of Occupants

It shall be the duty of the owner or operator a mobile home and/or travel trailer park to keep an accurate register containing a record of all occupants and owners of mobile homes or travel trailers located within a park. The register for any given year shall be preserved for two (2) years and shall be available for inspection at all times by the Enforcement Officers, the County Health Department, and other government agencies and officials authorized by the Board of Commissioners. The register shall contain the following information:

1. Name of owner and/or occupant, if different.
2. Date entered and date of leaving park.
3. Lot or space number.
4. Make, model and register number of mobile home or travel trailer.

SECTION 83

Existing Parks

Existing mobile home and travel trailer parks which do not comply with the requirements of this ordinance may continue to operate subject to the regulations applicable at the time of approval. But in no case shall any mobile home or travel trailer park be allowed to be revised, reconstructed or expanded in a manner which is inconsistent with this ordinance.

ARTICLE IX ADMINISTRATION

SECTION 90

Approval Required

After the effective date of this ordinance, no mobile home or travel trailer park within the jurisdiction of Duplin County shall be established, altered or expanded until a site plan has been approved by the Planning Board and a construction permit issued. The procedure for approval shall be as outlined below.

SECTION 91

Site Plan Submittal

The developer shall submit five (5) copies of a site plan to the Planning Department at least 14 days prior to the Planning Board meeting at which the plan is to be considered.

SECTION 91.1

Site Plan Contents

The Site Plan shall be accurately drawn to scale using appropriate materials in a neat and legible manner. The plan shall show or be accompanied by the following information:

- (1) Proposed name of mobile home or travel trailer park
- (2) Name, address and telephone number of developer, owner/operator
- (3) Name, address and telephone number of designer, planner, surveyor or engineer
- (4) Township
- (5) Date, scale of plan and north arrow
- (6) Boundary of tract
- (7) Boundary of Mobile home or travel trailer park
- (8) Location map showing names of adjacent property owners or subdivisions and use of adjacent property
- (9) Existing and proposed interior streets and right-of-way lines, public roadways and right-of-way lines, road names and numbers
- (10) Existing and proposed driveways and parking areas
- (11) Existing and proposed ditches, streams, ponds and wooded areas
- (12) Existing and proposed easements or other rights-of-way
- (13) Existing and proposed building and mobile homes or travel trailers
- (14) Existing and proposed mobile home and travel trailer lots, lot dimensions and lot numbers
- (15) Existing and proposed systems for surface and subsurface drainage, street lighting, electrical power, water supply and distribution, sewage disposal and refuse collection.
NOTE: North Carolina law requires that design of extensions or alterations of public water supply or distribution systems and public sewage collection or disposal systems must be prepared by a professional engineer licensed to practice in the State of North Carolina.
- (16) Areas subject to flooding
- (17) Locations of existing and proposed park identification signs, traffic control signs, and street names signs.
- (18) Existing and proposed buffers, recreation areas and open space areas
- (19) Any other such reasonable information as may be required by the Planning Board, to adequately review the plan.

SECTION 92

Technical Review Committee

The Planning Department shall present the proposed site plan to the Technical Review Committee for review of site plan contents and design. The Technical Review Committee will consist of representatives from the County Health Department, Planning Department, Building Inspections Department, Water Department, Soil Conservation Service and County Landfill. Also, the developer, electrical power company, telephone company, and the local fire department will be advised of the proposed development and of the Technical Review Committee meeting. The Technical Review Committee shall review the plan and make recommendations to the Planning Board concerning the plans compliance with this ordinance and other applicable regulations and policies. The Planning Department shall advise the developer of any plan deficiencies and of the findings and recommendations of the Technical Review Committee.

SECTION 93

Planning Board

The Planning Board shall have forty-five (45) days from its initial consideration of the site plan in which to approve, approve conditionally or disapprove the plan.

(1) Approved Plans

If the site plan is approved by the Planning Board, one (1) copy of the plan, so marked, will be retained by the Planning Board and one (1) copy of the plan, along with a letter of approval will be sent to the developer and to the members of the Technical Review Committee.

(2) Approved Conditionally

If the site plan is approved conditionally by the Planning Board, one (1) copy of the plan so marked, will be retained by the Planning Board and one (1) copy of the plan along with a letter stating the reasons for conditional approval and the conditions of approval will be sent to the developer, and to the members of the Technical Review Committee. Any conditions imposed on the plan must be agreed to by the developer and all conditions shall be satisfied prior to issuance of the operation permit.

(3) Disapproved Plans

If the site plan is disapproved by the Planning Board, one (1) copy along with a letter stating the reasons for disapproval and outlining re-submittal and appeal options will be sent to the developer and to the members of the Technical Review Committee.

SECTION 93.1

Planning Board Review Committee

New mobile home parks or travel trailer parks or expansions of existing parks which, including the expansion, total 24 lots or less, may be reviewed by the Site Plan Review Committee of the Planning Board. The Review Committee is authorized to take action on behalf of the full Planning Board. Meetings of the Review Committee will be scheduled at the discretion of the Chairman of the Planning Board.

SECTION 94

Construction Permit

Upon Planning Board approval of the site plan, and upon application by the developer, the enforcement officer shall be authorized to issue a construction permit. The construction permit authorizes the developer to construct the mobile home or travel trailer park in accordance with plans as approved by the Planning Board. The construction permit does not relieve the developer from compliance with any applicable regulations and does not authorize the construction of improvements which would be in a violation of any local, state or federal regulation. The construction permit does not authorize the developer to offer mobile or travel trailer lots for rent or lease or to locate mobile homes or travel trailers on the property. The construction permit will be valid for twelve (12) months. If construction has not been completed within twelve (12) months, Planning Board approval shall become null and void. The Planning Board, at its discretion, may grant a

twelve (12) month extension to the original approval. The enforcement officer may periodically observe construction during progress to determine if construction is in compliance with approved plans.

SECTION 95

Operation Permit

After construction is completed, the developer shall apply to the enforcement officer for an operation permit. At the time application is made, the developer must provide copies of all approval letters or permits issued by governing agencies confirming that all improvements have been constructed or are approved for construction in accordance with all applicable regulations. The operation permit shall not be issued until the park is in compliance with all applicable regulations. If the park is determined to be in compliance, the enforcement officer shall issue an operation permit. This permit authorizes the developer to rent or lease mobile home or travel trailer lots and to operate the park. After the operation permit has been issued, building permits may be obtained from the building inspector.

SECTION 95.1

Violations

The operation permit shall be valid until revoked. The enforcement officer shall periodically visit the park to determine continued compliance with this ordinance and other applicable regulations. If the park is determined to be in violation, the enforcement officer shall notify the owner/operator to correct violations within 120 days of notification shall constitute grounds for revocation of the permit. If the permit is revoked, the enforcement officer shall notify the owner/operator in writing of the status of the permit, the action needed to correct the violation, and the enforcement techniques available to the county to remedy continued violation. Operation of a mobile home park without a valid operation permit is a misdemeanor subject to enforcement actions as provided for by state law. When the enforcement officer determines that the park has been brought back into compliance with applicable regulations, he shall reinstate the operation permit.

SECTION 96

Transfer of Permits

Construction and operation permits are issued to the mobile home/travel trailer park owner and are not transferable. The park owner shall notify the enforcement officer of any transfer in park ownership within thirty (30) days.

SECTION 97

Development In Sections

Developers are encouraged to submit plans showing the proposed mobile home/travel trailer park in its entirety. However, Planning Board approval, construction and operation permits may be issued for sections of the park. Sections shall contain a minimum of five (5) contiguous lots and must comply with all applicable regulations.

ARTICLE X LEGAL PROVISIONS

SECTION 100

Minimum Requirements

The provisions of this ordinance shall be held to be minimum requirements adopted for the promotion of the public health, safety, and general welfare. Wherever the requirements of this ordinance differ with the requirements of any other adopted county, state or federal regulation, the most restrictive or that imposing the highest standard shall govern.

SECTION 101

Enforcement

This ordinance may be enforced by any one or more of the remedies authorized by G. S. 153A-123, including but not limited to the following:

- (1) A violation of this ordinance shall constitute a misdemeanor, punishable by a maximum fine of \$50.00 or imprisonment for no more than 30 days.

- (2) Violation of this ordinance subjects the offender to a civil penalty of fifty (\$50.00) dollars.
- (3) This ordinance may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction.
- (4) This ordinance may be enforced by injunction, order of abatement or both.
- (5) Each day's continuing violation of this ordinance is a separate and distinct offense.

SECTION 102

Complaints

Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a written complaint with the enforcement officer, stating the cause and basis for the complaint. The enforcement officer shall record the complaint, investigate and take such action as may be necessary to enforce this ordinance.

SECTION 103

Separability

Should any section or provision of this ordinance be declared by the courts to be invalid for any reason, such declaration shall not affect the ordinance as a whole, or any part thereof other than the part so declared to be unconstitutionally invalid.

SECTION 104

Amendment

Petitions for amendment may be filed with the enforcement officer by any citizen of the County, and county department or agency, the County Planning Board or Board of Commissioners.

SECTION 104.1

Commissioners Review

The provisions and requirements of this ordinance may be amended by the County Commissioners according to the procedure set forth:

(1) Planning Board Review

No amendment shall become effective unless it shall have been proposed by or shall have been reviewed by the Planning Board. The Planning Board shall have 45 days in which to review the proposed amendment and to make recommendations to the Commissioners within 45 days it shall be deemed to have approved the proposed amendment.

(2) Public Hearing

No amendment shall become effective until after duly advertising and holding a public hearing. Notice of public hearing shall be published once a week for two consecutive weeks in a newspaper of general circulation in the county. After such public hearings, the Commissioners may take such lawful actions as it may deem advisable.

SECTION 105

Variance and Exception

The Planning Board may issue variances and exceptions from the design requirements of this ordinance such that would not be contrary to the public interest, or the spirit and intent of this ordinance, and where due to special conditions, a literal enforcement of the provisions of this ordinance would result in an unnecessary hardship. In granting a variance, the Planning Board may prescribe appropriate conditions and safeguards as it deems necessary to preserve the intent of this ordinance. In granting a variance or exception to this ordinance the Planning Board must determine the following:

- (1) Special conditions and circumstances exist which are peculiar to the land, or buildings involved and which are not applicable to other lands, or buildings.
- (2) The literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties.
- (3) Special conditions and circumstances do not result from the actions of the applicant; and

- (4) Granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, or buildings.

SECTION 106

Appeal

The County Commissioners shall hear and decide appeals and review any orders, requirements, decisions, or determinations made by the Planning Board or any County Department responsible for administration or enforcement of this ordinance. The Commissioners' decision is subject to review by the Superior Court of Duplin County.

SECTION 107

Effective Date

This ordinance shall become effective and be in full force from and after the 3rd day of January, 1989. Adopted by the Duplin County Board of Commissioners this the 5th day of December, 1988.

Willis Sholar

Chairman, Duplin County
Board of Commissioners

ATTEST: Ralph Cottle
Clerk

ARTICLE XI APPENDIX

SECTION 110

CHART OF RECOMMENDED PLANT MATERIAL(1) Trees

| <u>NAME</u> | <u>HEIGHT (H) SPREAD (S)</u> | <u>SPACING</u> | <u>GROWTH RATE</u> |
|-----------------------|----------------------------------|----------------|------------------------|
| American Holly | (H) 15-30' (S) 10-20' | 6' | Fast |
| Carolina Cherry | (H) 20-25' (S) 15-20' | 10' | Moderate |
| DaHoon Holly | (H) 15-20' (S) 10-15' | 6' | Fast |
| Eastern Red Cedar | (H) 30' (S) 15' | 6' | Moderate |
| Japanese Evergreen | (H) 20-40' (S) 8-16' | 8' | Moderate |
| Yaupon Holly | (H) 20' (S) 6-12' | 6' | Moderate |

(2) Shrubs

| | | | |
|------------------------|------------------------|-----|----------|
| Chinese Holly | (H) 10' (S) 6-8' | 10' | Moderate |
| Chinese Photinia | (H) 12' (S) 5-10' | 8' | Fast |
| Cleyera | (H) 10' (S) 5-6' | 10' | Moderate |
| Fortune's Osmanthus | (H) 15' (S) 5-7' | 10' | Moderate |
| Glossy Privet | (H) 8-10' (S) 5-10' | 12' | Fast |
| Japanese Holly | (H) 6-17' (S) 3-5' | 10' | Slow |
| Japanese Privet | (H) 4-20' | 10' | Fast |

| | | | |
|------------------------|------------------------|-----|----------|
| | (S) 5-6' | | |
| Luster Leaf Holly | (H) 8-12' (S) 7-11' | 10' | Moderate |
| Pittosporum | (H) 10-30' (S) 5-8' | 10' | Moderate |
| Southern Wax Myrtle | (H) 20' (S) 6-12' | 8' | Fast |
| Spice Plant | (H) 8-12' (S) 8-10' | 10' | Moderate |
| Thorny Elaeagnus | (H) 8-11' (S) 6-10' | 10' | Moderate |

* GROWTH RATE APPROXIMATIONS IN HEIGHT:

| | | |
|----------|---|--------------|
| Slow | - | 6" per year |
| Moderate | - | 8" per year |
| Fast | - | 12" per year |

EXAMPLE BUFFER STRIP

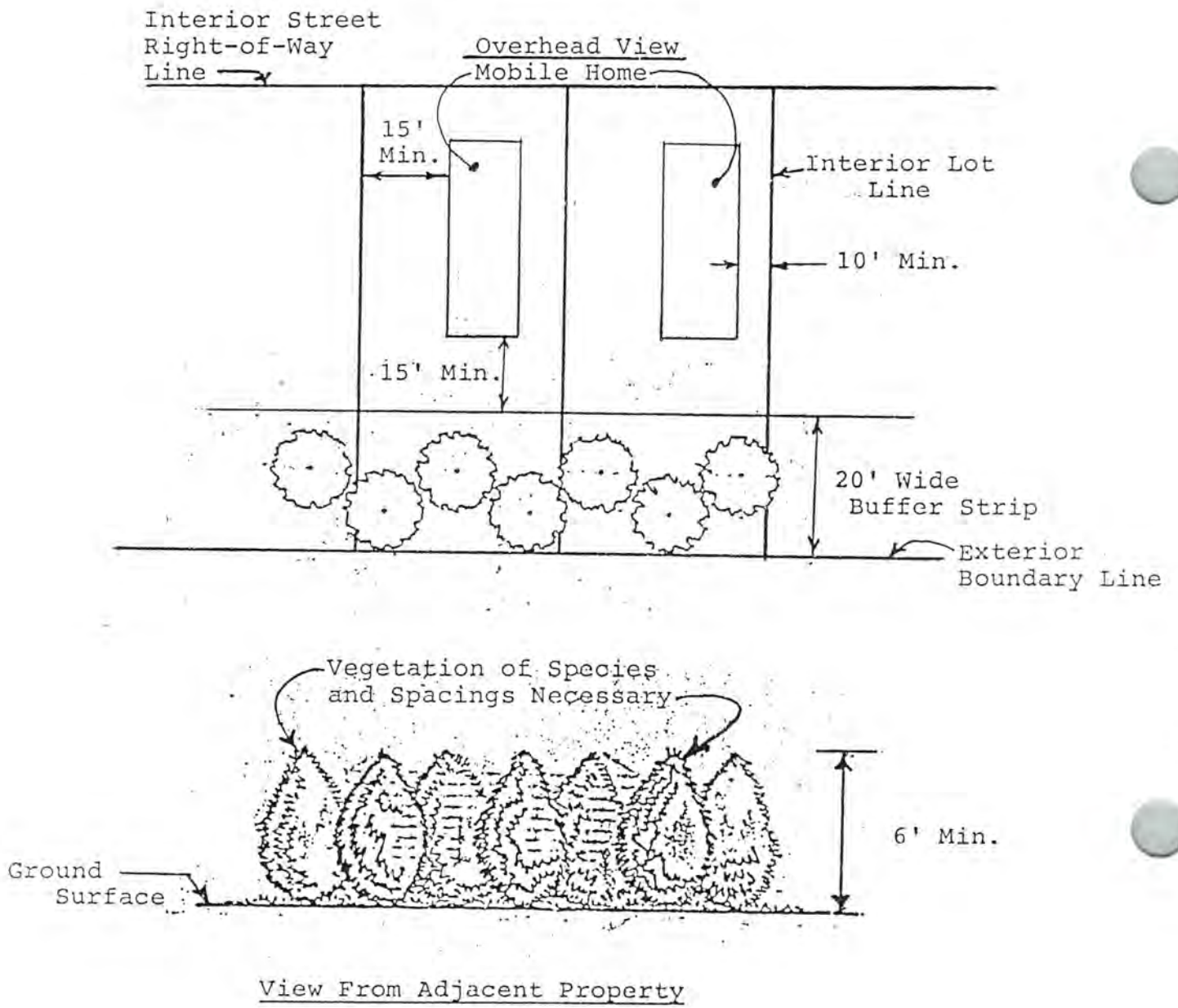


FIGURE XI-I

THE JUNKYARD AND SALVAGE YARD ORDINANCE

ENACTMENT

This is an ordinance establishing regulations for junkyards and salvage yards within the jurisdiction of Duplin County, North Carolina and providing for administration, enforcement and amendment thereof.

PREAMBLE

WHEREAS, in the opinion of the Duplin County Board of Commissioners to further promote the health, safety, and general welfare of the residents of Duplin County, it is necessary and advisable to adopt regulations pertaining to the location, establishment, and operation of junkyards and salvage yards within the jurisdiction of Duplin County, and

WHEREAS, the Duplin County Planning Board has developed this ordinance with due consideration and has submitted final recommendations to the Duplin County Commissioners, and

WHEREAS, the Duplin County Commissioners have given due notice of public hearing and have conducted such public hearing, and

WHEREAS, all applicable requirements of the General Statutes of North Carolina have been met.

NOW, THEREFORE BE IT ORDAINED BY THE COUNTY COMMISSIONERS OF THE COUNTY OF DUPLIN AS FOLLOWS:

ARTICLE I AUTHORITY

SECTION 10

The provisions of this ordinance are adopted under authority granted by North Carolina General Statute 153-121.

ARTICLE II JURISDICTION

SECTION 20

These regulations shall govern each and every junkyard and salvage yard outside the jurisdiction of any municipality in Duplin County.

ARTICLE III TITLE

SECTION 30

This ordinance shall be known as The Junkyard and Salvage Yard Ordinance, Duplin County, North Carolina and may be referred to as the Junkyard Ordinance.

ARTICLE IV INTERPRETATIONS

SECTION 40

Tense and Number

- (1) The present tense includes the future tense and the future tense includes present tense.
- (2) The singular number includes the plural number and the plural number includes the singular number.

SECTION 41

Word Interpretations

- (1) The word "may" is permissive.
- (2) The words "shall" and "will" are mandatory.
- (3) The word "County" shall mean the County of Duplin, North Carolina.
- (4) The words "Planning Board" shall refer to the Duplin County Planning Board
- (5) The words "County Commissioners" shall refer to the Duplin County Board of Commissioners.

- (6) The word "person" shall include firm, organization, association, company, trust, corporation or other entity.
- (7) The words "used" or "occupied" includes intended, designed, and arranged.

SECTION 42

Definitions

For the purposes of this ordinance, the following terms shall be defined as specified below. Unless specifically defined, words or phrases used in this ordinance shall be interpreted to give them the meaning they have in common usage and to give this ordinance the most reasonable application

- (1) Area of Special Flood Hazard
Areas subject to a one percent or greater chance of flooding in any given year as identified by the Federal Emergency Management Agency.
- (2) Salvage Yard
Any establishment, place of business or property which is maintained, used, or operated for storing, keeping, buying or selling wrecked, scrapped, ruined or dismantled vehicles, machinery, appliances, structures or parts thereof; or any business establishment or property upon which six or more unlicensed, used vehicles, or the equivalent, which cannot be operated under their own power are kept or stored.
- (3) Enforcement Officer
This ordinance shall be enforced by the Duplin County Planning Department.
- (4) Junk
Old, scrapped, ruined, or discarded copper, brass, iron, rags, rope, appliances, wood, batteries, automobiles, trash, machinery, structures or similar materials or parts thereof, which is not used for its original purpose.
- (5) Junkyard
Any establishment, place of business or property which is maintained, used or operated for storing, keeping, buying or selling "junk". Provided, however, that this ordinance shall not apply to county operated bulk refuse container sites or to county operated landfills or refuse disposal facilities.
- (6) Potable Water Supply Well
A well used for or intended for supplying water for human consumption.
- (7) Protective Fence
A structure of wood, stone, brick, block, steel or other metal extending from the surface of the ground to a minimum height of six (6) feet and of such materials and construction which creates a physical barrier.
- (8) Public Park
Any publicly owned land which is designated or used as a public park, recreation area, wildlife or waterfowl refuge or historic site.
- (9) Public Road
A road or right-of-way designated for vehicular travel by the public.
- (10) School
Institutions of education including public and private schools, daycare centers, colleges and universities.
- (11) Screen Fence
A structure of wood, stone, brick, block, steel or other metal extending from the surface of the ground to a minimum height of 6 feet and of such materials and construction

which creates a permanent solid, continuous, opaque visual barrier.

- (12) Sketch Plan
A drawing showing general area conditions and containing information as required by Section 60(1) of the ordinance.
- (13) Traveled Way
The portion of a public road intended for movement of vehicles.
- (14) Vegetative Screen
A strip of living plant material planted with species of trees and or shrubs that will provide a permanent, solid, continuous, opaque, visual screen extending from the surface of the ground to a minimum of 6 feet in height at maturity.
- (15) Visible
Capable of being seen without visual aid by a person of normal visual acuity.

ARTICLE V PROVISIONS

SECTION 50

Applicability

After the effective date of this ordinance, it shall be unlawful for any person to establish, operate, maintain, or expand a junkyard or salvage yard in a manner which is inconsistent with the provisions and requirements of this ordinance.

SECTION 51

Location

No new junkyard or salvage yard shall be located:

- (1) Within 50 feet of the right-of-way line of any public road.
- (2) Within 500 feet of any residence owned by persons other than those owning the junkyard or salvage yard.
- (3) Within 500 feet of any school, church, public park, public library, nursing home, rest home, airport, cemetery or other place of public assembly.
- (4) Within 100 feet of any potable water supply well.
- (5) Within an "area of special flood hazard".

SECTION 52

Fencing

Protective perimeter fencing shall be provided around all junkyards and salvage yards as described below.

- (1) A fence of wood, stone, brick, block, steel or other metal extending from the surface of the ground to a minimum height of six feet and of sufficient materials and construction to reasonably secure the premises from unauthorized persons shall be constructed along the entire perimeter of every junkyard or salvage yard.
- (2) Gates for ingress and egress shall be of sufficient materials and construction to provide the minimum degree of security required for fencing.
- (3) Up to two gates, not to exceed 20 feet in width each, are allowed for any junkyard or automobile salvage yard fence. More than two gates will be allowed at the rate of one gate per 1000 linear feet of perimeter fencing.

SECTION 53

Screening

The intent of this Section is to require junkyards and salvage yards to be screened from view from public roads and adjacent properties. Screening shall be provided as specified below.

SECTION 53.1 Types of Screening

- (1) Screen Fence - The screening requirement may be satisfied by fencing specified in Section 52(1) above, which is ALSO of such design and construction as to provide a permanent, solid, continuous, opaque screen extending a minimum of 6 feet in height above the surface of the ground.
- (2) Vegetative Screen - A strip of living plant material planted with one or several species of trees and or shrubs at such spacings which will provide a permanent, solid, continuous, year round, opaque screen extending from the surface of the ground to a minimum height of 6 feet at maturity. (See appendix for example of vegetative screen.)
- (3) Other Screens - Combinations of fencing and vegetative screens or other methods of screening determined by the Planning Board to satisfy the intent of this ordinance may be acceptable.

SECTION 53.2 Screening Required

Screening to the specifications required in Section 53.1 shall be required along the perimeter of every junkyard and salvage yard in the following situation:

- (1) Any portion of any junkyard or salvage yard which is BOTH within 500 feet of the right-of-way line of any public road AND is visible from the traveled way of any public road shall be screened from view consistent with Section 53 of this ordinance.
- (2) Any portion of any junkyard or salvage yard which is BOTH within 500 feet AND is visible from any residence (other than that of the junkyard or salvage yard owner), school, church, public park, public library, nursing home, rest home, airport, cemetery or other place of public assembly shall be screened from view consistent with Section 53 of this ordinance.

SECTION 54 General Requirements

With regard to Section 52 and Section 53 above, the following additional requirements shall apply:

- (1) No particular species of plant materials are specified; however, performance of plant materials and methods used shall be in accordance with the requirements and intent of this ordinance. (See Appendix for chart of recommended plant materials and spacing.)
- (2) Plant materials shall average a minimum of 12" in height at the time of planting.
- (3) Persons operating junkyards and salvage yards shall utilize good husbandry techniques with regard to plant materials including, but not limited to proper planting, mulching, fertilization, pruning and otherwise proper maintenance to ensure a healthy, uniform, continuous solid vegetative screen as soon after planting as possible.
- (4) Diseased, dead or damaged plant materials shall be replaced at the earliest appropriate planting time.
- (5) Protective fencing shall be maintained in a safe sound condition.
- (6) If a vegetative screen in conjunction with the required protective is utilized, plant material shall be planted a sufficient distance from the fence to allow proper maintenance of both the plant materials and fence.

- (7) If a solid opaque fence is used to satisfy the fencing requirement (Section 52) AND the screening requirement (Section 53), it shall be of a uniform color scheme and geometric design. However, the Planning Board may, at its discretion, approve other designs as provided in Section 53.1(3).
- (8) Where practical, gates for access shall be located to minimize visual exposure to adjacent properties and public roads.
- (9) Because vegetative screening cannot be established in access driveways and gateways, when a vegetative screen is used to satisfy the screening requirement (Section 53.2), gates shall meet the requirements for screen fencing.

SECTION 55

Operation

It is the intent of this section to require all junkyards and salvage yards to be maintained so as to minimize harmful impacts on public health and the environment.

- (1) Gasoline, oil, grease, acid and other chemicals shall be appropriately stored or disposed of to prevent leaching into streams or the soil.
- (2) Materials shall be stored to minimize entrapment and holding of water which could be conducive to insect breeding.
- (3) Facilities shall be maintained in a safe, sanitary condition.
- (4) Facilities shall be maintained to minimize harborage and breeding of insects and vermin.

SECTION 56

Nonconformities

It is the intent of this section to require junkyards and salvage yards existing as of the effective date of this ordinance to be subject to the requirements of Section 52, 53, 54, and 55 only. Pre-existing junkyards and salvage yards that do not comply with the provisions of this ordinance shall be considered "nonconforming". Nonconforming facilities shall be brought into compliance with Sections 52, 53, 54, and 55 of this ordinance within 24 months of the effective date of this ordinance. Owners of nonconforming facilities shall be notified by the Planning Department of the requirements of this ordinance and of the actions necessary to bring their facility into compliance.

ARTICLE VI ADMINISTRATION

SECTION 60

Planning Board Approval

Prior to establishment of a new junkyard or salvage yard or expansion of an existing junkyard or salvage yard, the owner/operator shall submit 3 copies of a sketch plan for approval by the Planning Board. The sketch plan shall be submitted to the Planning Department at least 14 days prior to the Planning Board meeting at which the plan is to be considered.

- (1) Sketch Plan Contents - The required sketch plan shall show or be accompanied by the following:
 - (1) Title of Plan
 - (2) Name, address, and telephone number of owner/operator
 - (3) Approximate boundary of property
 - (4) Boundary of proposed junkyard/salvage yard
 - (5) Location of protective and screen fences
 - (6) Location of vegetative screen

- (7) Specifications on type of fence and type and spacing of plant material to be used
- (8) Approximate locations of adjacent homes, schools, churches, cemeteries, or other places of public assembly, wells, roads, or other public rights-of-way and wooded areas within 1000 ft.
- (9) North arrow
- (10) Date of plan
- (11) Scale of plan
- (12) Vicinity map
- (13) Proposed location of gates and driveways
- (14) Adjacent property owners and use of adjacent property
- (15) Any other such reasonable information as may be required by the Planning Board

NOTE: See Appendix for an example of a junkyard sketch plan.

SECTION 60.1 Construction Permit Required

Construction or expansion of a junkyard or salvage yard shall not begin until authorized by the enforcement officer of this ordinance. Upon approval of the sketch plan, the enforcement officer shall issue a construction permit authorizing construction of the junkyard/salvage yard as approved. The permit will be valid for 12 months. If construction has not been completed within 12 months, Planning Board approval shall become null and void. The Planning Board at its discretion may grant a 12 month extension to the construction permit.

SECTION 60.2 Duties of Planning Department

Upon receipt of a sketch plan containing sufficient information, the Planning Department shall submit the plan to the Planning Board for consideration at their next meeting. The Planning Department shall review the proposed plan and advise the owner of any deficiencies. The Planning Department shall make recommendation to the Planning Board regarding the plans compliance with the ordinance.

SECTION 60.3 Duties of Planning Board

The Planning Board shall have 45 days from its initial consideration of the plan in which to approve, approve conditionally, or disapprove the plan.

- (1) Approved Plans - If the plan is approved by the Planning Board, one copy of the plan, so marked will be retained by the Planning Board, one copy will be returned to the owner with a letter of approval and one copy will be sent to the enforcement officer.
- (2) Approved Conditionally - If the plan is approved conditionally by the Planning Board, one copy of the plan, so marked, will be retained by the Planning Board, one copy will be forward to the enforcement officer and one copy will be returned to the owner with a letter stating the reasons for conditional approval and the conditions to be addressed for final approval of the plan. Any conditions imposed on the plan must be agreed to by the applicant and shall be addressed prior to issuance of a construction permit.
- (3) Disapproved Plans - If the plan is disapproved by the Planning Board, one copy of the plan, so marked, will be retained by the Planning Board, one copy will be forwarded to the enforcement officer and one copy will be returned to the owner with a letter stating

the reasons for disapproval and outlining re-submittal and appeal options.

SECTION 60.4

Duties of Enforcement Officer

The enforcement officer of this ordinance upon Planning Board approval and upon application by the owner, shall be authorized to issue a construction permit. The enforcement officer shall upon completion of construction periodically monitor operation of the facility to determine continued compliance with this ordinance.

ARTICLE VII LEGAL PROVISIONS

SECTION 70

Minimum Requirements

The provisions of this ordinance shall be held to be minimum requirements adopted for the promotion of the public health, safety, and general welfare. Wherever the requirements of this ordinance differ with the requirements of any other adopted county, state or federal regulation, the most restrictive or that imposing the higher standard shall govern.

SECTION 71

Enforcement

This ordinance may be enforced by any one or more of the remedies authorized by G.S 153A-123, including but not limited to the following.

- (1) A violation of this ordinance shall constitute a misdemeanor, punishable by a maximum fine of \$50.00 dollars or imprisonment for not more than 30 days.
- (2) Violation of this ordinance subjects the offender to a civil penalty of fifty (\$50.00) dollars.
- (3) This ordinance may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction.
- (4) This ordinance may be enforced by injunction, order of abatement or both as provided in G.S. 153A-123(e).
- (5) Each day's continuing violation of this ordinance is a separate and distinct offense.

SECTION 72

Complaints

Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a written complaint with the enforcement officer, stating the cause and basis for the complaint. The enforcement officer shall record the complaint, investigate and take such action as may be necessary to enforce this ordinance.

SECTION 73

Separability

Should any section or provision of this ordinance be declared by the courts to be invalid for any reason, such declaration shall not affect the ordinance as a whole, or any part thereof other than the part so declared to be invalid.

SECTION 74

Amendment

Petitions for amendment may be filed with the Planning Department by any citizen of the County, and County Department or agency, the County Planning Board or Board of Commissioners.

SECTION 74.1

Commissioners Review

The provisions and requirements of this ordinance may be amended by the County Commissioners according to the procedures set forth.

- (1) Planning Board Review - No amendment shall become effective unless it shall have been proposed by or shall have been reviewed by the

Planning Board. The Planning Board shall have 45 days in which to review the proposed amendment and to make recommendation to the Commissioners. If the Planning Board fails to report to the Commissioners within 45 days, it shall be deemed to have approved the proposed amendment.

- (2) Public Hearing - No amendment shall become effective until after duly advertising and holding a public hearing. Notice of public hearings shall be published once a week for two consecutive weeks in a newspaper of general circulation in the County. After such public hearing, the Commissioners may take such lawful actions as it may deem advisable.

SECTION 75

Variance and Exception

The Planning Board may issue variances and exceptions from the requirements of this ordinance such that would not be contrary to the public interest, or the spirit and intent of this ordinance, and where due to special conditions, a literal enforcement of the provisions of this ordinance would result in an unnecessary hardship. In granting a variance, the Planning Board may prescribe appropriate conditions and safeguards as it deems necessary to reserve the intent of this ordinance. In granting a variance or exception to this ordinance, the Planning Board must determine the following:

- (1) Special conditions and circumstances exist which are peculiar to the land or buildings involved and which are not applicable to other lands or buildings.
- (2) The literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties.
- (3) Special conditions and circumstances do not result from the actions of the applicant; and
- (4) Granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands or buildings.

SECTION 76

Appeal

The County Commissioners shall hear and decide appeals and review any orders, requirements, decisions, or determinations made by the Planning Board or any county department responsible for administration or enforcement of this ordinance. The Commissioner's decision is subject to review by the Superior Court of Duplin County.

SECTION 77

Effective Date

This ordinance shall become effective and be in full force from and after the 1st day of July, 1989. Adopted by the Duplin County Board of Commissioners this the 15th day of May, 1989.

Willis Sholar
Chairman, Duplin County
Board of Commissioners

ATTEST: Ralph Cottle
Clerk

ARTICLE VIII APPENDIXSECTION 80 CHART OF RECOMMENDED PLANT MATERIAL(1) Trees

| <u>NAME</u> | <u>HEIGHT (H)</u> <u>SPREAD (S)</u> | <u>SPACING</u> | <u>GROWTH RATE*</u> |
|-----------------------|--|----------------|---------------------|
| American Holly | (H) 15-30' (S) 10-20' | 6' | Fast |
| Carolina Cherry | (H) 20-25' (S) 15-20' | 10' | Moderate |
| DaHoon Holly | (H) 15-20' (S) 10-15' | 6' | Fast |
| Eastern Red Cedar | (H) 30' (S) 15' | 6' | Moderate |
| Japanese Evergreen | (H) 20-40' (S) 8-16' | 8' | Moderate |
| Yaupon Holly | (H) 20' (S) 6-12' | 6' | Moderate |

(2) Shrubs

| | | | |
|------------------------|------------------------|-----|----------|
| Chinese Holly | (H) 10' (S) 6-8' | 10' | Moderate |
| Chinese Photinia | (H) 12' (S) 5-10' | 8' | Fast |
| Cleyera | (H) 10' (S) 5-6' | 10' | Moderate |
| Fortune's Osmanthus | (H) 15' (S) 5-7' | 10' | Moderate |
| Glossy Privet | (H) 8-10' (S) 5-10' | 12' | Fast |
| Japanese Holly | (H) 6-17' (S) 3-5' | 10' | Slow |
| Japanese Privet | (H) 4-20' (S) 5-6' | 10' | Fast |
| Luster Leaf Holly | (H) 8-12' (S) 7-11' | 10' | Moderate |
| Pittosporum | (H) 10-30' (S) 5-8 | 10' | Moderate |
| Southern Wax Myrtle | (H) 20' (S) 6-12' | 8' | Fast |
| Spice Plant | (H) 8-12' (S) 8-10' | 10' | Moderate |
| Thorny Elaeagnus | (H) 8-11' (S) 6-10' | 10' | Moderate |

* GROWTH RATE APPROXIMATIONS IN HEIGHT:

Slow - 6' per year
Moderate - 8' per year
Fast - 12' per year

SEE ATTACHMENT SHEET FOR

- (1) Example of Required Protective Fence
With Vegetable Screen
- (2) Sketch Plan

Example of Required Protective Fence
With Vegetative Screen

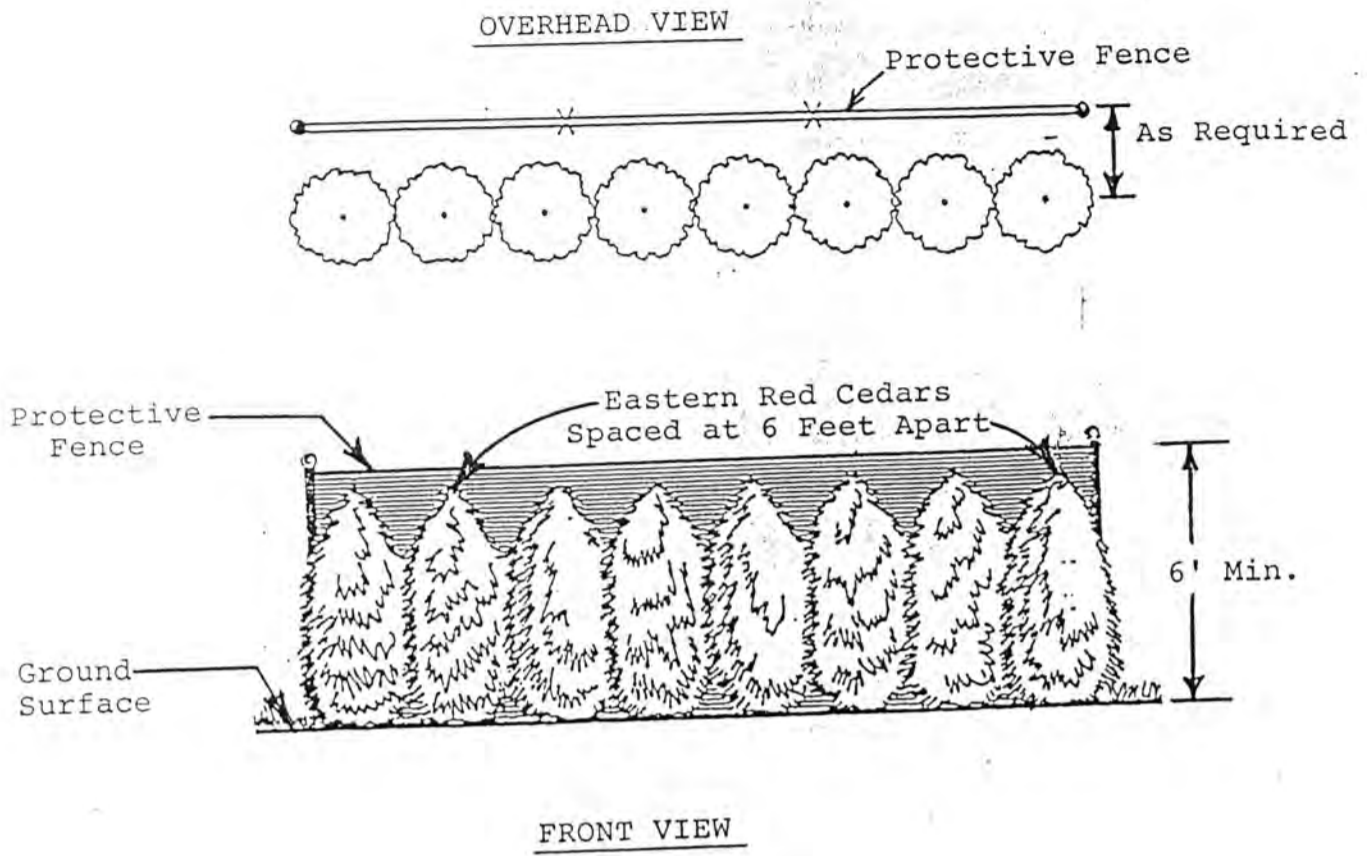
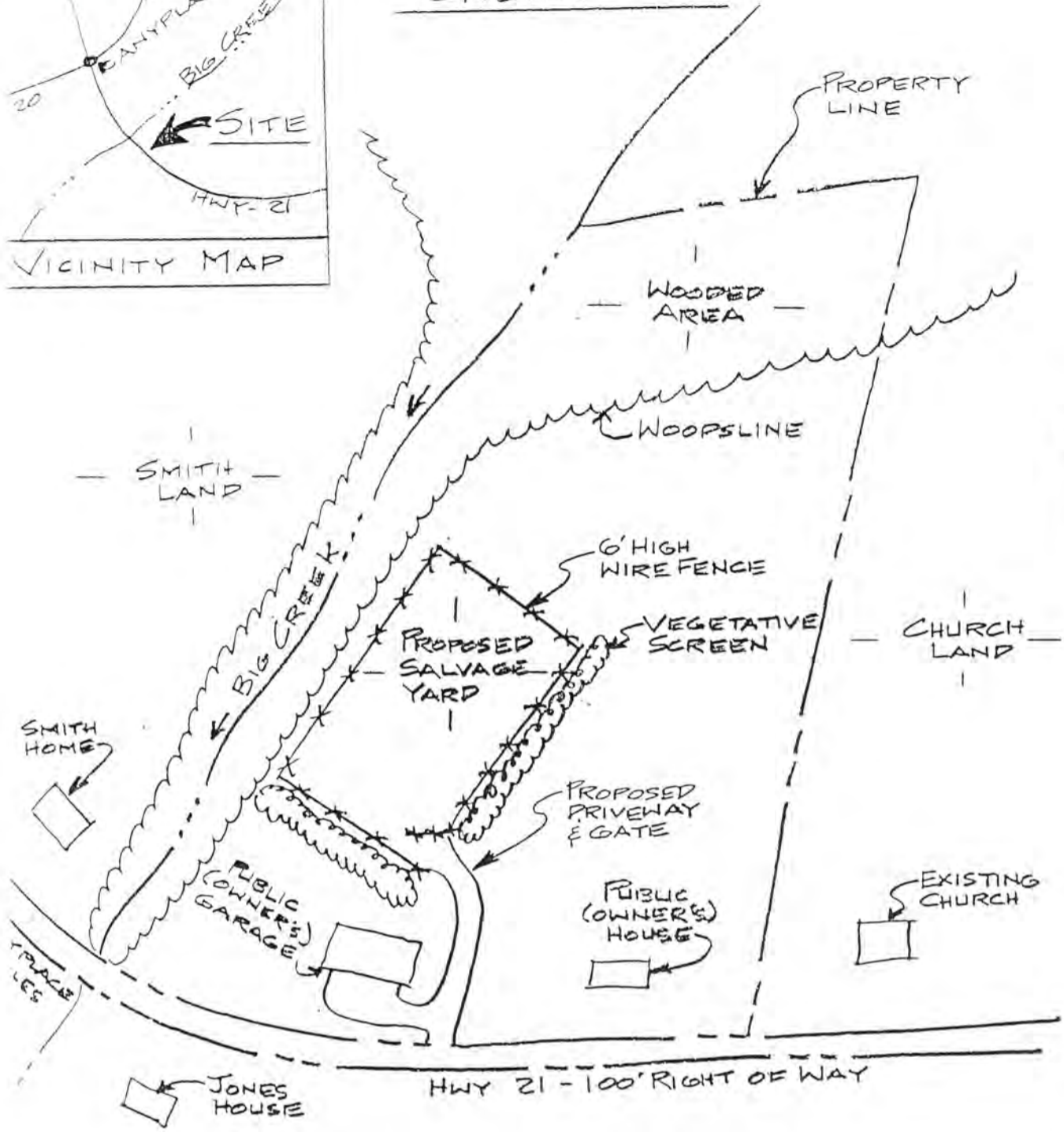
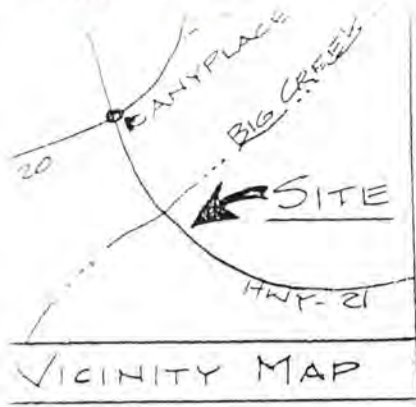


Figure VIII-1

000108

SKETCH PLAN



SKETCH PLAN
 PROPOSED AUTOMOBILE
 SALVAGE YARD

OWNER: JOHN Q. PUBLIC
 R#1
 ANYPLACE, NC.
 PHONE: 555-5555

DATE: JULY 15, 1988

SCALE: 1" = 200' ±

FIG. VIII-2

DUPLIN COUNTY
NORTH CAROLINA

89-03

MINIMUM HOUSING STANDARDS

ARTICLE A

Section 1. Finding: Purpose

(a) Pursuant to G.S. 160A-441, it is hereby found and declared that there exist in the County of Duplin dwellings which are unfit for human habitation due to dilapidation, defects increasing the hazards of fire, accidents and other calamities, lack of ventilation, light and sanitary facilities, and due to other conditions rendering such dwellings unsafe or unsanitary, and dangerous and detrimental to the health, safety and morals, and otherwise inimical to the welfare of the residents of the County.

(b) In order to protect the health, safety and welfare of the residents of the County as authorized by part 6 of Article 19, Chapter 160A of the General Statutes, it is the purpose of the Article to establish minimum standards of fitness for the initial and continued occupancy of all buildings used for human habitation, as expressly authorized by G.S. 160A-444.

Section 2. Definitions.

The following definitions shall apply in the interpretations and enforcement of this article:

(1) Basement shall mean a portion of a building which is located partly underground, having direct access to light and air from windows located above the level of the adjoining ground.

(2) Cellar shall mean a portion of a building located partly or wholly underground having inadequate access to light and air from windows located partly or wholly below the level of the adjoining ground.

(3) Deteriorated shall mean that a dwelling is unfit for human habitation and can be repaired, altered, or improved to comply with 11 of the minimum standards established by this article, at a cost not in excess of fifty percent (50%) of its value, as determined by findings of the inspector.

(4) Dilapidated shall mean that a dwelling is unfit for human habitation and cannot be repaired, altered or improved to comply with all of the minimum standards established by this article at a cost not in excess of fifty percent (50%) of its value, as determined by findings of the inspector.

(5) Dwelling shall mean any building which is wholly or partly used or intended to be used for living or sleeping by human occupants; provided that transportable/temporary housing as hereinafter defined shall not be regarded as a dwelling.

(6) Dwelling unit shall mean any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating.

(7) Extermination shall mean the control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, trapping or by any other recognized and legal pest elimination methods approved by the inspector.

(8) Garbage shall mean the animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

(9) Habitable room shall mean a room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, water closet compartments, laundries, heater rooms, foyers, or communicating corridors, closets and storage spaces.

(10) Infestation shall mean the presence within or around a dwelling, of any insects, rodents or other pests in such number as to constitute a menace to the health, safety or welfare of the occupants or the public.

(11) Inspector shall mean a building inspector of the County or any agent of the inspector who is authorized by the inspector.

(12) Multiple dwelling shall mean any dwelling containing more than two (2) dwelling units.

(13) Occupant shall mean any person over one (1) year of age, living, sleeping, cooking or eating in, or having actual possession of a dwelling unit or rooming unit.

(14) Operator shall mean any person who has charge, care or control of a building or part thereof, in which dwelling units or rooming units are let.

(15) Owner shall mean any person who alone, or jointly, or severally with others.

a. Shall have title to any dwelling or dwelling unit, with or without accompanying actual possession thereof; or

b. Shall have charge, care or control of any dwelling or dwelling unit, as owner or agent of the owner, or as executor executrix, administrator, administratrix, trustee or guardian of the estate of the owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this article, and of rules and regulations adopted pursuant thereto, to the same extent as if he were the owner.

(16) Plumbing shall mean and include all of the following supplied facilities and equipment gas pipes, gas burning equipment, water pipes, mechanical garbage disposal units (mechanical sink grinder), waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machines, catch basin, drains, vents and any other similar supplied fixtures, together with all connections to water, sewer or gas lines.

(17) Public authority shall mean the County of Duplin Housing Authority or any officer who is in charge of any department or branch of the government of Duplin County or the state of North Carolina relating to health, fire building regulations, or other activities concerning dwellings in the County.

(18) Rooming unit shall mean any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

(19) Rooming house shall mean any dwelling, or that part of any dwelling containing one or more rooming units, in which space is let by the owner or operator to three (3) or more persons who are not husband and wife, son or daughter, mother or father or sister or brother of the owner or operator.

(20) Rubbish shall mean combustible and noncombustible waste materials except garbage and ashes, and the term shall include paper, rags, cartons, boxes, wood, excelsior rubber, leather, tree branches, yard trimming, tin cans, metals, mineral matter, glass crockery, and dust.

(21) Supplies shall mean paid for, furnished or provided by, or under the control of, the owner or operator.

(22) Temporary housing shall mean temporary labor camps and migrant labor housing.

(23) Transportable housing shall mean any tent, trailer or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure, or to any utilities systems on the same premises for more than thirty (30) consecutive days.

(24) Unfit for human habitation shall mean that conditions exist in a dwelling which violate or do not comply with one (1) or more of the minimum standards of fitness or one or more of the requirements established by this article.

(25) Meaning of certain words. Whenever the words "dwelling, dwelling unit, rooming house, rooming unit, premises" are used in this article they shall be construed as though they were followed by the words "or any part thereof".

Section 3. Minimum standards of fitness for dwellings and dwelling units.

Every dwelling and dwelling unit used as a human habitation except transportable and temporary housing or held out for use as a human habitation, shall comply with all of the minimum standards of fitness for human habitation and all of the requirements of

Sections 4 to 8 of this chapter. No person shall occupy as owner-occupant, or let to another for occupancy or use as a human habitation, any dwelling or dwelling unit which does not comply with all of the minimum standards of fitness for human habitation and all of the requirements of Sections 4 to 8.

Section 4. Minimum standards for structural condition

(a) Walls, floors and roofs shall not have rotted, deteriorated, or damaged supporting members to a point where the structural integrity would not be reasonably safe for the purpose used.

(b) Foundations, foundation walls, piers or other foundation supports shall not be deteriorated or damaged to a point where the supporting strength would not be safe for the purpose used.

(c) Stairs, porches, and appurtenances. Every outside and inside stair, porch, and any appurtenance thereto shall be safe to use and capable of supporting the load that normal use may cause to be placed thereon.

(d) Egress. Every dwelling unit shall be provided with adequate means of egress as required by the State Residential Building Code (Volume 1-B of the State Building Code).

(e) The roof, flashings, exterior walls, basement walls, floors and all doors and windows exposed to the weather shall be constructed and maintained so as to be reasonably weather and watertight.

(f) There shall be no chimneys or parts thereof which are defective, deteriorated or in danger of falling, or in such condition or location as to constitute a fire hazard.

(g) There shall be no use of the ground for floors, or wood floors on the ground.

Section 5. Minimum standards for basic equipment and facilities.

(a) Plumbing system.

(1) Each dwelling unit shall be connected to a potable water supply and to the public sewer or other approved sewage disposal system.

(2) Each dwelling unit shall contain the following as required by the State Plumbing Codes; a kitchen sink, lavatory, tub or shower, water closet, and adequate supply of both cold water and hot water. All water shall be supplied through an approved pipe distribution system connected to a potable water supply.

(3) All plumbing fixtures shall meet the standards of the State Plumbing Code and shall be maintained in an operable condition.

(4) All required plumbing fixtures shall be located within the dwelling unit and be accessible to the occupants of same. The water closet and tub or shower shall be located in a room or rooms affording privacy to the user.

(b) Heating system. Every dwelling unit shall have facilities for providing heat in accordance with either (1) or (2) below.

(1) Central and electric heating systems. Every dwelling unit should have facilities for providing to heat the dwelling to a temperature of 70 degrees Fahrenheit at 3 feet above floor level during ordinary winter conditions.

(2) Other heating facilities. Where a central or electric heat is not provided, each dwelling and dwelling unit shall be provided with sufficient fireplaces, chimneys, flues or gas vents whereby heating appliances may be connected so as to heat all habitable rooms with a minimum temperature of seventy (70) degrees Fahrenheit measured three (3) feet above the floor during ordinary winter conditions.

(c) Electrical system.

(1) Every dwelling and dwelling unit shall be wired for electric lights and convenience receptacles. Every habitable room shall contain at least two (2) floor or wall-type electric convenience receptacles, connected in such manner as determined by the National Electrical Code. There shall be installed in every bathroom, water closet room and laundry room, at least one supplied ceiling, or wall-type electric light fixture. In the event wall or ceiling light fixtures are not provided in any habitable room, then

each such habitable room shall contain at least three (3) floor or wall-type electric convenience receptacles.

(2) Every public hall and stairway in every multiple dwelling shall be adequately lighted by electric lights at all times when natural daylight is not sufficient.

(3) All fixtures, receptacles, equipment and wiring shall be maintained in a state of good repair and safe. All repairs, replacements and additions shall be installed in accordance with the National Electrical Code.

Section 6. Minimum standards for ventilation.

(a) General. Except when provided with mechanical ventilation, every habitable room shall have an operable window, the size of which, shall be not less than ten percent (10%) of the floor area of such room.

(b) Bathroom and water closet rooms. Every bathroom and water closet compartment shall comply with the light and ventilation requirements for habitable rooms except that no window or skylight shall be required in adequately ventilated bathrooms and water closet rooms equipped with an approved ventilation system.

Section 7. Minimum standards for space, use, and location.

(a) Room sizes. Every dwelling unit shall contain at least the minimum room size in each habitable room as required by the State Residential Building Code (Volume 1-B of the State Building Code) and stated below:

(1) Every dwelling unit shall contain at least one hundred and fifty (150) square feet of habitable floor area for the first occupant, at least one hundred (100) square feet of additional habitable area for each of the next three (3) occupants, and at least seventy-five (75) square feet of additional habitable floor area for each additional occupant.

(2) In every dwelling unit and in every rooming unit, every room occupied for sleeping purposes by one (1) occupant shall contain at least seventy (70) square feet of floor area, and every room occupied for sleeping purposes by more than one (1) occupant shall contain at least fifty (50) square feet of floor area for each occupant twelve (12) years of age and over and at least thirty-five (35) square feet of floor area for each occupant under twelve (12) years of age.

(b) Ceiling height. At least one-half (1/2) of the floor area off every habitable room shall have a ceiling height of not less than seven (7) feet and six (6) inches.

(c) Floor area calculation shall be as required by the State Residential Building Code (Volume 1-B) and as stated below. Floor area shall be calculated on the basis of habitable room area. However, closet area and wall area within the dwelling unit may count for not more than ten percent (10%) of the required habitable floor area. The floor area of any part of any room where the ceiling height is less than four and one-half (4 1/2) feet shall not be considered as part of the floor area computing the total area of the room to determine maximum permissible occupancy.

Section 8. Minimum standards for control of insects, rodents, and infestations.

(a) Screens. In every dwelling unit, for protection against mosquitoes, flies, and other insects, every door opening directly from a dwelling unit to outdoor space shall have supplied and installed screens and a self-closing device; and every window or other device with openings to outdoor space, used or intended to be used for ventilation, shall likewise be supplied with screens installed. If central heating and air conditioning is provided then no screens are required.

(b) Infestation. Every occupant of a dwelling unit shall be responsible for the extermination of any insects, rodents, or other pests therein or on the premises; and every occupancy of a dwelling unit in a dwelling containing more than one (1) dwelling unit shall be responsible for such extermination whenever his dwelling unit is the only one infested. Whenever infestation is caused by failure

of the owner to maintain a dwelling in a reasonably rodent and insect proof condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two (2) or more dwelling units in any dwelling or in the shared or public parts of any dwelling or in the shared or public parts of any dwelling containing two (2) or more dwelling units, extermination shall be the responsibility of the owner.

(c) Garbage storage and disposal. Every dwelling unit in a multiple unit facility shall be supplied with an approved garbage disposal facility.

Section 9. Responsibilities of owners and occupants.

(a) Public areas. Every owner of a dwelling containing two (2) or more dwelling units shall be responsible for maintaining in a clean and sanitary condition the shared or public areas of the dwelling and premises thereof.

(b) Care of facilities, equipment and structure. No occupant shall willfully destroy, deface, or impair any of the facilities or equipment, or any part of the structure of a dwelling or dwelling unit.

Section 10. Duties of building inspector.

The building inspector is hereby designated as the officer to enforce the provisions of this article and to exercise the duties and powers herein prescribed.

(1) Upon the request of an elected official of the County, County Manager, the head of household, written request of five residents, the building inspector shall investigate the dwelling and the dwelling conditions in order to determine if the dwelling unit is unfit for human habitation,

(2) To take such action, together with other appropriate departments and agencies, public and private, as may be necessary to effect rehabilitation of housing which is deteriorated,

(3) To keep a record of the results of inspections made under this article and an inventory of those dwellings that do not meet the minimum standards of fitness herein prescribed, and

(4) To perform such other duties as may be herein prescribed.

Section 12. Inspection; duty of owners and occupants.

For the purpose of making inspections, the inspector is hereby authorized to enter, examine, and survey at all reasonable times all dwellings, dwelling units, rooming units and premises. The owner or occupant of every dwelling, dwelling unit, or rooming unit, or the person in charge thereof, shall give the inspector free access to such dwelling, dwelling unit, or rooming unit, and its premises at all reasonable times for the purposes of such inspection, examination and survey. Every occupant of a dwelling or dwelling unit shall give the owner thereof, or his agent or employee, access to any part of such dwelling or dwelling unit, and its premises, at all reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this article or with any lawful order issued pursuant to the provisions of this article.

Section 13. Procedure for enforcement.

(a) Preliminary investigation; notice, hearing. Whenever a petition is filed with the inspector by a public authority or by at least five (5) residents of the County charging that any dwelling or dwelling unit is unfit for human habitation, or whenever it appears to the inspector, upon inspection that any dwelling or dwelling unit is unfit for human habitation, he shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest in such dwelling or dwelling unit a complaint stating the charges and containing a notice that a hearing will be held before the inspector at a place therein fixed, not less than ten (10) nor more than thirty (30) days after the serving of the complaint. The owner or any party in interest shall have the right to file an

answer to the complaint and to appear in person or otherwise, and give testimony at the place and time fixed in the complaint. Notice of such hearing shall also be given to at least one of the persons signing a petition relating to such dwelling. Any person desiring to do so may attend such hearing and give evidence relevant to the matter being heard. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the inspector.

(b) Procedure after hearing. After such notice and hearing, the inspector shall state in writing his determination whether such dwelling unit is unfit for human habitation, and if so, whether it is deteriorated or dilapidated.

(1) If the inspector determines that the dwelling or dwelling unit is deteriorated, he shall state in writing his findings of fact in support of such determination, and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to repair, alter and improve such dwelling or dwelling unit to comply with the minimum standards of fitness established by this article within a specified period of time, not to exceed ninety (90) days. Such order may also direct and require the owner to vacate and close such dwelling or dwelling unit until such repairs, alterations, and improvements have been made.

(2) If the inspector determines that the dwelling is dilapidated, he shall state in writing his findings of fact to support such determination, and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to either repair, alter and improve such dwelling or dwelling unit to comply with the minimum standards of fitness established by this article or else vacate and remove or demolish the same within a specified period of time not to exceed ninety (90) days.

(c) Failure to comply with order.

(1) In personal remedy. If the owner of any deteriorated dwelling or dwelling unit shall fail to comply with an order of the inspector to repair, alter, or improve the same within the time specified therein, or if the owner of a dilapidated dwelling shall fail to comply with an order of the inspector to vacate and close, and remove or demolish the same within the time specified therein, the inspector shall submit to the governing body at its next regular meeting a resolution directing the County Attorney to petition the Superior Court for an order directing such owner to comply with the order of the inspector as authorized by G.S. 160A-446(g).

(2) In remedy. After failure of an owner of a deteriorated dwelling or dwelling unit, or of a dilapidated dwelling, to comply with an order of the inspector within the time specified therein, if injunctive relief has not been sought or has not been granted as provided in the preceding paragraph (1) the inspector shall submit to the governing body an ordinance ordering the inspector to cause such dwelling or dwelling unit to be repaired, altered, improved, or vacated and closed and removed or demolished, as provided in the original order of the inspector, and pending such removal or demolition to placard such dwelling as provided by G.S. 160A-443 and section 15 of this article.

(d) Appeals from orders of inspector. An appeal from any decision or order of the inspector may be taken by any person aggrieved thereby. Any appeal for the inspector shall be taken within ten (10) days from the rendering of the decision or service of the order, and shall be taken by filing with the inspector and with the Housing Appeals board a notice of appeal which shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the inspector shall forthwith transmit to the Board all the papers constituting the record upon which the decision appealed from was made. When appeal is from a decision of the inspector refusing to allow the person aggrieved thereby to do any act, his decision shall remain in force until modified or reversed. When any appeal is from a decision of the inspector requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing by the Board, unless the inspector certifies to the Board, after the notice of appeal is filed with him, that by reason of the facts stated in the certificate (a copy of which shall be furnished the appellant). A suspension of his requirement would cause

imminent peril to life or property, in which case the requirement shall not be suspended except by a restraining order, which may be granted for due cause shown upon not less than one (1) day's written notice to the inspector, by the Board, or by a court of record upon petition made pursuant to G.S 160A-446(f) and subsection (e) of this section.

(1) The Board shall fix a reasonable time for the hearing of all appeals, shall give due notice to all the parties, and shall render its decision within a reasonable time. Any party may appear in person or by agent or attorney. The Board may reverse or affirm, wholly or partly, or may modify the decision or order the appealed from, and may make such decision and order as in its opinion ought to be made in the matter, and to that end it shall have all the powers of the inspector, but the concurring vote of four (4) members of the Board shall be necessary to reverse or modify any decision or order of the inspector. The board shall have power also in passing upon appeals, or in any case where there are practical difficulties of unnecessary hardships in the way of carrying out the strict letter of the ordinance, to adapt the application of the ordinance to the necessities of the case to the end that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.

(2) Every decision of the Board shall be subject to review by proceedings in the nature of certiorari instituted within fifteen (15) days of the decision of the Board, but not otherwise.

(e) Petition to Superior Court by owner. Any person aggrieved by an order issued by the inspector or a decision rendered by the Board shall have the right, within thirty (30) days after issuance of the order or rendering of the decision, to petition the Superior Court for a temporary injunction restraining the inspector pending a final disposition of the cause, as provided by G.S. 160A-446(f)

Section 14. Methods of service of complaints and orders.

Complaints or orders issued by the inspector shall be served upon persons either personally or by registered or certified mail, but if the whereabouts of such persons are unknown and the same cannot be ascertained by the inspector in the exercise of reasonable diligence, the inspector shall make an affidavit to that effect, and the serving of such complaint or order upon such person may be made by publishing the same once each week for two (2) successive weeks in a newspaper, circulation in the county. Where service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected by the complaint or order.

Section 15. In rem action by inspector; placarding.

(a) After failure of an owner of a dwelling or dwelling unit to comply with an order of the inspector issued pursuant to the provisions of this article, and upon adoption by the governing body of an ordinance authorizing and directing him to do so, as provided by G.S. 160A-443(5) and section 13(c) of this article, the inspector shall proceed to cause such dwelling or dwelling unit to be repaired, altered, or improved to comply with the minimum standards of fitness established by this article or to be vacated and closed and removed or demolished, as directed by the ordinance of the governing body and shall cause to be posted on the main entrance of such dwelling or dwelling unit a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful." Occupation of a building so posted shall constitute a misdemeanor.

(b) Each such ordinance shall be recorded in the office of the Register of Deeds in the county wherein the property is located, and shall be indexed in the name of the property owner in the grantor index as provided by G.S. 160A-443(5)

Section 16. Costs, a lien on premises.

As provided by G.S.160A-446(6), the amount of the cost of any repairs, alterations, or improvements, or vacating and closing, or removal or demolition, caused to be made or done by the inspector pursuant to section 15 shall be a lien against the real property upon which such cost was incurred. Such lien shall be filed, have the same priority, and be enforced and the costs collected as provided by Article 10, Chapter 160A of the General Statutes.

Section 17. Alternative remedies

Neither this article nor any of its provisions shall be construed to impair or limit in any way the power of the County to define and declare nuisances and to cause their abatement by summary action or otherwise, or to enforce this ordinance by criminal process as authorized by G.S. 14-4 and section 18, and the endorsement of any remedy provided herein shall not prevent the enforcement of any other remedy or remedies provided herein or in other ordinances or laws.

Section 18. Housing Appeals Board.

There is hereby created a Housing Appeals Board to which appeals may be taken from decisions or orders of the inspector, as provided by section 13(d). The board shall consist of the Duplin County Board of Commissioners. The Board shall have the power to elect its own officers, to choose the time and the place of its meetings, to adopt necessary rules or procedure and to adopt other rules and regulations for the proper discharge of its duties. The Board shall perform the duties prescribed in section 15(d) and shall keep an accurate record of all its proceedings.

Section 19. Conflict with other provisions.

In the event any provision, standard, or requirement of this article is found to be in conflict with any provision of any other ordinance or code of the County, the provision which establishes the higher standard or more stringent requirement for the promotion and protection of the health and safety of the residents of the County shall prevail.

Section 20. Violations: penalty.

(a) It shall be unlawful for the owner of any dwelling or dwelling unit to fail, neglect, or refuse to repair, alter, or improve the same, or to vacate and close and remove or demolish the same, upon order of the inspector duly made and served as herein provided, within the time specified in such order, and each day that any such failure, neglect, or refusal to comply with such order continues shall constitute a separate and distinct offense. It shall be unlawful for the owner of any dwelling or dwelling unit, with respect to which an order has been issued pursuant to section 13, to occupy or permit the occupancy of the same after the time prescribed in such order for its repair, alteration or improvement or its vacation and closing, and each day that such occupancy continues after such prescribed time shall constitute a separate and distinct offense.

(b) The violation of any provision of this article shall constitute a misdemeanor, as provided by G.S. 14-4.

Section 21. Effective Date.

This ordinance shall become effective and be in full force from and after the 1st day of July, 1989. Adopted by the Duplin County Board of Commissioners this the 15th day of May, 1989.

Willis Sholar
Chairman
Duplin County Board of Commissioners

ATTEST: Ralph Cottle
Clerk

ABOLISHED 01/01/97

90-01

THE OUTDOOR ADVERTISING SIGN ORDINANCE
OF
DUPLIN COUNTY, NORTH CAROLINA

ENACTMENT

This is an ordinance establishing regulations for outdoor advertising in Duplin County and providing for the administration, enforcement and amendment thereof.

PREAMBLE

WHEREAS, in the opinion of the Duplin County Board of Commissioners to further promote the health, safety, and general welfare of the residents of Duplin County, it is necessary and advisable to adopt regulations pertaining to the size, location and spacing of outdoor advertising within Duplin County, and

WHEREAS, The Duplin County Planning Board has developed this ordinance with due consideration and has submitted final recommendations to the Duplin County Commissioners, and

WHEREAS, The Duplin County Commissioners have given notice of and conducted a public hearing, and

WHEREAS, All applicable requirements of the General Statutes of North Carolina have been met,

NOW, THEREFORE BE IT ORDAINED BY THE COUNTY COMMISSIONERS OF THE COUNTY OF DUPLIN AS FOLLOWS:

ARTICLE I - AUTHORITY

SECTION 10 The provisions of this ordinance are adopted under authority granted by N.C. General Statutes 153A-121.

ARTICLE II - JURISDICTION

SECTION 20 This ordinance shall be applicable to designated areas within Duplin County outside the jurisdiction of any municipality.

ARTICLE III - APPLICABILITY

SECTION 30 The requirements and provisions of this ordinance shall apply to the signs within 660 feet of the right-of-way of Interstate 40 in Duplin County. This ordinance shall also apply to signs beyond 660 feet of the right-of-way which are visible and intended to be read from the main traveled way of Interstate 40.

This ordinance does not apply to on-premise, directional, official, service club, public service, political or public utility signs as defined by this ordinance.

ARTICLE IV - TITLE

SECTION 40 This ordinance shall be known as and referred to as the Outdoor Advertising Sign Ordinance of Duplin County, North Carolina.

ARTICLE V - INTERPRETATIONS

SECTION 50 Tense and Number

- (1) The present tense includes the future tense and the future tense includes the present tense.

- (2) The singular number includes the plural number and the plural number includes the singular number.

SECTION 51

Word Interpretations

For the purposes of this ordinance the following words shall be interpreted as specified below:

- (1) The word "may" is permissive.
- (2) The words "shall" and "will" are mandatory.
- (3) The word "County" shall mean the County of Duplin, North Carolina.
- (4) The words "Planning Board" shall refer to the Duplin County Board of Commissioners.
- (5) The words "County Commissioners" shall refer to the Duplin County Board of Commissioners.
- (6) The word "person" shall include firm, organization, association, company, trust, corporation or other entity.
- (7) The words "used" or "occupied" includes intended, designed and arranged.

SECTION 52

Definitions

For the purpose of this ordinance the following terms shall be defined as specified below. Unless specifically defined, words or phrases used in this ordinance shall be interpreted to give them the meaning they have in common usage and to give this ordinance the most reasonable application.

- (1) Back to Back Sign - Sign structures placed back to back with a distance between the backs of the signs of not greater than three (3') feet.
- (2) Commercial or Industrial Areas - Those areas on which there is located one or more permanent structures devoted to a commercial or industrial activity or on which a commercial or industrial activity is actually conducted, whether or not a permanent structure is located thereon, and the area along the highway extending outward 800 feet from and beyond the edge of such activity. Each side of the highway will be considered separately in applying this definition.
 - (a) All measurements shall be from the outer edges of the regularly used buildings, parking lots, storage or processing and landscaped areas of the commercial or industrial activities, not from the property line of the activities, and shall be along or parallel to the edge of pavement of the highway.
- (3) Commercial or Industrial Activity - For the purposes of this ordinance, the following activities shall not be considered as commercial or industrial:
 - (a) Outdoor advertising structures;
 - (b) Agricultural, forestry, ranching, grazing, farming, and related activities, including, but not limited to produce stands;
 - (c) Transient or temporary activities;
 - (d) Activities not visible from the main traveled way;
 - (e) Activities more than 660 feet from the nearest edge of the right of way;
 - (f) Activities conducted in a building principally used as a residence;
 - (g) Railroad tracks and minor sidings;
 - (h) Any outdoor advertising structure activity or any business or commercial activity carried on in connection with an outdoor advertising activity;

- (i) Any commercial or industrial activity engaged in or established primarily for the purpose of qualifying an area for the establishment of outdoor advertising.
- (4) Conforming Sign - A sign legally erected which meets all current requirements of this ordinance.
- (5) Dilapidated Sign - An existing sign shall be considered dilapidated when it shows signs of being in disrepair, broken down, shabby or neglected, when it fails to be in the same form as originally constructed, or when it fails to perform its intended function of conveying a message. Conditions of dilapidation shall include, but not be limited to, structural pole or support failure, signs not being held vertically or as originally constructed, borders falling off or already off, panels missing or falling off, messages falling off so that intended messages cannot be interpreted by the motoring public, or signs which are overgrown by trees or other vegetation.
- (6) Directional and Other Official Signs and Notices - Directional and other official signs and notices includes only official signs and notices, public utility signs, service club and religious notices, public service signs, and directional signs.
- (7) Directional Sign - Signs containing directional information about public places owned or operated by federal, state, or local governments or their agencies; publicly or privately owned natural phenomena, historic, cultural, scientific, educational, and religious sites; and areas of natural scenic beauty or naturally suited for outdoor recreation, deemed to be in the interest of the traveling public.
- (8) Enforcement Officer - This ordinance shall be enforced by the Duplin County Planning Department.
- (9) Lease - An agreement, in writing, by which possession or use of land or interests therein is given by the owner to another person for a specified period of time.
- (10) Maintain - To allow to exist.
- (11) Nonconforming Sign - A sign lawfully erected prior to the adoption of this ordinance which does not meet the requirements of applicable regulations that became effective at a later date or a sign which fails to comply with current requirements due to changed conditions. Illegally erected or maintained signs are not nonconforming.
- (12) Official Signs and Notices - Official signs and notices erected and maintained by public agencies within their territorial or zoning jurisdiction and pursuant to and in accordance with direction or authorization contained in federal, state, or local law for the purpose of carrying out an official duty or responsibility. Historical markers authorized by state law and erected by state or local government agencies or nonprofit historical societies may be considered official signs.
- (13) On-premise Sign - A sign which advertises activities conducted on the property upon which it is located or a sign which advertises the sale or lease of property upon which it is located.

- (14) Outdoor Advertising Sign - Any outdoor sign, display, light, device, figure, painting, drawing, message, placard, poster, billboard, or other thing which is designed, intended, or used to advertise or inform, any part of the advertising or information contents of which is visible from any part of the main-traveled way of the affected area.
- (15) Political Sign - A temporary sign advertising a candidate, party or issue for a vote on a set election day.
- (16) Public Utility Signs - Warning signs, informational signs, notices, or markers which are customarily erected and maintained by publicly or privately owned public utilities, as essential to their operations.
- (17) Service Club and Religious Notices - Signs and notices, whose erection is authorized by law, relating to meetings of nonprofit service clubs or charitable associations, or religious services. Provided further that such signs shall not exceed eight square feet in area.
- (18) Sign Face - The surface of a sign where copy, messages, or advertisements are attached for display to the public, including any parts of the sign structure upon which such information is located.
- (19) Sign Skirt - Decorative border, trim or apron covering the post(s) or pole(s) which supports a sign.
- (20) Sign Structure - The supporting poles, braces, struts, trim, or border; or building or structure to which an outdoor advertising sign is attached.
- (21) Traveled Way - The traveled way of a highway on which through traffic is carried. In the case of a divided highway, the traveled way of each of the separated roadways for traffic in opposite direction is a maintained traveled way. It does not include such facilities as frontage roads, turning roadways, or parking areas.
- (22) V-Type Sign - A sign structure constructed in the form of a "V" and located not more than five feet apart at the closest point.
- (23) Visible Commercial or Industrial Activity - An activity that is capable of being seen from the main traveled way without visual aid by a person of normal visual activity and which is recognizable year-round as a commercial or industrial activity.

ARTICLE VI - STANDARDS

SECTION 60

Review by Other Agencies

Sign regulations enforced by the North Carolina Department of Transportation are applicable to all interstate and federal-aid-primary highways in North Carolina (NC 24, I-40 and US 117 Bypass in Duplin County). This ordinance enforced by Duplin County is applicable to I-40 only. In the event of conflict, the State or County requirement, which is more restrictive shall govern. Permits from both Duplin County and the North Carolina Department of Transportation are required. It shall be the responsibility of the sign owner to insure compliance with both state and county requirements.

SECTION 61

Location

- (1) Off-site outdoor advertising signs shall be permitted only in commercial/industrial areas

as defined by this ordinance and subject to other restrictions of this ordinance.

- (2) Signs shall not be located so as to obscure, or interfere with the effectiveness of an official traffic sign, signal or device, obstruct or interfere with vehicular operation and movement.
- (3) No outdoor advertising sign shall be located within the public right-of-way.

SECTION 62

Spacing

- (1) No two off-site outdoor advertising signs shall be located less than 1000 feet apart as measured along the same side of the highway.
- (2) No off-site outdoor advertising structure shall be located adjacent to or within 500 feet of a grade separated interchange, at grade intersection, safety rest area, or information center as measured along the highway from the beginning or ending of pavement widening at the exit or entrance of the main traveled way.
- (3) Signs not regulated by this ordinance shall not be considered in determining spacing and separation requirements.

SECTION 63

Size

- (1) The maximum area for any off-site outdoor advertising sign shall be 800 square feet. The maximum height of the sign face shall not exceed 30 feet and the maximum length shall not exceed 40 feet including any border, skirt or trim.
- (2) Back to back, V-type and side by side signs as defined by this ordinance are permitted and shall be considered one sign with regard to spacing requirements.
- (3) Double deck signs with one sign face mounted above the other are prohibited.
- (4) No sign shall display more than two messages in the same direction.

SECTION 64

Height

Sign height shall not exceed 50 feet as measured from the edge of pavement of the adjacent main traveled way to the upper most portion of the sign.

SECTION 65

Lighting

Signs may be lighted subject to the following:

- (1) No flashing, intermittent or moving lighting shall be permitted.
- (2) Lighting shall be directed toward the face of the sign. Lighting shall not directly illuminate the public roadway or reflect light or glare which would impair the vision of motorists or interfere with the operation of vehicles.
- (3) Lighting shall not interfere with, obstruct or resemble an official traffic signal, device or sign.
- (4) All electrical wiring shall meet the requirements of the State Building Code.
- (5) Lighting shall not be added to nonconforming signs or signs that are conforming only by virtue of the grandfather clause.

SECTION 66

Maintenance

Signs shall be properly maintained. No sign shall be allowed to exist in a dilapidated condition.

ARTICLE VII - ADMINISTRATION

SECTION 70Approval Required

After the effective date of this ordinance, it shall be unlawful to construct, erect, display, maintain or expand an outdoor advertising sign as regulated by this ordinance without first obtaining a permit from the enforcement officer.

SECTION 71Permit Application

A permit application must be completed and submitted for each sign. The following information shall accompany the application:

- (1) Sketch drawn to scale showing or including the following information:
 - Name of applicant and property owner
 - Location of existing and proposed signs
 - Highway, right-of-way, intersections, interchange and ramps
 - Existing and proposed buildings
- (2) Proof of property ownership or executed lease agreement
- (3) Non-refundable application fee of \$50
- (4) Any additional information which may be necessary to determine compliance with this ordinance.

SECTION 72Duties of Enforcement Officer

Upon receipt of an application containing sufficient information, the enforcement officer shall review the application to determine compliance with this ordinance. The enforcement officer shall have a maximum of 45 days to approve or disapprove the application.

(1) Approved Applications

If the application is approved, one copy of the application and other information along with a letter of approval shall be sent to the applicant. One copy will be retained by the enforcement officer.

(2) Disapproved Applications

If the application is disapproved, one copy of the application and other information along with a letter stating the reasons for disapprove and outlining re-submittal and appeal procedures shall be sent to the applicant. One copy shall be retained by the enforcement officer.

SECTION 73Permit and Permit Tag

- (1) A permit along with a permit tag shall be issued upon proper application, approval, and the payment of fees.
- (2) The erection of new outdoor advertising structures shall not commence until a permit and tag has been issued. The outdoor advertising structure must be completely constructed and erected with the permit tag affixed within 180 days from the date of issuance of the permit. During the 180 day period, the new outdoor advertising structure shall be considered in existence for the purpose of spacing of adjacent signs as set out in this ordinance.
- (3) The applicant shall place the permit tag on the outdoor advertising structure in such a position as to be visible from the adjacent highway.

SECTION 74Transfer of Permits

Permits are issued to the sign owner and are not transferable. The sign owner shall notify the enforcement officer of any transfer in sign or property ownership within 30 days. A new permit will be issued to the new owner at no charge.

SECTION 75Violations

Permits shall be valid until revoked. The enforcement officer shall periodically inspect the sign to determine continued compliance with this ordinance. If the sign is in violation, the enforcement officer shall advise the owner in writing of the violations and of action necessary to bring the sign into compliance. Failure by the owner to correct violations within 120 days of notification shall constitute grounds for revocation of the permit.

SECTION 76Revocation of Permit

Valid permits may be revoked by the enforcement officer for any of the following reasons:

- (1) Incorrect or misrepresented information on the permit application
- (2) Failure to construct sign in accordance with application and permit
- (3) Any other violation of this ordinance.

In the event the permit is revoked, the enforcement officer shall advise the sign owner in writing of the status of the permit, the action necessary to correct the violation and of the enforcement techniques available to the county to remedy continued violation. Maintaining an outdoor advertising sign in violation of this ordinance is a misdemeanor subject to enforcement action as provided by State law. When the enforcement officer determines that the sign has been brought back into compliance with this ordinance, he shall reinstate the permit.

SECTION 77Existing Signs

Signs existing prior to the effective date of this ordinance shall be permitted to exist by virtue of the grandfather clause. Existing signs that do not comply with this ordinance shall be considered nonconforming. Signs made nonconforming by this ordinance shall be allowed to exist in the same condition they are in as of the effective date of this ordinance. Routine maintenance is allowed; however, replacement, expansions or other improvements which would increase the sign's value or the extent of nonconformity shall be prohibited. Expansion and improvements to existing signs shall meet the requirements of this ordinance.

ARTICLE VIII - LEGAL PROVISIONSSECTION 80Enforcement

This ordinance may be enforced by any one or more of the remedies authorized by G.S. 153A-123, including but not limited to the following:

- (1) A violation of this ordinance shall constitute a misdemeanor, punishable by a maximum fine of fifty (\$50) dollars or imprisonment for not more than 30 days.
- (2) Violation of this ordinance subjects the offender to a civil penalty of fifty (\$50) dollars.
- (3) This ordinance may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction.
- (4) This ordinance may be enforced by injunction, order or abatement or both as provided in G.S. 153A-123(e).
- (5) Each day's continuing violation of this ordinance is a separate and distinct offense.

SECTION 81Complaints

Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a written complaint with the enforcement officer, stating the cause and basis for the complaint. The enforcement officer shall record the complaint, investigate and take such action as may be necessary to enforce this ordinance.

SECTION 82

Separability

Should any section or provision of this ordinance be declared by the courts to be invalid for any reason, such declaration shall not affect the ordinance as a whole, or any part thereof other than the part so declared to be invalid.

SECTION 83

Amendment

Petitions for amendment may be filed with the Planning Department by any citizen of the County, any County Department or agency, the County Planning Board or Board of Commissioners.

SECTION 83.1

Commissioners Review

The provisions and requirements of this ordinance may be amended by the County Commissioners according to the procedure set forth.

- (1) Planning Board Review - No amendment shall become effective unless it shall have been proposed by or shall have been reviewed by the Planning Board. The Planning Board shall have 45 days in which to review the proposed amendment and to make recommendation to the Commissioners. If the Planning Board fails to report to the Commissioners within 45 days it shall be deemed to have approved the proposed amendment.
- (2) Public Hearing - No amendment shall become effective until after duly advertising and holding a public hearing. Notice of public hearing shall be published once a week for two consecutive weeks in a newspaper of general circulation in the County. After such public hearing, the Commissioners may take such lawful actions as it may deem advisable.

SECTION 84

Variance and Exception

The Planning Board may issue variances and exceptions from the requirements of this ordinance such that would not be contrary to the public interest, or the spirit and intent of this ordinance, and where due to special conditions, a literal enforcement of the provisions of this ordinance would result in an unnecessary hardship. In granting a variance the Planning Board may prescribe appropriate conditions and safeguards as it deems necessary to preserve the intent of this ordinance. In granting a variance or exception to this ordinance the Planning Board must determine the following:

- (1) Special conditions and circumstances exist which are peculiar to the land or buildings involved and which are not applicable to other land or building;
- (2) The literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties;
- (3) Special conditions and circumstances do not result from the actions of the applicant; and,
- (4) Granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands or buildings.

SECTION 85

Appeal

The County Planning Board shall hear and decide appeals and review any orders, requirements, decisions, or determinations made by the enforcement officer or any County department responsible for administration or enforcement of this ordinance. The Planning Board's decision is subject to review by the Duplin County Board of Commissioners.

SECTION 86

Effective Date

This ordinance shall become effective and be in full force from and after the 1st day of May, 1990. Adopted by the Duplin County Board of Commissioners this the 19th day of February, 1990.

Vance Alphin

Chairman, Duplin County Board of
Commissioners

ATTEST: Ralph Cottle
Clerk to the Board

ABOLISHED 04/26/99

90-02

ORDINANCE
ESTABLISHING FINANCING
OF THE E-911
EMERGENCY TELEPHONE SERVICE

DUPLIN COUNTY, NORTH CAROLINA

ENACTMENT

This is an ordinance establishing and providing for the financing of the E-911 Emergency Telephone Service for Duplin County, North Carolina.

PREAMBLE

WHEREAS, in the opinion of the Duplin County Board of Commissioners, County-wide local 911 emergency telephone service will promote the health, safety and general welfare of the citizens of Duplin County, and

WHEREAS, County-wide local emergency telephone service will reduce the response time of emergency service agencies, and

WHEREAS, the Duplin County Board of Commissioners have solicited public comment and have given due notice of public hearings and have conducted such public hearing, and

WHEREAS, all applicable requirements of the General Statutes of North Carolina have been met.

NOW, THEREFORE BE IT ORDAINED BY THE COUNTY COMMISSIONERS OF THE COUNTY OF DUPLIN AS FOLLOWS:

AUTHORITY

The provisions of this ordinance are adopted under authority granted by the Public Safety Telephone Act of the North Carolina General Statutes. (Chapter 62A)

JURISDICTION

The jurisdiction of this ordinance includes the entire geographic area of Duplin County. The municipal areas within Duplin County are included in this ordinance as evidenced by a resolution from each town requesting to be included in this ordinance.

CHARGES

An E-911 service fee will be added to the regular monthly bill for each exchange access facility subscribed to by telephone subscribers whose exchange access lines are in the area served or which will be served by the E-911 service. Beginning November 1, 1990, the service provider shall bill subscribers a "911 Service Charge" of \$0.75 monthly.

PAYMENT AND COLLECTION OF CHARGES

The service supplier shall, on behalf of Duplin County, collect the charges from those subscribers to whom it provides exchange telephone service in the area served by the 911 service. As part of its normal monthly billing process, the service supplier shall collect the charges for each month or part of the month an exchange access facility is in service. The service supplier may list the charge as a separate entry on each bill. If a service supplier receives a partial payment for a monthly bill from a subscriber, the service supplier shall apply the payment against the amount the subscriber owes the service supplier first.

A service supplier has no obligation to take any legal action to enforce the collection of the 911 charges for which any subscriber is billed. However, a collection action may be

initiated by the local government that imposed the charges and reasonable costs and attorneys' fees associated with that collection action may be awarded to the local government collecting the 911 charges.

Duplin County shall remain ultimately responsible to the service supplier for all 911 installation, service, equipment, operation, and maintenance charges owed to the service supplier. Upon request by the County, the service supplier shall provide a list of amounts uncollected along with the names and addresses of telephone subscribers who have not paid the 911 charge.

Any taxes due on 911 service provided by the service supplier will be billed to the local government subscribing that service.

ADMINISTRATION

The service supplier is entitled to a one percent (1%) administrative fee as compensation for collecting the charges. The service supplier shall remit the rest of the charges it collects during a month to the County within ten days after the last day of each month.

EMERGENCY TELEPHONE SYSTEM FUND

The County shall deposit the charges in a separate, restricted fund. The Fund shall be known as the Emergency Telephone System Fund. The fiscal officer may invest money in the Fund in the same manner that other money of the local government may be invested. The fiscal officer shall deposit any income earned from such an investment in the Emergency Telephone System Fund.

PAYMENTS FROM FUND

Money from the Emergency Telephone System Fund shall be used to pay for:

- (1) The lease, purchase, or maintenance of emergency telephone equipment, including necessary computer hardware, software and database provision, addressing, and nonrecurring costs of establishing a 911 system, and
- (2) The rates associated with the service supplier's 911 service and other service supplier recurring charges.

The following expenses are not eligible for payment from the Fund: the lease or purchase of real estate, cosmetic remodeling of emergency dispatch centers, hiring, training, and compensating dispatchers, and the purchase of mobile communications vehicles, ambulances, fire engines, or other emergency vehicles.

The County may contract with a service supplier for any term negotiated by the service supplier and may make payments from the Emergency Telephone System Fund to provide any payments required by the contract.

TELEPHONE RECORDS

The telephone service supplier shall provide subscriber telephone numbers, names, and service addresses to 911 systems when required by the County. Although customer numbers, names and service addresses shall be available to 911 systems, such information shall remain the property of the disclosing service supplier. The total cost of the system shall include expenses paid to service suppliers to provide and maintain 911 information. This information shall be used only in providing emergency response services to 911 calls. The County may not release a telephone number required to be provided under this section to any person for purposes other than including the number in the emergency telephone system database or providing the number to permit a response to police, fire, medical, or other emergency situation.

To the extent necessary to provide 911 service, private listing customers of a service supplier in a 911 service area waive

the privacy afforded by unlisted and non-published numbers when the 911 service is established.

LIMITATION OF LIABILITY

The service supplier, including any telephone company and its employees, directors, officers and agents, is not liable for any damages in a civil action for injuries, death, or loss to persons or property incurred by any person as a result of any act or omission of a service supplier or of any of its employees, directors, officers, or agents, except for willful or wanton misconduct, in connection with developing, adoption, implementing, maintaining, or operating any 911 system.

MISUSE OF 911 SYSTEM; PENALTY

Any person who intentionally calls the 911 number for other than purposes of obtaining public safety assistance commits a misdemeanor.

DEFINITIONS

- (1) "911 system" or "911 service" means an emergency telephone system that provides the user of the public telephone system the ability to reach a public safety answering point by dialing the digits 911. The term 911 system or 911 service also includes "Enhanced 911 service", which means an emergency telephone system with 911 provides the user of the public telephone system with 911 service and, in addition, directs 911 calls to appropriate public safety answering points by selective routing based on the geographical location from which the call originated and provides the capability for automatic number identification and automatic location identification features.
- (2) "911 charge" means a contribution to the local government for the 911 service start-up equipment costs, subscriber notification costs, addressing costs, billing costs, and recurring installation, maintenance, service, and network charges of a service supplier providing 911 service pursuant to this chapter.
- (3) "Addressing" means the assigning of a numerical address and street name (the street name may be numerical) to each location within a local government's geographical area necessary to provide public safety service as determined by the local government. This address replaces any route and box number currently in place in the 911 database and facilitates quicker response by public safety agencies.
- (4) "Exchange access facility" means the access from a particular telephone subscriber's premises to the telephone system of a service supplier provided access lines, PBX trunks and centrex network access registers, all as defined by tariffs of telephone companies as approved by the North Carolina Utilities Commission. Exchange access facilities do not include service supplier owned and operated telephone pay station lines, or Wide Area Telecommunication Services (WATS), Foreign Exchange (FX) or incoming only lines.
- (5) "Local government" means any city, county, or political subdivision of North Carolina and its agencies.
- (6) "Public agency" means the State and any city, county, municipal corporation, chartered organization, public district, or public authority located in whole or in part within the State which provides or has authority to provide fire-fighting, law

enforcement, ambulance, medical, or other emergency services.

- (7) "Public safety agency" means a functional division of a public agency which provides fire-fighting, law enforcement, medical, suicide prevention, civil defense, poison control, or other emergency services.
- (8) "Service supplier" means a person or entity who provides exchange telephone service to a telephone subscriber.
- (9) "Telephone subscriber" or "subscriber" means a person or entity to whom exchange telephone service, either residential or commercial, is provided and in return to which the person or entity is billed on a monthly basis. When the same person, business, or organization has several telephone access lines, each exchange access facility shall constitute a separate subscription.

EFFECTIVE DATE

This ordinance shall become effective and be in full force from and after the 1st day of July, 1990. Adopted by the Duplin County Board of Commissioners this the 18th day of June, 1990.

Vance Alphin
Chairman, Duplin County Board of
Commissioners

ATTEST: Ralph Cottle
Clerk to the Board

THE SOLID WASTE MANAGEMENT ORDINANCE
FOR
DUPLIN COUNTY, NORTH CAROLINA

August 31, 1994

ENACTMENT This is an ordinance establishing regulations for the storage, collection, recycling, transportation and disposal of solid waste within Duplin County, North Carolina and providing for the administration and enforcement thereof, as required by state law.

PREAMBLE WHEREAS, in the opinion of the Duplin County Board of Commissioners to protect the health, safety, and general welfare of the residents of Duplin County it is necessary and advisable to regulate the storage, collection, transportation, recycling, transfer and disposal of solid waste, and

WHEREAS, the Duplin County Board of Commissioners and administration have developed this ordinance with due consideration, and

WHEREAS, the Duplin County Board of Commissioners have given due notice of public hearing and have conducted such public hearing, and

WHEREAS, all applicable requirements of the General Statutes of North Carolina have been met.

NOW, THEREFORE BE IT ORDAINED BY THE COUNTY COMMISSIONERS OF THE COUNTY OF DUPLIN AS FOLLOWS:

Article I Authority

SECTION 10 The provisions of this ordinance are adopted under authority granted by North Carolina General Statute 153A-121, -132.1 -136, -274 through -278, and -291 through -293, and 130A-309.09A, - 309.10.

Article II Applicability

SECTION 20 This ordinance shall govern the storage, collection, recycling, transportation, transfer and disposal of solid waste within the unincorporated area of Duplin County and to incorporated municipalities by agreement with the County. It shall be unlawful for any person to dispose of solid waste in a manner inconsistent with this ordinance.

Article III Interpretations

SECTION 30 Definitions for the purposes of this ordinance the following terms shall be defined as specified below. Unless specifically defined, words or phrases used in this ordinance shall be interpreted to give them the meaning they have in common usage and to give this ordinance the most reasonable application.

- (1) Aluminum Can
A cylindrical receptacle typically used to hold beverages.

- (2) Bulky Waste
Large items of solid waste such as household appliances, furniture, mattress, bedding, automobiles, large machinery parts, trees, branches, stumps and other waste whose large size precludes or complicates their handling by normal solid waste collection, processing or disposal methods.
- (3) Collection
The act of removing solid wastes from a point of generation to a central storage point or to a disposal site or from a central point to a disposal site.
- (4) Commercial Solid Waste
Solid waste generated by stores, offices, restaurants, warehouses and other non manufacturing activities, excluding residential and industrial waste.
- (5) Construction Debris
Any discarded material such as sheetrock, plaster, insulation, styrofoam, paper, plastics, vinyl and aluminum siding, or other substances accumulated as a result of construction of new structures or buildings, remodeling, repairs or additions to existing structure or buildings, or demolition of existing structures or buildings. Construction debris does not include concrete, brick, wood, or asphalt.
- (6) Disposal
The discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land so that such solid waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any water, including groundwater.
- (7) Composting
The controlled decomposition of organic waste by naturally occurring bacteria, yielding a stable, humus-like, pathogen-free final product resulting in volume reduction of 30%-75%.
- (8) County Solid Waste Facilities
Collective term meaning all county owned and operated disposal facilities including but not limited to the transfer station, demolition area, tire disposal area, yard waste disposal area, solid waste and recycling collection sites, and recycling facilities.
- (9) Demolition Area
An approved area that is limited to receiving stumps, limbs, leaves, concrete, brick, wood, or uncontaminated earth.
- (10) Garbage
All putrescible wastes, including food waste, food containers and vegetable matter, but excluding sewage and human waste.
- (11) Hazardous Wastes
Solid waste, or a combination of solid wastes, that because of its quantity, concentration or physical, chemical or infectious characteristics may: (1) Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or (2) Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

- (12) Industrial Solid Waste
Solid waste materials generated by industrial from processing plants, factories or manufacturing operations--including but not limited to sawdust, shavings, feathers, excelsior, cartons, boxes, metal, glass, paper, wood, textiles, chemicals, or plastics.
- (13) Industry
A place of business employing more than ten individuals and engaged in the manufacture or assembly of a product or products.
- (14) Infectious Waste
Solid waste capable of producing an infectious disease. The types of waste designated as infectious are: microbiological waste, pathological waste, blood products and sharps.
- (15) Institutional Solid Waste
Solid waste generated by educational, health care, correctional and other institutional facilities.
- (16) Land Cleaning Debris
Stumps, logs, limbs, etc. or other items resulting from land cleaning operations.
- (17) Licensed Solid Waste Hauler
Any individual, corporation, company, association, partnership, unit of government or other legal entity permitted and approved as a solid waste collector by the Duplin County Solid Waste Department.
- (18) Medical Waste
Solid waste that is generated in the diagnosis, treatment, or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals, but does not include any hazardous waste, radioactive waste, household waste or those substances excluded from the definition of solid waste in this ordinance.
- (19) Municipal Solid Waste
Any solid waste resulting from the operation of residential, commercial, industrial governmental or institutional establishments that would normally be collected, processed, and disposed of through public or private solid waste management service. Municipal solid waste does not include hazardous waste, sludge, or mining or agricultural wastes.
- (20) Pathological Wastes
Includes human tissues, organs, body parts, secretions and excretions, blood and body fluids that are removed during surgery and autopsies; and the carcasses and body parts of all animals that were exposed to pathogens in research, were used in the production of biological or in the in vivo testing of pharmaceuticals, or that died of known or suspected infectious disease.
- (21) Person
An individual, corporation, company, association, partnership, unit of local government, state agency, federal agency, or other legal entity.
- (22) Putrescible
Solid Waste capable of being decomposed by microorganisms with sufficient rapidity as to cause nuisances from odors and gases, such as kitchen wastes, offal and carcasses.
- (23) Radioactive Waste
Any waste which emits ionizing radiation spontaneously.

- (24) Recyclable Corrugated Cardboard Clean, dry, unaxed paper boxes and thick layered paper, formed with groves and ridges, used in shipping or in which goods are received.
- (25) Recycling
The process by which solid waste or recovered materials are collected, separated or processed for reuse.
- (26) Refuse
All non-putrescible waste.
- (27) Roofing Materials
Shingles, roof-felt, tar paper and other petroleum products used in the construction or repair of roofs.
- (28) Rubbish
Refuse exclusive of garbage and ashes including but not limited to paper, rags, cartons, and boxes.
- (29) Sanitary Area
A facility for disposal of solid waste on land in a sanitary manner in accordance with the rules concerning sanitary landfills adopted pursuant to General Statute 130A Article 9.
- (30) Scrap Metals
Old, discarded iron, steel, tin and other ferrous and non-ferrous metals.
- (31) Scavenge
Any unauthorized salvaging of discarded items.
- (32) Sharps
Needles, syringes with attached needles, capillary tubes, slides and cover slips, and scalpel blades.
- (33) Sludge
Any solid, semisolid or liquid waste generated from a municipal, commercial, institutional, or industrial waste water treatment plant, water supply treatment plant, or air pollution control facility or any other such waste having similar characteristics and effect.
- (34) Solid Waste
Any hazardous or nonhazardous garbage, refuse, and other material that is either discarded or is being accumulated, stored or treated prior to being discarded, or has served its original intended use and is generally discarded, including solid, liquid, semisolid or contained gaseous material resulting from industrial, institutional, commercial and agricultural operations, and from community activities. The term does not include: fowl and animal fecal waste; or sludge, oil or other liquid petroleum products or radioactive material.
- (35) Solid Waste and Recycling Container Site
A facility owned and operated by the County consisting of containers and/or compactors and other appurtenances for the collection of solid waste and recyclables.
- (36) Solid Waste Collector
Any person who collects, transports, or disposes of solid waste for compensation.
- (37) Source Separation
The separation of recyclable materials from solid waste at the point of generation.
- (38) Storage
The containment of solid waste, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal.

- (39) Tire
A continuous solid or pneumatic rubber covering encircling the wheel of a motor vehicle.
- (40) Transfer Station
A facility owned and operated by the County at which solid waste is concentrated for transport to a processing facility or disposal site.
- (41) Waterway
A body of water including streams, creeks, rivers, lakes and ponds.
- (42) White Goods
Inoperative discarded refrigerators, ranges, water heaters, freezers, and other similar domestic and large commercial appliances.
- (43) Yard Waste
Solid Waste consisting solely of vegetative matter resulting from landscaping maintenance.

Article IV Solid Waste Disposal

SECTION 40

General

As a public service, the Duplin County Board of Commissioners has authorized the operation of a transfer station, a demolition area, tire disposal area, yard waste disposal area, solid waste and recycling container sites and a recycling handling facility to serve the citizens of Duplin County. These facilities shall be utilized in accordance with the terms and conditions of this ordinance and in compliance with applicable state and federal regulations.

SECTION 41

Authority of Commissioners

It shall be unlawful for any person to throw, dump, or cause to be dumped any garbage, refuse, rubbish, litter, junk, appliances, equipment, cans, bottles, paper, lumber, building materials, trees, tree limbs, brush, or other forms of solid waste anywhere in the unincorporated area of the County, except as may be permitted by County regulations, without the expressed written authorization of the Board of Commissioners.

SECTION 42

Solid Waste Disposal Methods

No person shall dispose of any solid waste in Duplin County except by one of the following methods. However, this section shall not be construed so as to prevent any person from properly disposing of items on his own property, as may be permitted by this ordinance state and federal regulations.

- A. Approved sanitary landfill
- B. Approved demolition area
- C. Solid waste and recycling container site
- D. Approved solid waste incinerator
- E. Approved recycling or reclaiming operations
- F. Approved private solid waste or recycling container
- G. Approved yard waste disposal area
- H. Approved transfer station

SECTION 43

Open Burning

It shall be unlawful to burn or set fire to any refuse, garbage, rubbish, tires, asphalt, shingles or other petroleum products for the purpose of disposal within the unincorporated area of Duplin County. Each tire or container of petroleum products shall constitute a separate violation.

SECTION 44

Operational Policies

The following operational policies, unless otherwise stated, shall be applicable to the transfer station, demolition area, tire disposal area, yard waste disposal area, solid waste and recycling container sites, recycling handling facilities and any other such facilities as the County Commissioners may authorize.

- A. The solid waste facilities are operated as authorized by the County Commissioners under the supervision of the Solid Waste Director.
- B. Solid waste facilities shall be open on such schedule as may be established by the Board of Commissioners. Facilities will be open to the public only when a County employee is on duty and the gate is open.
- C. Open burning of solid waste on site is prohibited.
- D. Vehicles shall observe the posted speed limit of 10 m.p.h. and all other directional signs.
- E. Children younger than twelve (12) years of age shall not be allowed outside of vehicles.
- F. Solid waste facilities are intended for the disposal of solid waste generated within Duplin County only. In addition solid waste and recycling container sites are for use only by households and businesses located within the unincorporated area of the County or by incorporated municipality as may be authorized by the Board of Commissioners.
- G. Salvaging, scavenging and loitering is prohibited unless the Board of Commissioners authorize such operations for the benefit of the County.
- H. Solid waste shall be observed and inspected for prohibited materials. Persons delivering solid waste to county landfill facilities shall upon request define full nature, content, and source of all materials delivered. All solid waste delivered to the County Solid Waste Facilities must be separated into various categories and disposed of in the appropriate area. Vehicles arriving with mixed loads will be instructed on the proper disposal area(s). Solid waste will be accepted only in the appropriate disposal area. Demolition debris will not be accepted in the transfer station. Persons disposing of unacceptable materials may be required to remove such materials at the discretion of the Solid Waste Director. All costs incurred by the County in the removal of prohibited material shall be recoverable from the person disposing of such material and from the persons generating such material.
- I. Solid Waste shall be disposed of at these facilities in the manner and according to procedures established by the Solid Waste Director or the director's representative. It shall be the responsibility of persons generating solid waste to insure that such solid waste is disposed of in accordance with the requirements of this ordinance.

SECTION 45

Transfer Station

The facility shall serve as the County's central collection point where solid waste is concentrated and compacted prior to transport to a processing facility or disposal site. Solid waste shall be disposed of at the transfer station in accordance with this ordinance and as authorized by the Solid Waste Director, state and federal authorities.

SECTION 45.1

Disposal Restrictions

The following items shall not be acceptable for disposal in the transfer station.

- A. Liquid wastes.
- B. Hazardous wastes.
- C. Radioactive wastes.
- D. Containers containing unacceptable or unidentifiable wastes.
- E. Metal drums of more than 60 gallons capacity unless drain holes are provided to prevent containers from holding liquid, or unless filled with identifiable solid waste which is otherwise acceptable.
- F. Animal and fowl fecal matter.
- G. Animals and fowl, dead or alive.
- H. Land Clearing Debris.
- I. Scrap metals and white goods.
- J. Wooden pallets, untreated wood, or other items approved for disposal in an approved demolition area.
- K. Large automobile or machinery parts or other items that require specialized handling or processing.
- L. Aluminum cans
- M. Recyclable corrugated cardboard (Effective October 1, 1994).
- N. Tires.
- O. Motor oil.
- P. Lead-acid batteries.
- Q. Antifreeze.
- R. Pesticides, herbicides, or poisons of any nature.
- S. Hot ashes.
- T. Explosives of any kind.
- U. Asbestos waste.
- V. Yard waste.
- W. Sludge.
- X. Infectious waste.
- Y. Untreated regulated medical waste.
- Z. Sharps, unless contained in a rigid, leak-proof, puncture resistant container.
- AA. Any other materials which may be determined to be hazardous by the Solid Waste Director, state, or federal authorities.

SECTION 46

Demolition and Yard Waste Disposal Areas

The demolition and yard waste disposal areas shall serve as a primary disposal area for demolition debris and yard waste. Demolition and yard waste shall be disposed of in accordance with this ordinance and as authorized by the Solid Waste Director, state and federal authorities.

SECTION 46.1

Disposal Restrictions

The following items shall not be acceptable for disposal in the demolition area or yard waste disposal area.

- A. Garbage.
- B. Roofing materials.
- C. Construction debris.
- D. Liquid wastes.
- E. Hazardous wastes.
- F. Radioactive wastes.
- G. Containers containing unacceptable or unidentifiable wastes.
- H. Metal drums.
- I. Animal and fowl fecal matter.
- J. Animals and fowl, dead or alive.
- K. scrap metals and white goods.
- L. Large automobile or machinery parts or other items that require specialized handling or processing.

- M. Aluminum cans
- N. Recyclable corrugated cardboard (Effective October 1, 1994).
- O. Tires.
- P. Motor oil.
- Q. Pesticides, herbicides, or poisons of any nature.
- R. Lead-acid batteries.
- S. Antifreeze.
- T. Hot ashes.
- U. Explosives of any kind.
- V. Asbestos waste.
- W. Infectious wastes.
- X. Untreated regulated medical waste.
- Y. Sharps.
- Z. Any other materials which may be determined to be hazardous by the Solid Waste Director, state, or federal authorities.

SECTION 47

Solid Waste and Recycling Container Sites

Container sites for solid wastes and recyclable materials shall be provided throughout the County for use by residences and businesses within the unincorporated area of the County only; or by others as may be authorized by the Board of Commissioners.

SECTION 47.1

Disposal Restrictions

The solid waste and recycling container sites are not intended for collection of large, bulky items or materials requiring specialized handling. The following items shall not be acceptable for deposit in the containers:

- A. Liquids. Used motor oil and transmission fluid may be accepted in designated containers
- B. Lead-acid batteries except in designated area
- C. Construction debris
- D. Demolition debris
- E. Any waste collected for a fee, charge, tax, or other compensation
- F. Furniture, white goods, or scrap metals except in designated containers
- G. Roofing materials
- H. Commercial, industrial or institutional waste
- I. Aluminum cans except in designated containers
- J. Recyclable corrugated cardboard (Effective October 1, 1994).
- K. Sharps unless contained in a rigid, leak-proof, puncture resistant container
- L. Yard waste except in designated containers and limited in size to four (4) feet in length and six (6) inches in diameter
- M. Any item not acceptable at the County Transfer Station

SECTION 47.2

Deposit of Materials in Containers

All solid waste shall be placed inside the appropriate container. Materials deposited in containers such as cardboard boxes and other packaging materials shall be reduced to its smallest volume by bending, breaking and compressing the material before placing it into the containers.

SECTION 47.3

Recyclables

Containers shall be designated for the deposit of acceptable recyclable materials. Recyclable materials shall be placed inside the appropriate container.

SECTION 47.4 Use of Container Sites
The use of the container sites will be limited to only those residences and businesses that have paid the current annual availability and disposal fees.

SECTION 47.41 Industrial Wastes
Industrial wastes shall not be deposited at the container sites. Industrial wastes shall be disposed of at the County Transfer Station or other approved disposal areas.

SECTION 47.42 Contract Collections
No solid waste which has been collected by a contract hauler for a fee, charge, tax, or other compensation shall be accepted at the container site. Such wastes shall be disposed of at the County Transfer Station or other approved solid waste facilities.

SECTION 48. Tire Disposal Area
The tire disposal area shall serve as a collection point for discarded automobile tires, truck tires, tractor tires, etc. All tires must be stacked neatly in the collection trailer as to take advantage of the maximum storage capacity of the trailer.

Article V Fees

SECTION 50 General
The cost of providing solid waste services in the County shall be recovered by disposal fees, availability fees and industrial fees. These fees are intended to recoup the cost of operating solid waste collection, recycling, transfer and disposal facilities. Fees will be in accordance with the current schedule of fees adopted by the Board of Commissioners. As provided by state law, fees can only be utilized for the specific purpose for which they were collected.

SECTION 51 Disposal Fees
All solid wastes will be weighed and a disposal fee will be charged based on weight to cover the cost of disposal in the designated area. The amount of the disposal fee will be in accordance with the current schedule of fees adopted by the Board of Commissioners.

SECTION 51.1 Payment of Disposal Fee
Unless prior arrangements have been made with the Solid Waste Director for periodic billing, all haulers must pay applicable disposal fees at the time the solid waste is delivered. Regular billings will be accomplished in a manner as authorized by the Board of Commissioners. Interest in the amount of one percent (1%) per month will be added to unpaid balances. Additional credit will be withheld on delinquent accounts as directed by the board of Commissioners. A fee of fifteen dollars (\$15.00) will be charged for returned checks.

SECTION 52 Recyclable Materials
There will be no fee charged for acceptable recyclable materials that have been properly separated from the municipal solid waste stream by category. The Solid Waste Director or his authorized personnel shall determine the acceptability of recyclable materials.

SECTION 53

Tire Disposal Fees

In accordance with North Carolina General Statute 130A-309.61, there will be no fees charged for the disposal of scrap tires.

SECTION 54

Annual Household and Business Fees

Annual availability fees and annual disposal fees will be charged to each household and business as directed below.

SECTION 54.1

Annual Availability Fees

An annual availability fee in accordance with the current schedule of fees adopted by the Board of Commissioners shall be charged to each household and business in Duplin County which is located outside the incorporated area of any municipality. Except that households and businesses within incorporated municipalities may be billed upon prior arrangement with the Board of Commissioners.

SECTION 54.2

Purpose of Annual Availability Fee

As authorized by G. S. 153A-292 and 293, the annual availability fee is intended to recover the costs of providing and operating the Duplin County solid waste management program.

SECTION 54.3

Exemption to the Annual Availability Fee

There will be no exemption to the annual household and business availability fee except the annual availability fee may be waived if the household or business has been vacant for the twelve (12) months preceding January 1 of any year.

*Amended effective
7-1-98
see Amendment*

SECTION 54.4

Annual Household and Business Disposal Fee

An annual disposal fee in accordance with the current schedule of fees adopted by the Board of Commissioners will be charged to each household and business in Duplin County which is located outside the incorporated area of any municipality and does not have municipal or private garbage collection. Except that households and businesses within incorporated municipalities may be billed upon prior arrangement with the Board of Commissioners.

SECTION 54.5

Purpose of Annual Household and Business Disposal Fee

The annual household and business disposal fee is intended to recover the costs of disposing of solid waste from households and businesses utilizing the County provided Solid Waste and Recycling Collection Sites.

SECTION 54.6

Exemption of Annual Household and Business Disposal Fees

If the owner of the real estate subject to the annual household and business disposal fee produces an official statement from a licensed solid waste hauler certifying that paid solid waste collection service was provided for the period billed then the County Tax Administrator shall issue a release or exemption from the annual disposal fee. The Tax administrator shall maintain records of the number of exemptions due to private collections. The annual disposal fee shall be waived if the household or business has been vacant for the twelve (12) months preceding January 1 of any year.

- SECTION 54.7 Billing of Annual Household and Business Fees
 The bill for the annual availability and disposal fee shall be directed to and paid by the owner of the residence or business. In the case of apartment units or rental mobile home units the bill shall be directed to and paid by the owner. Fees shall be billed based on the real property tax listings as of January 1 of each year. The Tax Administrator shall prepare and send bills on or about July 1 of each year.
- SECTION 54.8 Payment of Annual Household and Business Fees
 As authorized by G. S. 105-360 and G. S. 153A-293 solid waste fees shall be billed with the annual ad valorem property tax bill. Fees are payable in the same manner as property taxes and become due upon receipt and past due on January 6 of the following year. Solid waste fees may be collected by the Tax Collector in any manner by which delinquent personal or real property taxes can be collected, including garnishment, attachment and foreclosure. Solid waste fees are a lien on the real property described on the bill that includes the fee. Delinquent solid waste fees become a lien upon publication of the legal notice.
- SECTION 55 Industrial Fees
 In accordance with County Policy, the County will provide solid waste transportation service to the County Transfer Facility or disposal site for industrial customers. The fee will be in accordance with the current schedule of fees adopted by the Board of Commissioners. This fee shall be in addition to applicable disposal fees.
- Article VI Solid Waste Storage
- SECTION 60 General
 No owner, occupant, tenant, or lessee of any property may deposit, store, or permit to accumulate any solid wastes upon his property that is not stored or disposed of in a manner consistent with the requirements of this ordinance.
- SECTION 61 Storage of Solid Waste
 Refuse shall be stored in a manner that will not provide harborage to rodents and vermin and which will not create a fire hazard, health hazard, or public nuisance.
- SECTION 62 Storage Containers
 Garbage shall be stored only in a container which is durable and easily cleaned. Containers shall be kept clean so that no odor or other nuisance condition exists.
- SECTION 63 Removal of Solid Waste
 The owner, occupant, tenant or lessee of any property shall remove or cause to be removed all solid wastes from his property at such intervals so as not to create a fire hazard, health hazard or public nuisance. It shall be unlawful for any person to allow garbage or refuse to accumulate or remain on any premises for longer than is reasonably necessary to remove and properly dispose of same as required herein.
- SECTION 64 Abandoned Refrigerator Storage
 No person shall leave outside of any building or dwelling in any place accessible to children, any abandoned or unattended refrigerator, freezer, ice box or other airtight receptacle without first

removing the door or locking the door closed.

Article VII Solid Waste Collection and Transportation

SECTION 70

General

Solid waste within Duplin County shall be collected and transported according to the following requirements of this ordinance and any applicable state law.

- A. The entry into the County Solid Waste Facilities of any vehicle signifies the consent of the owner and driver of the vehicle for its contents to be searched so that the County can insure that no prohibited substance is brought into the area .
- B. All vehicles used to collect, transport, and deposit waste at the County Solid Waste Facilities may be required to supply information giving the name and address of the owner of the vehicle, the source and type of waste to be deposited, and the weight and size of the vehicle.
- C. All vehicles and containers used for the collection of solid waste or refuse collection shall be leak proof and covered with a canvas or other durable material to assure that there is no spillage of wastes. If spillage should occur, the material shall be picked up immediately by the driver of the vehicle from which it spilled and returned to the vehicle or container and the area properly cleaned. Vehicles and containers in which refuse or solid waste is hauled shall be cleaned to prevent odor or other nuisance condition.
- D. All vehicles which are not self-unloading shall arrive at the County Solid Waste Facilities no later than one-half (1/2) hour before the close of the normal operating day. Vehicles which are not self unloading will be subject to control by the Solid Waste Director so as to minimize vehicle congestion and provide easy access to the fill site for self-unloading vehicles.
- E. All vehicles, both private and commercial, used for the transportation of solid waste or other items to be disposed of at County Solid Waste Facilities shall be covered or loads secured by some effective means to prevent the spillage or loss of waste while being transported. "Effective means" shall mean durable, heavy plastic or canvas tied down or secured to cover the entire load, front to rear and side to side. Loads consisting of building rubbish, limbs, or bulky items shall be secured with rope or tie downs to assure spillage does not occur.
- F. No vehicle shall be allowed to deposit waste at the County Solid Waste Facilities unless the waste is enclosed in the vehicle or secured by methods stated in this section. The Solid Waste Director or his representative shall determine the adequacy of the covering and his decision shall be final.
- G. It shall be the responsibility of the driver of the vehicle to make arrangements with the Solid Waste Director concerning delivery of items requiring special handling or immediate covering.

SECTION 70.1

Licensed Solid Waste Collectors

- A. Private solid waste haulers or collectors transporting solid waste or recyclables to designated County Solid Waste Facilities must be approved and licensed by the Solid Waste Director as provided by this ordinance.
- B. Each vehicle transporting solid waste or recyclables shall display a use license issued by the Solid Waste Director.
- C. No licensed solid waste collector shall transport solid waste or recyclables in a conveyance that has not been approved by the Solid Waste Director.
- D. The Solid Waste Director may issue a license only upon the finding that the applicant's facilities, equipment, and proposed operating methods are in compliance with the requirements of this ordinance and that the applicant will perform solid waste and recycling collections in an efficient and sanitary manner.
- E. A licensed hauler shall submit a quarterly report to the Solid Waste Director containing the following information:
 - 1. A listing of customers served including names and addresses.
 - 2. Description of the collection route and area served.
 - 3. A list of all collection equipment.
 - 4. Any other information requested by the Solid Waste Director as may be pertinent to solid waste and recycling collections.
- F. Licenses shall be valid for a period of one year from the date issued.
- G. Licenses shall not be assignable to another party.
- H. Licensed haulers are required to deliver all solid waste collected in Duplin County to designated Solid Waste Facilities for disposal.

SECTION 70.11

License Application

Applications for license to engage in the business of solid waste collection shall be submitted to the Solid Waste Facility on forms provided by the Solid Waste Director. The application shall contain the following information:

- A. Name and address of the applicant and whether a sole proprietorship, corporation, or partnership, with disclosure of the ownership interests;
- B. A list of the equipment possessed, available, or to be obtained by the applicant, including motor vehicle license tag numbers;
- C. The number of employees the applicant expects to use in the business;
- D. Experience of the applicant in solid waste collection;
- E. Balance sheet or equivalent financial statement as of the close of the applicant's last business year, showing the net worth of the business;
- F. Planned routes and the areas of the county the applicant expects to serve;
- G. Schedule of fees the applicant expects to charge;
- H. Evidence of liability insurance coverage.

SECTION 71

Recycling Required

All licensed solid waste haulers must collect recyclable materials. Private solid waste collectors and municipalities collecting and delivering solid waste to the designated Solid Waste Facilities shall provide every customer with an effective means for the collection and source separation of acceptable recyclables.

SECTION 71.1

Recyclable Material Specifications

All recyclable materials delivered to the County recycling facility shall be separated into the various product categories. All recyclable materials shall meet the same market specifications regarding acceptability, cleanliness, purity, etc... as required for materials collected at County operated facilities. The Solid Waste Director or his authorized personnel shall determine the acceptability of recyclable materials. The type and quantity of various recyclable materials being accepted and the material specifications may vary according to market demands. It shall be the responsibility to those delivering materials to the County recycling facility to be aware of these changes.

SECTION 71.2

Recycling Goals

All licensed solid waste haulers are encouraged to promote recycling and to educate their customers concerning the recycling requirements. Effective July 1, 1993 all licensed haulers collecting and delivering solid waste to County Solid Waste Facilities must reach a 15% minimum recycling goal.

SECTION 71.3

Compliance Determination

Compliance in meeting the recycling goals will be determined by calculating the weight of recyclable materials as a percentage of all solid waste delivered to the Transfer Station. Recyclables collected in Duplin County that are delivered by the licensed hauler to other approved recycling facilities may be included in calculations to determine compliance with the recycling requirement of this ordinance only if acceptable documentation of the type and quantity of material is provided to the Solid Waste Director. Use of County recycling facilities is limited to only those licensed haulers that dispose of all solid waste collected to the approved County Solid Waste Facilities.

SECTION 71.4

Calculations

The formula for calculating the amount of recyclable material as a percentage of solid waste will be as follows:

$$100 \times \frac{R}{R + L} = \text{weight of recyclables as a percentage of all solid waste}$$

Where: R = tons of acceptable recyclables
 L = tons of solid waste disposed of at the County Transfer Station

Article VIII Enforcement

SECTION 80

Enforcement Officers

The rules and regulations prescribed in this Ordinance shall be enforced by the department head or other authorized personnel of the Duplin County Health Department, Solid Waste Department, and Sheriff's Department and any other appropriate agencies having duties and responsibilities in the areas of health, solid waste disposal and law enforcement. These agencies are hereby empowered to issue citations upon a violation of this ordinance.

Article IX Penalties

SECTION 90

General

The County may exercise any of the following remedies as authorized by North Carolina General Statutes.

SECTION 91

Refusal of Use of Solid Waste Facilities

The Solid Waste Director may revoke licenses and or may deny use of County collection, disposal, transfer and recycling facilities in the following conditions:

- A. The vehicle does not display the proper identification.
- B. The vehicle is hauling prohibited wastes.
- C. The driver refuses to pay the appropriate fee as established by this ordinance.
- D. There is an unpaid balance of fees due to the County.
- E. The vehicle is hauling mixed solid waste which requires various types of handling or disposal to accommodate a single load.
- F. The vehicle or containers are not properly covered or load secured.
- G. The licensed solid waste hauler violates other provisions of this ordinance.

SECTION 92

Restitution for Damages

The County may seek restitution for damages or extra expenses including the cost of clean up, resulting from any violation of this ordinance. The minimum charge for clean up will be \$25.00. Actual charges will be determined by the Solid Waste Director or authorized personnel.

SECTION 93

Fines

The minimum civil penalties for violation of this ordinance shall be as follows:

SECTION 93.1

Scavenging

Unauthorized salvaging of discarded items.

| | |
|---------------------|----------|
| First offense | \$25.00 |
| Second offense | \$50.00 |
| Subsequent offenses | \$100.00 |

SECTION 93.2

Illegal Dumping

Illegal dumping including dumping prohibited materials or quantities of materials at County Solid Waste Facilities, or dumping in unapproved areas:

| | |
|---------------------|----------|
| First offense | \$100.00 |
| Second offense | \$200.00 |
| Subsequent offenses | \$400.00 |

SECTION 93.21 Dumping in Waterways
 Illegal dumping in waterways including, streams, creeks, rivers, lakes or ponds:

First offense \$200.00
 Second offense \$300.00
 Subsequent offenses \$500.00

SECTION 93.3 Illegal Burning
 Illegal burning of refuse, garbage, rubbish, tires, shingles, asphalt or other petroleum product for the purpose of disposal:

First offense \$200.00
 Second offense \$300.00
 Subsequent offenses \$500.00

SECTION 93.4 Improper Transportation
 Improper transportation, improper vehicles or improper license by contract haulers of solid waste:

First offense \$100.00
 Second offense \$200.00
 Subsequent offenses \$400.00

SECTION 93.5 Littering Solid Waste Facilities
 Littering includes failure to place all solid waste spilled in transferring it from the transport vehicle to the container, or leaving solid waste at a closed facility.

First offense \$100.00
 Second offense \$200.00
 Subsequent offenses \$400.00

SECTION 93.6 Failure to Meet Minimum Recycling Requirements
 Each licensed hauler's compliance with the recycling requirement will be monitored by the Duplin County Solid Waste Department each month. Failure of a licensed hauler to meet the minimum recycling requirements by the dates established by this ordinance will result in a penalty fee which will be charged to the hauler. A penalty of \$15.00 per ton will be charge based on the difference between the minimum recycling goal required by this ordinance and the actual level of recycling achieved by the hauler.

SECTION 93.61 Calculating the Recycling Penalty
 As of July 1, 1993 the formula for calculating the amount of the penalty for failure to reach the minimum recycling requirements will be as follows:

$$1.00 - \frac{A}{B} \times \$15.00 \times L = \text{amount of penalty in dollars}$$

SECTION 93.7 Other Violations
 Violation of any other provision of this ordinance or the North Carolina Division of Health Services Waste Management rules:

First offense \$25.00
 Second offense \$50.00
 Subsequent offenses \$100.00

Article X Legal Provisions

- SECTION 100 Transfer of Ownership
Upon receipt at County facilities, ownership of all acceptable solid wastes and recyclables passes to the County.
- SECTION 101 Violations General
It shall be the duty and responsibility of each citizen to dispose of their solid waste as required by this ordinance. It shall be a violation of this ordinance for any person to store, collect, transport, or dispose of any solid waste in a manner inconsistent with the requirements of this ordinance.
- SECTION 101.1 Illegal Dumping
If any solid waste disposed of in violation of this ordinance can be identified as having last belonged to, been in the possession of, sent to or received by or to have been the property of any person prior to being disposed of, such identification shall be presumed to be prima facie evidence that such person disposed of or caused to be disposed of such solid waste in violation of this ordinance.
- SECTION 101.2 Vandalism
No person shall intentionally cause damage to any County solid waste facility.
- SECTION 101.3 Loitering
No person shall loiter, congregate or leave any vehicle unattended on any County-owned solid waste facility.
- SECTION 102 Prosecution
In addition to or in lieu of the civil penalties described herein, violations of this ordinance may be prosecuted as misdemeanors in accordance with the General Statutes of North Carolina. In the case of criminal violations, each day a violation occurs or continues to occur shall be a separate offense and that person or firm in violation of this ordinance shall be subject to a fine not exceeding fifty dollars (\$50.00) and imprisonment not exceeding thirty (30) days for each offense.
- SECTION 103 Complaints
Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a written complaint with the enforcement agencies stating the cause and basis for the complaint. The enforcement agency shall record the complaint, investigate and take such action as may be necessary to enforce this ordinance.
- SECTION 104 Liability
The County provides the solid waste facilities as a public service. However, the County nor its employees shall be liable for any damages to personal property nor personal injury resulting from the use of these facilities.
- SECTION 105 Appeal
The County Commissioners shall hear and decide appeals and review any orders, requirements, decisions, or determinations made as a result of the administration or enforcement of this ordinance.

SECTION 106

Effective Date

This ordinance shall become effective and be in full force from and after the 31st day of August 1994. Adopted by the Duplin County Board of Commissioners this the 15th day of August, 1994.

Chairman
Duplin County Board of Commissioners

ATTEST: _____
Clerk to the Board

ADDRESSING AND ROAD NAMING ORDINANCE
FOR
DUPLIN COUNTY, NORTH CAROLINA

- ENACTMENT This ordinance establishes a uniform system for addressing, and road naming, and for the enforcement thereof.
- PREAMBLE WHEREAS, in the opinion of the Duplin County Board of Commissioners, a uniform system for addressing and road naming is required to promote the health, safety and general welfare of the citizens of Duplin County, and
- WHEREAS, the Duplin County Board of Commissioners are desirous that this approach reflect the County's emphasis upon minimizing problems of identification for emergency and other services, and
- WHEREAS, all applicable requirements of the General Statutes of North Carolina have been met.
- NOW THEREFORE, BE IT ORDAINED BY THE COUNTY COMMISSIONERS OF DUPLIN COUNTY, NORTH CAROLINA
- SECTION 10. Authority
- The provisions of this ordinance are adopted under authority granted by the NC G.S. 153A-240.
- SECTION 20. Purpose and Intent
- The purpose and intent of this ordinance is to provide a uniform system of addresses for all properties and buildings throughout the County's jurisdiction in order to facilitate adequate public safety and decrease emergency response time.
- SECTION 30. Jurisdiction
- The jurisdiction of this ordinance includes the entire geographic areas of Duplin County are included in this ordinance as evidenced by a resolution from each town requesting to be included in this ordinance.
- SECTION 40. Numbering System
- On the property-numbering map, the **NORTH/SOUTH** base line is hereby designated as NC 11 beginning at the Pender County line and running north through Kenansville to NCSR 1004 and continuing north to the Wayne County line.
- The **EAST/WEST** base line is hereby designated as NC 24 beginning at the Sampson County line and running easterly through Kenansville to the Onslow County line. Frontage Unit (standard interval) shall be assigned for every 21.12 feet of ground whether improved property or vacant lot on every road/street within the entire geographical area of Duplin County. **Even** numbers must always be on the right side and **odd** on the left side of the street/road.

SECTION 50. Road Name Signs

Road name signs shall be assigned and installed for all roads, whether public or private, and at all intersections throughout the unincorporated areas of Duplin County, in accordance with G.S. 153A-240. Road name sign maintenance within municipalities will remain the responsibility of the municipality.

SECTION 60. Definitions

For the purpose of this ordinance the following terms shall be defined as specified below. Unless specifically defined, words or phrases used in this ordinance shall be interpreted to give them the meaning they have in common usage and to give this ordinance the most reasonable application.

1. Base Line:

Can be defined as those lines which divide the county into identifiable sectors and which follow prominent major thoroughfares. In each case, one base line runs EAST/WEST and the other one, NORTH/SOUTH. Base lines intersect at a reference point.

2. Reference Point:

The reference point for the Duplin County Addressing System is hereby designated at the Duplin County Courthouse which is situated near the intersection of NC 24 and NC 11 in Kenansville, N.C.

3. Frontage Unit:

A frontage unit is a standard interval in feet used to assign consecutive property numbers on a street or road. The standard frontage unit adopted for use throughout Duplin is 21.12 feet.

4. Road:

A public or private one-way or two-way road for ingress and/or egress. Such roads may be of various types including frontage roads, rear access roads, roads with cul-de-sacs, and dead-end roads. This definition includes secondary roads, but does not include driveways.

5. Private Road:

Any road which is not maintained by the N. C. Department of Transportation and/or municipality through the use of public funds.

6. Official Road Names:

The road name list and the road name map on file with the Duplin County E-911 Data Management System is hereby declared the official road names and map for Duplin County Roads, unless changed by action of the County Commissioners.

7. Road Address:

The combination of numbers and road names assigned to a particular location by the Duplin County E-911 Coordinator, according to this ordinance, which uniquely identifies a particular location.

8. Driveways:

A private way, beginning at the property line of a lot abutting a public road, private road, easement or private right-of-way, giving access from that public road, private road or private right-of-way, leading to a building, use or structure on that lot.

SECTION 70. Naming or Renaming County Road:

1. Request for new names and name changes must include a completed petition signed by at least 50% plus one of the residents along the affected road.
2. Petition to change a road name must include a fee of \$25 per sign blade to cover cost of replacing signs in addition to \$100 to advertise public hearings. If the County Commissioners do not approve the request, only the sign cost will be refunded.
3. There is no fee for requesting names for unnamed public or private roads; however, the procedure is the same.
4. Petition applications may be obtained from the E-911 Coordinator, County Administration Building, 224 Seminary Street, P. O. Box 158, Kenansville, NC 28349-0158.
5. Petitions for road name change shall be considered annually during the 1st quarter by County Commissioners. Petitions for naming unnamed roads shall be considered as needed.
6. Petitions to name unnamed roads or to change a road name must be approved by the Fire Department Chief serving the affected area prior to being forwarded to the Duplin County Board of Commissioners.
7. The E-911 Coordinator will review requests to determine if all procedures are met, and to ascertain that the proposed name does not duplicate an existing name and also to ensure that the petition meets all other requirements of this Ordinance.

SECTION 80. New Road Names:

The Duplin County Planning Department is hereby authorized to prepare and present to the County Commissioners recommendations for the naming of all unnamed roads both public and private within the unincorporated area of Duplin County and to propose new names to eliminate duplications and sound alike names, and to present all petitions received to change the name of an existing road.

SECTION 90. Addressing:

1. All roads, both public and private, shall be named and addressed if two or more addressable structures, including mobile homes, are located on an accessed by them.

2. When each house or building has been assigned its respective address, the County E-911 Coordinator, in cooperation with the U.S. Postal Service shall notify the owners, or occupants, agents of affected house or building, or by letter advising of their new address.

SECTION 100. Display of Address Numbers:

1. The official address number must be displayed on the front of a building or at the entrance to a building which is most clearly visible from the street or road during both day and night.
2. If a building is more than 100 feet from any road, the address number shall be displayed at the end of the driveway or easement nearest the road which provides access to the building.
3. Numerals indicating the address number of a single family dwelling shall be at least three (3) inches in height and shall be posted and maintained so as to be legible from the road.
4. Numerals for multiple dwelling units and non-residential buildings shall be at least six (6) inches in height and shall be placed on the front of the building facing the road or on the end of the building nearest the road.
5. Numerals must be of contrasting color to the background.
6. Mobile home lots shall have sequential address numbers throughout the park. Each lot will have a separate address number assigned. The address number of each lot must be clearly displayed on the lot by being attached to the mobile home consistent with paragraph (1) above. No unit designator shall be allowed in the address of mobile homes.
7. The address shall be placed on existing buildings within thirty (30) days from the date of the letter of notification.

SECTION 110. New Addresses Assignment:

1. The owner or occupant or person in charge of any house or building in need of an address in the unincorporated area of Duplin County shall apply thru the County Building Inspector's Office.
2. No building permit shall be issued for any principal building until the owner or occupant has procured from the Building Inspector the official address of the premises.
3. Final approval for a certificate of occupancy of any principal building erected or repaired after the effective date of this ordinance shall be withheld until a permanent and proper address has been displayed in accordance with the requirements outlined in this Ordinance.

4. No Certificate of completion as required by the Duplin County Mobile Home Park Ordinance for mobile home parks shall be issued until address numbers are properly displayed.

SECTION 120. Ordinance Administrator:

1. The E-911 Coordinator is hereby designated Administrator of this Ordinance and shall have authority to verify, modify, or assign addresses and to enforce the requirements of this ordinance.
2. The Ordinance Administrator shall assign and maintain a record of all addresses for Duplin County.
3. The Ordinance Administrator shall maintain a database of existing road names, such that duplication and sound-alike road names are neither assigned nor approved.

SECTION 130. Amendments:

Petitions for amendment of this ordinance may be filed with the E-911 Coordinator by any citizen of the County, and county department or agency.

SECTION 140. Commissioners' Review:

The provisions and requirements of this ordinance may be amended by the County Commissioners according to the following procedure:

No amendment shall become effective unless it has been proposed by or shall have been reviewed by the E-911 Committee. The E-911 committee shall have 45 days in which to review the proposed amendment and to make recommendations to the Commissioners. If the E-911 Committee fails to report within 45 days it shall be deemed to have approved the proposed amendment.

SECTION 150. Variance and Exception:

The County Commissioners may issue variances and exceptions from the requirements of this ordinance such that would not be contrary to the public interest, or the spirit and intent of this ordinance, and where due to special conditions, a literal enforcement of the provisions of this ordinance would result in an unnecessary hardship. In granting a variance, the County Commissioners may prescribe appropriate solutions as it deems necessary to preserve the intent of this Ordinance. In granting a variance of exception to this ordinance the County Commissioners must determine the following:

1. Special conditions and circumstances exist which are peculiar to the road naming or addressing involved and which are not applicable to other roads or addresses.
2. The literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other citizens.
3. Special conditions and circumstances do not result from the actions of the applicant; and

4. Granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other citizens.

SECTION 160. Appeals:

The provisions of this ordinance shall be held to be minimum requirements adopted for the promotion of the public health, safety, and general welfare. Wherever the requirements of this ordinance differ with the requirements of any adopted county, state or federal regulations, the most restrictive or that imposing the highest standard shall govern.

SECTION 170. Enforcement:

After the effective date of this Ordinance, any person, firm or agent thereof who intentionally violates this Ordinance shall be guilty of a misdemeanor, for the conviction of which, the maximum penalty by law may be imposed. Each day's continuing violation is a separate and distinct offense.

SECTION 180. Limitation of Liability:

The County, directors, officers, and agents, are not liable for any damages in a civil action for injuries, death, or loss to persons or property incurred by any person as a result of any act or omission of any of its employees, directors, officers, or agents, except for willful or wanton misconduct, in connection with developing, adoption, implementing, maintaining, or operating any 911 system.

SECTION 190. Separability:

Should any section or provision of this ordinance be declared by the courts to be invalid for any reason, such declaration shall not affect the ordinance as a whole, or any part thereof other than the part so declared to be invalid.

EFFECTIVE DATE

This ordinance shall become effective and be in full force from and after the **1st day of July, 1993**. Adopted by the Duplin County Board of Commissioners this **5th day of April, 1993**.

T. Elwood Revelle
Chairman, Duplin County Board of
Commissioners

ATTEST: Ralph Cottle
Clerk to the Board

THE MOBILE HOME
AND
TRAVEL TRAILER PARK ORDINANCE
OF
DUPLIN COUNTY, NORTH CAROLINA

PREPARED BY
THE DUPLIN COUNTY PLANNING BOARD
AND
THE DUPLIN COUNTY PLANNING DEPARTMENT

EFFECTIVE JUNE 1, 1995

ENACTMENT

This is an ordinance establishing regulations for mobile home and travel trailer parks within the jurisdiction of Duplin County, North Carolina and providing for the administration enforcement and amendment thereof and repealing the Duplin County Mobile Home and Travel Trailer Park Ordinance effective June 1, 1995.

PREAMBLE

WHEREAS, in the opinion of the Duplin County Board of Commissioners to promote the health, safety, morals, and general welfare of the residents of Duplin County, it is necessary and advisable to establish regulations to further the orderly layout of mobile home and travel trailer parks, to secure safety from fire, flood and other dangers, to insure adequate facilities for transportation, parking, water, sewerage, and recreation, and

WHEREAS, the Duplin County Planning Board has developed this ordinance with due consideration and has submitted final recommendations to the Duplin County Commissioners, and

WHEREAS, the Duplin County Commissioners have given due notice of public hearing and have conducted such public hearing, and

WHEREAS, all applicable requirements of the General Statutes of North Carolina have been met.

NOW, THEREFORE BE IT ORDAINED BY THE COUNTY COMMISSIONERS OF THE COUNTY OF DUPLIN AS FOLLOWS:

ARTICLE I AUTHORITY

SECTION 10

The provisions of this ordinance are adopted under authority granted by North Carolina General Statute 153A-121.

ARTICLE II - JURISDICTION

SECTION 20

This regulation shall govern the establishment of each and every new mobile home and travel trailer park and the alteration or expansion of existing mobile home and travel trailer parks within the jurisdiction of Duplin County.

ARTICLE III APPLICABILITY

SECTION 30

After the effective date of this ordinance, it shall be unlawful for any person to establish, operate or expand a mobile home park or travel trailer park in a manner which is inconsistent with the provisions and requirements of this ordinance.

ARTICLE IV TITLE

SECTION 40 This ordinance shall be known and referred to as The Mobile Home and Travel Trailer Park Ordinance of Duplin County, North Carolina.

ARTICLE V INTERPRETATIONS

SECTION 50 Tense and Number

- (1) The present tense includes the future tense and the future tense includes the present tense.
- (2) The singular number includes the plural number and the plural number includes the singular number.

SECTION 51 Word Interpretations

For the purposes of this ordinance the following words shall be interpreted as specified below:

- (1) The word "may" is permissive.
- (2) The words "shall" and "will" are mandatory.
- (3) The word "County" shall mean the County of Duplin, North Carolina.
- (4) The words "Planning Board" shall refer to the Duplin County Planning Board.
- (5) The words "County Commissioners" shall refer to the Duplin County Board of Commissioners.
- (6) The word "person" shall include firm, organization, association, company, trust, corporation or other entity.
- (7) The words "used" or "occupied" includes intended, designed and arranged.

SECTION 52

Definitions

For the purposes of this ordinance the following terms shall be defined as specified below. Unless specifically defined, words or phrases used in this ordinance shall be interpreted to give them the meaning they have in common usage and to give this ordinance the most reasonable application.

- (1) Buffer Strip
A 20 foot wide strip of living plant material planted with one or more species of trees and/or shrubs at spacings which will provide a permanent, solid, continuous, year-round, opaque, visual screen extending from the surface of the ground to a minimum height of six (6) feet at maturity.
- (2) Construction Permit
A permit issued by the enforcement officer authorizing the mobile home park owner to construct a mobile home park or travel trailer park in accordance with a plan approved by the Planning Board.
- (3) Developer
Any person, firm, trust, partnership, association or corporation engaged in development or proposed development of a mobile home or travel trailer park.
- (4) Enforcement Officer
This ordinance shall be enforced by the Duplin County Planning Department.
- (5) Mobile Home
A portable manufactured housing unit designed for transportation on its own chassis and placement on a temporary or semipermanent foundation having a measurement of over 32 feet in length and over 8 feet in width. As used in this ordinance, mobile home also means a double wide mobile home which is two or more portable manufactured housing units designed

for transportation on their own chassis, which connect on site for placement on a temporary or semipermanent foundation having a measurement of over 32 feet in length and over 8 feet in width.

- (6) Mobile Home Park
Shall mean and include any place, area or tract of land maintained, offered or used for the parking of more than two mobile homes used or intended to be used for human habitation purposes. Provided further that this Regulation shall not apply where up to three mobile homes are used by an immediate family relationship such as father and son or a relationship considered by the Health Department as equal to this and no rent is charged or paid. Also provided that this ordinance shall not apply to permitted migrant labor camps or subdivisions.
- (7) Mobile Home Lot
Any parcel of ground within a mobile home park designated for the exclusive use of one mobile home.
- (8) Operation Permit
A permit issued by the Enforcement Officer to a mobile home or travel trailer park owner, upon the completion of a mobile home park which authorizes the lease or rental of spaces and operation of the park.
- (9) Permitted Migrant Labor Camp
Mobile homes under valid permit by the Duplin County Health Department and other applicable agencies for use as housing for migrant laborers. Mobile home parks as defined by this ordinance will be subject to the requirements of this ordinance when not under valid permit as a migrant labor camp.
- (10) Site Plan
A plan of a proposed mobile home or travel trailer park, prepared by the developer in accordance with this ordinance and presented to the Duplin County Planning Board for approval.
- (11) Travel Trailer
A wheeled vehicular portable structure built on a chassis, designed to be used as a temporary dwelling for travel and/or recreational purposes, having a body width not exceeding 8 feet. This is also intended to include structures mounted on auto or truck bodies commonly referred to as campers.
- (12) Travel Trailer Park
Any site or tract of land upon which is located six or more travel trailer spaces, regardless of whether or not a charge is made for such service.
- (13) Travel Trailer Space
A plot of land within a travel trailer park designed for the accommodation of one travel trailer.
- (14) Variance
A modification of terms of this ordinance where, owing to conditions peculiar to the property, a literal enforcement of this ordinance would result in an unnecessary hardship.

ARTICLE VI MOBILE HOME PARK DESIGN STANDARDS

SECTION 60

Suitability of Land

Land subject to flooding, improper drainage, erosion, or that is for topographical or other reasons unsuitable for residential use as determined by the Planning Board, shall not be developed for mobile home parks if such use would continue or increase the danger to health, safety, or property unless the hazards can be, and are corrected or avoided. However, the Planning Board, in carrying out this directive, shall not, solely on the grounds of flood danger, prohibit mobile home park development or use if the Duplin County Flood Damage Prevention Ordinance allows such development or use. The Planning Board shall require any known flood plain or flood hazard area to be identified on the site plan, and when the Planning Board deems it advisable, may require the developer to give notice to potential tenants of the flood plain or flood hazard area prior to the tenants legally binding themselves to lease spaces.

SECTION 61

General Requirements

- (1) The owner/operator of a mobile home park shall not sell mobile homes on or within a mobile home park unless the mobile home unit for sale is individually and separately located upon an existing mobile home lot where all design standards have been met and all utilities have been installed as required by this ordinance. An individual mobile home owner residing in the park may sell his own mobile home.
- (2) The transfer of individual mobile home lots within the park by sale or other means shall be prohibited while the park is in operation.
- (3) No enclosed structure in excess of 500 square feet shall be attached to any mobile home. Such additions shall not encroach into the minimum setbacks or separation requirements.
- (4) Open porches and decks shall not be constructed nearer than five feet to adjacent interior or exterior lot lines.
- (5) Only mobile homes shall be located within mobile home parks.
- (6) Mobile home park identification signs shall not exceed thirty-two (32) square feet in area per side. Only diffused non-flashing lighting will be allowed. Lighting shall not directly illuminate the public roadway or reflect light beams or glare that would impair the vision of motorists or interfere with the operation of vehicles. Signs shall not be located within the public right-of-way and shall be located at least 20 feet from any mobile home.
- (7) Buffer strips are intended to protect adjoining land uses, from the noise, dust, lights, threats to privacy, and aesthetic impacts of more intense land uses. Any portion of any mobile home or travel trailer park boundary which is BOTH within 500 feet AND is visible from any residence (other than that of the park owner) shall be screened from view with a buffer strip, as defined by this ordinance, along the boundary line facing the residence. The buffer requirement may be satisfied by existing natural vegetation meeting the intent of this ordinance provided that the natural vegetation is owned by the mobile home park owner.

- A. No particular species of plant materials are specified; however, performance of plant materials and methods used shall be in accordance with the requirements and intent of this ordinance. (See Appendix for chart of recommended plant materials and spacings.)
 - B. Plant materials shall average a minimum of 12" in height at the time of planting.
 - C. Persons operating mobile home and travel trailer parks shall utilize good husbandry techniques with regard to plant materials including but not limited to proper planting, mulching, fertilization, pruning and otherwise proper maintenance to ensure a healthy, uniform, continuous solid vegetative screen as soon after planting as possible.
 - D. Diseased, dead or damaged plant materials shall be replaced at the earliest appropriate planting time.
- (8) Within a mobile home park, one mobile home may be used as an administrative office.
 - (9) Convenience establishments of a commercial nature, including food stores, coin-operated laundries and dry cleaning establishments, laundry and dry cleaning pickup stations, beauty parlors, and barber shops may be permitted in mobile home and travel trailer parks subject to the following restrictions:
 - A. Such establishments shall be located, intended and designed to serve only the trade or service needs of persons residing in the park.
 - B. Such establishments shall be subordinate to the residential use and character of the park.
 - C. Off-street parking for commercial establishments shall be provided at a ratio of one (1) space for every four hundred (400) square feet of gross floor area.
 - D. Vehicular access to such establishments shall be from interior streets.
 - E. Signs serving such establishments inside the mobile home park shall be limited to twenty (20) square feet in area, non-illuminated, and shall be attached to the establishment.
 - (10) The mobile home owner shall provide anchors, tie-downs and footings as specified in the "State of North Carolina Regulations for Mobile Homes and Modular Housing".

SECTION 62

Lots

- (1) Generally, lot sizes, shapes and locations shall be made with due regard to topographic conditions, soil conditions, and the surrounding land usage.
- (2) The area required for each mobile home lot shall be determined by the Duplin County Health Department after an investigation of soil conditions, proposed method of sewage disposal, and water supply. However, in no case shall the area of a mobile home lot be less than six thousand (6,000) sq. ft.

- (3) Minimum lot areas shall be as specified below:
- | <u>Water and Sewer Service</u> | <u>Minimum Lot Size</u> |
|--|-------------------------|
| (A) Lots served by <u>both</u> off-site water supply <u>and</u> off-site sewage disposal | 6,000 sq. ft. |
| (B) Lots served by <u>either</u> off-site water supply <u>or</u> off-site sewage disposal. | 8,000 sq. ft. |
| (C) Lots served by both on-site water supply and on-site sewage disposal | 20,000 sq. ft. |
- (4) Each mobile home lot shall have a minimum average width of sixty (60) feet and a minimum road frontage of twenty (20) feet.
- (5) Mobile home minimum setbacks on the lots shall be as follows: No portion of any setback shall be within the required buffer strip.
- (A) 10 feet from any interior side or rear lot line
- (B) 15 feet from any exterior park boundary line
- (C) 15 feet from any interior street right-of-way line
- (D) 30 feet from any public road right-of-way line
- (E) 20 feet from any building, other mobile home or mobile home park identification sign
- (6) Each mobile home lot shall abut on an interior street which has direct access to a public road.
- (7) Each mobile home lot shall be assigned a street address by the Duplin County E-911 Coordinator. It shall be the responsibility of the mobile home owner to post the address in accordance with the Duplin County Addressing and Road Naming Ordinance.

SECTION 63

Streets and Parking

- (1) Interior streets shall be private streets, owned and maintained by the mobile home park owner. The County assumes no responsibility for maintenance of any streets, parking areas, drainage structure or open spaces.
- (2) Interior streets shall have a traveled way, a minimum of eighteen (18) feet wide and be graded drained and stabilized.
- (3) Interior streets shall be stone or rock base course on suitable sub-grade.
- (4) Streets shall be approximately centered in a access easement not less than forty (40) feet wide.
- (5) Permanent dead end or cul-de-sac streets shall not exceed one thousand (1,000) feet in length and shall have a bulb or other suitable means for vehicles to turn around at the closed end. Bulbs shall have a right-of-way diameter of eighty (80) feet and a traveled portion with a diameter of seventy (70) feet. Other provisions for turning around may be allowed subject to approval by the Planning Board.
- (6) Streets and drives within the mobile home park shall intersect as nearly as possible at right angles to other streets. No streets shall

intersect at an angle of less than sixty (60) degrees.

- (7) Interior streets shall be named by the mobile home park developer. Names shall not duplicate or be similar to existing county road names.
- (8) Two automobile parking spaces shall be provided for each mobile home lot. No portion of the required spaces shall be within any street right-of-way.

SECTION 64

Utilities

- (1) Each mobile home lot shall be provided with an approved water supply and distribution system, sewage disposal system and electrical service.
- (2) When public or community water systems or sewage systems are available, the developer shall, at his expense, make connection to those systems. Availability will be determined by the Planning Board.
- (3) All streets shall be illuminated from sunset to sunrise. Lights shall be pole mounted overhead style of a design suitable for the purpose. Light poles shall be located approximately along the easement lines of interior streets. Street lamps shall be a minimum of 175 watt mercury vapor type or its equivalent, spaced at intervals of not more than three hundred (300) feet.
- (4) Lighting shall be located to illuminate the entrance street at its intersection with the public right-of-way. Light poles shall be located outside the public right-of-way and shall not cast light or glare onto the public road of such intensity as to impair the vision of motorists or interfere with the operation of vehicles.
- (5) Off-site county owned solid waste and recycling collection centers shall serve as refuse collection facilities. Private collection may be provided by the mobile home park owner/operator subject to approval by the Duplin County Solid Waste Department.

SECTION 65

Recreation Area

Each mobile home park shall provide four hundred (400) square feet of recreation area for each mobile home lot that is less than eight thousand (8,000) sq. ft. in area. No recreation area shall be less than 2,500 sq. ft. in area. Maintenance of any recreation areas will be the responsibility of the mobile home park owner/operator.

Article VII Travel Trailer Park Design Standards

SECTION 70

Suitability of Land

Land subject to flooding, improper drainage, erosion, or that is for topographical or for other reasons unsuitable for travel trailer use as determined by the Planning Board, shall not be developed for travel trailer parks if such use would continue or increase the danger to health, safety, or property unless the hazards can be and are corrected or avoided.

SECTION 71

General Requirements

- (1) It shall be unlawful for a person to park or store a mobile home in a travel trailer park. However, one (1) mobile home may be allowed within a travel trailer park to be used as an office or residence of persons responsible for the operation and maintenance of the travel trailer park.
- (2) Travel trailer park identification signs shall be limited to one (1) sign located at the park entrance. No sign shall exceed thirty-two (32) square feet in area per side.
- (3) All buildings shall be constructed in accordance with applicable building codes of the County.
- (4) Commercial uses - Same as Article VI Section 61 (10).
- (5) Buffer Strips - See Article VI Section 61 (8).

SECTION 72

Lots

- (1) Generally, lot sizes, shapes and locations shall be made with due regard to topographic conditions, soil conditions, and the surrounding land usage.
- (2) All spaces shall be located on sites with elevations that are not susceptible to flooding. Each space shall be properly graded to obtain a reasonably flat site and to provide adequate drainage away from the space. All ditch banks shall be sloped and seeded.
- (3) Each space shall consist of a minimum of fifteen hundred (1,500) square feet.
- (4) There shall be a minimum distance of fifteen (15) feet between each travel trailer or structure.
- (5) No space shall have direct vehicular access into a public road.
- (6) All spaces developed adjacent to a public road shall be set back a minimum of forty (40) feet from the right-of-way line.

SECTION 73

Streets and Parking

- (1) Interior streets shall be private streets, owned and maintained by the travel trailer park owner. The County assumes no responsibility for maintenance of any streets, parking areas, drainage structures or open spaces.
- (2) The park shall have all weather roads that directly abut each space. All roads shall have a minimum width of eighteen (18) feet.
- (3) Cul-de-sacs or dead-end roads shall not exceed one thousand (1,000) feet in length. Any road designed to be permanently closed shall have a turnaround at the closed end with a minimum diameter of eighty (80) feet. The entire area of the turnaround shall be graded and have an all-weather surface. Other provisions for turning around may be allowed subject to approval by the Planning Board.

SECTION 74

Utilities

- (1) Each travel trailer lot shall be provided with an approved water, sewer and electrical service.
- (2) No method of sewage disposal shall be installed, altered or used without the approval of the Duplin County Health Department. All sewage wastes from each park, including wastes from toilets, showers, bathtubs, lavatories, wash basins, sinks, and water-using appliance not herein mentioned, shall be piped into the sewage disposal system.

- (3) Sewage dumping stations shall be approved by the Duplin County Health Department. Each park shall provide at least one (1) sewage dumping station.
- (4) All toilet, shower, lavatory and laundry facilities shall be provided and maintained in a clean and sanitary condition and kept in good repair at all times. They shall be safely and adequately lighted. Facilities shall be easily accessible and conveniently located. All toilet, shower, lavatory and laundry room facilities shall be acceptable to the Duplin County Health Department and shall be in conformity with all applicable codes.
- (5) Each park shall have a central structure or structures that provide separate toilet facilities for both sexes. This structure may also contain coin-operated machines for the park residents' use only, provided there is no exterior advertising.
- (6) Where electrical service is used, the installation and use of such facilities shall conform with all applicable codes. Such facilities shall be inspected by the County Building Inspector.

SECTION 75

Recreation Area

- (1) Each park shall provide recreation areas to serve the needs of the anticipated users. One half (1/2) acre of level well-drained ground for every fifteen (15) spaces shall be utilized as a recreation area. The park owner is responsible for the development and maintenance of the recreation areas.
- (2) No swimming pool or bathing area shall be installed, altered, improved, or used without compliance with applicable regulations.

Article VIII MOBILE HOME AND TRAVEL TRAILER PARK OPERATION

SECTION 80

Maintenance

The mobile home and travel trailer park owner/operator shall be responsible for the continuous maintenance of the park. Streets, driveways, rights-of-way, ditches, surface and subsurface drainage structures, erosion control structures, open space, recreation areas, utilities and signs shall be properly maintained to insure the safety and convenience of the public. Parks shall be maintained in a sanitary condition to minimize the harborage and breeding of insects and vermin.

SECTION 81

Review By Other Agencies

Compliance with this ordinance does not relieve the mobile home and travel trailer park developer from compliance with regulations adopted and enforced by other local, state and federal agencies which regulate construction of roads, driveway access, water supply and distribution, sewage disposal, electrical supply, health standards, building standards, erosion and sedimentation control, drainage and flood control.

SECTION 82

Registration of Occupants

It shall be the duty of the owner or operator of a mobile home and/or travel trailer park to keep an accurate register containing a record of all occupants and owners of mobile homes or travel trailers located within a park. The register for any given year shall be preserved for two (2) years and shall be available for inspection at all times by the Enforcement Officer, the County Health

Department, and other government agencies and officials authorized by the Board of Commissioners. The register shall contain the following information:

1. Name of owner and/or occupant, if different.
2. Date entered and date of leaving park.
3. Lot or space number.
4. Make, model and register number of mobile home or travel trailer.

SECTION 83

Existing Parks

Existing mobile home and travel trailer parks which do not comply with the requirements of this ordinance may continue to operate subject to the regulations applicable at the time of approval. But in no case shall any mobile home or travel trailer park be allowed to be revised, reconstructed or expanded in a manner which is inconsistent with this ordinance.

Article IX Administration

SECTION 90

Approval Required

After the effective date of this ordinance, no mobile home or travel trailer park within the jurisdiction of Duplin County shall be established, altered or expanded until a site plan has been approved by the Planning Board and a construction permit issued. The procedure for approval shall be as outlined below.

SECTION 91

Site Plan Submittal

The developer shall submit five (5) copies of a site plan to the Planning Department at least 5 days prior to the Planning Board meeting at which the plan is to be considered. The site plan must be prepared by a Registered Surveyor, Professional Engineer or other individual with demonstrated knowledge in the area of site design and drafting.

SECTION 91.1

Site Plan Contents

The site plan shall be accurately drawn to scale using appropriate materials in a neat and legible manner. The plan shall show or be accompanied by the following information:

- (1) Proposed name of mobile home or travel trailer park
- (2) Name, address and telephone number of developer, owner/operator
- (3) Name, address and telephone number of designer, planner, surveyor or engineer
- (4) Township
- (5) Date, scale of plan and north arrow
- (6) Boundary of tract
- (7) Boundary of mobile home or travel trailer park
- (8) Location map showing names of adjacent property owners or subdivisions and use of adjacent property
- (9) Existing and proposed interior streets and right-of-way lines, public roadways and right-of-way lines, road names and numbers
- (10) Existing and proposed driveways and parking areas
- (11) Existing and proposed ditches, streams, ponds and wooded areas
- (12) Existing and proposed easements or other rights-of-way
- (13) Existing and proposed building and mobile homes or travel trailers
- (14) Existing and proposed mobile home and travel trailer lots, lot dimensions and lot numbers

- (15) Existing and proposed systems for surface and subsurface drainage, street lighting, electrical power, water supply and distribution, sewage disposal and refuse collection.
- (16) Areas subject to flooding
- (17) Locations of existing and proposed park identification signs, traffic control signs, and street name signs
- (18) Existing and proposed buffers, recreation areas and open space areas
- (19) Any other such reasonable information as may be required by the Planning Board, to adequately review the plan.

SECTION 92

Technical Review Committee

The Planning Department shall present the proposed site plan to the Technical Review Committee for review of site plan contents and design. The Technical Review Committee will consist of representatives from the County Health Department, Planning Department, Building Inspections Department, Water Department, and E-911 Department. Also, electrical power company, telephone company, and the local fire department will be advised of the proposed development. The Technical Review Committee shall review the plan and make recommendations to the Planning Board concerning the plan's compliance with this ordinance and other applicable regulations and policies. The Planning Department shall advise the developer of any plan deficiencies and of the findings and recommendations of the Technical Review Committee.

SECTION 93

Planning Board

The Planning Board shall have forty-five (45) days from its initial consideration of the site plan in which to approve, approve conditionally or disapprove the plan.

(1) Approved Plans

If the site plan is approved by the Planning Board, one copy of the plan, so marked, will be retained by the Planning Board and one copy of the Plan, along with a letter of approval, will be sent to the developer and to the members of the Technical Review Committee.

(2) Approved Conditionally

If the site plan is approved conditionally by the Planning Board, one copy of the plan so marked, will be retained by the Planning Board and one copy of the plan, along with a letter, stating the reasons for conditional approval and the conditions of approval will be sent to the developer, and to the members of the Technical Review Committee. Any conditions imposed on the plan shall be satisfied prior to issuance of the operation permit.

(3) Disapproved Plans

If the site plan is disapproved by the Planning Board one copy of the plan, so marked, will be retained by the Planning Board and one copy, along with a letter, stating the reasons for disapproval and outlining re-submittal and appeal options will be sent to the developer and to the members of the Technical Review Committee.

SECTION 93.1

Planning Board Review Committee

New mobile home parks or travel trailer parks or expansions of existing parks which, including the expansion, total six lots or less, may be reviewed by the Site Plan Review Committee of the Planning Board. The Review Committee is authorized to take

action on behalf of the full Planning Board. Meetings of the Review Committee will be scheduled at the discretion of the chairman of the Planning Board.

SECTION 94

Construction Permit

Upon Planning Board approval of the site plan, the Enforcement Officer shall issue a construction permit. The construction permit authorizes the developer to construct the mobile home or travel trailer park in accordance with plans as approved by the Planning Board. The construction permit does not relieve the developer from compliance with any applicable regulations and does not authorize construction of improvements which would be in violation of any local, state or federal regulations. The construction permit does not authorize the developer to offer mobile home or travel trailer lots for rent or lease or to locate mobile homes or travel trailers on the property. The construction permit will be valid for twelve (12) months. If construction has not been completed within twelve (12) months, Planning Board approval shall become null and void. The Planning Board, at its discretion, may grant a twelve (12) month extension to the original approval. The Enforcement Officer may periodically observe construction during progress to determine if construction is in compliance with approved plans.

SECTION 95

Operation Permit

After construction is completed, the developer shall apply to the Enforcement Officer for an operation permit. Prior to issuance of the operation permit the enforcement officer shall visit the mobile home park to determine if construction of improvements appears to be in accordance with approved plans and applicable regulations. The operation permit shall not be issued until the park is in compliance with all applicable regulations. If the park is determined to be in compliance, the Enforcement Officer shall issue an operation permit. This permit authorizes the developer to rent or lease mobile home or travel trailer lots and to operate the park. After the operation permit has been issued, permits for locating mobile homes on the property may be obtained from the Building Inspector.

SECTION 95.1

Violations

The operation permit shall be valid until revoked. The Enforcement Officer may periodically visit the park to determine continued compliance with this ordinance and other applicable regulations. If the park is determined to be in violation the Enforcement Officer shall notify the owner/operator in writing of the violations and of action necessary to bring the park into compliance. Failure by the owner/operator to correct violations within 120 days of notification shall constitute grounds for revocation of the permit. If the permit is revoked, the Enforcement Officer shall notify the owner/operator in writing of the status of the permit, the action needed to correct the violation, and the enforcement techniques available to the County to remedy continued violation. Operation of a mobile home park without a valid operation permit is a misdemeanor subject to enforcement actions as provided for by state law. When the Enforcement Officer determines that the park has been brought back into compliance with applicable regulations, he shall reinstate the operation permit.

SECTION 96 Transfer of Permits
 Construction and operation permits are issued to the mobile home/travel trailer park owner and are not transferable. The park owner shall notify the Enforcement Officer of any transfer in park ownership within thirty (30) days.

SECTION 97 Development In Sections
 Developers are encouraged to submit plans showing the proposed mobile home/travel trailer park in its entirety. However, Planning Board approval, construction and operation permits may be issued for sections of the park. Sections shall contain a minimum of five (5) contiguous lots and must comply with all applicable regulations.

Article X Legal Provisions

SECTION 100 Minimum Requirements
 The provisions of this ordinance shall be held to be minimum requirements adopted for the promotion of the public health, safety, and general welfare. Wherever the requirements of this ordinance differ with the requirements of any other adopted county, state or federal regulation, the most restrictive or that imposing the highest standard shall govern.

SECTION 101 Enforcement
 This ordinance may be enforced by any one or more of the remedies authorized by G.S. 153A-123, including but not limited to the following:

- (1) A violation of this ordinance shall constitute a misdemeanor, punishable by a maximum fine of \$50.00 or imprisonment for no more than 30 days.
- (2) Violation of this ordinance subjects the offender to a civil penalty of \$50.00.
- (3) This ordinance may be enforced by an appropriate equitable remedy issued from a court of competent jurisdiction.
- (4) This ordinance may be enforced by injunction, order of abatement or both.
- (5) Each day's continuing violation of this ordinance is a separate and distinct offense.

SECTION 102 COMPLAINTS
 Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a written complaint with the Enforcement Officer, stating the cause and basis for the complaint. The Enforcement Officer shall record the complaint, investigate and take such action as may be necessary to enforce this ordinance.

SECTION 103 Separability
 Should any section or provision of this ordinance be declared by the courts to be invalid for any reason, such declaration shall not affect the ordinance as a whole, or any part thereof other than the part so declared to be unconstitutionally invalid.

SECTION 104 Amendment
 Petitions for amendment may be filed with the Enforcement Officer by any citizen of the County, any county department or agency, the County Planning Board or Board of Commissioners.

SECTION 104.1 Amendment Procedure

The provisions and requirements of this ordinance may be amended by the County Commissioners according to the following procedure.

(1) Planning Board Review

No amendment shall become effective unless it shall have been proposed by or shall have been reviewed by the Planning Board. The Planning Board shall have 45 days in which to review the proposed amendment and to make recommendations to the Commissioners. If the Planning Board fails to report to the Commissioners within 45 days, it shall be deemed to have approved the proposed amendment.

(2) Commissioner Review

The County Commissioners must approve any amendments or revisions to the ordinance.

SECTION 105 Variance and Exception

The Planning Board may issue variances and exceptions from the design requirements of this ordinance such that would not be contrary to the public interest, or the spirit and intent of this ordinance, and where due to special conditions, a literal enforcement of the provisions of this ordinance would result in an unnecessary hardship. In granting a variance, the Planning Board may prescribe appropriate conditions and safeguards as it deems necessary to preserve the intent of this ordinance. In granting a variance or exception to this ordinance the Planning Board must determine the following:

- (1) Special conditions and circumstances exist which are peculiar to the land, or buildings involved and which are not applicable to other lands, or buildings;
- (2) The literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties;
- (3) Special conditions and circumstances do not result from the actions of the applicant; and
- (4) Granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, or buildings.

SECTION 106 Appeal

The County Commissioners shall hear and decide appeals and review any orders, requirements decisions, or determinations made by the Planning Board or any County Department responsible for administration or enforcement of this ordinance. The Commissioners' decision is subject to review by the Superior Court of Duplin County.

SECTION 107 Effective Date

This ordinance shall become effective and be in full force from and after the 1st day of June, 1995. Adopted by the Duplin County Board of Commissioners this the 17th day of April, 1995.

Chairman
Duplin County Board of Commissioners

ATTEST: _____
Clerk to the Board

ARTICLE XI APPENDIX

SECTION 110 CHART OF RECOMMENDED PLANT MATERIAL(1) Trees

| <u>NAME</u> | <u>HEIGHT (H)</u> <u>SPREAD (S)</u> | <u>SPACING</u> | <u>GROWTH</u> <u>RATE</u> |
|-----------------------|--|----------------|------------------------------|
| American Holly | (H) 15-30' (S) 10-20' | 6' | Fast |
| Carolina Cherry | (H) 20-25' (S) 15-20' | 10' | Moderate |
| DaHoon Holly | (H) 15-20' (S) 10-15' | 6' | Fast |
| Eastern Red Cedar | (H) 30' (S) 15' | 6' | Moderate |
| Japanese Evergreen | (H) 20-40' (S) 8-16' | 8' | Moderate |
| Yaupon Holly | (H) 20' (S) 6-12' | 6' | Moderate |

(2) Shrubs

| | | | |
|------------------------|------------------------|-----|----------|
| Chinese Holly | (H) 10' (S) 6-8' | 10' | Moderate |
| Chinese Photinia | (H) 12' (S) 5-10' | 8' | Fast |
| Cleyera | (H) 10' (S) 5-6' | 10' | Moderate |
| Fortune's Osmanthus | (H) 15' (S) 5-7' | 10' | Moderate |
| Glossy Privet | (H) 8-10' (S) 5-10' | 12' | Fast |
| Japanese Holly | (H) 6-17' (S) 3-5' | 10' | Slow |
| Japanese Privet | (H) 4-20' (S) 5-6' | 10' | Fast |
| Luster Leaf Holly | (H) 8-12' (S) 7-11' | 10' | Moderate |
| Pittosporum | (H) 10-30' (S) 5-8' | 10' | Moderate |
| Southern Wax Myrtle | (H) 20' (S) 6-12' | 8' | Fast |
| Spice Plant | (H) 8-12' (S) 8-10' | 10' | Moderate |
| Thorny Elaeagnus | (H) 8-11' (S) 6-10' | 10' | Moderate |

*GROWTH RATE APPROXIMATIONS IN HEIGHT:

| | | |
|----------|---|--------------|
| Slow | - | 6" per year |
| Moderate | - | 8" per year |
| Fast | - | 12" per year |

EXAMPLE BUFFER STRIP

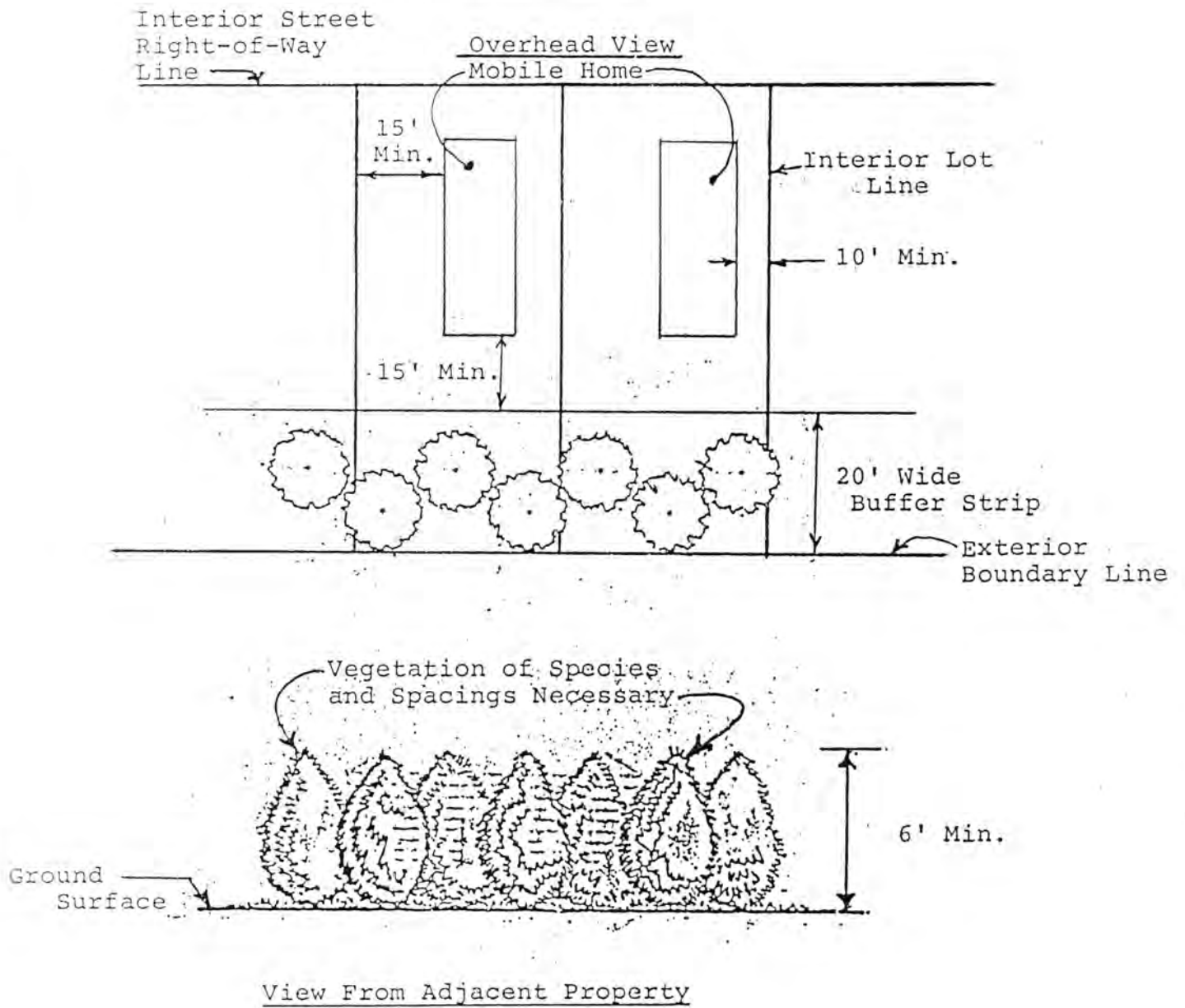


FIGURE XI-I

AN ORDINANCE TO PERMIT THE POSTING OF A PROHIBITION
AGAINST CARRYING A CONCEALED HANDGUN:

BE IT ORDAINED by the Board of Commissioners of Duplin
County, North Carolina:

Section 1. Pursuant to North Carolina General Statues
14-415.23 and 14-415.11, notice shall be posted in a conspicuous
place on all county buildings, their appurtenant premises, and
parks, including all places owned, possessed or controlled by the
County, to the effect that carrying a concealed handgun shall be
prohibited in al such places.

Section 2. This ordinance shall be in full force and
effect from and after the 1st day of December, 1995.

This ordinance unanimously adopted this the 18th day of
September, 1995.

DUPLIN COUNTY

s/D. J. Fussell, Sr.

Russell Tucker
Clerk

ABOLISHED 12/01/98

THE MOBILE HOME
AND
TRAVEL TRAILER PARK ORDINANCE
OF
DUPLIN COUNTY, NORTH CAROLINA

PREPARED BY
THE DUPLIN COUNTY PLANNING BOARD
AND
THE DUPLIN COUNTY PLANNING DEPARTMENT

Effective July 1, 1996

ENACTMENT

This is an ordinance establishing regulations for mobile home and travel trailer parks within the jurisdiction of Duplin County, North Carolina and providing for the administration enforcement and amendment thereof and repealing the Duplin County Mobile Home and Travel Trailer Park Ordinance effective July 1, 1996.

PREAMBLE

WHEREAS, in the opinion of the Duplin County Board of Commissioners to promote the health, safety, morals, and general welfare of the residents of Duplin County it is necessary and advisable to establish regulations to further the orderly layout of mobile home and travel trailer parks, to secure safety from fire, flood and other dangers, to insure adequate facilities for transportation, parking, water, sewerage, and recreation, and

WHEREAS, the Duplin County Planning Board has developed this ordinance with due consideration and has submitted final recommendations to the Duplin County Commissioners, and

WHEREAS, all applicable requirements of the General Statutes of North Carolina have been met.

NOW, THEREFORE BE IT ORDAINED BY THE COUNTY COMMISSIONERS OF THE COUNTY OF DUPLIN AS FOLLOWS:

ARTICLE I AUTHORITY

SECTION 10 The provisions of this ordinance are adopted under authority granted by North Carolina General Statute 153A-121.

ARTICLE II - JURISDICTION

SECTION 20 This regulation shall govern the establishment of each and every new mobile home and travel trailer park and the alteration or expansion of existing mobile home and travel trailer parks within the jurisdiction of Duplin County. The jurisdiction of Duplin County shall not include the area within the extra territorial jurisdiction of any municipality.

ARTICLE III APPLICABILITY

SECTION 30 After the effective date of this ordinance it shall be unlawful for any person to establish, operate or expand a mobile home park or travel trailer park in a manner which is inconsistent with the provisions and requirements of this ordinance.

ARTICLE IV TITLE

SECTION 40 This ordinance shall be known and referred to as The Mobile Home and Travel Trailer Park Ordinance of Duplin County, North Carolina.

ARTICLE V INTERPRETATIONS

SECTION 50 Tense and Number

- (1) The present tense includes the future tense and the future tense includes the present tense.
- (2) The singular number includes the plural number and the plural number includes the singular number.

SECTION 51 Word Interpretations

For the purposes of this ordinance the following words shall be interpreted as specified below:

- (1) The word "may" is permissive.
- (2) The words "shall" and "will" are mandatory.
- (3) The word "County" shall mean the County of Duplin, North Carolina.
- (4) The words "Planning Board" shall refer to the Duplin County Planning Board.

- (5) The words "County Commissioners" shall refer to the Duplin County Board of Commissioners.
- (6) The word "person" shall include firm, organization, association, company, trust, corporation or other entity.
- (7) The words "used" or "occupied" includes intended, designed and arranged.

SECTION 52

Definitions

For the purposes of this ordinance the following terms shall be defined as specified below. Unless specifically defined, words or phrases used in this ordinance shall be interpreted to give them the meaning they have in common usage and to give this ordinance the most reasonable application.

- (1) Buffer Strip
A 10 foot wide strip of living plant material planted with one or more species of trees and or shrubs at spacings which will provide a permanent, continuous, year-round, visual screen extending from the surface of the ground to a minimum height of six (6) feet at maturity.
- (2) Construction Permit
A permit issued by the enforcement officer authorizing the mobile home park owner to construct a mobile home park or travel trailer park in accordance with a plan approved by the Planning Board.
- (3) Developer
Any person, firm, trust, partnership, association or corporation engaged in development or proposed development of a mobile home or travel trailer park.
- (4) Enforcement Office
This ordinance shall be enforced by the Duplin County Planning Department.
- (5) Mobile Home
A portable manufactured housing unit designed for transportation on its own chassis and placement on a temporary or semipermanent foundation having a measurement of over 32 feet in length and over 8 feet in width. As used in this ordinance, mobile home also means a double wide mobile home which is two or more portable manufactured housing units designed for transportation on their own chassis, which connect on site for placement on a temporary or semipermanent foundation having a measurement of over 32 feet in length and over 8 feet in width.
- (6) Mobile Home Park
Shall mean and include any place, area or tract of land maintained, offered or used for the parking of more than two mobile homes used or intended to be used for human habitation purposes. Provided further that this Regulation shall not apply where up to three mobile homes are used by an immediate family relationship such as father and son or a relationship considered by the Health Department as equal to this and no rent is charged or paid. Also provided that this ordinance shall not apply to permitted migrant labor camps or subdivisions.
- (7) Mobile Home Lot
Any parcel of ground within a mobile home park designated for the exclusive use of one mobile home.

- (8) Operation Permit
A permit issued by the Enforcement Officer to a mobile home or travel trailer park owner, upon the completion of a mobile home park which authorizes the lease or rental of spaces and operation of the park.
- (9) Permitted Migrant Labor Camp
Mobile homes under valid permit by the Duplin County Health Department and other applicable agencies for use as housing for migrant laborers. Mobile home parks as defined by this ordinance will be subject to the requirements of this ordinance when not under valid permit as a migrant labor camp.
- (10) Site Plan
A plan of a proposed mobile home or travel trailer park, prepared in accordance with this ordinance and presented to the Duplin County Planning Board for approval.
- (11) Travel Trailer
A wheeled vehicular portable structure built on a chassis, designed to be used as a temporary dwelling for travel and/or recreational purposes, having a body width not exceeding 8 feet. This is also intended to include structures mounted on auto or truck bodies commonly referred to as campers.
- (12) Travel Trailer Park
Any site or tract of land upon which is located six or more travel trailer spaces, regardless of whether or not a charge is made for such service.
- (13) Travel Trailer Space
A plot of land within a travel trailer park designed for the accommodation of one travel trailer.
- (14) Variance
A modification of terms of this ordinance where, owing to conditions peculiar to the property, a literal enforcement of this ordinance would result in an unnecessary hardship.
- (15) Screen Fence
A structure of wood, stone, brick, block, or metal from the surface of the ground to a minimum height of 6 feet and of such materials and construction which creates a permanent, continuous, visual barrier.

ARTICLE VI MOBILE HOME PARK DESIGN STANDARDS

SECTION 60

Suitability of Land

Land subject to flooding, improper drainage, erosion, or that is for topographical or other reasons unsuitable for residential use as determined by the Planning Board, shall not be developed for mobile home parks if such use would continue or increase the danger to health, safety, or property unless the hazards can be, and are corrected or avoided. However, the Planning Board, in carrying out this directive, shall not, solely on the grounds of flood danger, prohibit mobile home park development or use if the Duplin County Flood Damage Prevention Ordinance allows such development or use. The Planning Board shall require any known flood plain or flood hazard area to be identified on the site plan, and when the Planning Board deems it advisable, may require the developer to give notice to potential tenants of the

flood plain or flood hazard area prior to the tenants legally binding themselves to lease spaces.

SECTION 61

General Requirements

- (1) The owner/operator of a mobile home park shall not sell mobile homes on or within a mobile home park unless the mobile home unit for sale is individually and separately located upon an existing mobile home lot where all design standards have been met and all utilities have been installed as required by this ordinance. An individual mobile home owner residing in the park may sell his own mobile home.
- (2) The transfer of individual mobile home lots within the park by sale or other means shall be prohibited while the park is in operation.
- (3) No enclosed structure in excess of 500 square feet shall be attached to any mobile home. Such additions shall not encroach into the minimum setbacks or separation requirements.
- (4) Open porches and decks shall not be constructed nearer than five feet to adjacent interior or exterior lot lines.
- (5) Only mobile homes shall be located within mobile home parks.
- (6) Mobile home park identification signs shall not exceed thirty-two (32) square feet in area per side. Only diffused nonflashing lighting will be allowed. Lighting shall not directly illuminate the public roadway or reflect light beams or glare that would impair the vision of motorists or interfere with the operation of vehicles. Signs shall not be located within the public right-of-way and shall be located at least 20 feet from any mobile home.
- (7) Buffers are intended to protect adjoining land uses, from the noise, dust, lights, threats to privacy, and aesthetic impacts of more intense land uses. Any portion of any mobile home or travel trailer park boundary which is BOTH within 500 feet AND is visible from any residence (other than that of the park owner) shall be screened from view with a buffer strip, as defined by this ordinance, along the boundary line facing the residence.
 Any mobile home park with mobile homes located within 50 feet of a public road right-of-way shall be screened from view from the public road with a buffer as defined by this ordinance.
 In addition, any mobile home park with more than five mobile homes adjacent to a public road right-of-way that do not have direct, individual driveway access to the public road shall be buffered from view from the road by a buffer strip as defined by this ordinance. The buffer requirement may be satisfied by a screen fence as defined by this ordinance. The buffer requirement may also be satisfied by existing natural vegetation meeting the intent of this ordinance provided that the natural vegetation is owned by the mobile home park owner.
 A. No particular species of plant materials are specified; however, performance of plant materials and methods used shall be in accordance with the requirements and intent of this ordinance. (See Appendix for chart of recommended plant materials and spacings.)

- B. Plant materials shall average a minimum of 12" in height at the time of planting.
 - C. Persons operating mobile home and travel trailer parks shall utilize good husbandry techniques with regard to plant materials including but not limited to proper planting, mulching, fertilization, pruning and otherwise proper maintenance to ensure a healthy, uniform, continuous solid vegetative screen as soon after planting as possible.
 - D. Diseased, dead or damaged plant materials shall be replaced at the earliest appropriate planting time.
- (8) Within a mobile home park, one mobile home may be used as an administrative office.
- (9) Convenience establishments of a commercial nature, including food stores, coin operated laundries and dry cleaning establishments, laundry and dry cleaning pickup stations, beauty parlors, and barber shops may be permitted in mobile and travel trailer home and travel trailer parks subject to the following restrictions:
- A. Such establishments shall be located, intended and designed to serve only the trade or service needs of persons residing in the park.
 - B. Such establishments shall be subordinate to the residential use and character of the park.
 - C. Off-street parking for commercial establishments shall be provided at a ratio of one (1) space for every four hundred (400) square feet of gross floor area.
 - D. Vehicular access to such establishments shall be from interior streets.
 - E. Signs serving such establishments inside the mobile home park shall be limited to twenty (20) square feet in area, non-illuminated, and shall be attached to the establishment.

SECTION 62

Lots

- (1) Generally, lot sizes, shapes and locations shall be made with due regard to topographic conditions, soil conditions, and the surrounding land usage.
- (2) The area required for each mobile home lot shall be determined by the Duplin County Health Department after an investigation of soil conditions, proposed method of sewage disposal, and water supply. However in no case shall the area of a mobile home lot be less than six thousand (6,000) square feet.

(3) Minimum Lot areas shall be as specified below:

| <u>Water and Sewer Service</u> | <u>Minimum Lot area and width</u> |
|---|--|
| (A) Lots served by <u>both</u> off-site water supply <u>and</u> off-site sewage disposal | 6,000 square ft. minimum 60 feet width |
| (B) Lots served by <u>either</u> off-site water supply <u>or</u> off-site sewage disposal. | 10,000 square ft. minimum 80 feet width |
| (C) Lots served by <u>both</u> on-site water supply <u>and</u> on-site sewage disposal. | 1/2 acre minimum minimum 100 feet width |
| (4) Each mobile home lot shall have a minimum road frontage of twenty (20) feet. | |
| (5) Mobile home minimum setbacks on the lots shall be as follows: No portion of any setback shall be within the required buffer strip. | |
| (A) 10 feet from any interior side or rear lot line | |
| (B) 15 feet from any exterior park boundary line | |
| (C) 15 feet from any interior street right-of-way line | |
| (D) 30 feet from any public road right-of-way line | |
| (E) 20 feet from any building, other mobile home or mobile home park identification sign | |
| (6) Each mobile home lot shall abut on an interior street which has direct access to a public road. | |
| (7) Each mobile home lot shall be assigned a street address by the Duplin County E-911 Coordinator. It shall be the responsibility of the mobile home park owner to post the address in accordance with the Duplin County Addressing and Road Naming Ordinance. | |

SECTION 63

Streets and Parking

- (1) Interior streets shall be private streets, owned and maintained by the mobile home park owner. The County assumes no responsibility for maintenance of any streets, parking areas, drainage structure or open spaces.
- (2) Interior streets shall have a traveled way, a minimum of eighteen (18) feet wide and be graded drained and stabilized.
- (3) Interior street surfaces shall consist of a minimum of 4" compacted stone or rock on suitable subgrade.
- (4) Streets shall be approximately centered in a access easement not less than forty (40) feet wide.
- (5) Permanent dead end or cul-de-sac streets shall not exceed one thousand (1,000) feet in length and shall have a bulb or other suitable means for vehicles to turn around at the closed end. Bulbs shall have a right-of-way diameter of

- eighty (80) feet and a traveled portion with a diameter of seventy (70) feet. Other provisions for turning around may be allowed subject to approval by the Planning Board.
- (6) Streets and drives within the mobile home park shall intersect as nearly as possible at right angles to other streets. No streets shall intersect at an angle of less than sixty (60) degrees.
 - (7) Interior streets shall be named by the mobile home park developer. Names shall not duplicate or be similar to existing County road names. Selection of street names are subject to approval by the Duplin County E-911 Addressing Coordinator.
 - (8) Two automobile parking spaces shall be provided for each mobile home lot. No portion of the required spaces shall be within any street right-of-way.

SECTION 64

Utilities

- (1) (A) Each mobile home lot shall be provided with an approved water supply in accordance with 15A NCAC 18A.1700. Provided the water supply and distribution system serves 15 or more connections, it is classified as a "public water system" and must be listed with the Public Water Supply Section, Division of Environmental Health.
(B) Each mobile home lot must be connected to an approved sewage disposal system as determined by the Duplin County Health Department. The approval of water supply and sewage disposal system is a condition for approval of electrical service to each mobile home lot.
- (2) When public or community water systems or sewage systems are available, the developer shall, at his expense, make connection to those systems. Availability will be determined by the Planning Board.
- (3) All streets shall be illuminated from sunset to sunrise. Lights shall be pole mounted overhead style of a design suitable for the purpose. Light poles shall be located approximately along the easement lines of interior streets. Street lamps shall be a minimum of 175 watt mercury vapor type or its equivalent, spaced at intervals of not more than three hundred (300) feet.
- (4) Lighting shall be located to illuminate the entrance street at its intersection with the public right-of-way. Light poles shall be located outside the public right-of-way and shall not cast light or glare onto the public road of such intensity as to impair the vision of motorists or interfere with the operation of vehicles.
- (5) County owned solid waste and recycling collection centers shall serve as refuse collection facilities. Private collection may be provided by the mobile home park owner/operator subject to approval by the Duplin County Solid Waste Department.

SECTION 65

Recreation Area

Each mobile home park shall provide four hundred (400) square feet of recreation area for each mobile home lot that is less than ten thousand (10,000) square feet in area. No recreation area shall be less than 2,500 square feet in area. Maintenance of any recreation areas will be the responsibility of the mobile home park owner/operator.

SECTION 70

Suitability of Land

Land subject to flooding, improper drainage, erosion, or that is for topographical or for other reasons unsuitable for travel trailer use as determined by the Planning Board, shall not be developed for travel trailer parks if such use would continue or increase the danger to health, safety, or property unless the hazards can be and are corrected or avoided.

SECTION 71

General Requirements

- (1) It shall be unlawful for a person to park or store a mobile home in a travel trailer park. However, one (1) mobile home may be allowed within a travel trailer park to be used as an office or residence of persons responsible for the operation and maintenance of the travel trailer park.
- (2) Travel trailer park identification signs shall be limited to one (1) sign located at the park entrance. No sign shall exceed thirty-two (32) square feet in area per side.
- (3) Commercial uses - Same as Article VI Section 61 (9).
- (4) Buffers - Same as Article VI Section 61 (7)

SECTION 72

Lots

- (1) Generally, lot sizes, shapes and locations shall be made with due regard to topographic conditions, soil conditions, and the surrounding land usage.
- (2) All spaces shall be located on sites with elevations that are not susceptible to flooding. Each space shall be properly graded to obtain a reasonably flat site and to provide adequate drainage away from the space. All ditch banks shall be sloped and seeded.
- (3) Each space shall consist of a minimum of fifteen hundred (1,500) square feet.
- (4) There shall be a minimum distance of fifteen (15) feet between each travel trailer or structure.
- (5) No space shall have direct vehicular access into a public road.
- (6) All spaces developed adjacent to a public road shall be set back a minimum of forty (40) feet from the right-of-way line.

SECTION 73

Streets and Parking

- (1) Interior streets shall be private streets, owned and maintained by the travel trailer park owner. The County assumes no responsibility for maintenance of any streets, parking areas, drainage structures or open spaces.
- (2) The park shall have all-weather roads that directly abut each space. All roads shall have a minimum width of eighteen (18) feet.
- (3) Cul-de-sacs or dead-end roads shall not exceed one thousand (1,000) feet in length. Any road designed to be permanently closed shall have a turnaround at the closed end with a minimum diameter of eighty (80) feet. The entire area of the turnaround shall be graded and have an all-weather surface. Other provisions for turning around may be allowed subject to approval by the Planning Board.

SECTION 74

Utilities

- (1) Each travel trailer lot shall be provided with an approved water, sewer and electrical service.

- (2) No method of sewage disposal shall be installed, altered or used without the approval of the Duplin County Health Department. All sewage wastes from each park, including wastes from toilets, showers, bathtubs, lavatories, wash basins, sinks, and water-using appliance not herein mentioned, shall be piped into the sewage disposal system.
- (3) Sewage dumping stations shall be approved by the Duplin County Health Department. Each park shall provide at least one (1) sewage dumping station.
- (4) All toilet, shower, lavatory and laundry facilities shall be provided and maintained in a clean and sanitary condition and kept in good repair at all times. They shall be safely and adequately lighted. Facilities shall be easily accessible and conveniently located. All toilet, shower, lavatory and laundry room facilities shall be acceptable to the Duplin County Health Department and shall be in conformity with all applicable codes.
- (5) Each park shall have a central structure or structures that provide separate toilet facilities for both sexes. This structure may also contain coin operated machines for the park residents' use only, provided there is no exterior advertising.

SECTION 75

Recreation Area

- (1) Each park shall provide recreation areas to serve the needs of the anticipated users. One half (1/2) acre of level well-drained ground for every fifteen (15) spaces shall be utilized as a recreation area. The park owner is responsible for the development and maintenance of the recreation areas.
- (2) No swimming pool or bathing area shall be installed, altered, improved, or used without compliance with applicable regulations.

Article VIII MOBILE HOME AND TRAVEL TRAILER PARK OPERATION

SECTION 80

Maintenance

The mobile home and travel trailer park owner/operator shall be responsible for the continuous maintenance of the park. Streets, driveways rights-of-way, ditches, surface and subsurface drainage structures, erosion control structures, open space, recreation areas, utilities and signs shall be properly maintained to insure the safety and convenience of the public. Parks shall be maintained in a sanitary condition to minimize the harborage and breeding of insects and vermin.

SECTION 81

Review By Other Agencies

Compliance with this ordinance does not relieve the mobile home and travel park developer from compliance with regulations adopted and enforced by other local, state and federal agencies which regulate construction of roads, driveway access, water supply and distribution, sewage disposal, electrical supply, health standards, building codes, erosion and sedimentation control, drainage and flood control.

SECTION 82

Registration of Occupants

It shall be the duty of the owner or operator of a mobile home/travel trailer park to keep an accurate register containing a record of all occupants and owners of mobile homes or travel trailers located within a park. The register shall be available for inspection at all times by the Enforcement Officers, the County Health Department, and other government agencies and officials

authorized by the Board of Commissioners.
The register shall contain the following information:

1. Name of owner and/or occupant, if different.
2. Date entered and date of leaving park.
3. Lot or space number.
4. Make, model and register number of mobile home or travel trailer.
5. License tag number of tow vehicle

SECTION 83

Existing Parks

Existing mobile home and travel trailer parks which do not comply with the requirements of this ordinance may continue to operate subject to the regulations applicable at the time of approval. But in no case shall any mobile home or travel trailer park be allowed to be revised, reconstructed or expanded in a manner which is inconsistent with this ordinance.

Article IX Administration

SECTION 90

Approval Required

After the effective date of this ordinance, no mobile home or travel trailer park within the jurisdiction of Duplin County shall be established, altered or expanded until a site plan has been approved by the Planning Board and a construction permit issued. The procedure for approval shall be as outlined below.

SECTION 91

Preliminary Plan

The Planning Board shall first approve a preliminary site plan prior to the submittal of a final site plan. The preliminary plan process is intended to be a review of the layout and general design elements of the park which may be difficult or costly for the developer to change after the final site plan has been developed.

SECTION 91.1

Preliminary Site Plan Submittal

The developer shall submit six (6) copies of the preliminary site plan to the Planning Department at least 7 working days prior to the Planning Board meeting at which the plan is to be considered.

Section 91.2

Preliminary Site Plan Contents

The preliminary site plan shall be accurately drawn to scale using appropriate materials in a neat and legible manner. The preliminary plan shall show or be accompanied by the following information:

- (1) Proposed name of mobile home or travel trailer park
- (2) Name, address and telephone number of developer, owner/operator
- (3) Date, scale of plan and north arrow
- (4) Boundary of tract with deed book and page reference and acreage
- (5) Boundary of mobile home or travel trailer park
- (6) Location map showing names of adjacent property owners or subdivisions and use of adjacent property
- (7) Existing and proposed interior streets and right-of-way lines, public roadways and right-of-way lines, road names and numbers
- (8) Existing and proposed driveways and parking areas
- (9) Topographic information with contours on at least 2' intervals, existing and proposed ditches, streams, ponds and wooded areas
- (10) Existing and proposed easements or other rights-of-ways
- (11) Existing and proposed building and mobile home or travel trailer park locations

- (12) Existing and proposed mobile home and travel trailer lots, lot dimensions and lot numbers
- (13) Existing and proposed systems for surface and subsurface drainage, street lighting, water supply and distribution, sewage disposal and refuse collection
- (14) Areas within the 100 year flood plain
- (15) Existing and proposed buffers, recreation areas and open spaces
- (16) Any other such reasonable information as may be required by the Planning Board to adequately review the plan.

SECTION 91.3 Review Fees

The Preliminary plan submittal shall include payment of any mobile home park review fees as established by the County Commissioners.

SECTION 91.4 Technical Review Committee

The Planning Department shall present the proposed preliminary site plan to the Technical Review Committee for review of site plan contents and design. The technical review committee will consist of representatives from the County Health Department, Planning Department, Building Inspections Department, Water Department, and E-911 Department. The Technical Review Committee shall review the plan and make recommendations to the Planning Board concerning the plans compliance with this ordinance and other applicable regulations and policies. The Planning Department shall advise the developer of any plan deficiencies and of the findings and recommendations of the Technical Review Committee.

SECTION 91.5 Planning Board Consideration

The Planning Board shall have forty-five (45) days from its initial consideration of the preliminary site plan in which to approve, approve conditionally or disapprove the plan.

(1) Approved Plans

If the preliminary site plan is approved by the Planning Board, one copy of the plan, so marked, will be retained by the Planning Board and one copy of the plan, along with a letter of approval will be sent to the developer and to the members of the Technical Review Committee. The preliminary plan approval is the developers authorization to prepare and submit the final site plan.

(2) Approved Conditionally

If the preliminary site plan is approved conditionally by the Planning Board one copy of the plan so marked, will be retained by the Planning Board and one copy of the plan along with a letter stating the reasons for conditional approval and the conditions of approval will be sent to the developer, and to the members of the Technical Review Committee. Any conditions imposed on the plan shall be incorporated into the final site plan prior to submittal.

(3) Disapproved Plans

If the preliminary site plan is disapproved by the Planning Board one copy of the plan, so marked, will be retained by the Planning Board and one copy along with a letter stating the reasons for disapproval and outlining resubmittal and appeal options will be sent to the developer and to the members of the Technical Review Committee.

Final Site Plan Submittal

Following Planning Board Approval of the preliminary site plan, the developer is authorized to submit the final site plan. The developer shall submit six (6) copies of a the final site plan to the Planning Department at least 7 days prior to the Planning Board meeting at which the plan is to be considered. The final site plan must be prepared by a Registered Surveyor, Professional Engineer or Registered Landscape Architect.

SECTION 92.1

Final Site Plan Contents

The site plan shall be accurately drawn to scale using appropriate materials in a neat and legible manner. The plan shall show or be accompanied by the following information:

- (1) Proposed name of mobile home or travel trailer park.
- (2) Name, address and telephone number of developer, owner/operator.
- (3) Name, address and telephone number of designer, planner, surveyor or engineer.
- (4) Township.
- (5) Date, scale of plan and north arrow.
- (6) Boundary of tract, including deed book and page reference and acreage.
- (7) Boundary of mobile home or travel trailer park.
- (8) Location map showing names of adjacent property owners or subdivisions and use of adjacent property.
- (9) Existing and proposed interior streets and right-of-way lines, public roadways and right-of-way lines, road names and numbers.
- (10) Existing and proposed driveways and parking areas.
- (11) Topographic information with contours on at least 2' intervals, existing and proposed ditches, streams, ponds and wooded areas.
- (12) Existing and proposed easements or other rights-of-way.
- (13) Existing and proposed building and mobile homes or travel trailers.
- (14) Existing and proposed mobile home and travel trailer lots, lot dimensions and lot numbers.
- (15) Existing and proposed systems for surface and subsurface drainage, street lighting, electrical power, water supply and distribution, sewage disposal and refuse collection.
- (16) Areas subject to flooding.
- (17) Locations of existing and proposed park identification signs, traffic control signs, and street name signs.
- (18) Existing and proposed buffers, recreation areas and open space areas.
- (19) Any other such reasonable information as may be required by the Planning Board, to adequately review the plan.

SECTION 92.2

Planning Board Consideration

The Planning Board shall have forty-five (45) days from its initial consideration of the final site plan in which to approve, approve conditionally or disapprove the plan.

(1) Approved Plans

If the final site plan is approved by the Planning Board, one copy of the plan, so marked, will be retained by the Planning Board and one copy of the plan, along with a letter of approval will be sent to the developer and to the members of the Technical Review Committee.

(2) Approved Conditionally

If the site final plan is approved conditionally by the Planning Board one copy of

approval will be sent to the developer, and to the members of the Technical Review Committee.

3) Disapproved Plans

If the final site plan is disapproved by the Planning Board one copy of the plan, so marked, will be retained by the Planning Board and one copy along with a letter stating the reasons for disapproval and outlining resubmittal and appeal options will be sent to the developer and to the members of the Technical Review Committee.

SECTION 92.3

Construction Permit

Upon Planning Board approval of the final site plan the enforcement officer shall issue a construction permit. The construction permit authorizes the developer to construct the mobile home or travel trailer park in accordance with plans as approved by the Planning Board. The construction permit does not relieve the developer from compliance with any applicable regulations and does not authorize construction of improvements which would be in violation of any local, state or federal regulations. The construction permit does not authorize the developer to offer mobile home or travel trailer lots for rent or lease or to locate mobile homes or travel trailers on the property. The construction permit will be valid for six (6) months. If construction has not commenced within six (6) months, Planning Board approval shall become null and void. The Planning Board, at its discretion, may grant a six (6) month extension to the original approval. The enforcement officer may periodically observe construction during progress to determine if construction is in compliance with approved plans.

SECTION 93

Operation Permit

After construction is completed, the enforcement officer shall visit the mobile home park to determine if construction of improvements appears to be in accordance with approved plans and applicable regulations. The operation permit shall not be issued until the park is in compliance with all applicable regulations. If the park is determined to be in compliance, the enforcement officer shall issue an operation permit. This permit authorizes the developer to rent or lease mobile home or travel trailer lots and to operate the park.

SECTION 94

Violations

The operation permit shall be valid until revoked. The enforcement officer may periodically visit the park to determine continued compliance with this ordinance and other applicable regulations. If the park is determined to be in violation the enforcement officer shall notify the owner/operator in writing of the violations and of action necessary to bring the park into compliance. Failure by the owner/operator to correct violations within 120 days of notification shall constitute grounds for revocation of the permit. If the permit is revoked, the enforcement officer shall notify the owner/operator in writing of the status of the permit, the action needed to correct the violation, and the enforcement techniques available to the county to remedy continued violation. Operation of a mobile home park without a valid operation permit is a misdemeanor subject to enforcement actions as provided for by state law. When the enforcement officer determines that the park has been brought back into compliance with

applicable regulations, he shall reinstate the operation permit.

SECTION 95

Transfer of Permits

Construction and operation permits are issued to the mobile home/travel trailer park owner and are not transferable. The park owner shall notify the enforcement officer of any transfer in park ownership within thirty (30) days.

SECTION 96

Development In Sections

Developers are encouraged to submit plans showing the proposed mobile home/travel trailer park in its entirety. However, Planning Board approval, construction and operation permits may be issued for sections of the park. Sections shall contain a minimum of five (5) contiguous lots and must comply with all applicable regulations.

Article X Legal Provisions

SECTION 100

Minimum Requirements

The provisions of this ordinance shall be held to be minimum requirements adopted for the promotion of the public health, safety, and general welfare. Wherever the requirements of this ordinance differ with the requirements of any other adopted county, state or federal regulation, the most restrictive or that imposing the highest standard shall govern.

SECTION 101

Enforcement

This ordinance may be enforced by any one or more of the remedies authorized by G.S. 153A-123, including but not limited to the following:

- (1) A violation of this ordinance shall constitute a misdemeanor, punishable by a maximum fine of \$50.00 or imprisonment for no more than 30 days.
- (2) Violation of this ordinance subjects the offender to a civil penalty of fifty (\$50.00) dollars.
- (3) This ordinance may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction.
- (4) This ordinance may be enforced by injunction, order of abatement or both.
- (5) Each day's continuing violation of this ordinance is a separate and distinct offense.

SECTION 102

COMPLAINTS

Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a written complaint with the enforcement officer, stating the cause and basis for the complaint. The enforcement officer shall record the complaint, investigate and take such action as may be necessary to enforce this ordinance.

SECTION 103

Separability

Should any section or provision of this ordinance be declared by the courts to be invalid for any reason, such declaration shall not affect the ordinance as a whole, or any part thereof other than the part so declared to be unconstitutional invalid.

SECTION 104

Amendment

Petitions for amendment may be filed with the enforcement officer by any citizen of the County, any County department or agency, the County Planning Board or Board of Commissioners.

SECTION 104.1 Amendment Procedure

The provisions and requirements of this ordinance may be amended by the County Commissioners according to the following procedure.

(1) Planning Board Review

No amendment shall become effective unless it shall have been proposed by or shall have been reviewed by the Planning Board. The Planning Board shall have 45 days in which to review the proposed amendment and to make recommendations to the Commissioners. If the Planning Board fails to report to the Commissioners within 45 days it shall be deemed to have approved the proposed amendment.

(2) Commissioner Review

The County Commissioners must approve any amendments or revisions to the ordinance.

SECTION 105 Variance and Exception

The Planning Board may issue variances and exceptions from the design requirements of this ordinance such that would not be contrary to the public interest, or the spirit and intent of this ordinance, and where due to special conditions, a literal enforcement of the provisions of this ordinance would result in an unnecessary hardship. In granting a variance, the Planning Board may prescribe appropriate conditions and safeguards as it deems necessary to preserve the intent of this ordinance. In granting a variance or exception to this ordinance the Planning Board must determine the following:

- (1) Special conditions and circumstances exist which are peculiar to the land, or buildings involved and which are not applicable to other lands, or buildings.
- (2) The literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties.
- (3) Special conditions and circumstances do not result from the actions of the applicant; and
- (4) Granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, or buildings.

SECTION 106 Appeal

The County Commissioners shall hear and decide appeals and review any orders, requirements decisions, or determinations made by the Planning Board or any County Department responsible for administration or enforcement of this ordinance. The Commissioners' decision is subject to review by the Superior Court of Duplin County.

SECTION 107 Effective Date

This ordinance shall become effective and be in full force from and after the 1st day of July, 1996. Adopted by the Duplin County Board of Commissioners this the 17th day of June, 1996.

Chairman
Duplin County Board of Commissioners

ATTEST: _____
Clerk to the Board

ARTICLE XI APPENDIX

SECTION 110 CHART OF RECOMMENDED PLANT MATERIAL

(1) Trees

| <u>NAME</u> | <u>HEIGHT (H)</u> <u>SPREAD (S)</u> | <u>SPACING</u> | <u>GROWTH</u> <u>RATE</u> |
|--------------------|--|----------------|------------------------------|
| American Holly | (H) 15-30' (S) 10-20' | 6' | Fast |
| Carolina Cherry | (H) 20-25' (S) 15-20' | 10' | Moderate |
| DaHoon Holly | (H) 15-20' (S) 10-15' | 6' | Fast |
| Eastern Red Cedar | (H) 30' (S) 15' | 6' | Moderate |
| Japanese Evergreen | (H) 20-40' (S) 8-16' | 8' | Moderate |
| Yaupon Holly | (H) 20' (S) 6-12' | 6' | Moderate |

(2) Shrubs

| | | | |
|---------------------|------------------------|-----|----------|
| Chinese Holly | (H) 10' (S) 6-8' | 10' | Moderate |
| Chinese Photinia | (H) 12' (S) 5-10' | 8' | Fast |
| Cleyera | (H) 10' (S) 5-6' | 10' | Moderate |
| Fortune's Osmanthus | (H) 15' (S) 5-7' | 10' | Moderate |
| Glossy Privet | (H) 8-10' (S) 5-10' | 12' | Fast |
| Japanese Holly | (H) 6-17' (S) 3-5' | 10' | Slow |
| Japanese Privet | (H) 4-20' (S) 5-6' | 10' | Fast |

(2) Shrubs Con't.

| <u>NAME</u> | <u>HEIGHT (H)</u> <u>SPREAD (S)</u> | <u>SPACING</u> | <u>GROWTH</u> <u>RATE*</u> |
|---------------------|--|----------------|-------------------------------|
| Luster Leaf Holly | (H) 8-12' (S) 7-11' | 10' | Moderate |
| Pittosporum | (H) 10-30' (S) 5-8' | 10' | Moderate |
| Southern Wax Myrtle | (H) 20' (S) 6-12' | 8' | Fast |
| Spice Plant | (H) 8-12' (S) 8-10' | 10' | Moderate |
| Thorny Elaeagnus | (H) 8-11' (S) 6-10' | 10' | Moderate |

*GROWTH RATE APPROXIMATIONS IN HEIGHT:

| | | |
|----------|---|--------------|
| Slow | - | 6" per year |
| Moderate | - | 8" per year |
| Fast | - | 12" per year |

THE
OUTDOOR ADVERTISING
SIGN ORDINANCE
OF
DUPLIN COUNTY, NORTH CAROLINA

97-01

ENACTMENT

This is an ordinance establishing regulations for outdoor advertising in Duplin County and providing for the administration, enforcement and amendment thereof.

PREAMBLE

WHEREAS: in the opinion of the Duplin County Board of Commissioners to further promote the health, safety, and general welfare of the residents of Duplin County, it is necessary and advisable to adopt regulations pertaining to the size, location and spacing of outdoor advertising within Duplin County, and

WHEREAS: the Duplin County Planning Board has developed this ordinance with due consideration and has submitted final recommendations to the Duplin County Commissioners, and

WHEREAS: all applicable requirements of the General Statutes of North Carolina have been met,

NOW, THEREFORE BE IT ORDAINED BY THE COUNTY COMMISSIONERS OF THE COUNTY OF DUPLIN AS FOLLOWS:

ARTICLE I - AUTHORITY

SECTION 10

The provisions of this ordinance are adopted under authority granted by North Carolina General Statute 153A-121.

ARTICLE II - JURISDICTION

SECTION 20

This ordinance shall be applicable to designated areas within Duplin County outside the jurisdiction of any municipality. The jurisdiction of Duplin County shall not include the area within the extra-territorial jurisdiction of any municipality.

ARTICLE III - APPLICABILITY

SECTION 30

The requirements and provisions of this ordinance shall apply to the signs within 660 feet of the right-of-way of Interstate 40 in Duplin County. This ordinance shall also, apply to signs beyond 660 feet of the right-of-way which are visible and intended to be read from the main traveled way of Interstate 40. This ordinance does not apply to on-premise, directional, official, service club, public service, political or public utility signs as defined by this ordinance.

ARTICLE IV - TITLE

SECTION 40

This ordinance shall be known as and referred to as the Outdoor Advertising Ordinance of Duplin County, North Carolina.

SECTION 50 Tense and Number

- (1) The present tense includes the future tense includes the present tense.
- (2) The singular number includes the plural number and the plural number includes the singular number.

SECTION 51 Word Interpretations

For the purpose of this ordinance the following words shall be interpreted as specified below:

- (1) The word "may" is permissive.
- (2) The words "shall" and "will" are mandatory.
- (3) The word "County" shall mean the County of Duplin, North Carolina.
- (4) The words "Planning Board" shall refer to the Duplin County Planning Board.
- (5) The words "County Commissioners" shall refer to the Duplin County Board of Commissioners.
- (6) The word "person" shall include firm, organization, association, company, trust, corporation or other entity.
- (7) The words "used" or "occupied" includes intended, designed and arranged.

SECTION 52 Definitions

For the purpose of this ordinance the following terms shall be defined as specified below. Unless specifically defined, words or phrases used in this ordinance shall be interpreted to give them the meaning they have in common usage and to give this ordinance the most reasonable application.

- (1) Back to Back Sign - Sign structures placed back with a distance between the backs of the signs of not greater than three (3) feet.
- (2) Commercial or Industrial Areas - Those areas on which there is located one or more permanent structures devoted to a commercial or industrial activity or on which a commercial or industrial activity is actually conducted, whether or not a permanent structure is located thereon, and the area along the highway extending outward 800 feet from and beyond the edge of such activity. Each side of the highway will be considered separately in applying this definition.
 - (a) All measurements shall be from the outer edges of the regularly used buildings, parking lots, storage or processing and landscaped areas of the property line of the activities, and shall be along or parallel to the edge of pavement of the highway.
- (3) Commercial or Industrial Activity - For the purposes of this ordinance, commercial or industrial activities means those activities generally recognized as commercial or industrial by zoning authorities in the State of North Carolina. Any commercial or industrial activity shall meet all of the following criteria:
 - (a) The activity shall have all privilege license(s) required by local, state or federal laws;
 - (b) The property used for the activity shall be listed for ad valorem taxes as required by law;
 - (c) The activity shall be served by available utilities such as electricity, telephone, water and sewer;
 - (d) The activity shall have direct or indirect vehicular access and be a generator of vehicular traffic;
 - (e) The activity shall have a permanent building designed, built, or modified for its current commercial or industrial use, and the building must be located within six-hundred and sixty (660) feet of the nearest edge of

- (f) the highway right-of-way;
 - (f) There shall be commercial or industrial activity at the location six months before the area qualifies for sign(s);
 - (g) Employee(s) shall be on site during normal working hours which are considered usual, normal and customary for that type of activity;
 - (h) There shall be a frequency of operations which is considered usual, normal and customary for that type commercial or industrial activity, and;
 - (i) The activity shall be visible and recognizable as commercial or industrial.
- (3.1) The following activities shall not be considered as commercial or industrial:
- (a) Outdoor advertising structures;
 - (b) Agricultural, forestry, ranching, grazing, farming, and related activities, including, but not limited to produce stands;
 - (c) Transient or temporary activities;
 - (d) Activities not visible from the main traveled way;
 - (e) Activities more than 660 feet from the nearest edge of the right-of-way;
 - (f) Activities conducted in a building principally used as a residence;
 - (g) Railroad tracks and minor sidings;
 - (h) Any outdoor advertising structure activity or any business or commercial activity carried on in connection with an outdoor advertising activity;
 - (i) Any activity which is seasonal or not in operation for the twelve continuous months immediately proceeding the application for an outdoor advertising permit.
- (4) Conforming Sign - A sign legally erected which meets all current requirements for location, spacing, size and lighting.
- (5) Dilapidated Sign - An existing sign shall be considered dilapidated when it is in disrepair, shabby or neglected, when it fails to be in the same form as originally constructed, or when it fails to perform its intended function of conveying a message. Conditions of dilapidation shall include, but not be limited to, structural support failure, signs not being held as originally constructed, panels or borders missing or falling off, intended messages cannot be interpreted by the motoring public, or signs which are overgrown with vegetation.
- (6) Directional and other Official Signs and Notices - Directional and other official signs and notices includes only official signs and notices, public utility signs, service club and religious notices, public service signs, and directional signs.
- (7) Directional sign - Signs containing directional information about public places owned or operated by federal, state, or local governments or their agencies; publicly or privately owned natural phenomena, historic, cultural, scientific, educational, and religious sites, and areas of natural scenic beauty or naturally suited for outdoor recreation, deemed to be in the interest of the traveling public.
- (8) Enforcement Officer - This ordinance shall be enforced by the Duplin County Planning Department.
- (9) Lease - An agreement, in writing, by which possession or use of land or interests therein is given by the owner to another person for a specified period of time.
- (10) Maintain - To allow to exist.
- (11) Nonconforming Sign - A sign lawfully erected prior to the adoption of this ordinance which does not meet the requirements of applicable regulations that became effective at a larger date or a sign which fails to comply with current requirements due to changed conditions. Illegally erected or maintained signs are not nonconforming.
- (12) Official Signs and Notices - Official signs and notices erected and maintained by public officers or public agencies within their territorial or zoning jurisdiction and pursuant to and in accordance with direction or authorization contained in federal, state, or local law for the purpose of carrying out an official duty or responsibility. Historical markers

- authorized by state law and erected by state or local government agencies or nonprofit historical societies may be considered official signs.
- (13) On-premise Sign - A sign which advertises activities conducted on the property upon which it is located or a sign which advertises the sale or lease of property upon which it is located.
 - (14) Outdoor Advertising Sign - Any outdoor sign, display, light, device, figure, painting, drawing, message, placard, poster, billboard, or other thing which is designed, intended, or used to advertise or inform, any part of the advertising or information contents of which is visible from any part of the main-traveled way of the affected area.
 - (15) Political Sign - A temporary sign advertising a candidate, party or issue for a vote on a set election day.
 - (16) Public Utility Signs - Warning signs, informational signs, notices, or markers which are customarily erected and maintained by publicly or privately owned public utilities, as essential to their operations.
 - (17) Service Club and Religious Notices - Signs and notices, whose erection is authorized by law, relating to meetings or nonprofit service clubs or charitable associations, or religious services. Provided further that such signs shall not exceed eight square feet in area.
 - (18) Sign Face - The surface of a sign where copy, messages, or advertisements are attached for display to the public, including any parts of the sign structure upon which such information is located.
 - (19) Sign Skirt - Decorative border, trim or apron covering the post(s) or pole(s) which supports a sign.
 - (20) Sign Structure - The supporting poles, braces, struts, trim, or border; or building or structure to which an outdoor advertising sign is attached.
 - (21) Traveled Way - The traveled way of a highway on which through traffic is carried. In the case of a divided highway, the traveled way of each of the separated roadways for traffic in opposite directions is a main-traveled way. It does not include such facilities as frontage roads, turning roadways, or parking areas.
 - (22) V-Type Sign - A sign structure constructed in the form of a "V" and located not more than five feet apart at the closest point.
 - (23) Visible Commercial or Industrial Activity - An activity that is clearly seen from the main traveled way without visual aid by a person traveling at the posted speed and which is recognizable year-round as a commercial or industrial activity.

ARTICLE VI - STANDARDS

SECTION 60 Review By Other Agencies

Sign regulations enforced by the North Carolina Department of Transportation are applicable to Interstate and Federal-Aid-Primary highways in North Carolina. This ordinance enforced by Duplin County is applicable to I-40 only. In the event of conflict, the State or County requirement, which is more restrictive shall govern. Permits from both Duplin County and the North Carolina Department of Transportation are required. It shall be the responsibility of the sign owner to insure compliance with both state and county requirements.

SECTION 61 Location

- (1) Off site outdoor advertising signs shall be permitted only in commercial/industrial areas as defined by this ordinance and subject to other restrictions of this ordinance.
- (2) Signs shall not be located so as to obscure, or interfere with the effectiveness of an official traffic sign, signal or device, obstruct or interfere with vehicular operation and movement.

- (3) No outdoor advertising sign shall be located within the public right-of-way.

SECTION 62 Spacing

- (1) No two off-site outdoor advertising signs shall be located less than 1000 feet apart as measured along the same side of the highway.
- (2) No off-site outdoor advertising structure shall be located adjacent to or within 500 feet of a grade separated interchange, at grade intersection, safety rest area, or information center as measured along the highway from the beginning or ending of pavement widening at the exit or entrance of the main traveled way.
- (3) Signs not regulated by this ordinance shall not be considered in determining spacing and separation requirements.

SECTION 63 Size

- (1) The maximum area for any off-size outdoor advertising sign shall be 800 square feet. The maximum height of the sign face shall not exceed 20 feet and the maximum length shall not exceed 50 feet including any border, skirt or trim.
- (2) The maximum size limitations shall apply to each side of a sign structure; signs may be placed back-to-back, side-by-side or in V-type configuration with not more than two displays to each face with such structures being considered as one sign with regard to spacing requirements.
- (3) Double deck signs with one sign face mounted above the other are prohibited.

SECTION 64 Height

Sign height shall not exceed 50 feet as measured from the edge of pavement of the adjacent main traveled way to the upper most portion of the sign.

SECTION 65 Lighting

Signs may be lighted subject to the following:

- (1) No flashing, intermittent or moving lighting shall be permitted.
- (2) Lighting shall be directed toward the face of the sign. Lighting shall not directly illuminate the public roadway or reflect light or glare which would impair the vision of motorists or interfere with the operation of vehicles.
- (3) Lighting shall not interfere with, obstruct or resemble an official traffic signal, device or sign.
- (4) All electrical wiring shall meet the requirements of the State Building Code.
- (5) Lighting shall not be added to nonconforming signs or signs that are conforming only by virtue of the grandfather clause.

SECTION 66 Maintenance

Signs shall be properly maintained. No sign shall be allowed to exist in a dilapidated condition.

ARTICLE VII - ADMINISTRATION

SECTION 70 Approval Required

After the effective date of this ordinance, it shall be unlawful to construct erect, display, maintain or expand an outdoor advertising sign as regulated by this Ordinance without first obtaining a permit from the enforcement officer.

SECTION 71 Permit Application

A permit application must be completed and submitted for each sign. The following information shall accompany the application:

- (1) Sketch drawn to scale showing or including the following information:
 - Name of applicant and property owner
 - Location of existing and proposed signs
 - Highway, right-of-way, intersections, interchange and ramps
- (2) Proof of property ownership or executed lease agreement
- (3) Non-refundable application fee of \$50.00
- (4) Any additional information which may be necessary to determine compliance with this ordinance.

SECTION 72 Duties of Enforcement Officer

Upon receipt of an application containing sufficient information, the enforcement officer shall review the application to determine compliance with this ordinance. The enforcement officer shall have a maximum of 45 days to approve or disapprove the application.

- (1) Approved Applications
If the application is approved, one copy of the application and other information along with a letter of approval shall be sent to the applicant.
- (2) Disapproved Applications
If the applicant is disapproved, one copy of the application and other information along with a letter stating the reasons for disapproval and outlining the re-submittal and appeal procedures shall be sent to the applicant.

SECTION 73 Permit and Permit Tag

- (1) A permit along with a permit tag shall be issued upon proper application, approval, and the payment of fees.
- (2) The erection of new outdoor advertising structures shall not commence until a permit and tag has been issued. The outdoor advertising structure must be completely constructed and erected with the permit tag affixed within 180 days from the date of issuance of the permit. During the 180 day period, the new outdoor advertising structure shall be considered in existence for the purpose of spacing of adjacent signs as set out in this ordinance.
- (3) The applicant shall place the permit tag on the outdoor advertising structure in such a position as to be visible from the adjacent highway.

SECTION 74 Transfer of Permits

Permits are issued to the sign owner and are not transferable. The sign owner shall notify the enforcement officer of any transfer in sign or property ownership within 30 days. A new permit will be issued to the new owner at no charge.

SECTION 75 Violations

Permits shall be valid until revoked. The enforcement officer shall periodically inspect the sign to determine continued compliance with this ordinance. If the sign is in violation the enforcement officer shall advise the owner in writing of the violations and of action necessary to bring the sign into compliance. Failure by the owner to correct violations within 120 days of notification shall constitute grounds for revocation of the permit.

SECTION 76 Revocation of Permit

Valid permits may be revoked by the enforcement officer for any of the following reasons:

- (1) Incorrect or misrepresented information on the permit application;
- (2) Failure to construct sign in accordance with application and permit;
- (3) Any other violation of this ordinance.

In the event the permit is revoked, the enforcement officer shall advise the sign owner in writing of the status of the permit, the action necessary to correct the violation and of the enforcement techniques available to the county to remedy continued violation. Maintaining an outdoor advertising sign in violation of this ordinance is a misdemeanor subject to enforcement action as provided by State law. When the enforcement officer determines that the sign has been brought back into compliance with this ordinance, he shall reinstate the permit.

SECTION 77 Existing Signs

Signs existing prior to the effective date of this ordinance shall be permitted to exist by virtue of the grandfather clause. Existing signs that do not comply with this ordinance shall be considered non-conforming. Signs made nonconforming by this Ordinance shall be allowed to exist in the same condition they are in as of the effective date of this ordinance. Routine maintenance is allowed; however, expansions or other improvements which would increase the sign's value or the extent of nonconformity shall be prohibited. Expansion and improvements to existing signs shall meet the requirements of this ordinance.

ARTICLE VII - LEGAL PROVISIONSSECTION 80 Enforcement

This ordinance may be enforced by any one or more of the remedies authorized by G.S. 153A-123.

SECTION 81 Complaints

Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a written complaint with the enforcement officer, stating the cause and basis for the complaint. The enforcement officer shall record the complaint, investigate and take such action as may be necessary to enforce this ordinance.

SECTION 82 Separability

Should any section or provision of this ordinance be declared by the courts to be invalid for any reason, such declaration shall not affect the ordinance as a whole, or any part thereof other than the part so declared to be invalid.

SECTION 83 Amendment

Petitions for amendment may be filed with the Planning Department by any citizen of the County, any County Department or agency, the County Planning Board or Board of Commissioners.

SECTION 83.1 Commissioners Review

The provisions and requirements of this ordinance may be amended by the County Commissioners according to the procedure set fourth:

- (1) Planning Board Review - No amendment shall become effective unless it shall have been reviewed by the Planning Board. The Planning Board shall have 45 days in which to review the proposed amendment and to make the recommendation to the Commissioners. If the Planning Board fails to report to the

Commissioners within 45 days it shall be deemed to have approved the proposed amendment.
(2) Commissioners Review - No amendment shall become effective until after being adopted by the County Commissioners.

SECTION 84 Variance and Exception

The Planning Board may issue variances and exceptions from the requirements of this ordinance such that would not be contrary to the public interest, or the spirit and intent of this ordinance, and where due to special conditions, a literal enforcement of the provisions of this ordinance would result in an unnecessary hardship. In granting a variance the Planning Board may prescribe appropriate conditions and safeguards as it deems necessary to preserve the intent of this ordinance. In granting a variance or exception to this ordinance the Planning Board must determine the following:

- (1) Special conditions and circumstances exist which are peculiar to the land or buildings involved and which are not applicable to other lands or building.
- (2) The literal interpretation of the provision of the ordinance would deprive the applicant of rights commonly enjoyed by other properties.
- (3) Special conditions and circumstances do not result from the actions of the applicant; and
- (4) Granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands or buildings.

SECTION 85 Appeal

The County Planning Board shall hear and decide appeals and review any orders, requirements, decisions, or determinations made by the enforcement officer or any County department responsible for administration or enforcement of this ordinance. The Planning Board's decision is subject to review by the Duplin County Board of Commissioners.

SECTION 86 Effective Date

This ordinance shall become effective and be in full force from and after the 1st day of January, 1997.

Adopted by the Duplin County Board of Commissioners this the 2nd of December 1996.

J. Edward Russell
Chairman
Duplin County Board of Commissioners

ATTEST: [Signature]
Clerk to the Board

DUPLIN COUNTY
 ADULT BUSINESS
 ORDINANCE
 Effective 08/01/98

How is this

jurisdiction.

of this article are adopted by the County Board of Commissioners under authority of the General Assembly of the State of North Carolina, in Chapter 153 A, (45-...) under Article VI of Chapter 153 A, Section 135 of the General Statutes. From and after the effective date hereof, this article shall apply to every building, lot, tract, or parcel of land within the county exclusive of the jurisdiction of any incorporated municipality (as herein stated).

Sec. 2-201. Purpose.

For the purpose of promoting the health, safety, moral and general welfare of the citizenry of Duplin County, this article is adopted by the Board of Commissioners to regulate adult and sexually oriented businesses, as hereby defined, located in the County of Duplin. Further the regulations of this article have been made with reasonable consideration, among other things, as to the character of the county and its areas and their peculiar suitability for these businesses.

Sec. 3-301. Abrogation.

These regulations shall not repeal, impair, abrogate or interfere with any existing easements, covenants, deed restrictions, setback requirements, rules, definitions, regulations previously adopted pursuant to law in any district in Duplin County. However, where these regulations impose greater restrictions, the provisions of these regulations shall govern.

Sec 4-401. Definitions.

For the purpose of this article, the following definitions apply:

Adult arcade means an establishment where, for any form of consideration, one (1) or more motion picture projectors, slide projectors or similar machines for viewing by five (5) or fewer persons each are used to show films, motion pictures, video cassettes, slides or other photographic reproductions that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas (as defined hereinafter).

Adult bookstore means an establishment that has (over twenty-five (25) percent of total retail space) or 25% of its stock-in-trade and offers for rent or sale, for any consideration any one or more of the following: 1) books, magazines, periodicals, or other printed mater; or photographs, films, motion pictures, video cassettes, slides or other visual representations that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas; or 2) instruments, devises or paraphernalia that are designed for use in connection with specified sexual activities.

Adult business means any business activity, club or other establishment which permits its employees, members, patrons or guests on its premises to exhibit any specified anatomical areas before any other person or persons. This definition would not include Hotels, Motels, or places of temporary lodging; not would it include sports clubs, exercise spas, or places which prove as an ancillary use public showers.

Adult motion picture theater means an establishment where, for any form of consideration, films motion pictures, video cassettes, slides, or similar photographic reproductions are shown, and in which a substantial portion twenty-five (25) percent of the total presentation time is devoted to the showing of material characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas.

Adult theater means a theater, concert hall, auditorium or similar establishment characterized by (activities featuring) the exposure of specified anatomical areas or by specified sexual activities.

Massage mean any manipulation of body muscle or tissue by rubbing, stroking, kneading or tapping, by hand or mechanical device.

Massage business means any establishment or business wherein massage is practiced, including establishments commonly known as health clubs, physical culture studios, massage studios or massage parlors.

Sexually oriented business means any business activity, club or other establishment, within which the exhibition, showing, rental or sale of materials distinguished or characterized by an emphasis on material depicting, describing or exhibiting specified anatomical areas or relating to specified sexual activities is permitted. Sexually oriented businesses shall include, but are not limited to: adult arcades, adult bookstores, adult motion picture theaters, adult theaters, and massage parlors, as defined by this article.

Specified anatomical areas means less than completely and opaquely covered human genitals, pubic regions, buttocks and female breasts below a point immediately above the top of the areola.

Specified sexual activities means:

- (1) Human genitals in a state of sexual stimulation or arousal;
- (2) Acts of human masturbation, sexual intercourse, sodomy; or
- (3) Fondling or other erotic touching of human genitals, pubic regions, buttocks or female breasts.

Total retail space mean any space within the structure that is used for the direct sale of merchandise to the public and storage areas for those items.

Sec. 5-501. Scope and provisions of article.

(a) **Adult business.**

- (1) An adult business shall be defined as any business activity, club or other establishment which permits any employee, member, patron or guest on its premises to exhibit any specified anatomical areas before any other person or persons. This definition shall not be construed to include hospitals, clinics, or doctors offices through which anatomical regions may be exposed during routine medical checkups or examinations by trained and certified medical staff.
- (2) No adult business shall be permitted in any building:
 - a. Located within two thousand (2,000) feet in any direction from a building used as a dwelling.
 - b. Located within two thousand (2,000) feet in any direction from a building in which an adult business or a sexually oriented business is located.
 - c. Located within two thousand (2,000) feet in any direction from a building used as a church, synagogue or other house of worship.
 - d. Located within two thousand (2,000) feet in any direction from a building used as a public school or as a state licensed day care center.
 - e. Located within two thousand (2,000) feet in any direction from any lot or parcel on which a public playground, public swimming pool, or public park is located.

- (b) **Sexually oriented business**
- (1) A sexually oriented business shall be further defined as any business activity, club or other establishment, within which the exhibition, showing, rental or sale of materials distinguished or characterized by an emphasis on material depicting, describing or exhibiting specified sexual activities is permitted. Regulated businesses shall include but are not limited to: adult arcades, adult bookstores, adult motion picture theaters, massage businesses, as defined in section 8-204.
- (2) No sexually oriented business shall be permitted in any building:
- Located within two thousand (2,000) feet in any direction from a building used as a dwelling.
 - Located within two thousand (2,000) feet in any direction from a building in which an adult business or a sexually oriented business is located.
 - Located within two thousand (2,000) feet in any direction from a building used as a church, synagogue or other house of worship.
 - Located within two thousand (2,000) feet in any direction from a building used as a public school or as a state licensed day care center.
 - Located within two thousand (2,000) feet in any direction from any lot or parcel on which a public playground, public swimming pool or public park is located.
- (c) Nonconforming adult business and sexually oriented adult business. Any adult business or sexually oriented business or sexually oriented business lawfully operating on 08\01\96, that is in violation of this article shall be deemed a nonconforming use. Any use which is determined to be nonconforming by application of the provisions of this section shall be permitted to continue **for a period not to exceed two (2) years**. Such nonconforming uses shall not be increased, enlarged, extended or altered, except that the use may be changed to a conforming use. If a nonconforming use is discontinued for a period of one hundred eighty (180) days or more it may not be re-established. If two (2) or more adult businesses or sexually oriented adult businesses are within two thousand (2,000) feet of one another and otherwise in a permissible location, the business which was first established and continually operating at its present location shall be considered the conforming use and the later-established business(es) shall be considered nonconforming. An adult business or sexually oriented adult business lawfully operating as a conforming use shall not be rendered nonconforming by the subsequent location of a dwelling, church, house of worship, day care center, school, play-ground, public swimming pool or public park with-in two thousand (2,000) feet of the adult business or sexually oriented business.

Sec. 6-601. Interpretation of terms and definitions.

- Words used in the present tense include the future tense.
- Works used in the singular number include the plural and words used in the plural number include the singular.
- The work "person" includes and owner, firm, joint venture, association, organization, partnership, corporation, trust and company, as well as an individual.
- The word "owner" when applied to a building or land, shall include any part owner, joint owner, tenant in common, joint tenant or tenant by entirety of the whole or part of such building or land.
- The work "lot" includes the words "plot" or "parcel".
- The work "building" includes the word "structure".
- The work "shall" is always mandatory and not merely directory.

- (h) The words "located", "used" or "occupied", as applied to any land or building, shall be construed to include the words "intended, arranged or designed to be located, used or occupied".
- (i) The work "dwelling" shall mean a structure or portion thereof which is used exclusively for human habitation.

Sec. 7-701. Severability.

It is hereby declared to be the intention of the board that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this article is declared unconstitutional or invalid by the valid judgement or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this article, since the same would have been enacted by the board of commissioners without the incorporation in this ordinance of any such unconstitutional or invalid phrase, clause, paragraph, or section.

Sec. 8-801. Enforcement.

This ordinance shall be administered and enforced by the Duplin County Planning Department. Other agencies with responsibilities in the areas of public health, safety and law enforcement are hereby empowered to enforce this ordinance.

- (a) Any person who violates this article shall be guilty of a misdemeanor and upon conviction shall be punished in accordance with Section 14-4(a) of the North Carolina General Statutes.
- (b) This article may be enforced against any person who is in violation by an appropriate equitable remedy issuing from a court of competent jurisdiction as provided for in Section 153A-123(d) of the North Carolina General Statutes.
- (c) This article may be enforced against any person who is in violation by injunction and order of abatement as provided for in Section 153A-123(e) of the North Carolina General Statutes against any person who is in violation.
- (d) Each day's continuing violation of this article by any person is a separate and distinct offense.
- (e) As used herein, "person" shall include:
 - (1) The agent in charge of the building, premises, structure or facility.
 - (2) The owner of the building, premises, structure or facility when such owner know or reasonable should have known the nature of the business located therein.
 - (3) The owner of the business or the manager of the business.

Sec. 9-901.

Effective Date

This ordinance shall become effective and be in full force from and after the 1st day of August 1996. Adopted by the Duplin County Board of Commissioners this the 15th day of July 1996.

Zettie B. Williams
Chairman
Duplin County Board of Commissioners

ATTEST: James W. Barnhardt, Jr.
Clerk to the Board

AN ORDINANCE BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF DUPLIN
 CONSENTING TO THE CABLE TELEVISION FRANCHISE
 AGREEMENT (FRANCHISE ORDINANCE) BETWEEN THE COUNTY OF DUPLIN
 AND
 FALCON CABLE MEDIA

WHEREAS, the County of Duplin (County) has entered into a cable television Franchise Agreement with Falcon Cable Media ("Falcon"), which agreement expires on or about June 1997 and

WHEREAS, the County deems it appropriate to continue the Cable TV Franchise Agreement with Falcon Cable Media.

NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF COMMISSIONERS THAT THE CABLE TV FRANCHISE AGREEMENT BETWEEN THE COUNTY AND FALCON CABLE MEDIA IS APPROVED AS FOLLOWS:

FRANCHISE AGREEMENT

THIS AGREEMENT is made and entered into as of this the ____ day of 19__, by and between the County of Duplin, North Carolina, hereinafter referred to as "County" and Falcon Cable Media, hereinafter referred to as "Falcon" located at Post Office Box 236, Holly Ridge, North Carolina 28455.

SECTION 1. GRANT OF FRANCHISE

- (a) Falcon is hereby granted for itself and its successors and assignees, subject to the terms and conditions of this Franchise Agreement, the right, privilege, and authority to construct, operate, maintain, and reconstruct a cable communications system within the streets, alleys, and public ways of the County for the purpose of providing cable television service as defined by the N.C.G.S. 160A-319(b) and including such other services as Falcon may legally provide on its cable communications system, subject to current and future state, federal, and local laws and other regulations and the payment of any applicable fees, services or other compensation directly or indirectly to the County. Falcon shall provide a state-of-the-art, county-wide cable communications system to the residents and institutions of the County in accordance with this Franchise Agreement.
- (b) Nothing in this Franchise Agreement shall be deemed to waive the various codes and ordinances of the County regarding permits, fees to be paid, or manner of construction.
- (c) For the purpose of operating and maintaining a cable communications system in the County, Falcon may erect, in, over, under, or upon, across, and along the public streets, alleys, and ways within the County such wires, cables, fiber optics, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, pedestals, attachments, and other property and equipment as are necessary and appurtenant to the operation of the cable communications system in the County and in accordance with this franchise agreement and the cable ordinance.

SECTION 2. RIGHT OF COUNTY TO ISSUE FRANCHISE AGREEMENT

Falcon acknowledges and accepts the legal right of the County to issue this Franchise Agreement.

SECTION 3. EFFECTIVE DATE OF FRANCHISE AGREEMENT AND ACCEPTANCE

The effective date of this Franchise Agreement shall be ____, 199__, subject to acceptance by Falcon which acceptance shall be received by the County not more than thirty (30) days after passage of the ordinance, which shall incorporate this Franchise Agreement.

SECTION 4. FRANCHISE TERM AND RENEWAL

This Franchise Agreement shall take effect and be in full force from and after the final passage hereof, subject to acceptance by the Franchisee as herein provided and the same shall continue in full force and effect for a period of ten (10) years. Should the Franchisee want to renew this Agreement, the then federal, state, or local rules for renewal will be followed.

SECTION 5. FRANCHISE NONEXCLUSIVE

- (a) **Franchise nonexclusive.** This Franchise Agreement shall not be construed as any limitation upon the right of the County to grant to other persons, rights, privileges, or authorities, similar to the rights, privileges, and authorities herein set forth, in the same or other streets, alleys, or other public ways or public places. The County specifically reserves the right to grant at any time during the term of this Franchise Agreement or renewal thereof, if any, such additional franchises for a cable communications system as it deems appropriate.
- (b) **Conditions.** Any additional cable television franchises granted by the County shall contain equivalent terms and conditions as this Franchise Agreement, including without limitation provisions of public benefit with equivalent cost, taking into account the size and population of the franchised areas.

SECTION 6. DEFINITIONS

For purposes of this article, the following terms, phrases, words, and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future; words in the plural number include the singular number. The word "shall" is mandatory and "may" is permissive. Words not defined shall be given their common or ordinary meanings.

Additional services means CABLE SERVICES for which an additional charge is made beyond the charge for basic subscriber services, including, but not limited to, movies, concerts, variety acts, sporting events, pay-per-view programs and any other service utilizing any facility or equipment of a cable television system operating pursuant to a Franchise Agreement granted under this article.

Basic subscriber radio service means such audio services as the re-transmission of broadcast FM radio signals, weather, news, time and other similar audio services, and the transmission of cablecast (non-broadcast) radio signals as permitted by the FCC.

Basic subscriber television services means any service tier provided by the Grantee which includes the delivery of broadcast signals, educational and government access channels, and local origination channels, covered by the regular monthly charge paid by all subscribers to a particular service tier.

Board means the Board of Commissioners of the County of Duplin.

Cable communications system or cable television system, also referred to as "system" means a facility consisting of a set of closed transmission paths and associated signal generation, reception and control equipment that is designated to provide cable service which includes video programming and which is provided to multiple subscribers within a community; but such term does not include.

- (a) A facility that serves only to retransmit the television signals of one (1) or more television broadcast stations;
- (b) A facility that serves subscribers without using any public rights-of-way.

- (c) A facility of a common carrier which is subject, in whole or in part, to the provision of Title II of the Cable Act, except that such facility shall be considered a cable system to the extent such facility is used in the transmission of video programming directly to subscribers; or
- (d) Any facilities of any electric utility used solely for operating its electric utility systems.

Communications Policy Act or Cable Act (the "ACT") means the Cable Television Consumer & Protection Act of 1992, as amending the Communications Act of 1934 and 1984 and as it may be amended or succeeded.

Channel means a six Megahertz (MHz) frequency band which is capable of carrying either one (1) standard video signal, a number of audio, digital or other non-video signals, or some combination of signals.

Commence operation means that time and date when operation of the cable communications system is considered to have commenced, which shall be when the system is fully constructed.

Commercial subscriber means a subscriber who receives a service in a place of business where the service may be utilized in connection with a business, trade or profession, without financial consideration to the commercial subscriber.

Community Channel means a channel designated or dedicated and is made available for local origination for educational and governmental use, without charge on a first-come, first-served basis, nondiscriminatory basis.

Converter means an electronic device which converts signals to a frequency not susceptible to interference within the television receiver of a subscriber and any channel selector which permits a subscriber to view all signals delivered at designated converter dial locations at the set or by remote control.

Discrete channel shall mean a channel which can only be received by the person and/or institution intended to receive signals on such channel.

Drop shall mean a coaxial connection from feeder cable to the subscriber/user television set, radio or other terminal.

Fair market value means the price that a willing buyer would pay to a willing seller for a going concern.

FCC means the Federal Communications Commission or any legal appointed or elected successor.

Franchise means the nonexclusive rights, granted pursuant to this article, to construct, operate or maintain a cable communications system along the public ways within all or a specified area in the County. Any such authorization, in whatever form granted, shall not mean or include any license or permit required for the privilege of transacting and carrying on a business within the County, as required by other ordinances and laws of the County.

Franchise Agreement means a contract entered into voluntarily between the County and the Grantee containing the specific provisions of the Franchise Agreement granted including applicable referenced specifications, franchise proposals, applications and other related material.

Franchise area means the entire County, or portions thereof, for which a franchise is granted under the authority of this article. If not otherwise stated in the Franchise Agreement, the franchise area shall be the unincorporated limits of the County.

Franchise fee means an amount not to exceed 5%, as specified, of the Grantee's gross annual receipts from the operation of the system pursuant to the agreement.

Grantor means the County of Duplin as represented by the Board of Commissioners acting within the scope of its jurisdiction.

Grantee or Franchisee means Falcon Cable media.

Gross subscriber revenues means all receipts received directly or indirectly by Grantee, from the provision of Cable Services in the unincorporated areas of the County of Duplin, North Carolina. The term gross subscriber revenue does not include any franchise fees or regulatory fees.

House shall mean any single family dwelling unit (house, apartment, mobile home, trailer, rented room or otherwise), but shall not mean an abandoned dwelling or building otherwise uninhabitable.

Installation shall mean the connection of the system from feeder cable to subscribers' terminals.

Leased access channel or commercial leased channel means any channel designated or dedicated for use by persons unaffiliated with the Grantee in accordance with the Cable Act.

Local Origination Cablecasting means programming (exclusive of broadcast signals) carried on a cable television system over one or more channels and subject to the exclusive control of the cable operator.

Monitoring means observing a communications signal, or the absence of a signal, where the observer is not a party to the communications, whether the signal is observed by visual or electronic means, for any purpose whatsoever.

Person means an individual, partnership, association, organization, corporation, or any lawful successor, or transferee of said individual, partnership, association, organization or corporation.

Plant Mile means a linear mile of strand-bearing cable as measured on the street or easement from pole to pole or pedestal to pedestal.

Programmer means any person or entity who or which produces or otherwise provides program material or information for transmission by video, audio, digital or other signals, either live or from recorded traces or other storage media, to users or subscribers by means of the cable communications system.

Public property shall mean any real property owned by the County, other than a street.

Public way or public right-of-way means the surface, the air space above the surface and the area below the surface of any public street, highway, lane path, alley, sidewalk, boulevard, drive, bridge, tunnel, park, parkways, waterways, utility easements or other public right-of-way hereafter held by the County, which shall entitle the County and the Grantee to the use thereof for the purpose of installing and maintaining a cable television system. No reference herein, or in any franchise, to the "public way" shall be deemed to be a representation or guarantee by the County that its title to any property is sufficient to permit its use for such purpose, and the Grantee shall, by its use of such terms, be deemed to gain only such rights to use property in the County as the County may have the undisputed right and power to give.

Reasonable notice shall be written notice addressed to either County or Grantee at its respective principal office within the County or such other office as the County or Grantee has designated to the other as the address to which notice shall be transmitted to it, which notice shall be certified and postmarked not less than thirty (30) days prior to that day in which the party giving such notice shall commence any action which requires the giving of notice.

Resident means any person residing in the County, as otherwise defined by applicable law.

Residential subscriber means a subscriber who receives a service in an individual dwelling unit where the service is not to be utilized in connection with a business, trade or profession.

Sale shall include any sale, exchange, barter or offer for sale.

School means any public educational institution, including primary and secondary schools, colleges, and universities.

Service area means the same as the Franchise Area.

State means the State of North Carolina.

State-of-the-Art means that the Franchisee shall construct, install and maintain its system in a manner which will continue to enable it to add new services and associated equipment as they are developed, available and when proved economically feasible and marketable to subscribers to the reasonable satisfaction of the Franchisee.

Street shall include each of the following, which have been dedicated to the public or are hereafter dedicated to the public and maintained under public authority or by others and located within the County limits; streets, roadways, highways, avenues, lanes, alleys, sidewalks, easements, rights-of-way and similar public ways and extensions and additions thereto, together with such other public property and area that the County shall permit to be included within the definition of street from time to time.

Transfer means the disposal by the Grantee, directly or indirectly, by gift, assignment, voluntary sale, merger, consolidation or otherwise, except publicly traded issue, not in control of the Grantee, of twenty-five (25%) percent or more at one time of the ownership or controlling interest in the system, or twenty-five (25%) percent cumulatively over the term of the Franchise Agreement of such interests to a corporation, partnership, limited partnership, trust or association, or person or group of persons acting in concert. Affiliate transfers excepted.

Trunk line means the major distribution cable used in cable communications, which divides into feeder lines which are tapped for service to subscribers.

Users means a person or organization utilizing channel or equipment and facilities for the purpose of production and/or transmission of material, as contrasted with receipt thereof in a subscriber capability.

SECTION 7. GRANT OF FRANCHISES; TERRITORY

- (a) The County herein grants to the Grantee a nonexclusive, revocable-for-cause Franchise Agreement as provided herein, to construct, operate and maintain a cable communication system within the County, said Franchise Agreement shall constitute both a right and an obligation to provide the services of a cable communications system, as regulated by the provisions of this agreement.

- (b) The Franchise Agreement shall be granted under the terms and conditions contained herein, consistent with the County Charter and/or other applicable statutory requirements. In the event of conflict between the terms and conditions of this Franchise Agreement, the Charter and/or statutory requirements shall control.
- (c) Nothing in the Franchise Agreement shall be deemed to waive the requirements of the various codes and ordinances of the County regarding permits, fees to be paid or manner of construction.
- (d) The franchise service area shall be the entire unincorporated area of the County.

SECTION 8. USE OF PUBLIC STREETS AND WAYS, AND GRANTEE FACILITIES

- (a) **Public streets and ways.** For the purpose of operating and maintaining a cable communications systems in the County, the Grantee may erect, construct, repair, replace, reconstruct and/or retain in, on, over, under, upon, across, and along the public streets and ways within the County such wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, pedestals, attachments and other property and equipment as are necessary to the operation of the cable communications system; provided however, that the Grantee complies with all design, the Franchise Agreement and other applicable laws, including the County Code of Ordinances, as amended.
- (b) **Grantee facilities.** No poles shall be erected by the Grantee without prior approval of the County with regard to location, height, type and any other pertinent aspect. However, no location of any pole of the Grantee shall be a vested right, and such poles shall be removed or modified by the Grantee at its own expense whenever the County determines the public convenience would be enhanced thereby. The Grantee shall utilize existing poles and conduits, where possible. The County shall have the right, during the life of the Franchise Agreement, to install and maintain upon the poles owned by the Grantee, at fair market value any wire and pole fixture that do not reasonably interfere with the cable system operation of the Grantee.

SECTION 9. ACCEPTANCE

- (a) By accepting this Franchise Agreement, the Grantee agrees to be bound by all the terms and conditions in this Franchise Agreement. The Grantee also agrees to provide all services within the franchise area.
- (b) By accepting this Franchise Agreement, the Grantee acknowledges that it does so relying upon its own investigation and understanding of the power and authority of the County in connection with the system and the Franchise Agreement.
- (c) By accepting this Franchise Agreement, the Grantee acknowledges that it has not been induced to enter into this Franchise Agreement by any understanding or promise or other statement not expressed therein, whether oral or written, concerning any term or condition of this Franchise Agreement, regardless of whether such statement was made by or on behalf of the County.
- (d) By accepting this Franchise Agreement, the Grantee acknowledges that it has carefully read the terms and conditions of this Franchise Agreement.

- (e) Severability. If any section, subsection, sentence, clause, phrase or portion of this Franchise Agreement is for any reason held invalid or unconstitutional by any court of competent jurisdiction, or by any federal, state or local statute or franchise, such portion shall be deemed a separate, distinct and independent provision and shall be excised as such; and such holding shall not affect the validity of the remaining portions hereof.

SECTION 10. TRANSFER OF OWNERSHIP OR CONTROL

- (a) The Franchise Agreement granted hereunder cannot in any event be sold, transferred, leased, assigned or disposed of, including but not limited to by force or voluntary sale, receivership or other means, without the prior consent of the County, which consent shall not be unreasonably withheld, and then under such reasonable conditions as the County may establish; provided however, any such conditions shall pertain to the qualifications of the transferee.
- (b) The Grantee shall promptly notify the County of any actual or proposed change in, transfer of, or acquisition by any other party of control of the Grantee. The word "control" as used herein is not limited to major stockholders, but includes actual working control in whatever manner exercised. A rebuttable presumption that a transfer of control has occurred shall arise upon the disposal by the Grantee, directly or indirectly, by gift, assignment, voluntary sale, merger, consolidation or otherwise, of twenty-five (25%) percent or more at one time of the ownership or controlling interest in the system, or twenty-five (25%) percent cumulatively over the term of the Franchise Agreement, of such interests to a corporation, partnership, limited partnership, trust or association, or person or group of persons acting in concert.
- (c) Every change, transfer or acquisition of control, as defined above, of the Grantee shall make the Franchise agreement subject to cancellation unless and until the County shall have consented thereto, which consent will not be unreasonably withheld. For the purpose of determining whether it shall consent to such change, transfer or acquisition of control, the County may inquire into the legal, financial, character, technical and other public interest qualifications of the prospective controlling party. Failure to provide all information reasonably requested by the County as part of said inquiry may be grounds for denial of the proposed change, transfer or acquisition of control.
- (d) The County agrees that any financial institution having a pledge of the Franchise Agreement or its assets for the advancement of money for the construction and/or operation of the Franchise Agreement shall have the right to notify the County that it, or its designees satisfactory to the County, will take control and operate the cable television system. Further, said financial institution shall also submit a plan for such operation that will ensure continued service and compliance with all Franchise Agreement obligations during the term the financial institution exercises control over the system. The financial institution shall not exercise control over the system for a period exceeding one (1) year, unless extended by the County at its discretion, and during said period of time it shall have the right to petition for transfer of the Franchise Agreement to another Grantee. If the County finds that such transfer, after considering the legal, financial, character, technical and other public interest qualifications of the applicant, is satisfactory, the County will transfer and assign the rights and obligations of such franchises as are in the public interest. The consent of the County to such transfer shall not be unreasonably withheld.

- (e) The consent or approval of the County to any transfer of the Grantee shall not constitute a waiver or release of the rights of the County in and to the streets and any transfer shall, by its terms, be expressly subordinate to the terms and conditions of this Franchise Agreement.
- (f) In the absence of extraordinary circumstances, the County will not approve any transfer or assignment of an initial franchise prior to completion of construction of the proposed system, excluding annexation.
- (g) Any approval by the County of transfer of ownership or control shall be contingent upon the prospective controlling party becoming a signatory to this Franchise Agreement.
- (h) Notwithstanding anything to the contrary, no such consent shall be required for any transfer or assignment to any person controlling, controlled by or under the same common control as the Grantee.

SECTION 11. POLICE POWERS

- (a) In accepting this Franchise Agreement, the Grantee acknowledges that its rights hereunder are subject to the powers of the County to adopt and enforce reasonable general ordinances necessary to the safety and welfare of the public; and it agrees to comply with all applicable general laws and ordinances enacted by the County pursuant to such power.
- (b) Any conflict between the provisions of this Franchise Agreement and any other present or future lawful exercise of the County's police powers shall be resolved in favor of the latter, except that any such exercise that is not of general application in the jurisdiction, or applies exclusively to the Grantee or cable communications systems, which contains provisions inconsistent with this Franchise Agreement shall prevail only if, upon such exercise the County finds an emergency exists constituting a danger to health, safety, property or general welfare and such exercise is mandated by law.

SECTION 12. FRANCHISE FEES

- (a) During the term of this Franchise Agreement, the Franchisee shall pay to the County for use of its streets, public places, and other facilities, as well as the maintenance, improvements, and supervision thereof, an annual franchise fee in the amount of five (5%) percent, but the Duplin Board of Commissioners reserves the right to increase the annual fee up to that legally allowed by law, upon passage of an ordinance including and stating the franchise fee rate and upon proper notification of the Grantee. The franchise fee is stated as a percentage of the annual Gross Subscriber Revenues received by the Grantee from operations conducted within the County. This payment shall be in addition to any other tax or payment owed to the County by the Franchisee.
- (b) Method of computation shall be as follows: Sales tax or other taxes levied directly on a per subscription basis and collected by Franchisee shall be deducted from the Gross Subscriber Revenues before computation of sums due the County is made. Payments due the County under the terms of this Franchise Agreement shall be computed quarterly as of September 30, December 31, March 31 and June 30 for the preceding quarter and shall be paid on or before the thirtieth (30th) calendar day from each said computation date at the Office of the County Clerk during regular business hours. The County shall be furnished a statement with each payment, certified as correct by an officer of the Grantee, reflecting a total amount of Gross Subscriber Revenues, and the above charges, deductions and computation, for the three months' payment period covered by the payment. With the payment each

year for the quarter ending December 31, a statement certified by the Vice President of Finance of the Grantee shall be submitted certifying that the statement filed and payments made by the Franchisee for the preceding year was correct.

- (c) Rights of Re-computation. No acceptance of any payment shall be construed as a release or as an accord and satisfaction of any claim the County may have for further or additional sums payable as a franchise fee under this Franchise Agreement or for the performance of any other obligation hereunder.
- (d) Failure to make payment. Failure to pay any fees required by this section may result in action by the Board per Section 13 of this Franchise Agreement. Payment of the delinquent fee or fee plus any interest or penalties may be required by the Board.

SECTION 13. FORFEITURE OR REVOCATION

- (a) The Board reserves the right to revoke the Franchise Agreement granted hereunder and rescind all rights and privileges associated with the Franchise Agreement in the following circumstances, each of which shall represent a default and breach under this Franchise Agreement.
 - (1) If the Grantee shall default in the performance of any of the material obligations under this Franchise Agreement or under such documents, contracts and other terms and provisions entered into by and between the County and the Grantee;
 - (2) If the Grantee shall fail to provide or maintain in full force and effect the liability and indemnification coverage or the performance bond as required herein pursuant to this Franchise Agreement;
 - (3) If the Grantee's construction schedule is delayed later than the schedule contained in the Franchise Agreement, if any, or beyond any extended date set by the Board;
 - (4) If the Grantee becomes insolvent or unable to pay its debts or is adjudged bankrupt;
 - (5) If the Grantee fails to restore service after ninety-six (96) consecutive hours of interrupted "system-wide" service, except when such service interruption is caused by force beyond the Grantee's control (including but not limited to subscribers), or when approval of such interruption is obtained from the County Manager, or his designee;
 - (6) If there has been intentional material misrepresentation of fact in the application for or negotiation of the Franchise Agreement or any extension of renewal thereof.
- (b) The Grantee shall not be declared at fault or be subject to any sanction under any provision of this Franchise Agreement in any case in which performance of any such provision is prevented for reasons beyond the Grantee's control. A fault shall not be deemed to be beyond the Grantee's control if committed by a corporation or other business entity in which the Grantee holds a controlling interest, whether held directly or indirectly.
- (c) Procedure prior to revocation.

- (1) In the event the County believes that the grounds for revocation exist or have occurred, the County shall notify the Grantee in writing noting the facts on which such belief is grounded. The County shall make written notice, by certified mail return-receipt requested, that the Grantee comply with any such requirement, limitation, term, condition, rule or regulation or correct any action deemed cause for revocation. If, within thirty (30) days following said written notice, Grantee has not furnished reasonably satisfactory evidence that corrective action has been taken or is being actively and expeditiously pursued, or that the alleged violation did not occur, or that the alleged violation, except those involving financial matters were beyond the Grantee's control, the County shall provide the Grantee an opportunity to present evidence, at a public hearing, that the just cause or non-compliance identified in the written notice has been remedied or that the significance thereof does not warrant revocation. County shall cause to be served upon the Grantee, at least thirty (30) days prior to the date of such public hearing, a written notice of this intent to request such revocation, and the time and place of the meeting, notice of which shall be published by the County Clerk, in accordance with North Carolina state law, before such meeting, in a newspaper of general circulation within the County.
 - (2) The Board shall hear any persons interested therein, including the Grantee, and shall determine in its discretion whether or not any failure refusal or neglect by the Grantee was with just cause.
 - (3) If such failure refusal or neglect by the Grantee was with just cause, as defined by the County, the Board shall direct the Grantee to comply within such time and manner and upon such terms and conditions as are reasonable.
 - (4) If the Board shall determine such failure, refusal or neglect by the Grantee was without just cause, then the Board shall, by resolution, declare that the franchise of the Grantee shall be revoked, unless there is compliance by the Grantee within ninety (90) days.
- (d) In the event this Franchise Agreement is revoked or otherwise terminated, the County may under the provisions of existing federal, state, or local laws and at its sole discretion, do any of the following:
- (1) Purchase the system, at fair market price; or
 - (2) Effect a transfer of ownership of the system to another party for good and sufficient consideration.
 - (3) Order the removal of all system facilities from the County within a reasonable period of time.
- (e) In removing its system facilities, the Grantee shall refill, at its own expense, any excavation that shall be made by it and shall leave all public ways and places in as good a condition, normal wear and tear, excepted, as was prevailing prior to the Grantee's removal of system facilities. The County shall inspect and approve the condition of the public ways and public places and cables, wires, attachments and poles after removal. The liability, indemnity, insurance and performance bond as provided herein shall continue in full force and effect during the period of removal and until full compliance by the Grantee with the terms and conditions of this paragraph and the Franchise Agreement is reached.

- (f) In the event of a failure by the Grantee to complete any work required by this Franchise Agreement or any other work required by the County law or ordinance, and upon reasonable notice to the Grantee, the County may cause such work to be done and the Grantee shall reimburse the County the reasonable costs thereof within thirty (30) days after verification of an itemized list of such costs. The County shall be permitted to seek legal and equitable relief to enforce the provisions of this section.
- (g) Upon either the non-renewal or revocation of a franchise, the County may contract with the Grantee to continue to operate the system for a period of six (6) months from the date of such expiration or revocation, or until such time as is mutually agreed upon. The Grantee shall as a subcontractor of the County, continue to operate the cable communications system under the applicable terms and conditions of this Franchise Agreement. The County shall be permitted to seek legal and equitable relief to enforce the provisions of this section.

SECTION 14. RECEIVERSHIP AND FORECLOSURE

- (a) The Franchise Agreement shall, at the option of the County, cease and terminate one hundred twenty (120) days after the appointment of a receiver or receivers, or trustee or trustees, to take over and conduct the business of the Grantee, whether in a receivership, reorganization, bankruptcy or other action or proceeding, unless such receivership or trusteeship shall have been vacated prior to the expiration of said one hundred twenty (120) days, or unless:
 - (1) Such receivers or trustees shall have within one hundred twenty (120) days after their election or appointment, fully complied with all the terms and provisions of this Franchise Agreement and the Franchise Agreement granted pursuant hereto, and the receivers or trustees, within said one hundred twenty (120) days, shall have remedied all defaults under the Franchise Agreement; and
 - (2) Such receivers or trustees shall, within said one hundred twenty (120) days, execute an agreement, duly approved by the court having jurisdiction of the premises, whereby such receivers or trustees assume and agree to be bound by each and every term, provision and limitation of this Franchise Agreement.
- (b) In the case of a foreclosure or other judicial sale of the plant, property and equipment of the Grantee or any part thereof, including or excluding this Franchise Agreement, the County may serve notice of termination upon the Grantee and the successful bidder at such sale, in which event the Franchise Agreement and all rights and privileges of the Grantee hereunder shall cease and terminate thirty (30) days after service of such notice unless:
 - (1) The County shall have approved the transfer of the Franchise Agreement in the manner this Franchise Agreement provides, and
 - (2) Such successful bidder shall have covenanted and agreed with the County to assume and be bound by all terms and conditions of the Franchise Agreement.

SECTION 15. EQUAL OPPORTUNITY

The Grantee shall be an equal opportunity/affirmative action employer, adhering to all federal, state or municipal laws.

SECTION 16. RIGHTS RESERVED TO THE GRANTOR

The County shall have the right, at its expense, to inspect all construction or installation work performed subject to the provisions of this Franchise Agreement as it shall find necessary to ensure compliance with the terms of this Franchise Agreement and other pertinent provisions of the law.

SECTION 17. REGULATORY AUTHORITY

- (a) The County may exercise appropriate regulatory authority under the provisions of this Franchise Agreement and applicable law. This authority shall be vested in the Board and administered throughout the County Manager or his designee in order to provide day-to-day administration of this Franchise Agreement and any Franchise Agreement granted hereunder.
- (b) Notwithstanding any other provisions of this Franchise Agreement to the contrary the Grantee shall at all times comply with all applicable laws of the local, state and federal government, In the event that any actions of the state or federal government or any agency thereof, or any court of competent jurisdiction upon final adjudication, substantially reduce in any way the power or authority of the County under this Franchise Agreement or if in compliance with any local, state or federal law or regulation, the Grantee finds conflict with the terms of this Franchise Agreement or any law or regulation of the County, then as soon as possible following knowledge thereof, the Grantee shall notify the County of the point of conflict believed to exist between such law or regulation and the laws or Franchise Agreement of the County. The County shall have the right to initiate re-negotiations with the Grantee to modify any provisions of this Franchise Agreement; to such reasonable extent as may be necessary to carry out the intent and purpose of this Franchise Agreement; provided, however, neither party shall be under any obligation or requirement to agree to a modification which increases the obligations, or impairs the rights of that party.
- (c) The County reserves the right to exercise the maximum plenary(full) authority, as may at any time be lawfully permissible, to regulate the cable communications system, this Franchise Agreement and the Grantee. Should applicable legislative, judicial or regulatory authorities at any time permit regulation not presently permitted to the County, the County may, without the approval of the Grantee, legislate any such additional regulation as may then be permissible, whether or not contemplated by this Franchise Agreement.

SECTION 18. REGULATION OF THE FRANCHISE

- (a) The County shall have the following regulatory responsibility:
 - (1) Administration and enforcement of the provisions of this Franchise Agreement;
 - (2) Award renewal, extension or termination of this Franchise Agreement pursuant to the provisions of this Franchise Agreement and other applicable law;
 - (3) Consent prior to sale or transfer of this Franchise Agreement;
 - (4) Technical performance evaluations pursuant to the Act.
- (b) The County also reserves the right of perform the following functions:
 - (1) Analyze the possibility of integrating cable communications with other county, state or regional telecommunications networks;

- (2) Formulate and recommend long-range telecommunications policy for the County and provide for the determination of future cable-related needs and interests of the community;
- (3) Provide the administrative effort necessary for the conduct of performance evaluations pursuant to this Franchise Agreement and any other activities required for the administration of the Franchise Agreement;
- (4) Monitor the Grantee's process for handling citizen complaints and periodically inspect and analyze the records related to such complaints (excluding any personal identification items which are precluded by the privacy act), upon five (5) business days advance written notice to the Grantee;
- (5) Monitor the Grantee's adherence to operational procedure and line-extension policies;
- (6) Assure compliance with applicable laws and ordinances;
- (7) Provide for reasonable continuity in service;
- (8) Receive for examination all data and reports required by this Franchise Agreement.

SECTION 19. RATES AND CHARGES

The Grantee shall file with the County schedules which shall describe all services offered, all rates and charges of any kind, and all terms and conditions relating thereto. In addition, the County shall have the right to regulate rates per federal, state and local laws.

SECTION 20. PERFORMANCE EVALUATION

- (a) Special evaluation sessions may be held at any time during the term of the Franchise Agreement at the request of the County upon reasonable notice to the Grantee. The intent of this paragraph is to provide an opportunity for the Board to air any performance problems at a public forum after all other negotiation processes have resulted in no agreement or solution.
- (b) All evaluation sessions shall be open to the public and announced in a newspaper of general circulation in accordance with public notice.
- (c) Topics which may be addressed at any scheduled or special evaluation session may include, but not limited to, system performance, Grantee compliance with this Franchise Agreement, customer service and complaint response, subscriber privacy, franchise fees, penalties, applications of new technologies, judicial and FCC filings, and line extensions. At the five year anniversary of this agreement, a specific review may be scheduled, in open board session, to discuss the telecommunications needs of the community, advances in technology or other mutually agreeable items which may need to be discussed.
- (d) During the review and evaluation by the County, the Grantee shall cooperate with the County and shall provide such information and documents as the County may need to reasonably perform its review. The Grantee will be required to provide those documents which are normally available to the Grantee. The intent is that the Grantor can not ask the Grantee to spend extra time and money to formulate documents which are not in a system-wide format.

SECTION 21. PERFORMANCE BOND

- (a) **Performance bond.** No later than forty-five (45) days after the effective date of the Franchise agreement, the Grantee shall obtain and maintain during the entire term of the Franchise Agreement and any extensions and renewals thereof, at its cost and expense, and file with the County a corporate surety bond, in the amount of \$25,000, to guarantee the faithful performance of the Grantee of all its obligations provided under this Franchise Agreement. Failure to timely obtain, file and maintain said bond shall constitute a substantial violation of this Franchise Agreement.
- (b) **Conditions.** The performance bond shall provide the following conditions:
- (1) There shall be recoverable by the County, jointly and severally from the principal and surety, any and all fines and penalties due to the County and any and all damages, losses, costs, and expenses suffered or incurred by the County resulting from the failure of the Grantee to: faithfully comply with the provisions of this Franchise Agreement; comply with all applicable orders, permits and directives of any county agency or body having jurisdiction over its acts or defaults; pay any claims, liens or taxes due the County, which arise by reason of the construction, operation, maintenance or repair of the cable system.
 - (2) The total amount of the bond shall be forfeited in favor of the County in the event:
 - (a) The Grantee abandons the cable system at any time during the term of the Franchise Agreement or any extension thereto;
 - (b) The Grantee assigns the Franchise Agreement without the express written consent of the County, where prior consent of the County is required.
- (c) **Reduction of bond.** Upon written application by the Grantee, the County may, at its sole option, permit the amount of the bond to be reduced or waive the requirements for a performance bond. Reductions granted or denied upon application by the Grantee shall be without prejudice to the Grantee's subsequent application or to the County's right to require the full bond at any time thereafter. However, no application shall be made by the Grantee within ninety (90) days of any prior application.
- (d) **Use of performance bond.** Prior to drawing upon the performance bond for the purposes described in this section the County shall notify the Grantee in writing that payment is due, and the Grantee shall have thirty (30) days from the receipt of such written notice to make a full and complete payment of undisputed amounts. If the Grantee does not make the payment within thirty (30) days, the County may withdraw the amount thereof from the performance bond.
- (e) **Notification.** Within thirty (30) days of a withdrawal from the performance bond, the County shall send to the Grantee, by certified mail, return receipt requested, written notification of the amount, data and purpose of such withdrawal.
- (f) **Replenishment of performance bond.** No later than thirty (30) days after receipt by the Grantee of certified mail notification of a withdrawal pursuant of paragraph (e) above, the Grantee shall replenish the performance bond in an amount equal to the amount so withdrawn. Failure to make timely replenishment of such amount to the performance bond shall constitute a substantial violation of this Franchise Agreement.

- (g) **Non-renewal, alteration or cancellation of performance bond.** The performance bond required herein shall be in a form satisfactory to the County and shall require thirty (30) days written notice of any non-renewal, alteration or cancellation to both the County and the Grantee. The Grantee shall, in the event of any such cancellation notice, obtain, pay all premium for, and file with the County, written evidence of the issuance of a replacement bond within thirty (30) days following receipt by the County or the Grantee of any notice of cancellation.

SECTION 22. LIABILITY AND INSURANCE

- (a) As of the effective date of this Franchise Agreement, the Grantee shall file with the County a certificate of insurance and thereafter maintain a full force with effect at all times for the full term of this Franchise Agreement, at the expense of the Grantee, comprehensive general liability insurance policy, naming the County as additional named insured, written by a company authorized to do business in the state of North Carolina, protecting the County against liability for loss or bodily injury and property damage occasioned by the installation, removal, maintenance or operation of the cable communications system by the Grantee in the following minimum amounts:
- (1) One million dollars (\$1,000,000.00) combined single limit, bodily injury and for the property damage in any one (1) occurrence;
 - (2) One million dollars (\$1,000,000.00) aggregate.
- (b) The Grantee shall also file with the County a certificate of insurance for a comprehensive automobile liability policy written by a company authorized to do business in the State of North Carolina, for all owned, non-owned, hired and leased vehicles operated by the Grantee, with limits no less than one million dollars (\$1,000,000.00) each accident, single limit, bodily injury and property damage combined, or evidence of self-insurance.
- (c) Worker's compensation and employer's liability insurance. The Grantee shall maintain, and by its acceptance of any franchise granted hereunder specifically agrees that it will maintain throughout the term of this Franchise Agreement, worker's compensation and employer's liability, valid in the state, in the minimum amount of the statutory limit for worker's compensation, and one million dollars (\$1,000,000.00) for employer's liability.
- (d) All liability insurance required in this section shall be kept in full force and effect by the Grantee during the existence of this Franchise Agreement and until after the removal of all poles, wires, cables, underground conduits, manholes, and other conductors and fixtures installed by the Grantee incident to the maintenance and operation of the cable communications system as defined in this Franchise Agreement. All policies shall be endorsed to give the County of Duplin thirty (30) days written notice of the intent to amend, cancel or non-renewal by either the Grantee or the insuring company.
- (e) Liability and insurance. The Grantee agrees and binds itself to indemnify, keep and hold free and harmless the County from any and all liability or costs, including attorney's fees and court costs pertaining thereto, arising from any activities herein authorized, in that the Grantee shall pay, and by its acceptance of the Franchise Agreement the Grantee specifically agrees that it will pay, all damages and penalties which the County may be legally required to pay as a result of the Grantee's exercise of this Franchise Agreement. These damages or penalties shall include but shall not be limited to damages arising out of copyright infringements and all other damages

arising out of installation, operation or maintenance of the cable communications system authorized herein, whether or not any act or omission complained of is authorized, allowed or prohibited by this Franchise Agreement. In order for the County to assert its rights hereunder, the County must:

- (1) Notify the Grantee promptly of any claim or legal proceedings which gives rise to such right;
- (2) Afford the Grantee an opportunity to participate in and fully control any compromise, settlement, or other resolution or disposition of such claim or proceeding;
- (3) Cooperate with the reasonable request of the Grantee; and
- (4) Act reasonably under all circumstances so as to protect the Grantee against liability and refrain from compromising any Grantee's rights or defenses.

SECTION 23. AUTHORITY TO CONSTRUCT

- (a) **Authorization to commence new construction and application procedures.** If the Grantee plans to construct new plant within the County, Grantee shall apply for all necessary licenses from the state, county or other necessary parties, such as the railroads, for crossing under or over their property. In any event, all necessary applications for permits, licenses, certificates and authorizations shall be applied for in a timely fashion so that such filing and processing shall not interfere with or cause delay with the construction schedule. Failure to make such timely application and timely filing shall constitute a substantial violation of this Franchise Agreement.
- (b) **Power to contract.** Upon grant of the Franchise Agreement and in order to construct and operate and maintain a cable system in the County, the Grantee may enter into contract with any public utility companies or any other owner or lessee of any poles or underground areas located within or without the County; obtain rights-of-way permits from appropriate County, state, county and federal officials necessary to cross or otherwise use highways or roads under their respective jurisdiction; obtain permission from the Federal Aviation Administration to erect and maintain antennas; and obtain whatever other permits a county, state or federal agency may require.

SECTION 24. CONSTRUCTION AND TECHNICAL STANDARDS

- (a) **Compliance with construction and technical standards.** The Grantee shall construct, reconstruct, install, operate and maintain its system in a manner consistent with all applicable laws, ordinances, construction standards, governmental requirements and FCC technical standards. The system will be designed, constructed, operated and maintained for twenty-four (24) hours-a-day continuous operation.
- (b) **State-of-the-Art.** The Grantee shall take reasonable steps to construct, install, operate and maintain its system in a manner which is consistent with the state-of-the-art.
- (c) **Prior to the erection or installation by the Grantee of any towers or poles for use in connection with the installation, construction, maintenance or operation of the cable communications system under this Franchise Agreement, the Grantee shall first submit to the County or other appropriate parties for approval of concise description of the facilities proposed to be erected or installed, including all information normally required by any laws of that entity.**

- (d) Contractor qualifications. Any contractor proposed for work in construction, reconstruction, installation, operation, maintenance and repair of system equipment must be properly licensed under the laws of the state and all local ordinances.
- (e) The County does not guarantee the accuracy of any maps showing the horizontal or vertical location of existing facilities. In public rights-of-way, where necessary, the location may be verified by excavation.
- (f) Construction, reconstruction, installation, operation and maintenance of the cable communications system shall be performed in an orderly and workmanlike manner in accordance with then-current technological standards. All cables and wires shall be installed, where possible, parallel with electric and telephone lines. Multiple cable configurations shall be arranged in parallel and bundled with due respect for engineering considerations.
- (g) Grantee shall at all times comply with:
 - (1) Occupational Safety and Health Administration (OSHA);
 - (2) National Electric Code;
 - (3) National Electrical Safety Code (NESC);
 - (4) National Cable Television Standards Code;
 - (5) AT&T Manual of Construction Procedures (Blue Book);
 - (6) Bell Telephone Systems Code of Pole Line Construction;
 - (7) All federal, state and municipal construction requirements including FCC rules and regulations for utility construction and requirements;
 - (8) All building and zoning codes, and all land use restrictions as the same exist or may be amended hereafter.
- (h) Any antenna structure used in the cable communications system shall comply with construction, marking, and lighting of antenna structure standards as required by federal and state laws and Franchise Agreement.
- (i) All worker facilities, conditions and procedures that are used during construction, installation, operation and maintenance of the cable system shall comply with the standards of the Occupational Safety and Health Administration.
- (j) The Grantee shall maintain equipment capable of providing portable standby power for a minimum of twenty-four (24) hours for the headend and two (2) hours for any one power supply.
- (k) The Grantee shall have all utility lines located before digging within the public right-of-way.

SECTION 25. EXTENSION OF SERVICE

- (a) The Grantee shall provide service to all persons requesting such within any area of the County, contiguous to Grantee's existing system, as long as it is "economically feasible" to do so. As used herein "economically feasible" shall mean that there are at least twenty three (23) occupied homes per mile and shall be based upon a measurement taken from the outermost extremity of the potential extension area back through and measured along the shortest usable path of available streets, alleys, public rights-of-ways and public places now laid out or dedicated for such, inclusive of limited access and private easements.

- (b) Grantee shall offer cable service to all areas within the incorporated limits of County, except Grantee has the option to not build cable plant in an area served by another cable operator.
- (c) In areas with less than twenty three (23) homes per proposed cable mile, Grantee shall offer a cost sharing arrangement to residents. Grantee shall bear its pro rata share of the current construction costs based upon the actual number of homes per mile. The cost-sharing arrangement shall consist of the following:
- (1) On the request of a subscriber desiring service, Grantee shall prepare at its cost, an engineering survey and cost analysis to determine the cost of the plant extension required to provide service to the subscriber from the closet usable point on the cable system.
 - (2) The cost of construction shall be allocated based on the following formula: If a request for extension into a residential area requires the construction of cable plant, which does not pass at least twenty three (23) homes per mile, Grantee and subscribers will each bear their proportionate share of construction costs. For example, if there are ten (10) dwelling units per mile, Grantee's share will equal 10/23rd of the construction cost. The remaining cost will be shared equally by each subscriber in the area to be constructed. The line extension formula shall also be applied to a portion of a mile meeting proportionate density requirements. The cost sharing described above would be utilized if there were less than the proportionate share of dwelling units per the portion of a mile needed to reach the dwelling units.
 - (3) Should additional subscribers request cable television service, subscribers utilizing the cost-sharing plan for extension shall be reimbursed pro rata for their contribution or a proportional share thereof. In such case, the pro rata shares shall be recalculated and each new subscriber shall pay the new pro rata share, and all prior subscribers shall receive refunds. In any event, at the end of twenty-four (24) months from completion of the project, the subscribers are no longer eligible for refunds, and the amounts paid in construction costs will be credited to the plant account of the Grantee.
 - (4) The average cost of the line extension shall be recalculated annually and based upon the current costs of labor and material.
- (d) Each person contributing toward the direct cost of the line extension agrees to waive all ownership interest in the line extension. All equipment and components of the line extension, including, but not limited to, cable wire, electronics and pedestals shall at all times remain the exclusive property of the Grantee.
- (e) Grantee shall install a CATV service drop to subscribers of the home requesting such. The cost of the service line installation will be at the rate specified in Grantee's prevailing schedule of installation charges.
- (f) Any subscriber who requests that their cable be buried from Grantee's service pole to the subscriber's home and who would normally be entitled to aerial service may be charged the current hourly service charge to underground the cable.

SECTION 26. USE OF STREETS

- (a) **All installations** shall be underground in those areas of the County where public utilities providing telephone and electric service are underground at the time of installation. In areas where either telephone or electric utility facilities are above ground at the time of installation, the Grantee may install its device above ground, provided that, at such time as those facilities are required to be placed underground by the County or are placed underground, the Grantee shall likewise place its services underground without additional cost to the County or to the individual subscriber so served. Where not otherwise required to be placed underground by this Franchise Agreement the Grantee's system shall be located underground at the request of the property owner, provided that the cost of the underground installation shall be borne by the property owner making the request. All new cable passing under the roadway shall be installed in conduit no less than eighteen (18) inches from the top of the conduit to the surface of the ground or as per local, state or federal mandates.
- (b) **Interference** with persons, improvements, public and private property and utilities. The Grantee's system and facilities, including poles, lines, equipment on all appurtenances, shall be located, erected and maintained so that such facilities shall:
- (1) Not endanger or interfere with the health, safety or lives of persons;
 - (2) Not interfere with any improvements the County or state may deem proper to make;
 - (3) Not interfere with the free and proper use of public streets, alleys, bridges, easements or other public ways, places or property, except to the minimum extent possible during actual construction or repair;
 - (4) Not interfere with the rights and reasonable convenience of private property owners, except to the minimum extent possible during actual construction or repair; and
 - (5) no obstruct, hinder or interfere with any gas, electric, water or telephone facilities or other utilities located within the County.
- (c) **Restoration to prior condition.** In case of any disturbance of pavement, sidewalk, driveway or other surfacing, the Grantee shall, at its own cost and expense and in a manner approved by the County, replace and restore all paving, sidewalk, driveway, landscaping or surface of any street or alley disturbed, and in a good workmanlike, timely manner to a condition as good as that which prevailed before said work and in accordance with standards for such work set by the County. Such restoration shall be undertaken within no more than ten (10) days after the disturbance is incurred and shall be completed as soon as possible thereafter, weather permitting.
- (d) **Relocation of the facilities.** In the event that at any time during the period of this Franchise Agreement the County or state shall lawfully elect to site or change the grade of any street, alley or other public ways, the Grantee, upon reasonable notice by the proper authority, shall remove or relocate as necessary its poles, wires, cables, underground conduits, manholes and the fixtures at its own expense.

- (e) **Cooperation with building movers.** The Grantee shall, on the request of any person holding a building moving permit issued by the County Building Inspector, temporarily raise or lower its wire to permit the moving of building. The expense of such temporary removal, raising or lowering of wires shall be paid by the person requesting the same, and the Grantee shall have the authority to require such payment in advance. The Grantee shall be given not less fifteen (15) working days advance notice to arrange for such temporary wire changes.
- (f) **Tree trimming.** The Grantee shall have the authority, except when in conflict with existing county ordinance or other utility agreements, to trim any trees upon and overhanging public right-of-way so as to prevent the branches of such trees from coming in contact with system facilities, except that at the option of the County, such trimming may be done by it or under its supervision and direction, at the expense of the Grantee.
- (g) **Easements.** All necessary easements over and under private property shall be arranged for by the Grantee.
- (h) **Work within rights-of-way.** Consistent with any State policy for temporary street closing, the closing of any part of publicly maintained street or right-of-way must be approved by the appropriate agency.
- (i) **Removal of County property.** No County property is to be removed from a right-of-way, including signing on utility poles, without proper permission from the County.

SECTION 27. ERECTION, REMOVAL AND COMMON USE OF POLES

- (a) No poles shall be erected by the Grantee without prior approval of the County, in so far as the County has the legal authority to do so, with regard to location, height, types and any other pertinent aspect. However, no location of any pole or wire-holding structure of the Grantee shall give rise to a vested interest, and such poles and structures shall be removed or modified by the Grantee at its own expense whenever the County determines that the public convenience would be enhanced thereby.
- (b) Where poles already in existence for use in serving the County are available for use by the Grantee, the County may require the Grantee to use such poles and structures, if it determines that the public convenience would be enhanced thereby and the terms of the use available to the Grantee are just and reasonable.
- (c) Where a public utility serving the County desires to make use of the poles or other wire-holding structures of the Grantee, but agreement there of with the Grantee cannot be reached, the County may require the Grantee to permit such use for such consideration and upon such terms as the County shall determine to be just and reasonable. If the County determines that the use would enhance the public convenience and would not unduly interfere with the Grantee's operation.

SECTION 28. TESTS AND PERFORMANCE MONITORING

The Grantee will comply with all FCC rules and the Act regarding tests and performance monitoring of its cable communications system. Grantee will provide copies of its results to the County, upon reasonable notice, and in the absence of such rules the Grantee shall comply with the following:

- (a) Such tests shall be performed by or under the supervision of a qualified registered professional engineer or an engineer with proper training and experience. A copy of said engineer's report shall be submitted to the County, upon reasonable notice, describing test results, instrumentation, calibration and test procedures and the qualification of the engineer responsible for the tests.
- (b) System monitor test points shall be established at or near the output of the last amplifier in the longest feeder line, at or near trunk line extremities. Such periodic tests shall be made at the test points as shall be required by the FCC and/or this Franchise Agreement.
- (c) The County shall have the right to employ, at the County's expense, qualified consultants, if necessary or desirable, to assist in the administration of this or any other section of this Franchise Agreement or the Franchise Agreement.

SECTION 29. SERVICES TO SUBSCRIBERS AND USERS

- (a) Should the Grantee desire to change the selection of programs or services offered on any of its tiers, it shall use its good faith efforts to maintain the mix, quality and level of services provided over the system. Any such change in programs or services offered shall comply with the FCC rules and regulations and shall be reported to the subscribers at least thirty (30) days prior to the proposed implementation. The Grantee shall use its good faith efforts to ensure diversity of programming.
 - (1) A basic service tier shall be offered to subscribers throughout the term of this Franchise Agreement.
 - (2) The Grantee shall provide, when standard installation is possible, basic cable and cable programming service, super station package and one (1) free outlet to each of the following public facilities located within one hundred eighty-eight (188) feet of existing services lines of the Grantee: all courthouses, libraries, police and fire stations, municipal office buildings and schools. The Grantee shall notify the county in writing when standard installation is not possible. No monthly service fee shall be charged for the first outlet installed. The Grantee shall provide service to new construction hereafter for the above public facilities, provided they are within one hundred eighty-eight (188) feet of the existing service lines of the Grantee. Installation costs and fees for additional outlets and equipment shall be charged to the County at the Grantee's prevailing rates.
- (b) The Grantee shall, when technically feasible, provide and maintain, at a minimum, at least one non-commercial community channel available on a first-come, first-served, nondiscriminatory basis, at no cost to users.
- (c) Community Channel.
 - (1) Grantee, or its successor, shall provide a community channel to the County, consisting of educational and governmental programming and local origination programming. At such time as demand requires a separate channel for education and a separate channel for government, both parties to this Agreement agree to the combination of the channels. The determination on the need for separate channels will be mutually agreed upon by both parties.
 - (2) Falcon, will provide necessary facilities, personnel and administrative support for operation of the Community Channel.

- (3) Grantee will continue, as reasonably feasible, and in conjunction with the county staff, to educate the citizens of the County as to the benefits of community programming.
 - (4) Grantee shall cooperate with the county staff in providing promotional announcements on the availability of community programming.
 - (5) Grantee shall cooperate with school and government officials to maximize use and benefit from educational and governmental programming.
 - (6) Grantee agrees to make a one-time, lump-sum grant to the County in the amount of \$1,000.00 for such cable-related purposes as the County may from time-to-time determine for support of the Community Channel.
- (d) System Upgrade. The intent of the following is to outline the modernization of the cable system. Falcon will use the most economically and technically feasible technology to upgrade the system to a State-of-the-Art system. This may include a combination of technologies including, but not limited to, fiber optic and coaxial technology, and a combination of analog and digital technology depending on the application. The upgraded system will meet or exceed all applicable FCC technical standards. A fiber optic backbone system will be used to support the County system. The technology currently in use, will be modified because it does not meet the community needs related to quality of video and sound; does not meet the consumer service standards; and is the major cause of service related problems. The upgrade will be completed in two phases which will be completed within thirty-six (36) months from the effective date of this Agreement. Grantee shall complete the upgrade of the system serving all areas of the County with a minimum of 60 channel capacity. Grantee will meet, as scheduled, on a quarterly basis with the franchise authority to provide an update on the system upgrade schedule.
- (1) Design/Make-Ready Phase. This phase includes the base mapping and electronic design used to obtain the necessary permits and agreements for actual construction of the system. Completion of this phase is estimated to require six (6) to twelve (12) months from the effective date of this Agreement and the following shall be accomplished:
 - (a) Complete mapping of the system.
 - (b) Obtain necessary permits from all affected agencies and complete negotiations for pole attachments.
 - (c) Complete necessary action to provide material and equipment for the construction of the upgrade project, as per Falcon's inventory control system.
 - (2) Construction Phase. This phase includes the actual construction of the upgrade project. As a general rule, the construction will begin in the incorporated areas of the county and progress to unincorporated areas. This phase will be completed within eighteen (18) to twenty-four (24) months of the completion of the Design/Make-Ready Phase. In some cases, individual headends may be subject to consolidation or elimination as dictated by technical and/or economic efficiency considerations. During the construction phase of the following will be accomplished.

- (a) Chinquapin Headend serving the Towns of Kenansville, Wallace (Rose Hill, Teachey and Magnolia served through the Wallace receiver site), Beulaville and Richlands will be upgraded to deliver a minimum of 60 channel capacity.
 - (b) Warsaw Headend will be upgraded to deliver a minimum of 60 channel capacity.
 - (c) Calypso and Faison Headend will be upgraded to deliver a minimum of 60 channel capacity.
 - (d) Chinquapin Microwave Grantee will cause a complete and extensive evaluation of the current microwave system by engaging a reputable professional to complete both a microwave and tower analysis throughout the area served by the microwave. If the evaluation provides that the system does not meet the industry technical standards or the FCC standards, then Grantee will take immediate action to provide a State-of-the-Art technology to provide enhanced signal quality that fully meets all applicable community needs and FCC technical standards. Grantee shall initiate a preventative maintenance plan to ensure the microwave is performing to FCC technical and manufacturer' standards. Every year a performance review of the microwave system will be conducted by Falcon. The results will be forwarded to the Grantor along with a description of any specific action Grantee will take should corrective action be needed. Should the review indicate that the service provided by the microwave is un-repairable or cannot be repaired to meet the FCC or manufacturer's technical standards, then Grantee will take immediate action to provide a State-of-the-Art technology to provide enhanced signal quality that fully meets all applicable community needs and FCC technical standards. Grantee shall comply with the FCC regulations and requirements for the transmission of broadcast digital signals on its cable system.
- (b) Grantee shall maintain an office in Duplin County, centrally located, to provide a full range of services to subscribers. Services provided will consist of, but not be limited to, bill payment center, service center and customer service center.

SECTION 30. INSTALLATION, CONNECTIONS, OTHER GRANTEE SERVICES

- (a) **Standard installations.** Standard installation shall consist of a subscriber connection not exceeding one hundred and eighty eight (188) feet from a single point or pedestal attachment to the customer's residence. Service in excess of one hundred and eighty-eight (188) feet or of a nonstandard nature will be billed to the requester. The desire of the subscriber as to the point of entry into the residence shall be observed whenever possible, subject to the Grantee's good-faith judgement in regard to, but limited to, safety, efficiency and system performance. The Grantee shall use due care in the process of installation and shall repair any damage to the subscriber's property caused by said installation. Such restoration shall be undertaken within a reasonable time after the damage is incurred and shall be completed as soon as possible thereafter, said time not to exceed fifteen (15) days, weather permitting.

- (b) **Antennas and antenna switches.** The Grantee shall not, as a condition to providing cable communications service, require any subscriber or potential subscriber to remove any existing antenna structures for the receipt of over-the-air television signals.
- (c) **Lockout devices.** The Grantee shall provide to the subscribers information concerning the availability of a lockout device for use by a subscriber. The Grantee reserves the right to require a reasonable deposit for the use of this device. The lockout device described herein shall be made available to all subscribers requesting it, beginning with the passage of this Franchise Agreement.
- (d) **Re-connection.** The Grantee shall restore service to customers wishing restoration of service, provided the customer shall first satisfy any previous obligations owed. Further, any such re-connection may be on terms and conditions established by the Grantee.
- (e) **Free disconnection.** Subscribers shall have the right to have cable service disconnected without charge therefore, not withstanding transfer fees currently in effect. Such disconnection shall be made as soon as practicable. A pro rata refund of unused service charges shall be paid to the customer within forty-five (45) days from the date of termination of service.
- (f) **Delinquent accounts.** The Grantee shall use its good faith efforts to collect delinquent subscriber accounts. Whenever possible, the Grantee shall provide the customer with at least seven (7) working days written notice prior to disconnection.
- (g) **Emergency use of facilities.** The Grantee shall provide emergency alert capability pursuant to the 1992 Cable Act Statute 16 (b), Communications Act of 1934, Statute 624 (g), 47 U.S.C. 554(g).

SECTION 31. CUSTOMER SERVICES

Grantee will meet the customer service as established in Appendix A, as may be amended from time-to-time.

SECTION 32. PROTECTION OF SUBSCRIBER PRIVACY

The Grantee shall comply with all present and future FCC rules and regulations, as applicable, regarding subscriber privacy, and in the absence of such the Grantee shall comply with the following:

- (a) At the time of initial installation of any cable service or other service to the subscriber, and at least once a year thereafter, the Grantee shall provide notice, in the form of a separate written statement to each subscriber, which clearly and conspicuously informs the subscriber of:
 - (1) The nature of personally identifiable information collected or to be collected with respect to the subscriber and the nature of the use of such information;
 - (2) The nature, frequency and purpose of any disclosure which may be made of such information, including an identification of the types of persons to whom the disclosure may be made;
 - (3) The period during which such information might be maintained by the cable operator;
 - (4) The times and places at which the subscriber may have access to such information in accordance with this Franchise Agreement and other applicable federal, state and local law.

- (b) The Grantee shall not use the cable system to collect personally identifiable information concerning any subscriber, except as necessary to render a cable service or other service provided by the cable operator to the subscriber.
- (c) The Grantee shall not, without the specific written or electronic consent of the subscribers concerned, sell, disclose, or otherwise make available to any party any list of the names and addresses of individual subscribers, any list which identifies the viewing habits of individual subscribers, or any personal data, social security number, income and other data the Grantee may have on file about individual subscribers, except as necessary to render or conduct a legitimate business activity related to a cable service or other service provided by the cable operator to the subscriber, or pursuant to a court order, or if the Grantee has provided the subscriber the opportunity to prohibit or limit such disclosure and the disclosure does not reveal directly or indirectly the extent of viewing or other use by the subscriber of a cable service or other service provided by the cable operator, or the nature of any transaction made by the subscriber over the cable system.
- (d) Each subscriber shall be provided access to all personally identifiable information regarding such subscriber that the Grantee collects or maintains. Such information shall be made available to the subscriber at reasonable times and at a convenient place designated by the Grantee. The subscriber shall be provided the reasonable opportunity to correct any error in such information.

SECTION 33. RIGHTS OF INDIVIDUALS

- (a) **Nondiscrimination required.** The Grantee shall not deny service, deny access, or otherwise discriminate against subscribers, channel users or general citizens on the basis of race, color, religion, national origin, age, sex, or physical or mental handicaps, provided the subscriber shall pay all applicable fees for the service desired. The Grantee shall comply at all times with all applicable federal, state and local laws and this Franchise Agreement relating to nondiscrimination which is hereby incorporated and made part of this Franchise Agreement by reference.
- (b) **Information accessibility.**
 - (1) Each individual shall have the right to information concerning the provision of this Franchise Agreement and the rules formulated pursuant to it by the Board, agent, or entity created hereunder.
 - (2) Each document required to be maintained, prepared, filed, or submitted under the provision of this Franchise Agreement or pursuant to it, except those required and designated confidential by the Grantee or the FCC, shall be a public document, available for public inspection and copying at the requester's expense, at the office of the Grantee during normal business hours. The charge for such copying shall approximate the cost of mechanical reproduction and shall not include a charge for labor.
 - (3) Each individual shall have the right to representation on such boards, commissions, agencies or other entities created hereunder or hereafter by the Board pursuant to the provisions of this Franchise Agreement. Such representation by citizens of the County shall be in the manner and form as the Board may determine.

SECTION 34. REPORTS REQUIRED

The Grantee shall file with the County, when requested and upon reasonable notice:

- (a) **Regulatory communications.** All reports required by the Federal Communications Commission (FCC), including, but not limited to, annual proof of performance tests and results.
- (b) **Facilities report.** An annual report setting forth the physical miles of plant construction and plant in operation during the fiscal year.
- (c) **Grantee rules.** The Grantee's schedule of charges, contract or application forms of regular subscriber policy regarding the processing of subscriber complaints, delinquent subscriber disconnect or reconnect procedures and any other terms and conditions adopted as the Grantee's policy in connection with its system subscribers.
- (d) **Proof of bonds and insurance.** The Grantee shall submit to the County the required performance bond, or a certified copy thereof, and written evidence of payment of required premium, and certification of policies of insurance required by this Franchise Agreement, and written notice of payment of required premium.
- (e) **Financial reports.** The financial reports, specified herein, for the Grantee shall be submitted annually to the County.
- (f) **Operational reports.** The following system and operational reports shall be submitted to the County, upon written notification, and after reasonable notification:
 - (1) A report on the system's technical tests and measurements as set forth in the Act;
 - (2) A summary of the previous year's activities, including, but not limited to, new services offered.

SECTION 35. RECORDS REQUIRED

- (a) The Grantee shall at all times maintain and make available to the County upon written notice and reasonable request, a full and complete set of plans, records and "as-built" maps showing the exact location of all cable communication system equipment installed or in use in the County, exclusive of subscriber service drops. These plans, records and "as built maps" may be treated as proprietary information and may be maintained and viewed at the cable operator's office.
- (b) Other records. The County may impose reasonable requests for additional information, records and documents from time to time, as may be reasonably necessary to monitor or ascertain the Grantee's compliance with this Franchise Agreement.

SECTION 36. REMEDIES

Should there be any unresolved issues pertaining to the performance of the Grantee between the County and Grantee, the Grantee may recover material and liquidated damages under the provisions of this Franchise Agreement, as well as all provisions of the Act.

- (a) **Schedule of liquidated damages.** Because Franchisee's failure to comply with certain material provisions of this Agreement will result in injury to the County or to subscribers, and because it will be difficult to estimate the extent of such injury, the County and Franchisee hereby agree that liquidated damages and penalties stated below represent both parties' best estimate of the damages resulting from the specified injury. To maintain that estimate, the parties agree that the liquidated damage amount are in 1996 dollars and shall be

increased each year by the increase in the US County Average of the Consumer Price Index, if inflation from the date of this Agreement has exceeded twenty (20) percent.

- (b) **Violations.** For the violation of any of the following, the County will notify Franchisee in writing of the violation. The County shall provide Franchisee with detailed written notice of any Agreement violation upon which it proposes to take action, and a ninety (90) day period within which Franchisee may demonstrate that a violation does not exist or to cure an alleged violation or, if the violation cannot be corrected in 90 days, to submit a plan satisfactory to the County to correct the violation. If an alleged violation is proven to exist, and no cure or action on a plan acceptable to the County has been received by the County within ninety (90) days, such liquidated damages shall be chargeable to the performance bond as set forth in this Agreement if not tendered by Franchisee within thirty (30) days of notification by the County. Franchisee may petition the County Board for relief for just cause. The imposition of liquidated damages shall not preclude the County from exercising the other enforcement provisions of this Agreement, including revocation, or other statutory or judicially imposed penalties. No penalty shall be assessed if the violation occurs without fault of the Grantee or occurs as a result of circumstances beyond its control. Liquidated damage may be imposed as follows:

- (1) For failure to materially complete construction or extend service in accordance with this Agreement: \$100.00 for each day the violation continues;
- (2) For failure to materially comply with requirements for Community Channel: \$100 for each day the violation continues;
- (3) For transferring the Agreement without approval: \$500 for each day the violation continues;
- (4) For violation of the customer service standards measured on an individual basis: \$50 per violation. For violations of applicable customer service standards for which the operator's compliance is measured in annual terms of its response to individual customers, \$1,500.00 for any period during which it fails to meet applicable performance standards.
- (5) For failure to provide data, documents, record or reports or any other information required by this Franchise Agreement: \$50.00 for each day the violation continues.
- (6) For failure to test, analyze and report on the performance of the system following a request by the County: \$50.00 for each day the violation continues.

SECTION 37. WAIVER

The failure of the County at any time to require performance by Falcon of any provision hereof shall in no way affect the right of the County hereafter to enforce the same. Nor shall the waiver by the County of any breach of any provision hereof be taken to be a waiver of any succeeding breach of such provision, or as a waiver of the provision itself.

SECTION 38. CUMULATIVE PROVISIONS

The rights and remedies reserved to the County by this Franchise Agreement are cumulative and shall be in addition to and not in derogation of any other rights or remedies which the County may have with respect to the subject matter of this Franchise Agreement, and a waiver thereof at any time shall have no effect on the enforcement of such rights or remedies at a future time.

SECTION 39. CAPTIONS

Captions to sections throughout this Franchise Agreement are solely to facilitate the reading and reference to the sections and provisions of this Franchise Agreement. Such captions shall not affect the meaning or interpretation of this Franchise Agreement.

SECTION 40. NO JOINT VENTURE

Nothing herein shall be deemed to create a joint venture or principle-agent relationship between the parties, and neither party is authorized to, nor shall either party act toward third persons or the public, in any manner which would indicate any such relationship with the other.

SECTION 41. ENTIRE AGREEMENT

This agreement and all attachments hereto, as incorporated herein, represent the entire understanding and agreement between the parties hereto with respect to the subject matter hereof, supersede all prior oral negotiations between the parties, and can be amended, supplemented, modified, or changed only by a written document executed by the parties.

SECTION 42. FORCE MAJEURE

Notwithstanding any provision of the contrary contained herein, neither the County nor the Grantee shall be held liable for or suffer any penalty or detriment for, any failure to comply with any provision of this Franchise Agreement if such failure to comply accrues from any act of God or any other condition not within the reasonable control of such non-complying person; provided, however, that this provision shall not apply to Grantee's financial obligations hereunder.

SECTION 43. NOTICES

All notices and other communications hereunder shall be in writing and shall be deemed to have been given on the date of actual delivery, by registered or certified mail, return receipt requested, postage prepaid. The address for service of notice to the Grantee shall be addressed to Falcon cable media, Post Office Box 236, Holly Ridge, North Carolina 28445. Notices to the County shall be addressed to the County Clerk, County of Duplin, P.O. Box 910, Kenansville, North Carolina 28349. Either the County or the Grantee may change address to which all notices shall be sent by addressing a notice of such change in the manner provided in this section.

ADOPTED AND EFFECTIVE THIS THE 16th DAY OF February 1998, after being introduced, read and adopted during the two regularly scheduled meetings of February 2, 1998 and February 16, 1998.

FOR THE COUNTY OF DUPLIN

County Seal

S. J. Fountain
Chairman

ATTEST:

James W. Barnhardt, Jr.
Clerk to the Board

Approved as to form and legal sufficiency:

Timothy W. Smith
County Attorney

000230

FOR FALCON CABLE MEDIA:

BY: Howard Jan
 , Vice President

DATE: 4/3/98

ATTEST:

BY: [Signature]

TITLE: Admin Asst

DATE: 4/3/98

Notary Certification:

APPENDIX ACustomer Service Standards1. Subscriber Privacy

In accordance with the Act, the company shall abide by the provisions of the Act; and no less than annually provide notice in the form of a separate written statement to subscribers the provision of the Act.

2. Employee Identification

When calling in person, on subscribers or other residents, all employees or authorized representatives of the Grantee, including subcontractors, are required to display an employee identification card with their name, photograph and signature, and a telephone number that can be used for verification of the representative capacity with the Grantee. All vehicles, including subcontractors, shall display the name of the cable-telecommunication company.

3. Office and Telephone Availability

- A. Knowledgeable, qualified company representatives shall be available to respond to customer telephone inquiries Monday through Friday during normal business hours. Additionally, based on community needs, system shall staff telephone for supplemental hours on weekdays and/or weekends.
- B. Under normal operating conditions, telephone answer time by a customer service representative, including wait time required to transfer the call, shall not exceed 30 seconds. This standard shall be met no less than seventy-five percent of the time measured on an annual basis.
- C. Under normal operating conditions, the customer shall receive a busy signal less than three percent of the total time that the cable office is open for business. This standard shall be met no less than seventy-five percent of the time measured on an annual basis.
- D. Customer service center and bill payment locations shall be open for transactions Monday through Friday during normal business hours.
- E. Franchisee shall be responsible for adopting, publishing and implementing subscriber complaint procedures. The procedures shall be designed to resolve subscriber complaints in a timely and satisfactory manner; to develop sensitivity and responsiveness to subscriber needs on the part of the franchise management; and to improve the quality and dependability of services to subscribers by the Grantee. Established Complaint Procedures shall include specific provisions for registering subscriber repair service complaints received by telephone twenty-four (24) hours each day and seven (7) days each week; for permitting subscriber repair service complaints to be received at the Grantee's business office from 8:00 a.m. until 5:00 p.m. on Monday through Friday of each week; and the address of the Grantee's business office.

4. Installations, Outage and Service Calls.

Under normal operating conditions, each of the following standards shall be met no less than 75% of the time measured on an annual basis.

- A. Standard installation, excluding underground, shall be performed within seven business days after an order has been placed. "Standard" installation are up to 188 feet from the existing distribution system. This standard

- shall be met seventy-five percent of the time.
- B. Excluding those situations beyond the control of the Grantee, the Grantee shall respond to service interruptions promptly and no later than 24 hours after the interruption becomes known to the Grantee. Grantee must begin actions to correct service problems unrelated to outages the next business day after notification to the Grantee of the service problem.
 - C. The appointment window alternatives for installations, service calls and other installation activities shall be (a) morning, (b) afternoon, or (c) all day during normal business hours. Additionally, based upon community needs, the Grantee shall schedule supplemental hours during which appointments can be set.
 - D. If, at any time, an installer or technician is running late, an attempt to contact the customer shall be made and the appointment reschedule as necessary at a time which is convenient for the customer.
 - E. The Grantee shall render efficient service, make repairs promptly and interrupt service only for good cause and for the shortest time possible.
 - F. Grantee shall receive customer calls twenty-four (24) hours per day and respond to single customer outage complaint calls until 7:00 p.m. on normal business days. After 7:00 p.m. on any day, trained technicians shall respond to calls if three (3) or more complaints are received by subscribers served in a common area.

5. Communication, Statements, Refunds, and Credits

- A. The cable company shall provide written information in each of the following areas at the time of installation and at any future time upon request (this standard shall be met no less than ninety-five percent of the time measured on an annual basis): products and services offered;
 - prices and service options;
 - installation and service policies;
 - how to use the cable service
- B. Statements (billing) shall be clear, concise and understandable. The itemized charges identified on the subscriber bill as the total charge for cable service must include all fees and costs.
- C. Refund checks shall be issued promptly, but no later than the earlier of 45 days or the customer's next billing cycle following the resolution of the request, and the return of the equipment supplied by the cable company. This standard shall be measured on an annual basis and shall be met ninety-five percent of the time.
- D. Customers shall be notified in writing a minimum of 30 days in advance of any rate or channel change, provided the change is within the control of the Grantee. This performance shall be measured on an individual basis and shall be met one hundred percent of the time.
- E. Outage credit granted to subscribers as follows:

Should Grantee fail to correct a service problem, pertaining to a service interruption, within 24 hours after having been provided notice, upon request of the subscriber, Grantee shall credit 1/30th of the monthly charge for the affected tier or premium service program to the subscriber for each 24-hour period or fraction thereof following the first 24-hour period during which the subscriber experiences reduced service. This performance is measured on an individual basis.

6. Complaint-Appeals

- A. Upon notification by a subscriber of an unresolved complaint, the County Manager shall determine the facts of the complaint by obtaining information from the

subscriber and this Franchise Agreement; and shall act to resolve the complaint in a manner consistent with the authority granted the County Manager by the Board.

- B. The County reserves the right to regulate the rates to the maximum extent allowed by law, to include the filing of complaints at the FCC, as may be permitted by applicable law.

98-02

000233

NOISE ORDINANCE

by Authority of NCGS 153A-133

By ordinance of the County of Duplin hereby created, it shall be unlawful for any person or persons to wilfully create or assist in the creating of any loud, raucous and disturbing noise, which terms shall mean any sound which, because of its level, duration and character, annoys, disturbs, injures or endangers the comfort, health, peace or safety of any reasonable person of the County of Duplin. Noise as defined hereunder shall include sound from whatever source created, including, but not limited to amplified sounds created by amplification equipment.

Enforcement and penalties.

Where there is a violation of any provision of this article, the County, at its discretion, may take one (1) or more of the following enforcement actions.

- (1) A police officer, noise control officer, or animal control officer may issue a citation for violation of this ordinance subjecting the violator to a one hundred dollar civil penalty, which penalty may provide for a fifteen dollar delinquency charge upon nonpayment, and which penalty and delinquency charge may be recovered by the county in a civil action.

- (2) A misdemeanor warrant may be issued either immediately or upon issuance of a citation and the violator's failure to pay same.

Misdemeanors shall be punishable by a fine of five hundred dollars (\$500.00) and/or up to thirty (30) days. up to
imprisonment for

Effective Date: March 1, 1998

Adopted this the 16th day of February, 1998.

S. J. Fountain
Chairman
Duplin County Board of Commissioners

Attest: James W. Barnhardt, Jr.
Clerk

Duplin County Airport Height Restriction Ordinance

98-03

ENACTMENT

This is an ordinance establishing height regulations for structures and vegetation within the vicinity of the Duplin County Airport and providing for the administration, enforcement and amendment thereof.

PREAMBLE

WHEREAS, in the opinion of the Duplin County Board of Commissioners to further promote the health, safety, and general welfare of the residents of Duplin County, it is necessary and advisable to adopt regulations pertaining to the height of obstructions within the vicinity of the Duplin County Airport, and

WHEREAS, the Duplin County Planning Board in conjunction with the Duplin County Airport Commission has developed this ordinance with due consideration and has submitted final recommendations to the Duplin County Commissioners, and

WHEREAS, all applicable requirements of the General Statutes of North Carolina have been met,

NOW, THEREFORE BE IT ORDAINED BY THE COUNTY COMMISSIONERS OF THE COUNTY OF DUPLIN AS FOLLOWS:

ARTICLE I - AUTHORITY

SECTION 10

The provisions of this ordinance are adopted under authority granted by North Carolina General Statute 153A-121.

ARTICLE II - JURISDICTION

SECTION 20

This ordinance shall be applicable to the area designated within Duplin County in the vicinity of the Duplin County Airport as shown on a map entitled Duplin County Airport Approach and Vicinity Plan as maintained by the Duplin County Airport Commission and herein made a part of this ordinance.

ARTICLE III - TITLE

SECTION 30

This ordinance shall be known as and referred to as the Duplin County Airport Height Restriction Ordinance of Duplin County, North Carolina.

ARTICLE IV - INTERPRETATIONS

SECTION 40

Tense and Number

- (1) The present tense includes the future tense and the future tense includes the present tense.
- (2) The singular number includes the plural number and the plural number includes the singular number.

SECTION 41

Word Interpretations

For the purposes of this ordinance the following words shall be interpreted as specified below:

- (1) The word "may" is permissive.
- (2) The words "shall" and "will" are mandatory.
- (3) The word "County" shall mean the County of Duplin, North Carolina.
- (4) The words "Airport Commission" shall refer to the Duplin County Airport Commission.
- (5) The words "Planning Board" shall refer to the Duplin County Planning Board.
- (6) The words "County Commissioners" shall refer to the Duplin County Board of Commissioners.
- (7) The word "person" shall include firm, organization, association, company, trust, corporation or other entity.
- (8) The words "used" or "occupied" includes intended, designed and arranged.

SECTION 42

Definitions

For the purpose of this Ordinance, the following words and phrases shall have the meanings respectively ascribed to them by this section:

- (1) Airport means the Duplin County Airport.
- (2) Airport obstruction means any structure or tree which obstructs the aerial approaches of the airport exceeding the maximum height of structures permitted in the airport operation area or is otherwise hazardous to its use for landing or taking off.
- (3) Height means the vertical distance from the ground elevation to the highest point of a structure or tree, including any appurtenance thereon. Expressed as feet above sea level.
- (4) Airport operation area means the area designated for aircraft movement as shown on the map entitled Dated as maintained by the Duplin County Airport Commission.
- (5) Nonconforming structure means any structure or tree which does not conform to this Ordinance as of the effective date of these regulations.
- (6) Structure means object, constructed or installed by human labor, including, but without limitation, buildings, towers, smokestacks and overhead transmission lines.
- (7) Tree means any object of natural growth.
- (8) Height limitations means no structure or tree shall be erected, altered, allowed to grow or maintained in the Airport Operation Area to a height in excess of 100 feet above ground elevation or 236 feet above mean sea level (AMSL).
- (9) Enforcement Officer - This ordinance shall be enforced by the Duplin County Planning Department.

ARTICLE V - NONCONFORMITIES

SECTION 50

Nonconforming Uses

This regulation shall not be construed to require the removal, lowering or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of this ordinance, or otherwise interfere with the continuance of a nonconforming use. Nothing contained herein shall require any change in the construction, or intended use of any structure for which the construction or alteration was started or for which a building permit was acquired prior to the effective date of this ordinance.

Notwithstanding the preceding provision of this section, the owner of any existing nonconforming structure or tree is hereby required to allow the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the Duplin County Airport Commission to indicate to the operators of aircraft in the vicinity of the airport the presence of such obstruction. Such markers and lights shall be installed, operated and maintained at the expense of the Duplin County Airport.

SECTION 51

Existing Structures

Before any existing nonconforming structure may be replaced, altered, repaired, or rebuilt within the Airport Operation Area, a permit must be secured from the enforcement officer authorizing such replacement, change or repair. No such permit shall be granted that would allow the establishment or creation of an airport obstruction or permit a nonconforming structure to be made or become higher than the height allowed by this ordinance.

ARTICLE VI - PERMIT REQUIREMENTS

SECTION 60

New Structures

The Duplin County Building Inspector shall not issue a building permit for the construction of any new obstruction within the air operation area unless approved by the Duplin County Airport Commission and the enforcement officer.

SECTION 61

Permit Application

A permit application must be completed and submitted for each obstruction. The following information shall accompany the application:

- (1) Map drawn to scale showing or including the following information:
 - Name, address and telephone number of applicant and property owner
 - Exact location and height of existing and proposed obstructions
 - Highway, right-of-way, intersection and other land uses
 - Existing and proposed buildings
 - Existing ground elevation certified by a Registered Land Surveyor
- (2) Nonrefundable application fee of \$50.00
- (3) Any additional information which may be necessary to determine compliance with this ordinance

- SECTION 62** Review by Airport Commission
No permit for construction replacement or altering an existing structure regulated by this ordinance shall be issued by the enforcement officer unless approved by the Duplin County Airport Commission or its designee.
- SECTION 63** Violations
Permits shall be valid until revoked. The enforcement officer may periodically inspect the obstruction to determine continued compliance with this ordinance. If the obstruction is in violation, the enforcement officer shall advise the owner in writing of the violations and of action necessary to bring the obstruction into compliance. Failure by the owner to correct violations within 120 days of notification shall constitute grounds for revocation of the permit.
- SECTION 64** Revocation of Permit
Valid permits may be revoked by the enforcement officer for any of the following reasons:
 (1) Incorrect or misrepresented information on the permit application.
 (2) Failure to construct obstruction in accordance with application and permit.
 (3) Any other violation of this ordinance.
- In the event the permit is revoked, the enforcement officer shall advise the obstruction owner in writing of the status of the permit, the action necessary to correct the violation and of the enforcement techniques available to the County to remedy continued violation. Maintaining an obstruction in violation of this ordinance is a misdemeanor subject to enforcement action as provided by state law. When the enforcement officer determines that the obstruction has been brought back into compliance with this ordinance, he shall reinstate the permit.
- ARTICLE VII - LEGAL PROVISIONS**
- SECTION 70** Enforcement
The ordinance may be enforced by any one or more of the remedies authorized by G. S. 153A-123.
- SECTION 71** Complaints
Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a written complaint with the enforcement officer stating the cause and basis for the complaint. The enforcement officer shall record the complaint, investigate and take such action as may be necessary to enforce this ordinance.
- SECTION 72** Separability
Should any section or provision of this ordinance be declared by the courts to be invalid for any reason, such declaration shall not affect the ordinance as a whole, or any part thereof other than the part so declared to be invalid.
- SECTION 73** Amendments
Petitions for amendment may be filed with the Planning Department by any citizen of the County, any county department or agency, the County Planning Board or Board of Commissioners.
- SECTION 73.1** Commissioners Review
The provisions and requirements of this ordinance may be amended by the County Commissioners according to the procedure set forth:
 (1) Planning Board Review - No amendment shall become effective unless it shall have been proposed by or shall have been reviewed by the Planning Board. The Planning Board shall have 45 days in which to review the proposed amendment and to make recommendation to the Commissioners. If the Planning Board fails to report to the Commissioners within 45 days, it shall be deemed to have approved the proposed amendment.
 (2) Airport Commission Review - No amendment shall become effective unless it shall have been proposed by or shall have been reviewed by the Airport Commission.
 (3) Commissioners Review - No amendment shall become effective until after being adopted by the County Commissioners.
- SECTION 74** Variance and Exception
Upon recommendation of the Airport Commission, the Planning Board may issue variances and exceptions from the requirements of this ordinance such that would not be contrary to the public interest, or the spirit and intent of this ordinance, and where due to special

conditions, a literal enforcement of the provisions of this ordinance would result in an unnecessary hardship. In granting a variance, the Planning Board may prescribe appropriate conditions and safeguards as it deems necessary to preserve the intent of this ordinance. In granting a variance or exception to this ordinance, the Planning Board must determine the following:

- (1) Special conditions and circumstances exist which are peculiar to the land or buildings involved and which are not applicable to other land or buildings.
- (2) The literal interpretations of the provision of this ordinance would deprive the applicant of rights commonly enjoyed by other properties.
- (3) Special conditions and circumstances do not result from the actions of the applicant.
- (4) Granting the variance required will not confer on the applicant any special privilege that is denied by this ordinance to other lands or buildings.

SECTION 75

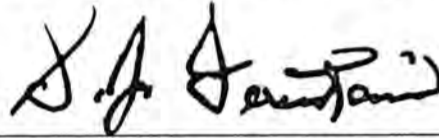
Appeal

The County Planning Board shall hear and decide appeals and review any orders, requirements, decisions or determinations made by the enforcement officer responsible for administration or enforcement of this ordinance. The Planning Board's decision is subject to review by the Duplin County Board of Commissioners.

SECTION 76

Effective Date

This ordinance shall become effective and be in full force from and after the 1st day of July, 1998. Adopted by the Duplin County Board of County Commissioners on May 18, 1998.



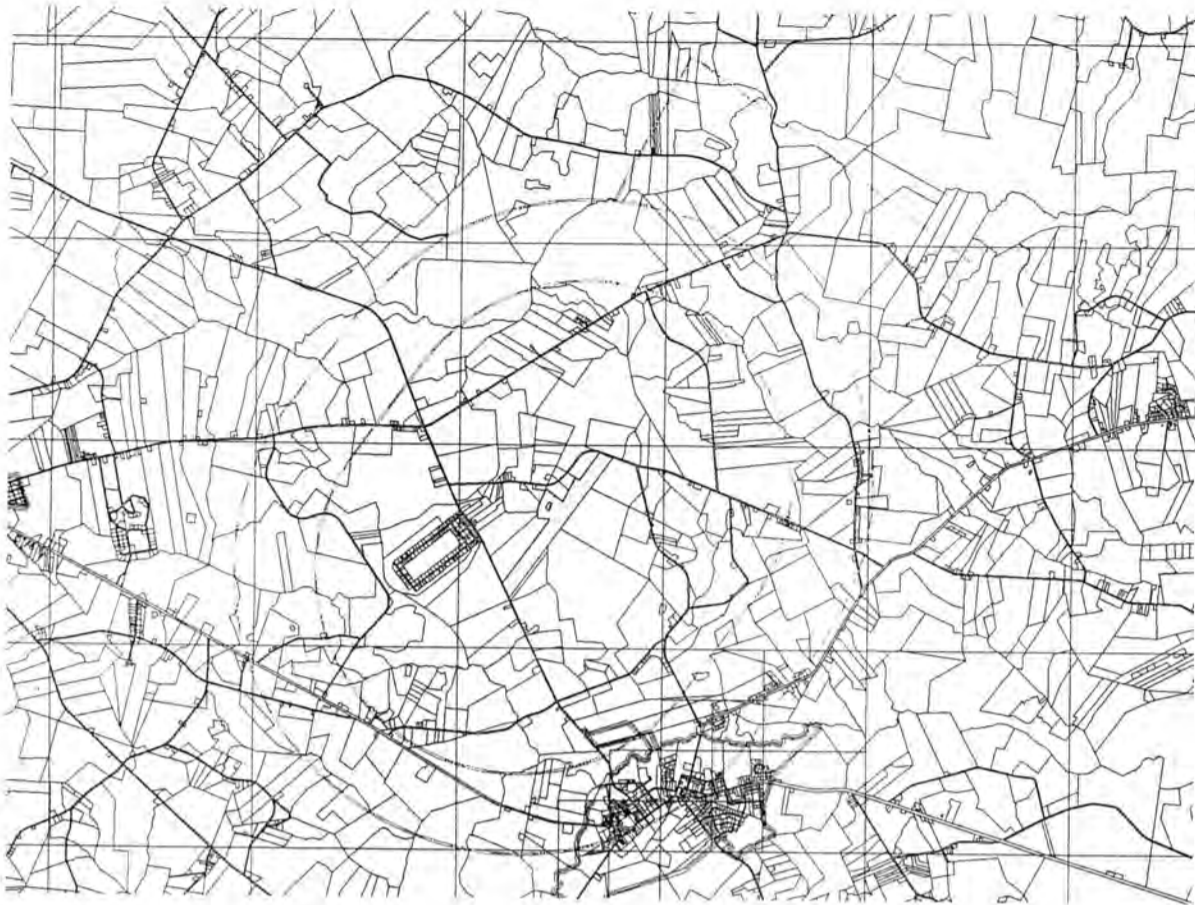
Chairman, Duplin County Board of Commissioners

ATTEST

Clerk

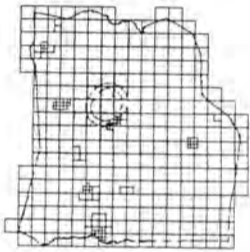


000238



 Approach Area

DUPLIN COUNTY AIRPORT APPROACH & VICINITY PLAN



**LOCATION OF DUPLIN COUNTY AIRPORT
APPROACH & VICINITY PROJECT ON
DUPLIN COUNTY TAX GRID**

Revised April 7, 1998

MAP PREPARED BY DUPLIN COUNTY MAPPING DEPARTMENT

DUPLIN COUNTY SOLID WASTE MANAGEMENT ORDINANCE

REVISION

EFFECTIVE JULY 1, 1998

SECTION 54.3 There will be no exemption to the annual household and business availability fee except as approved by the Duplin County Board of Commissioners. If the household or business has been vacant for the twelve (12) months preceding January 1 of any year, the annual availability fee may be waived.

**AN ORDINANCE BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF DUPLIN
 CONSENTING TO THE CABLE TELEVISION FRANCHISE
 AGREEMENT (FRANCHISE ORDINANCE) BETWEEN THE COUNTY OF DUPLIN
 AND
 GENESIS CABLE COMMUNICATION, L.L.C.**

WHEREAS, the County of Duplin (County) has determined that it is in the best interest of the citizens of the County to enter into a cable television franchise agreement with Genesis Cable Communications, L.L.C. ("Genesis"); and

WHEREAS, Genesis has furnished cable services to the County in a satisfactory manner and has been found to be financially, legally and technically qualified to continue cable operations within the County ; and

WHEREAS, Genesis desires to continue operating a cable television system in the County.

NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF COMMISSIONERS THAT THE CABLE TV FRANCHISE AGREEMENT BETWEEN THE COUNTY AND GENESIS CABLE COMMUNICATIONS, L.L.C. IS APPROVED AS FOLLOWS

FRANCHISE AGREEMENT

THIS AGREEMENT is made and entered into as of this the 8th day of September, 1998, by and between the County of Duplin, North Carolina, hereinafter referred to as "County" and Genesis Cable Communications, L.L.C., hereinafter referred to as "Genesis".

SECTION 1. GRANT OF FRANCHISE

- (a) Genesis is hereby granted for itself and its successors and assignees, subject to the terms and conditions of this Franchise Agreement, the right, privilege, and authority to construct, operate, maintain, and reconstruct a cable communications system within the streets, alleys, and public ways of the County for the purpose of providing cable television service as defined by the N. C. G. S. 160A-319(b) and including such other services as Genesis may legally provide on its cable communications system, subject to current and future state, federal, and local laws and other regulations and the payment of any applicable fees, services, or other compensation directly or indirectly to the County. Genesis shall provide a state-of-the art, county-wide cable communications system to the residents and institutions of the County in accordance with this Franchise Agreement.
- (b) Nothing in this Franchise Agreement shall be deemed to waive the various codes and ordinances of the County regarding permits, fees to be paid, or manner of construction.
- (c) For the purpose of operating and maintaining a cable communications system in the County, Genesis may erect, in, over, under, or upon, across, and along the public streets, alleys, and ways within the County such wires, cables, fiber optics, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, pedestals, attachments, and other property and equipment as are necessary and appurtenant to the operation of the cable communications system in the County and in accordance with this Franchise Agreement and the cable ordinance.

SECTION 2. RIGHT OF COUNTY TO ISSUE FRANCHISE AGREEMENT

Genesis acknowledges and accepts the legal right of the County to issue this Franchise Agreement.

SECTION 3. EFFECTIVE DATE OF FRANCHISE AGREEMENT AND ACCEPTANCE

The effective date of this Franchise Agreement shall be September 8, 1998, subject to acceptance by Genesis which acceptance shall be received by the County not more than

than thirty (30) days after passage of the ordinance, which shall incorporate this Franchise Agreement.

SECTION 4. FRANCHISE TERM AND RENEWAL

This Franchise Agreement shall take effect and be in full force from and after the final passage hereof, subject to acceptance by the Franchisee as herein provided and the same shall continue in full force and effect for a period of ten (10) years. Should the Franchisee want to renew this Agreement, the then federal, state, or local rules for renewal will be followed.

SECTION 5. FRANCHISE NONEXCLUSIVE

- (a) Franchise nonexclusive. This franchise Agreement shall not be construed as any limitation upon the right of the County to grant to other persons, rights, privileges, or authorities similar to the rights, privileges, and authorities herein set forth, in the same or other streets, alleys, or other public ways or public places. The County specifically reserves the right to grant at any time during the term of this Franchise Agreement or renewal thereof, if any, such additional franchises for a cable communications system as it deems appropriate.
- (b) Conditions. Any additional cable television franchises granted by the County shall contain equivalent terms and conditions as this Franchise Agreement, including without limitation provisions of public benefit with equivalent cost, taking into account the size and population of the franchised areas.

SECTION 6. DEFINITIONS

For purposes of this article, the following terms, phrases, words, and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future; words in the plural number include the singular number. The word "shall" is mandatory and "may" is permissive. Words not defined shall be given their common or ordinary meanings.

Additional services means CABLE SERVICES for which an additional charge is made beyond the charge for basic subscriber services, including, but not limited to, movies, concerts, variety acts, sporting events, pay-per-view programs and any other service utilizing any facility or equipment of a cable television system operating pursuant to a Franchise Agreement granted under this article.

Basic subscriber radio service means such audio services as the re-transmission of broadcast FM radio signals, weather, news, time and other similar audio services, and the transmission of cablecast (non-broadcast) radio signals as permitted by the FCC.

Basic subscriber television service means any service tier provided by the Grantee which includes the delivery of broadcast signals, educational and government access channels, and local origination channels, covered by the regular monthly charge paid by all subscribers to a particular service tier.

Board means the Board of Commissioners of the County of Duplin.

Cable communications system or cable television system, also referred to as "system", means a facility consisting of a set of closed transmission paths and associated signal generation, reception and control equipment that is designated to provide cable service which includes video programming and which is provided to multiple subscribers within a community; but such term does not include:

- (a) A facility that serves only to retransmit the television signals of one (1) or more television broadcast stations;

- (b) A facility that serves subscribers without using any public rights-of-way.
- (c) A facility of a common carrier which is subject, in whole or in part, to the provision of Title II of the Cable Act, except that such facility shall be considered a cable system to the extent such facility is used in the transmission of video programming directly to subscribers; or
- (d) Any facilities of any electric utility used solely for operating its electric utility systems.

Communications Policy Act or Cable Act (the "ACT") means the Cable Television Consumer & Protection Act of 1992, as amending the Communications Act of 1934 and 1984 and as it may be amended or succeeded.

Channel means a six Megahertz (MHz) frequency band which is capable of carrying either (1) standard video signal, a number of audio, digital or other non-video signals, or some combination of signals.

Commence operation means that time and date when operation of the cable communications system is considered to have commenced, which shall be when the system is fully constructed.

Commercial subscriber means a subscriber who receives a service in a place of business where the service may be utilized in connection with a business, trade or profession, without financial consideration to the commercial subscriber.

Community Channel means a channel designated or dedicated and is made available for local origination for educational and governmental use, without charge on a first-come, first-served basis, nondiscriminatory basis.

Converter means an electronic device which converts signals to a frequency not susceptible to interference within the television receiver of a subscriber and any channel selector which permits a subscriber to view all signals delivered at designated converter dial locations at the set or by remote control.

Discrete channel shall mean a channel which can only be received by the person and/or institution intended to receive signals on such channel.

Drop shall mean a coaxial connection from feeder cable to the subscriber/user television set, radio or other terminal.

Fair market value means the price that a willing buyer would pay to a willing seller for a going concern.

FCC means the Federal Communications Commission or any legally appointed or elected successor.

Franchise means the nonexclusive rights, granted pursuant to this article, to construct, operate or maintain a cable communications system along the public ways within all or a specified area in the County. Any such authorization, in whatever form granted, shall not mean or include any license or permit required for the privilege of transacting and carrying on a business within the County, as required by other ordinances and laws of the County.

Franchise Agreement means a contract entered into voluntarily between the County and the Grantee, containing the specific provisions of the Franchise Agreement granted

including applicable referenced specifications, franchise proposals, applications and other related material.

Franchise Area means the entire County, or portions thereof, for which a franchise is granted under the authority of this Agreement. If not otherwise stated in this Franchise Agreement, the franchise area shall be the unincorporated limits of the County and include any incorporated municipalities, within the Genesis system which do not have specific cable television franchise agreements with Genesis.

Franchise fee means an amount not to exceed 5% , as specified, of the Grantee's gross annual receipts from the operation of the system pursuant to the agreement.

Grantor means the County of Duplin as represented by the Board of Commissioners acting within the scope of its jurisdiction.

Grantee or Franchisee means Genesis Cable Communications or L. L. C.

Gross subscriber revenues means all receipts received directly or indirectly by Grantee, from the provision of Cable Services in the unincorporated areas of the County of Duplin, North Carolina. The term gross subscriber revenue does not include any franchise fees or regulatory fees.

House shall mean any single family dwelling unit (house, apartment, mobile home, trailer, rented room or otherwise), but shall not mean an abandoned dwelling or building otherwise uninhabitable.

Installation shall mean the connection of the system from feeder cable to subscribers' terminals.

Leased access channel or commercial leased channel means any channel designated or dedicated for use by persons unaffiliated with the Grantee in accordance with the Cable Act.

Local Origination Cablecasting means programming (exclusive of broadcast signals) carried on a cable television system over one or more channels and subject to the exclusive control of the cable operator.

Monitoring means observing a communication signal, or the absence of a signal, where the observer is not a party to the communication, whether the signal is observed by visual or electronic means, for any purpose whatsoever.

Person means an individual, partnership, association, organization, corporation or any lawful successor, or transferee.

Plant Mile means a linear mile of strand-bearing cable as measured on the street or easement from pole to pole or pedestal to pedestal.

Programmer means any person or entity who or which produces or otherwise provides program material or information for transmission by video, audio, digital or other signals, either live or from recorded traces or other storage, to users or subscribers by means of the cable communications system.

Public property shall mean any real property owned by the County, other than a street.

Public way or public right-of-way means the surface, the air space above the surface and the area below the surface of any public street, highway, lane path, alley, sidewalk, boulevard, drive, bridge, tunnel, park, parkways, waterways, utility easements or other public right-of-way hereafter held by the County, which shall entitle the County and the Grantee to the use thereof for the purpose of installing and maintaining a cable television

system. No reference herein, or in any franchise, to the "public way" shall be deemed to be a representation or guarantee by the County that its title to any property is sufficient to permit its use for such purpose, and the Grantee shall, by its use of such terms, be deemed to gain only such rights to use property in the County as the County may have the undisputed right and power to give.

Reasonable notice shall be written notice addressed to either County or Grantee at its respective principal office within the County or such other office as the County or Grantee has designated to the other as the address to which notice shall be transmitted to it, which notice shall be certified and postmarked not less than thirty (30) days prior to that day in which the party giving such notice shall commence any action which requires the giving of notice.

Resident means any person residing in the County, as otherwise defined by applicable law.

Residential subscriber means a subscriber who received a service in an individual dwelling unit where the service is not to be utilized in connection with a business, trade or profession.

Sale shall include any sale, exchange, barter or offer for sale.

School means any public educational institution, including primary and secondary schools, colleges and universities.

Service area means the same as the Franchise Area.

State means the state of North Carolina.

State-of-the-Art means that the Franchisee shall construct, install and maintain its system in a manner which will continue to enable it to add new services and associated equipment as they are developed, available and when proved economically feasible and marketable to subscribers to the reasonable satisfaction of the Franchisee.

Street shall include each of the following, which have been dedicated to the public or are hereafter dedicated to the public and maintained under public authority or by others and located within the county limits; streets, roadways, highways, avenues, lanes, alleys, sidewalks, easements, rights-of-way and similar public ways and extensions and additions thereto, together with such other public property and area that the County shall permit to be included within the definition of street from time to time.

Transfer means the disposal by the Grantee, directly or indirectly, by gift, assignment, voluntary sale, merger, consolidation or otherwise, except publicly traded issue, not in control of the Grantee, of twenty-five (25%) percent or more at one time of the ownership or controlling interest in the system, or twenty-five (25%) percent cumulatively over the term of the Franchise Agreement of such interests to a corporation, partnership, limited partnership, trust or association, or person or group of persons acting in concert. Affiliate transfer excepted.

Trunk line means the major distribution cable used in cable communications, which divides into feeder lines which are tapped for service to subscribers.

User means a person or organization utilizing channel or equipment and facilities for the purpose of production and/or transmission of material, as contrasted with receipt thereof in a subscriber capability.

SECTION 7. GRANT OF FRANCHISES; TERRITORY

- (a) The County herein grants to the Grantee a nonexclusive, revocable-for-cause Franchise Agreement as provided herein, to construct, operate and maintain a cable communication system within the County, said Franchise Agreement shall constitute both a right and an obligation to provide the services of a cable communication system, as regulated by the provisions of this agreement.
- (b) The Franchise Agreement shall be granted under the terms and conditions contained herein, consistent with the county charter and/or other applicable statutory requirements. In the event of conflict between the terms and conditions of this Franchise Agreement, the charter and/or statutory requirements shall control.
- (c) Nothing in the Franchise Agreement shall be deemed to waive the requirements of the various codes and ordinances of the County regarding permits, fees to be paid or manner of construction.

SECTION 8. USE OF PUBLIC STREETS AND WAYS AND GRANTEE FACILITIES

- (a) **Public streets and ways.** For the purpose of operating and maintaining a cable communications systems in the County, the Grantee may erect, construct, repair, replace, reconstruct and/or retain in, on, over, under, upon, across and along the public streets and ways within the County such wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, pedestals, attachments and other property and equipment as are necessary to the operation of the cable communications system; provided however, that the Grantee complies with all design, the Franchise Agreement and other applicable laws, including the County Code of Ordinances, as amended.
- (b) **Grantee facilities.** No poles shall be erected by the Grantee without prior approval of the County with regard to location, height, type and any other pertinent aspect. However, no location of any pole of the Grantee shall be a vested right, and such poles shall be removed or modified by the Grantee at its own expense whenever the County determines the public convenience would be enhanced thereby. The Grantee shall utilize existing poles and conduits, where possible. The County shall have the right, during the life of the Franchise Agreement, to install and maintain upon the poles owned by the Grantee, at fair market value, any wire and pole fixture that do not reasonably interfere with the cable system operations of the Grantee.

SECTION 9. ACCEPTANCE

- (a) By accepting this Franchise Agreement, the Grantee agrees to be bound by all the terms and conditions in this Franchise Agreement. The Grantee also agrees to provide all services within the franchise area.
- (b) By accepting this Franchise Agreement, the Grantee acknowledges that it does so relying upon its own investigation and understanding of the power and authority of the County in connection with the system and the Franchise agreement.
- (c) By accepting this Franchise Agreement, the Grantee acknowledges that it is has not been induced to enter into this Franchise Agreement by any understanding or promise or other statement not expressed therein, whether oral or written, concerning any term or condition of this Franchise Agreement, regardless of whether such statement was made by or on behalf of the County.
- (d) By accepting this Franchise Agreement, the Grantee acknowledges that it has carefully read the terms and conditions of this Franchise Agreement.
- (e) **Severability.** If any section, subsection, sentence, clause, phrase or portion of this Franchise Agreement is for any reason held invalid or unconstitutional by any court of competent jurisdiction, or by any federal, state or local statute or franchise, such portion

shall be deemed a separate, distinct and independent provision and shall be excised as such; and such holding shall not affect the validity of the remaining portions thereof.

SECTION 10. TRANSFER OF OWNERSHIP OR CONTROL

- (a) The Franchise Agreement granted hereunder cannot in any event be sold, transferred, leased, assigned or disposed of, including but not limited to by force or voluntary sale, receivership or other means, without the prior consent of the County, which consent shall not be unreasonably withheld, and then under such reasonable conditions as the County may establish; provided however, any such conditions shall pertain to the qualifications of the transferee.
- (b) The Grantee shall promptly notify the County of any actual or proposed change in, transfer of, or acquisition by any other party of control of the Grantee. The word "control" as used herein is not limited to major stockholders but includes actual working control in whatever manner exercised. A rebuttable presumption that a transfer of control has occurred shall arise upon the disposal by the Grantee, directly or indirectly, by gift, assignment, voluntary sale, merger, consolidation or otherwise, of twenty-five (25%) percent or more at one time of the ownership or controlling interest in the system, or twenty-five (25%) percent cumulatively over the term of the Franchise Agreement, of such interests to a corporation, partnership, limited partnership, trust or association, or person or group of persons acting in concert.
- (c) Every change, transfer or acquisition of control, as defined above, of the Grantee shall make the Franchise Agreement subject to cancellation unless and until the County shall have consented thereto, which consent will not be unreasonably withheld. For the purpose of determining whether it shall consent to such change, transfer or acquisition of control, the County may inquire into the legal, financial, character, technical and other public interest qualifications of the prospective controlling party. Failure to provide all information reasonably requested by the County as part of said inquiry may be grounds for denial of the proposed change, transfer or acquisition of control.
- (d) The County agrees that any financial institution having a pledge of the Franchise Agreement or its assets for the advancement of money for the construction and/or operation of the Franchise Agreement shall have the right to notify the County that it, or its designees satisfactory to the County, will take control and operate the cable television system. Further, said financial institution shall also submit a plan for such operation that will ensure continued service and compliance with all Franchise Agreement obligations during the term the financial institution exercises control over the system. The financial institution shall not exercise control over the system for a period exceeding one (1) year, unless extended by the County at its discretion, and during said period of time it shall have the right to petition for transfer of the Franchise Agreement to another Grantee. If the County finds that such transfer, after considering the legal, financial, character, technical and other public interest qualifications of the applicant, is satisfactory, the County will transfer and assign the rights and obligations of such franchises as are in the public interest. The consent of the County to such transfer shall not be unreasonably withheld.
- (e) The consent or approval of the county to any transfer of the Grantee shall not constitute a waiver or release of the rights of the County in and to the streets and any transfer shall, by its terms, be expressly subordinate to the terms and conditions of this Franchise Agreement.
- (f) In the absence of extraordinary circumstances, the County will not approve any transfer or assignment of an initial franchise prior to completion of construction of the proposed system, excluding annexation.

- (g) Any approval by the County of transfer of ownership or control shall be contingent upon the prospective controlling party becoming a signatory to this Franchise Agreement.
- (h) Notwithstanding anything to the contrary, no such consent shall be required for any transfer or assignment to any person controlling, controlled by or under the same common control as the Grantee.

SECTION 11. POLICE POWERS

- (a) In accepting this Franchise Agreement, the Grantee acknowledge that its rights hereunder are subject to the powers of the County to adopt and enforce reasonable general ordinances necessary to the safety and welfare of the public; and it agrees to comply with all applicable general laws and ordinances enacted by the County pursuant to such power.
- (b) Any conflict between the provisions of this Franchise Agreement and any other present or future lawful exercise of the County's police powers shall be resolved in favor of the later, except that any such exercise that is not of general application in the jurisdiction, or applies exclusively to the Grantee or cable communications systems, which contains provisions inconsistent with this Franchise Agreement shall prevail only if, upon such exercise the County finds an emergency exists constituting a danger to health, safety, property or general welfare and such exercise is mandated by law.

SECTION 12. FRANCHISE AND APPLICATION FEE

- (a) During the term of this Franchise Agreement, the Franchisee shall pay to the County for use of its streets, public places, and other facilities, as well as the maintenance, improvements, and supervision thereof, an annual franchise fee in the amount of five (5%) percent, but the Duplin County Board of Commissioners reserves the right to increase the annual fee up to that legally allowed by law, upon passage of an ordinance including and stating the franchise fee rate and upon proper notification of the Grantee. The franchise fee is stated as a percentage of the annual Gross Subscriber Revenues received by the Grantee from operations conducted within the County. This payment shall be in addition to any other tax or payment owed to the County by the Franchisee.
- (b) Method of computation shall be as follows: Sales tax or other taxes levied directly on a per subscription basis and collected by Franchisee shall be deducted from the Gross Subscriber Revenues before computation of sums due the County is made. Payments due the County under the terms of this Franchise Agreement shall be computed quarterly as of September 30, December 31, March 31 and June 30 for the preceding quarter and shall be paid on or before the thirtieth (30th) calendar day from each said computation date at the Office of the County Clerk during regular business hours. The County shall be furnished a statement with each payment, certified as correct by an officer of the Grantee, reflecting a total amount of Gross Subscriber Revenues, and the above charges, deductions and computations, for the three months' payment period covered by the payment. With the payment each year for the quarter ending December 31, a statement certified by the Vice President of Finance of the Grantee shall be submitted certifying that the statement filed and payments made by the Franchisee for the preceding year was correct.
- (c) Rights of Re-computation. No acceptance of any payment shall be construed as a release or as an accord and satisfaction of any claim the County may have for further or additional sums payable as a franchise fee under this Franchise Agreement or for the performance of any other obligation hereunder.
- (d) Failure to make payment. Failure to pay any fees required by this section may result in action by the Board per Section 13 of this Franchise Agreement. Payment of the delinquent fee or fee plus any interest or penalties may be required by the Board.

- (e) Grantee agrees to pay Duplin County a \$2500.00 Franchise Application Fee upon acceptance of this Agreement by Genesis. Both parties agree that this Franchise Application Fee shall not be passed on to the subscribers either in a direct pass through or through the FCC rate regulations rules.

SECTION 13. FORFEITURE OR REVOCATIONS

- (a) The Board reserves the right to revoke the Franchise Agreement granted hereunder and rescind all rights and privileges associated with the Franchise Agreement in the following circumstances, each of which shall represent a default and breach under this Franchise Agreement.
- (1) If the Grantee shall default in the performance of any of the material obligations under this Franchise Agreement or under such documents, contracts and other terms and provisions entered into by and between the County and the Grantee;
 - (2) If the Grantee shall fail to provide or maintain in full force and effect the liability and indemnification coverage or the performance bond as required herein pursuant to this Franchise Agreement;
 - (3) If the Grantee's construction schedule is delayed later than the schedule contained in the Franchise Agreement, if any, or beyond any extended date set by the Board;
 - (4) If the Grantee becomes insolvent or unable to pay its debts or is adjudged bankrupt;
 - (5) If the Grantee fails to restore service after ninety-six (96) consecutive hours of interrupted "system-wide" service except when such service interruption is caused by forces beyond the Grantee's control (including but not limited to subscribers), or when approval of such interruption is obtained from the County Manager, or his designee;
 - (6) If there has been intentional material misrepresentation of fact in the application for or negotiation of the Franchise Agreement or any extension of renewal thereof.
- (b) The Grantee shall not be declared at fault or be subject to any sanction under any provision of this Franchise Agreement in any case in which performance of any such provision is prevented for reasons beyond the Grantee's control. A fault shall not be deemed to be beyond the Grantee's control if committed by a corporation or other business entity in which the Grantee holds a controlling interest, whether held directly or indirectly.
- (c) Procedure prior to revocation.
- (1) In the event the County believes that the grounds for revocation exist or have occurred, the County shall notify the Grantee in writing noting the facts on which such belief is grounded. The County shall make written notice, by certified mail, return-receipt requested, that the Grantee comply with any such requirement, limitation, term, condition, rule or regulation or correct any action deemed cause for revocation. If, within thirty (30) days following said written notice, Grantee has not furnished reasonably satisfactory evidence that corrective action has been taken or is being actively and expeditiously pursued, or that the alleged violation did not occur, or that the alleged violation, except those involving financial matters were beyond the Grantee's control, the County shall provide the Grantee an opportunity to present evidence, at a public hearing, that the just cause or non-compliance identified in the written notice has been remedied or that the significance thereof does not warrant revocation. County

shall cause to be served upon the Grantee, at least thirty (30) days prior to the date of such public hearing, a written notice of this intent to request such revocation, and the time and place of the meeting, notice of which shall be published by the County Clerk, in accordance with North Carolina state law, before such meeting, in a newspaper of general circulation within the County.

- (2) The Board shall hear any persons interested therein, including the Grantee, and shall determine in its discretion whether or not any failure, refusal or neglect by the Grantee with just cause.
 - (3) If such failure, refusal or neglect by the Grantee was with just cause, as defined by the County, the Board shall direct the Grantee to comply within such time and manner and upon such terms and conditions as are reasonable.
 - (4) If the Board shall determine such failure, refusal or neglect by the Grantee was without just cause, then the Board shall, by resolution, declare that the franchise of the Grantee shall be revoked, unless there is compliance by the Grantee within ninety (90) days.
- (d) In the event this Franchise Agreement is revoked or otherwise terminated, the County may, under the provisions of existing federal, state or local laws and at its sole discretion, do any of the following:
- (1) Purchase the system, at fair market price, or
 - (2) Effect a transfer of ownership of the system to another party for good and sufficient consideration.
 - (3) Order the removal of all system facilities from the County within a reasonable period of time.
- (e) In removing its system facilities, the Grantee shall refill, at its own expense, any excavation that shall be made by it and shall leave all public ways and places in as good a condition, normal wear and tear excepted, as was prevailing prior to the Grantee's removal of system facilities. The County shall inspect and approve the condition of the public ways and public places and cables, wires, attachments and poles after removal. The liability, indemnity, insurance and performance bond as provided herein shall continue in full force and effect during the period of removal and until full compliance by the Grantee with the terms and conditions of this paragraph.
- (f) In the event of a failure by the Grantee to complete any work required by this Franchise Agreement or any other work required by county law or ordinance, and upon reasonable notice to the Grantee, the County may cause such work to be done and the Grantee shall reimburse the County the reasonable costs thereof within thirty (30) days after verification of an itemized list of such costs. The County shall be permitted to seek legal and equitable relief to enforce the provisions of this section.
- (g) Upon either the non-renewal or revocation of a franchise, the County may contract with the Grantee to continue to operate the system for a period of six (6) months from the date of such expiration or revocation, or until such time as is mutually agreed upon. The Grantee shall, as a subcontractor of the County, continue to operate the cable communications system under the applicable terms and conditions of this Franchise Agreement. The County shall be permitted to seek legal and equitable relief to enforce the provisions of this section.

SECTION 14. RECEIVERSHIP AND FORECLOSURE

- (a) The Franchise Agreement shall, at the option of the County, cease and terminate one hundred twenty (120) days after the appointment of a receiver or receivers, or trustee or trustees, to take over and conduct the business of the Grantee, whether in a receivership, reorganization, bankruptcy or other action or proceeding, unless such receivership or trusteeship shall have been vacated prior to the expiration of said one hundred twenty (120) days, or unless:
- (1) Such receivers or trustees shall have, within one hundred twenty (120) days after their election or appointment, fully complied with all the terms and provisions of this Franchise Agreement, and the receivers or trustees, within said one hundred twenty (120) days, shall have remedied all defaults under the Franchise Agreement; and
 - (2) Such receivers or trustees shall, within said one hundred twenty (120) days, execute an agreement, duly approved by the court having jurisdiction of the premises, whereby such receivers or trustees assume and agree to be bound by each and every term, provision and limitation of this Franchise Agreement.
- (b) In the case of a foreclosure or other judicial sale of the plant, property and equipment of the Grantee or any part thereof, including or excluding this Franchise Agreement, the County may serve notice of termination upon the Grantee and the successful bidder at such sale, in which event the Franchise Agreement and all rights and privileges of the Grantee hereunder shall cease and terminate thirty (30) days after service of such notice unless:
- (1) The County shall have approved the transfer of the Franchise Agreement in the manner this Franchise Agreement provides, and
 - (2) Such successful bidder shall have covenanted and agreed with the County to assume and be bound by all terms and conditions of the Franchise Agreement.

SECTION 15. EQUAL OPPORTUNITY

The Grantee shall be an equal opportunity/affirmative action employer, adhering to all federal, state or local laws.

SECTION 16. RIGHTS RESERVED TO THE GRANTOR

The County shall have the right, at its expense, to inspect all construction or installation work performed subject to the provisions of this Franchise Agreement as it shall find necessary to ensure compliance with the terms of this Franchise Agreement and other pertinent provisions of the law.

SECTION 17. REGULATORY AUTHORITY

- (a) The County may exercise appropriate regulatory authority under the provisions of this Franchise Agreement and applicable law. This authority shall be vested in the Board and administered through the County Manager or his designee in order to provide day-to-day administration of this Franchise Agreement and any Franchise Agreement granted hereunder.
- (b) Notwithstanding any other provisions of this Franchise Agreement to the contrary, the Grantee shall at all times comply with all applicable laws of the local, state and federal government. In the event that any actions of the state or federal government or any agency thereof, or any court of competent jurisdiction upon final adjudication, substantially reduce in any way the power or authority of the County under this Franchise Agreement or if in compliance with any local, state or federal law or regulation, the Grantee finds conflict with the terms of this Franchise Agreement or any law or regulation of the County, then as soon as possible following knowledge thereof, the

Grantee shall notify the county of the point of conflict believed to exist between such law or regulation and the laws or Franchise Agreement of the County. The County shall have the right to initiate re-negotiations with the Grantee to modify any provisions of this Franchise Agreement to such reasonable extent as may be necessary to carry out the intent and purpose of this Franchise Agreement; provided, however, neither party shall be under any obligation or requirement to agree to a modification which increases the obligations, or impairs the rights of that party.

- (c) The County reserves the right to exercise the maximum plenary (full) authority, as may at anytime be lawfully permissible, to regulate the cable communications system, this Franchise Agreement and the Grantee. Should applicable legislative, judicial or regulatory authorities at any time permit regulation not presently permitted to the County, the County may, without the approval of the Grantee, legislate any such additional regulation as may then be permissible, whether or not contemplated by this Franchise Agreement.

SECTION 18. REGULATION OF THE FRANCHISE

- (a) The County shall have the following regulatory responsibility:
- (1) Administration and enforcement of the provisions of this Franchise Agreement;
 - (2) Award renewal, extension or termination of this Franchise Agreement pursuant to the provisions of this Franchise Agreement and other applicable law;
 - (3) Consent prior to sale or transfer of this Franchise Agreement;
 - (4) Technical performance evaluations pursuant to the Act.
- (b) The County also reserves the right to perform the following functions:
- (1) Analyze the possibility of integrating cable communications with other county, state or regional telecommunications networks.
 - (2) Formulate and recommend long-range telecommunications policy for the County and provide for the determination of future cable-related needs and interest of the community.
 - (3) Provide the administrative effort necessary for the conduct of performance evaluations pursuant to this Franchise Agreement and any other activities required for the administration of the Franchise Agreement.
 - (4) Monitor the Grantee's process for handling citizen complaints and periodically inspect and analyze the records related to such complaints (excluding any personal identification items which are precluded by the privacy act), upon five (5) business days advance written notice to the Grantee;
 - (5) Monitor the Grantee's adherence to operational procedure and line-extension policies;
 - (6) Assure compliance with applicable laws and ordinances;
 - (7) Provide for reasonable continuity in service;
 - (8) Receive for examination all data and reports required by this Franchise Agreement.

SECTION 19. RATES AND CHARGES

The Grantee shall file with the County schedules which shall describe all services offered, all rates and charges of any kind, and all terms and conditions relating thereto. In addition, the County shall have the right to regulate rates per federal, state and local laws.

SECTION 20. PERFORMANCE EVALUATION

- (a) Special evaluation sessions may be held at any time during the term of the Franchise Agreement at the request of the County, upon reasonable notice to the Grantee. The intent of this paragraph is to provide an opportunity for the Board to air any performance problems at a public forum after all other negotiation processes have resulted in no agreement or solution.
- (b) All evaluation sessions shall be open to the public and announced in a newspaper of general circulation in accordance with public notice.
- (c) Topics which may be addressed at any scheduled or special evaluation session may include, but not limited to, system performance, Grantee compliance with this Franchise Agreement, customer service and complaint response, subscriber privacy, franchise fees, penalties, applications of new technologies, judicial and FCC filings, and line extensions. At the five year anniversary of this agreement, a specific review may be scheduled, in open Board session, to discuss the telecommunications needs of the community, advances in technology or other mutually agreeable items which may need to be discussed.
- (d) During the review and evaluation by the County, the Grantee shall cooperate with the County and shall provide such information and documents as the County may need to reasonably perform its review. The Grantee will be required to provide those documents which are normally available to the Grantee. The intent is that the Grantor can not ask the Grantee to spend extra time and money to formulate documents which are not in a system-wide format.

SECTION 21. PERFORMANCE BOND

- (a) Performance bond. No later than forty-five (45) days after the effective date of the Franchise Agreement, the Grantee shall obtain and maintain during the entire term of the Franchise Agreement and any extensions and renewals thereof, at its cost and expense, and file with the County a corporate surety bond, in the amount of \$15,000, to guarantee the faithful performance of the Grantee of all its obligations provided under this Franchise Agreement. Failure to timely obtain, file and maintain said bond shall constitute a substantial violation of this Franchise Agreement.
- (b) Conditions. The performance bond shall provide the following conditions:
 - (1) There shall be recoverable by the County, jointly and severally from the principal and surety, any and all fines and penalties due to the County and any and all damages, losses, costs and expenses suffered or incurred by the County resulting from the failure of the Grantee to: faithfully comply with the provisions of this Franchise Agreement; comply with all applicable orders, permits and directives of any County agency or body having jurisdiction over its acts or defaults; pay any claims, liens or taxes due the County, which arise by reason of the construction, operation, maintenance or repair of the cable system
 - (2) The total amount of the bond shall be forfeited in favor of the County in the event:
 - a. The Grantee abandons the cable system at any time during the term of the Franchise Agreement or any extension thereto;

- b. The Grantee assigns the Franchise Agreement without the express written consent of the County, where prior consent of the County is required.
- c. Reduction of bond. Upon written application by the Grantee, the County may, at its sole option, permit the amount of the bond to be reduced or waive the requirements for a performance bond. Reductions granted or denied upon application by the Grantee shall be without prejudice to the Grantee's subsequent applications or to the County's right to require the full bond at any time thereafter. However, no application shall be made by the Grantee within ninety (90) days of any prior application.
- d. Use of performance bond. Prior to drawing upon the performance bond for the purposes described in this section the County shall notify the Grantee in writing that payment is due, and the Grantee shall have thirty (30) days from the receipt of such written notice to make a full and complete payment of undisputed amounts. If the Grantee does not make the payment within thirty (30) days, the County may withdraw the amount thereof from the performance bond.
- e. Notification. Within thirty (30) days of a withdrawal from the performance bond, the County shall send to the Grantee, by certified mail, return receipt requested, written notification of the amount, date and purpose of such withdrawal.
- f. Replenishment of performance bond. No later than thirty (30) days after receipt by the Grantee of certified mail notification of a withdrawal pursuant to paragraph (e) above, the Grantee shall replenish the performance bond in an amount equal to the amount so withdrawn. Failure to make timely replenishment of such amount to the performance bond shall constitute a substantial violation of this Franchise Agreement.
- g. Non-renewal, alteration or cancellation of performance bond. The performance bond required herein shall be in a form satisfactory to the County and shall require thirty (30) days written notice of any non-renewal, alteration or cancellation to both the County and the Grantee. The Grantee shall, in the event of any such cancellation notice, obtain, pay all premium for, and file with the County, written evidence of the issuance of a replacement bond within thirty (30) days following receipt by the County or the Grantee of any notice of cancellation.

SECTION 22. LIABILITY AND INSURANCE

- (a) As of the effective date of this Franchise Agreement, the Grantee shall file with the County a certificate of insurance and thereafter maintain in full force and effect at all times for the full term of this Franchise Agreement, at the expense of the Grantee, comprehensive general liability insurance policy, naming the County as additional named insured, written by a company authorized to do business in the State of North Carolina, protecting the County against liability for loss or bodily injury and property damage occasioned by the installation, removal, maintenance or operation of the cable communications system by the Grantee in the following minimum amounts:
 - (1) One million dollars (\$1,000,000.00) combined single limit, bodily injury and for the property damage in any one (1) occurrence;
 - (2) One million dollars (\$1,000,000.00) aggregate.

- (b) The Grantee shall also file with the County a certificate of insurance for a comprehensive automobile liability policy written by a company authorized to do business in the State of North Carolina, for all owned, non-owned, hired and leased vehicles operated by the Grantee, with limits no less than one million dollars (\$1,000,000.00) each accident, single limit, bodily injury and property damage combined, or evidence of self-insurance.
- (c) Worker's compensation and employer's liability insurance. The Grantee shall maintain, and by its acceptance of any franchise granted hereunder specifically agrees that it will maintain throughout the term of this Franchise Agreement, worker's compensation and employer's liability, valid in the state, in the minimum amount of the statutory limit for worker's compensation, and one million dollars (\$1,000,000.00) for employer's liability.
- (d) All liability insurance required in this section shall be kept in full force and effect by the Grantee during the existence of this Franchise Agreement and until after the removal of all poles, wires, cables, underground conduits, manholes, and other conductors and fixtures installed by the Grantee incident to the maintenance and operation of the cable communications system as defined in this Franchise Agreement. All policies shall be endorsed to give the County of Duplin thirty (30) days written notice of the intent to amend, cancel or non-renewal by either the Grantee or the insuring company.
- (e) Liability and insurance. The Grantee agrees and binds itself to indemnify, keep and hold free and harmless the County from any and all liability or costs, including attorneys' fees and courts costs pertaining thereto, arising from any activities herein authorized, in that the Grantee shall pay, and by its acceptance of the Franchise Agreement the Grantee specifically agrees that it will pay, all damages and penalties which the County may be legally required to pay as a result of the Grantee's exercise of this Franchise Agreement. These damages or penalties shall include but shall not be limited to damages arising out of copyright infringements and all other damages arising out of installation, operation or maintenance of the cable communications system authorized herein, whether or not any act or omission complained of is authorized, allowed or prohibited by this Franchise Agreement. In order for the County to assert its rights hereunder, the County must:
- (1) Notify the Grantee promptly of any claim or legal proceedings which gives rise to such right;
 - (2) Afford the Grantee an opportunity to participate in and fully control any compromise, settlement or other resolution or disposition of such claim or proceeding;
 - (3) Cooperate with the reasonable request of the Grantee; and
 - (4) Act reasonably under all circumstances so as to protect the Grantee against liability and refrain from compromising any Grantee's rights or defenses.

SECTION 23. AUTHORITY TO CONSTRUCT

- (a) Authorization to commence new construction and application procedures. If the Grantee plans to construct new plant within the County, Grantee shall apply for all necessary licenses from the state, county or other necessary parties, such as the railroads, for crossing under or over their property. In any event, all necessary applications for permits, licenses, certificates and authorizations shall be applied for in a timely fashion so that such filing and processing shall not interfere with or cause delay with the construction schedule. Failure to make such timely application and timely filing shall constitute a substantial violation of this Franchise Agreement.
- (b) Power to contract. Upon grant of the Franchise Agreement and in order to construct, operate and maintain a cable system in the County, the Grantee may enter into contracts with public utility companies or any other owner or lessee of any poles or underground areas located within or without the county; obtain rights-of-way permits from appropriate county, state and federal

officials necessary to cross or otherwise use highways or roads under their respective jurisdiction; obtain permission from the Federal Aviation Administration to erect and maintain antennas; and obtain whatever other permits a county, state or federal agency may require.

SECTION 24 CONSTRUCTION AND TECHNICAL STANDARDS

- (a) Compliance with construction and technical standards. The Grantee shall construct, reconstruct, install, operate and maintain its system in a manner consistent with all applicable laws, ordinances, construction standards, governmental requirements, and FCC technical standards. The system will be designed, constructed, operated and maintained for twenty-four (24) hours-a-day continuous operation.
- (b) State-of-the-Art. The Grantee shall take reasonable steps to construct, install, operate and maintain its system in a manner which is consistent with the state of the art.
- (c) Prior to the erection or installation by the Grantee of any towers or poles for use in connection with the installation, construction, maintenance or operation of the cable communications system under this Franchise Agreement, the Grantee shall first submit to the County or other appropriate parties for approval, concise description of the facilities proposed to be erected or installed, including all information normally required by any laws of that entity.
- (d) Contractor qualifications. Any contractor proposed for work on construction, reconstruction, installation, operation, maintenance and repair of system equipment must be properly licensed under the laws of the state and all local ordinances.
- (e) The County does not guarantee the accuracy of any maps showing the horizontal or vertical location of existing facilities. In public rights-of-way, where necessary, the location may be verified by excavation.
- (f) Construction, reconstruction, installation, operation and maintenance of the cable communications system shall be performed in an orderly and workmanlike manner in accordance with then-current technological standards. All cables and wires shall be installed, where possible, parallel with electric and telephone lines. Multiple cable configurations shall be arranged in parallel and bundled with due respect for engineering considerations.
- (g) Grantee shall at all times comply with:
 - (1) Occupational Safety and Health Administration (OSHA);
 - (2) National Electric Code;
 - (3) National Electrical Safety Code (NESC);
 - (4) National Cable Television Standards Code;
 - (5) AT&T Manual of Construction Procedures (Blue Book);
 - (6) Bell Telephone Systems Code of Pole Line Construction;
 - (7) All federal, state and municipal construction requirements including FCC rules and regulations for utility construction and requirements;
 - (8) All building and zoning codes, and all land use restrictions as the same exist or may be amended hereafter.
- (h) Any antenna structure used in the cable communications system shall comply with construction, marking, and lighting of antenna structure standards as required by federal and state laws and Franchise Agreement.

- (i) All worker facilities, conditions and procedures that are used during construction, installation, operation and maintenance of the cable system shall comply with the standards of the Occupational Safety and Health Administration.
- (j) The Grantee shall maintain equipment capable of providing portable standby power for a minimum of twenty-four (24) hours for the headend and two (2) hours for any one power supply.
- (k) The Grantee shall have all utility lines located before digging with the public rights-of-way.

SECTION 25. EXTENSION OF SERVICE

- (a) The Grantee shall provide service to all persons requesting such within any area of the County, contiguous to Grantee's existing system, as long as it is "economically feasible" to do so. As used herein "economically feasible" shall mean that there area at least twenty (20) occupied homes per mile and shall be based upon a measurement taken from the outermost extremity of the potential extension area back through and measured along the shortest usable path of available streets, alleys, public rights of ways and public places now laid out or dedicated for such, inclusive of limited access and private easements.
- (b) Grantee shall offer cable service to all areas within the unincorporated limits of County, except Grantee has the option to not build cable plant in an area served by another cable operator.
- (c) In areas with less than twenty (20) homes per proposed cable mile, Grantee shall offer a cost-sharing arrangement to residents. Grantee shall bear its pro rata share of the current construction costs based upon the actual number of homes per mile. The cost-sharing arrangement shall consist of the following:
 - (1) On the request of a subscriber desiring service, Grantee shall prepare, at its cost, an engineering survey and cost analysis to determine the cost of the plant extension required to provide service to the subscriber from the closet usable point on the cable system.
 - (2) The cost of construction shall be allocated based on the following formula: If a request for extension into a residential area required the construction of cable plant, which does not pass at least twenty (20) homes per mile, Grantee and subscribers will each bear their proportionate share of construction costs. For example, if there are ten (10) dwelling units per mile, the Grantee's share will equal 10/20th of the construction cost. The remaining cost will be shared equally by each subscriber in the area to be constructed. The line extension formula shall also be applied to a portion of a mile meeting proportionate density requirements. The cost sharing described above would be utilized if there were less than the proportionate share of dwelling units per the portion of a mile needed to reach the dwelling units.
 - (3) Should additional subscribers request cable television service, subscribers utilizing the cost-sharing plan for extension shall be reimbursed pro-rata for their contribution or a proportional share thereof. In such case, the pro-rata shares shall be recalculated and each new subscriber shall pay the new pro-rata share, and all prior subscribers shall receive refunds. In any event, at the end of twenty-four (24) months from completion of the project, the subscribers are no longer eligible for refunds, and the amounts paid in construction costs will be credited to the plant account of the Grantee.
 - (4) The average cost of the line extension shall be recalculated annually and based upon the current costs of labor and material.
- (d) Each person contributing toward the direct cost of the line extension agrees to waive all ownership interest in the line extension. All equipment and components of the line extension, including, but not limited to, cable wire, electronics and pedestals shall at all times remain the exclusive property of the Grantee.

- (e) Grantee shall install a CATV service drop to subscribers of the home requesting such. The cost of the service line installation will be at the rate specified in Grantee's prevailing schedule of installation charges.
- (f) Any subscriber who requests that their cable be buried from Grantee's service pole to the subscriber's home and who would normally be entitled to aerial service may be charged the current hourly service charge to underground the cable.

SECTION 26. USE OF STREETS

- (a) All installations shall be underground in those areas of the County where public utilities providing telephone and electric service are underground at the time of installation. In areas where either telephone or electric utility facilities are above ground at the time of installation, the Grantee may install its device above ground, provided that, at such time as those facilities are required to be placed underground by the County or are placed underground, the Grantee shall likewise place its services underground without additional cost to the County or to the individual subscriber so served. Where not otherwise required to be placed underground by this Franchise Agreement the Grantee's system shall be located underground at the request of the property owner, provided that the cost of the underground installation shall be borne by the property owner making the request. All new cable passing under the roadway shall be installed in conduit no less than eighteen (18) inches from the top of the conduit to the surface of the ground or as per local, state or federal mandates.
- (b) Interference with persons, improvements, public and private property and utilities. The Grantee's system and facilities, including poles, lines, equipment on all appurtenances, shall be located, erected and maintained so that such facilities shall:
 - (1) Not endanger or interfere with the health, safety or lives of persons;
 - (2) Not interfere with any improvements the county or state may deem proper to make;
 - (3) Not interfere with the free and proper use of public streets, alleys, bridges, easements or other public ways, places or property, except to the minimum extent possible during actual construction of repair;
 - (4) Not interfere with the rights and reasonable convenience of private property owners, except to the minimum extent possible during actual construction or repair, and
 - (5) Not obstruct, hinder or interfere with any gas, electric, water and telephone facilities or other utilities located within the county.
- (c) Restoration to prior condition. In case of any disturbance of pavement, sidewalk, driveway or other surfacing, the Grantee shall, at its own cost and expense and in a manner approved by the County, replace and restore all paving, sidewalk, driveway, landscaping or surface of any street or alley disturbed, and in a good workmanlike, timely manner to a condition as good as that which prevailed before said work and in accordance with standards for such work set by the County. Such restoration shall be undertaken within no more than ten (10) days after the disturbance is incurred and shall be completed as soon as possible thereafter, weather permitting.
- (d) Relocation of the facilities. In the event that at any time during the period of this Franchise Agreement, the county or state shall lawfully elect to site or change the grade of any street, alley or other public ways, the Grantee, upon reasonable notice by the proper authority, shall remove or relocate as necessary its pole, wires, cables, underground conduits, manholes and the fixtures at its own expense.
- (e) Cooperation with building movers. The Grantee shall, on the request of any person holding a building moving permit issued by the County Building Inspector, temporarily raise or lower its wire to permit the moving of building. The expense of such temporary removal, raising or

lowering of wires shall be paid by the person requesting the same, and the Grantee shall have the authority to require such payment in advance. The Grantee shall be given not less fifteen (15) working days advance notice to arrange for such temporary wire changes.

- (f) Tree trimming. The Grantee shall have the authority, except when in conflict with existing county ordinance or other utility agreements, to trim any trees upon and overhanging public rights-of-way so as to prevent the branches of such trees from coming in contact with system facilities, except that at the option of the county, such trimming may be done by it or under its supervision and direction, at the expense of the Grantee.
- (g) Easements. All necessary easements over and under private property shall be arranged for by the Grantee.
- (h) Work within rights-of-way. Consistent with any state policy for temporary street closings, the closing of any part of a publicly maintained street or right-of-way must be approved by the appropriate agency.
- (i) Removal of county property. No county property is to be removed from a right-of-way, including signing on utility poles, without proper permission from the County.

SECTION 27. ERECTION, REMOVAL AND COMMON USE OF POLES

- (a) No poles shall be erected by the Grantee without prior approval of the County, in so far as the County has the legal authority to do so, with regard to location, height, types and other pertinent aspect. However, no location of any pole or wire-holding structure of the Grantee shall give rise to a vested interest, and such poles and structures shall be removed or modified by the Grantee at its own expense whenever the County determines that the public convenience would be enhanced thereby.
- (b) Where poles are already in existence for use in serving the county are available for use by the Grantee, the County may require the Grantee to use such poles and structures, if it determines that the public convenience would be enhanced thereby and the terms of the use available to the Grantee are just and reasonable.
- (c) Where a public utility serving the county desires to make use of the poles or other wire-holding structures of the Grantee, but agreement thereof with the Grantee cannot be reached, the County may require the Grantee to permit such use for such consideration and upon such terms as the County shall determine to be just and reasonable, if the County determines that the use would enhance the public convenience and would not unduly interfere with the Grantee's operation.

SECTION 28. TESTS AND PERFORMANCE MONITORING

The Grantee will comply with all FCC rules and the Act regarding tests and performance monitoring of its cable communications system. Grantee will provide copies of its results to the County, upon reasonable notice, and in the absence of such rules the Grantee shall comply with the following:

- (a) Such tests shall be performed by or under the supervision of a qualified registered professional engineer or an engineer with proper training and experience. A copy of said engineer's report shall be submitted to the County, upon reasonable notice, describing test results, instrumentation, calibration and test procedures and the qualification of the engineer responsible for the tests.
- (b) System monitor test points shall be established at or near the output of the last amplifier in the longest feeder line, at or near trunk line extremities. Such periodic tests shall be made at the test points as shall be required by the FCC and/or this Franchise Agreement.
- (c) The County shall have the right to employ, at the County's expense, qualified consultants, if necessary or desirable, to assist in the administration of this or any other section of this Franchise Agreement.

SECTION 29. SERVICES TO SUBSCRIBERS AND USERS

- (a) Should the grantee desire to change the selection of programs or services offered on any of its tiers, it shall use its good faith efforts to maintain the mix, quality and level of services provided over the system. Any such change in programs or services offered shall comply with the FCC rules and regulations and shall be reported to the subscribers at least thirty (30) days prior to the proposed implementation. The Grantee shall use its good faith efforts to ensure diversity of programming.
- (1) A basic service tier shall be offered to subscribers throughout the term of this Franchise Agreement.
 - (2) The Grantee shall provide, when standard installation is possible, basic cable and cable programming service, super station package and one (1) free outlet to each of the following public facilities located within one hundred eighty-eight (188) feet of existing service lines of the Grantee: all courthouses, libraries, police and fire stations, municipal office buildings and schools. The Grantee shall notify the County in writing when standard installation is not possible. No monthly service fee shall be charged for the first outlet installed. The Grantee shall provide service to new construction hereafter for the above public facilities, provided they are within one hundred eighty-eight (188) feet of the existing service lines of the Grantee. Installation costs and fees for additional outlets and equipment shall be charged to the County at the Grantee's prevailing rates.
- (b) The Grantee shall, when technical feasible, provide and maintain, at a minimum, at least one noncommercial community channel available on a first-come, first-served, nondiscriminatory basis, at no cost to users.
- (c) Community Channel.
- (1) Grantee, or its successor, shall provide a Community Channel to the County, consisting of educational and governmental programming and local origination programming. At such time as demand requires a separate channel for education and a separate channel for government, both parties to this Agreement agree to the combination of the channels. The determination on the need for separate channels will be mutually agreed upon by both parties.
 - (2) Genesis, will provide necessary facilities, personnel and administrative support for operation of the Community Channel.
 - (3) Grantee will continue, as reasonably feasible, and in conjunction with the County staff, to educate the citizens of the County as to the benefits of community programming.
 - (4) Grantee shall cooperate with the County staff in providing promotional announcements on the availability of community programming.
 - (5) Grantee shall cooperate with school and government officials to maximize use and benefit from educational and governmental programming.
- (d) System. Grantee shall provide a 450 MHz system capable of providing state-of-the-art services to subscribers. Any system additions will be placed into service at 550 MHz.

SECTION 30. INSTALLATIONS, CONNECTIONS, OTHER GRANTEE SERVICES

- (a) Standard installation. Standard installation shall consist of a subscriber connection not exceeding one hundred and eighty eight (188) feet from a single point or pedestal attachment to the customer's residence. Service in excess of one hundred eighty eight (188) feet or of a nonstandard nature will be billed to the requester. The desire of the subscriber as to the point of entry into the residence shall be observed whenever possible, subject to the Grantee's good-faith judgment in

regard to, but limited to, safety, efficiency and system performance. The Grantee shall use due care in the process of installation and shall repair any damage to the subscriber's property caused by said installation. Such restoration shall be undertaken within a reasonable time after the damage is incurred and shall be completed as soon as possible thereafter, said time not to exceed fifteen (15) days, weather permitting.

- (b) Antennas and antenna switches. The Grantee shall not, as a condition to providing cable communications service, require any subscriber or potential subscriber to remove any existing antenna structures for the receipt of over-the-air television signals.
- (c) Lockout devices. The Grantee shall provide the subscribers information concerning the availability of a lockout device for use by a subscriber. The Grantee reserves the right to require a reasonable deposit for the use of this device. The lockout device described herein shall be made available to all subscribers requesting it, beginning with the passage of this Franchise Agreement.
- (d) Reconnection. The Grantee shall restore service to customers wishing restoration of service, provided the customer shall first satisfy any previous obligations owed. Further, any such reconnection may be on terms and conditions established by the Grantee.
- (e) Free disconnection. Subscribers shall have the right to have cable service disconnected without charge therefor, notwithstanding transfer fees currently in effect. Such disconnection shall be made as soon as practical. A pro-rata refund of unused service charges shall be paid to the customer within forty-five (45) days from the date of termination of service.
- (f) Delinquent accounts. The Grantee shall use its good faith efforts to collect delinquent subscriber accounts. Whenever possible, the Grantee shall provide the customer with at least seven (7) working days written notice prior to disconnection.
- (g) Emergency use of facilities. The Grantee shall provide emergency alert capability pursuant to the 1992 Cable Act § 16 (b), Communications Act of 1934 § 624 (g), 47 U.S.C. 544 (g).

SECTION 31. CUSTOMER SERVICES

Grantee will meet the customer service as established in Appendix A, as may be amended from time-to-time.

SECTION 32. PROTECTION OF SUBSCRIBER PRIVACY

The Grantee shall comply with all present and future FCC rules and regulations, as applicable, regarding subscriber privacy, and in the absence of such the Grantee shall comply with the following:

- (a) At the time of initial installation of any cable service or other service to a subscriber, and at least once a year thereafter, the Grantee shall provide notice, in the form of a separate written statement to each subscriber, which clearly and conspicuously informs the subscriber of:
 - (1) The nature of personally identifiable information collected or to be collected with respect to the subscriber and the nature of the use of such information;
 - (2) The nature, frequency and purpose of any disclosure which may be made of such information, including an identification of the types of persons to whom the disclosure may be made;
 - (3) The period during which such information might be maintained by the cable operator;
 - (4) The times and places at which the subscriber may have access to such information in accordance with this Franchise Agreement and other applicable federal, state and local law.

- (b) The Grantee shall not use the cable system to collect personally identifiable information concerning any subscriber, except as necessary to render a cable service or other service provided by the cable operator to the subscriber.
- (c) The Grantee shall not, without the specific written or electronic consent of the subscribers concerned, sell, disclose or otherwise make available to any party any list of the names and addresses of individual subscribers, any list which identifies the viewing habits of individual subscribers, or any personal data, social security number, income and other data the Grantee may have on file about individual subscribers, except as necessary to render or conduct a legitimate business activity related to a cable service or other service provided by the cable operator to the subscriber, or pursuant to a court order, or if the Grantee has provided the subscriber the opportunity to prohibit or limit such disclosure and the disclosure does not reveal directly or indirectly the extent of viewing or other use by the subscriber of a cable service or other service provided by the cable operator, or the nature of any transaction made by the subscriber over the cable system.
- (d) Each subscriber shall be provided access to all personally identifiable information regarding such subscriber that the Grantee collects or maintains. Such information shall be made available to the subscriber at reasonable times and at a convenient place designated by the Grantee. The subscriber shall be provided reasonable opportunity to correct any error in such information.

SECTION 33. RIGHTS OF INDIVIDUALS

- (a) **Nondiscrimination required.** The Grantee shall not deny service, deny access, or otherwise discriminate against subscribers, channel users or general citizens on the basis of race, color religion, national origin, age, sex, or physical or mental handicaps, provided the subscriber shall pay all applicable fees for the service desired. The Grantee shall comply at all times with all applicable federal, state and local laws and this Franchise Agreement relating to nondiscrimination which is hereby incorporated and made part of this Franchise Agreement by reference.
- (b) **Information accessibility.**
 - (1) Each individual shall have the right to information concerning the provision of this Franchise Agreement and the rules formulated pursuant to it by the Board, agent or entity created hereunder.
 - (2) Each document required to be maintained, prepared, filed or submitted under the provisions of this Franchise Agreement or pursuant to it, except those required and designated confidential by the Grantee or the FCC, shall be a public document, available for public inspection and copying at the requester's expense, at the office of the Grantee during normal business hours. The charge for such copying shall approximate the cost of mechanical reproduction and shall not include a charge for labor.
 - (3) Each individual shall have the right to representation on such boards, commissions, agencies or other entities created hereunder or hereafter by the Board pursuant to the provisions of this Franchise Agreement. Such representation by citizens by the county shall be in the manner and form as the Board may determine.

SECTION 34. REPORTS REQUIRED

The Grantee shall file with the County, when requested and upon reasonable notice:

- (a) **Regulatory communications.** All reports required by the Federal Communications Commission (FCC), including, but not limited to, annual proof of performance tests and results.
- (b) **Facilities report.** An annual report setting forth the physical miles of plant construction and plant in operation during the fiscal year.

- (c) Grantee rules. The Grantee's schedule of charges, contract or application forms of regular subscriber policy regarding the processing of subscriber complaints, delinquent subscriber disconnect or reconnect procedures and any other terms and conditions adopted as the Grantee's policy in connection with its system subscribers.
- (d) Proof of bonds and insurance. The Grantee shall submit to the County the required performance bond, or a certified copy thereof, and written evidence of payment of required premium, and certification of policies of insurance required by this Franchise Agreement, and written notice of payment of required premium.
- (e) Financial reports. The financial reports, specified herein, for the Grantee shall be submitted annually to the County.
- (f) Operational reports. The following system and operational reports shall be submitted to the County, upon written notification, and after reasonable notification:
 - (1) A report on the system's technical tests and measurements as set forth in the Act;
 - (2) A summary of the previous year's activities, including, but not limited to, new services offered.

SECTION 35. RECORDS REQUIRED

- (a) The Grantee shall at all times maintain and make available to the county upon written notice and reasonable request, a full and complete set of plans, records and "as-built" maps showing the exact location of all cable communication system equipment installed or in use in the County, exclusive of subscriber service drops. These plans, records and "as built maps" may be treated as proprietary information and may be maintained and viewed at the cable operator's office.
- (b) Other records. The County may impose reasonable requests for additional information, records and documents from time to time, as may be reasonably necessary to monitor or ascertain the Grantee's compliance with this Franchise Agreement.

SECTION 36. REMEDIES

Should there be any unresolved issues pertaining to the performance of the Grantee between the County and Grantee, the Grantee may recover material and liquidated damages under the provisions of this Franchise Agreement, as well as all provisions of the Act.

- (a) Schedule of liquidated damages. Because Franchisee's failure to comply with certain material provisions of this Agreement will result in injury to the County or to subscribers, and because it will be difficult to estimate the extent of such injury, the County and Franchisee hereby agree that liquidated damages and penalties stated below represent both parties' best estimate of the damages resulting from the specified injury. To maintain that estimate, the parties agree that the liquidated damage amount are in 1996 dollars and shall be increased each year by the increase in the US County Average of the Consumer Price Index, if inflation from the date of this Agreement has exceeded twenty (20) percent.
- (b) Violations. For the violation of any of the following, the County will notify Franchisee in writing of the violation. The County shall provide Franchisee with detailed written notice of any Agreement violation upon which it proposes to take action, and a ninety (90) day period within which Franchisee may demonstrate that a violation does not exist or to cure an alleged violation or, if the violation cannot be corrected in ninety (90) days, to submit a plan satisfactory to the County to correct the violation. If an alleged violation is proven to exist, and no cure or action on a plan acceptable to the County has been received by the County within ninety (90) days, such liquidated damages shall be chargeable to the performance bond as set forth in this Agreement if not tendered by Franchisee within thirty (30) days of notification by the County. Franchisee may petition to the County Board for relief for just cause. The imposition of liquidated damages shall

not preclude the county from exercising the other enforcement provisions of this Agreement, including revocation, or other statutory or judicially imposed penalties. No penalty shall be assessed if the violation occurs without fault of the Grantee or occurs as a result of circumstances beyond its control. Liquidated damages may be imposed as follows:

- (1) For failure to materially complete construction or extend service in accordance with this Agreement: \$100.00 for each day the violation continues;
- (2) For failure to materially comply with requirements for Community Channel: \$100.00 for each day the violation continues;
- (3) For transferring the Agreement without approval: \$500.00 for each day the violation continues;
- (4) For violation of the customer service standards measured on an individual basis: \$50.00 per violation. For violations of applicable customer service standards for which the operator's compliance is measured in annual terms of its response to individual customers, \$1,500.00 for any period during which it fails to meet applicable performance standards.
- (5) For failure to provide data, documents, record or reports or any other information required by this Franchise Agreement: \$50.00 for each day the violation continues;
- (6) For failure to test analyze and report on the performance of the system following a request by the County: \$50.00 for each day the violation continues.

SECTION 37. WAIVER

The failure of the County at any time to require performance by Genesis of any provision hereof shall in no way affect the right of the County hereafter to enforce the same. Nor shall the waiver by the County of any breach of any provision hereof be taken to be a waiver of any succeeding breach of such provision, or as a waiver of the provision itself.

SECTION 38. CUMULATIVE PROVISIONS

The rights and remedies reserved to the County by this Franchise Agreement are cumulative and shall be in addition to and not in derogation of any other rights or remedies which the County may have with respect to the subject matter of this Franchise Agreement, and a waiver thereof at any time shall have no effect on the enforcement of such rights or remedies at a future time.

SECTION 39. CAPTIONS

Captions to sections throughout this Franchise Agreement are solely to facilitate the reading and reference to the sections and provisions of this Franchise Agreement. Such captions shall not affect the meaning or interpretation of this Franchise Agreement.

SECTION 40. NO JOINT VENTURE

Nothing herein shall be deemed to create a joint venture or principle-agent relationship between the parties, and neither party is authorized to, nor shall either party act toward third persons or the public, in any manner which would indicate any such relationship with the other.

SECTION 41. ENTIRE AGREEMENT

This agreement and all attachments hereto, as incorporated herein, represent the entire understanding and agreement between the parties hereto with respect to the subject matter hereof, supersede all prior oral negotiations between the parties, and can be amended, supplemented, modified, or changed only by a written document executed by the parties.

SECTION 42. FORCE MAJEURE

Notwithstanding any provision of the contrary contained herein, neither the County nor the Grantee shall be held liable for or suffer any penalty or detriment for, any failure to comply with any provision of this Franchise Agreement if such failure to comply accrues from any act of God or any other condition not within the reasonable control of such non-complying person; provided, however, that this provision shall not apply to Grantee's financial obligations hereunder.

SECTION 43. NOTICES

All notices and other communications hereunder shall be in writing and shall be deemed to have been given on the date of actual delivery, by registered or certified mail, return receipt requested, postage prepaid. The address for service of notice to the Grantee shall be addressed to Genesis Cable, 1501 Johnson Ferry Road, Suite 220, Marietta, GA. 30062. Notices to the County shall be addressed to the County Clerk, County of Duplin, PO Box 910, Kenansville, North Carolina 28349. Either the County or the Grantee may change address to which all notices shall be sent by addressing a notice of such change in the manner provided in this section.

ADOPTED AND EFFECTIVE THIS THE 8 TH DAY SEPTEMBER 1998, after being introduced, read and adopted during the two regularly scheduled meetings of August 17, 1998 and September 8, 1998.

FOR THE COUNTY OF DUPLIN

County Seal



Chairman

ATTEST:

Judy C. Brown
County Clerk
Deputy

STATE OF North Carolina
COUNTY OF Duplin

I, Pamela L. Preest, a Notary Public for said County and State, do hereby certify that Judy C. Brown, Deputy Clerk personally appeared before me this day, and being duly sworn, acknowledged the execution of the foregoing instrument.

Witness my hand and official seal, this the 9th day of September, 1998.

Pamela L. Preest
Notary Public

My Commission Expires: February 15, 192003

Approved as to form and legal sufficiency:

County Attorney

FOR GENESIS CABLE COMMUNICATIONS, L. L. C:

BY: _____
Joe Stroud

DATE: _____

ATTEST:

BY: _____

TITLE: _____

DATE: _____

STATE OF _____

COUNTY OF _____

I, _____, a Notary Public for said County and State, do hereby certify that
_____ personally appeared before me this day, and being duly sworn,
acknowledged the execution of the foregoing instrument.

Witness my hand and official seal, this the _____ day of _____, 19__.

Notary Public

My Commission Expires: _____, 19__

APPENDIX A

Customer Service Standards

1. Subscriber Privacy

In accordance with the Act, the company shall abide by the provisions of the Act, and no less than annually, provide notice in the form of a separate written statement to subscribers the provision of the Act.

2. Employee Identification

When calling in person, on subscribers or other residents, all employees or authorized representatives of the Grantee, including subcontractors, are required to display an employee identification card with their name, photograph and signature, and a telephone number that can be used for verification of the representative's capacity with the Grantee. All vehicles, including subcontractors, shall display the name of the cable-telecommunication company.

3. Office and Telephone Availability

- A. Knowledgeable, qualified company representatives shall be available to respond to customer telephone inquiries Monday through Friday during normal business hours. Additionally, based on community needs, system shall staff telephone for supplemental hours on weekdays and/or weekends.
- B. Under normal operating conditions, telephone answer time by a customer service representative, including wait time required to transfer the call, shall not exceed 30 seconds. This standard shall be met no less than seventy-five percent of the time measured on an annual basis.
- C. Under normal operating conditions, the customer shall receive a busy signal less than three percent of the total time that the cable office is open for business. This standard shall be met no less than seventy-five percent of the time measured on an annual basis.
- D. Customer service center and bill payment locations shall be open for transactions Monday through Friday during normal business hours.
- E. Franchisee shall be responsible for adopting, publishing and implementing subscriber complaint procedures. The procedures shall be designed to resolve subscriber complaints in a timely and satisfactory manner; to develop sensitivity and responsiveness to subscriber needs on the part of the franchise management; and to improve the quality and dependability of services to subscribers by the Grantee. Established Complaint Procedures shall include specific provisions for registering subscriber repair service complaints received by telephone twenty-four (24) hours each day and seven (7) days each week; for permitting subscriber repair service complaints to be received at the Grantee's business office from 8:00 a.m. until 5:00 p.m. on Monday through Friday of each week; and the address of the Grantee's business office.

4. Installations, Outage and Service Calls

Under normal operating conditions, each of the following standards shall be met no less than seventy-five percent of the time measured on an annual basis.

- A. Standard installation, excluding underground, shall be performed within seven business days after an order has been placed. "Standard" installations are up to 188 feet from the existing distribution system. This standard shall be met seventy-five percent of the time.
- B. Excluding those situations beyond the control of the Grantee, the Grantee shall respond to service interruptions promptly and no later than 24 hours after the interruption becomes known to the Grantee. Grantee must begin actions to correct service problems unrelated to outages the next business day after notification to the Grantee of the service problem.
- C. The appointment window alternatives for installations, service calls and other installation activities shall be (a) morning, (b) afternoon, or (c) all day during normal business hours. Additionally, based upon community needs, the Grantee shall schedule supplemental hours during which appointments can be set.
- D. If, at any time, an installer or technician is running late, an attempt to contact the customer shall be made and the appointment reschedule as necessary at a time which is convenient for the customer.
- E. The Grantee shall render efficient service, make repairs promptly and interrupt service only for good cause and for the shortest time possible.
- F. Grantee shall receive customer calls twenty-four (24) hours per day and respond to single customer outage complaint calls until 7:00 p.m. on normal business days. After 7:00 p.m. on any day, trained technicians shall respond to calls if three (3) or more complaints are received by subscribers served in a common area.

5. Communications, Statements, Refunds and Credits

- A. The cable company shall provide written information in each of the following areas at the time of installation and at any future time upon request (this standard shall be met no less than ninety-five percent of the time measured on an annual basis):
 - products and services offered;
 - prices and service options;
 - installation and service policies;
 - how to use the cable service
- B. Statements (billing) shall be clear, concise and understandable. The itemized charges identified on the bill as the total charge for cable service must include all fees and costs.
- C. Refund checks shall be issued promptly, but no later than the earlier of 45 days or the customer's next billing cycle following the resolution of the request, and the return of the equipment supplied by the cable company. This standard shall be measured on an annual basis and shall be met ninety-five percent of the time.
- D. Customers shall be notified in writing a minimum of 30 days in advance of any rate or channel change, provided the change is within the control of the Grantee. This performance shall be measured on an individual basis and shall be met one hundred percent of the time.
- E. Outage credit granted to subscribers as follows:

Should Grantee fail to correct a service problem, pertaining to a service interruption, within 24 hours after having been provided notice, upon request of the subscriber, Grantee shall credit 1/30th of the monthly charge for the affected tier or premium

service program to the subscriber for each 24-hour period or fraction thereof following the first 24-hour period during which the subscriber experiences reduced service. This performance is measured on an individual basis.

6. Complaint – Appeals

- A. Upon notification by a subscriber of an unresolved complaint, the County Manager shall determine the facts of the complaint by obtaining information from the subscriber and this Franchise Agreement; and shall act to resolve the complaint in a manner consistent with the authority granted the County Manager by the Board.
- B. The County reserves the right to regulate the rates to the maximum extent allowed by law, to include the filing of complaints at the FCC, as may be permitted by applicable law.

DUPLIN COUNTY
ADULT BUSINESS
ORDINANCE
Effective 08/01/98

Sec. 1-101. Authority and jurisdiction.

The provisions of this article are adopted by the County Board of Commissioners under authority granted by the General Assembly of the State of North Carolina, in Chapter 153 A, (45-50) and further Article VI of Chapter 153 A, Section 135 of the General Statutes. From and after the effective date hereof, this article shall apply to every building, lot, tract, or parcel of land within the county exclusive of the jurisdiction of any incorporated municipality (as herein stated).

Sec. 2-201. Purpose.

For the purpose of promoting the health, safety, moral and general welfare of the citizenry of Duplin County, this article is adopted by the Board of Commissioners to regulate adult and sexually oriented businesses, as hereby defined, located in the County of Duplin. Further the regulations of this article have been made with reasonable consideration, among other things, as to the character of the county and its areas and their peculiar suitability for these businesses.

Sec. 3-301. Abrogation.

These regulations shall not repeal, impair, abrogate or interfere with any existing easements, covenants, deed restrictions, setback requirements, rules, definitions, regulations previously adopted pursuant to law in any district in Duplin County. However, where these regulations impose greater restrictions, the provisions of these regulations shall govern.

Sec 4-401. Definitions.

For the purpose of this article, the following definitions apply:

Adult arcade means an establishment where, for any form of consideration, one (1) or more motion picture projectors, slide projectors or similar machines for viewing by five (5) or fewer persons each are used to show films, motion pictures, video cassettes, slides or other photographic reproductions that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas (as defined hereinafter).

Adult bookstore means an establishment that has (over twenty-five (25) percent of total retail space) or 25% of its stock-in-trade and offers for rent or sale, for any consideration any one or more of the following: 1) books, magazines, periodicals, or other printed mater; or photographs, films, motion pictures, video cassettes, slides or other visual representations that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas; or 2) instruments, devises or paraphernalia that are designed for use in connection with specified sexual activities.

Adult business means any business activity, club or other establishment which permits its employees, members, patrons or guests on its premises to exhibit any specified anatomical areas before any other person or persons. This definition would not include Hotels, Motels, or places of temporary lodging; not would it include sports clubs, exercise spas, or places which prove as an ancillary use public showers.

Adult motion picture theater means an establishment where, for any form of consideration, films motion pictures, video cassettes, slides, or similar photographic reproductions are shown, and in which a substantial portion twenty-five (25) percent of the total presentation time is devoted to the showing of material characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas.

Adult theater means a theater, concert hall, auditorium or similar establishment characterized by (activities featuring) the exposure of specified anatomical areas or by specified sexual activities.

Massage mean any manipulation of body muscle or tissue by rubbing, stroking, kneading or tapping, by hand or mechanical device.

Massage business means any establishment or business wherein massage is practiced, including establishments commonly known as health clubs, physical culture studios, massage studios or massage parlors.

Sexually oriented business means any business activity, club or other establishment, within which the exhibition, showing, rental or sale of materials distinguished or characterized by an emphasis on material depicting, describing or exhibiting specified anatomical areas or relating to specified sexual activities is permitted. Sexually oriented businesses shall include, but are not limited to: adult arcades, adult bookstores, adult motion picture theaters, adult theaters, and massage parlors, as defined by this article.

Specified anatomical areas means less than completely and opaquely covered human genitals, pubic regions, buttocks and female breasts below a point immediately above the top of the areola.

Specified sexual activities means:

- (1) Human genitals in a state of sexual stimulation or arousal;
- (2) Acts of human masturbation, sexual intercourse, sodomy; or
- (3) Fondling or other erotic touching of human genitals, pubic regions, buttocks or female breasts.

Total retail space mean any space within the structure that is used for the direct sale of merchandise to the public and storage areas for those items.

Sec. 5-501. Scope and provisions of article.

(a) Adult business.

(1) An adult business shall be defined as any business activity, club or other establishment which permits any employee, member, patron or guest on its premises to exhibit any specified anatomical areas before any other person or persons. This definition shall not be construed to include hospitals, clinics, or doctors offices through which anatomical regions may be exposed during routine medical checkups or examinations by trained and certified medical staff.

(2) No adult business shall be permitted in any building:

- a. Located within two thousand (2,000) feet in any direction from a building used as a dwelling.
- b. Located within two thousand (2,000) feet in any direction from a building in which an adult business or a sexually oriented business is located.
- c. Located within two thousand (2,000) feet in any direction from a building used as a church, synagogue or other house of worship.
- d. Located within two thousand (2,000) feet in any direction from a building used as a public school or as a state licensed day care center.
- e. Located within two thousand (2,000) feet in any direction from any lot or parcel on which a public playground, public swimming pool, or public park is located.

(b) Sexually oriented business

- (1) A sexually oriented business shall be further defined as any business activity, club or other establishment, within which the exhibition, showing, rental or sale of materials distinguished or characterized by an emphasis on material depicting, describing or exhibiting specified sexual activities is permitted. Regulated businesses shall include but are not limited to: adult arcades, adult bookstores, adult motion picture theaters, massage businesses, as defined in section 8-254.
- (2) No sexually oriented business shall be permitted in any building:
- Located within two thousand (2,000) feet in any direction from a building used as a dwelling.
 - Located within two thousand (2,000) feet in any direction from a building in which an adult business or a sexually oriented business is located.
 - Located within two thousand (2,000) feet in any direction from a building used as a church, synagogue or other house of worship.
 - Located within two thousand (2,000) feet in any direction from a building used as a public school or as a state licensed day care center.
 - Located within two thousand (2,000) feet in any direction from any lot or parcel on which a public playground, public swimming pool or public park is located.
- (c) Nonconforming adult business and sexually oriented adult business. Any adult business or sexually oriented business or sexually oriented business lawfully operating on 08\01\96, that is in violation of this article shall be deemed a nonconforming use. Any use which is determined to be nonconforming by application of the provisions of this section shall be permitted to continue **for a period not to exceed two (2) years**. Such nonconforming uses shall not be increased, enlarged, extended or altered, except that the use may be changed to a conforming use. If a nonconforming use is discontinued for a period of one hundred eighty (180) days or more it may not be re-established. If two (2) or more adult businesses or sexually oriented adult businesses are within two thousand (2,000) feet of one another and otherwise in a permissible location, the business which was first established and continually operating at its present location shall be considered the conforming use and the later-established business(es) shall be considered nonconforming. An adult business or sexually oriented adult business lawfully operating as a conforming use shall not be rendered nonconforming by the subsequent location of a dwelling, church, house of worship, day care center, school, play-ground, public swimming pool or public park within two thousand (2,000) feet of the adult business or sexually oriented business.

Sec. 6-601. Interpretation of terms and definitions.

- Words used in the present tense include the future tense.
- Works used in the singular number include the plural and words used in the plural number include the singular.
- The work "person" includes and owner, firm, joint venture, association, organization, partnership, corporation, trust and company, as well as an individual.
- The word "owner" when applied to a building or land, shall include any part owner, joint owner, tenant in common, joint tenant or tenant by entirety of the whole or part of such building or land.
- The work "lot" includes the words "plot" or "parcel".
- The work "building" includes the word "structure".
- The work "shall" is always mandatory and not merely directory.

(h) The words "located", "used" or "occupied", as applied to any land or building, shall be construed to include the words "intended, arranged or designed to be located, used or occupied".

(I) The work "dwelling" shall mean a structure or portion thereof which is used exclusively for human habitation.

Sec. 7-701. Severability.

It is hereby declared to be the intention of the board that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this article is declared unconstitutional or invalid by the valid judgement or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this article, since the same would have been enacted by the board of commissioners without the incorporation in this ordinance of any such unconstitutional or invalid phrase, clause, paragraph, or section.

Sec. 8-801. Enforcement.

This ordinance shall be administered and enforced by the Duplin County Planning Department. Other agencies with responsibilities in the areas of public health, safety and law enforcement are hereby empowered to enforce this ordinance.

(a) Any person who violates this article shall be guilty of a misdemeanor and upon conviction shall be punished in accordance with Section 14-4(a) of the North Carolina General Statutes.

(b) This article may be enforced against any person who is in violation by an appropriate equitable remedy issuing from a court of competent jurisdiction as provided for in Section 153A-123(d) of the North Carolina General Statutes.

(c) This article may be enforced against any person who is in violation by injunction and order of abatement as provided for in Section 153A-123(e) of the North Carolina General Statutes against any person who is in violation.

(d) Each day's continuing violation of this article by any person is a separate and distinct offense.

(e) As used herein, "person" shall include:

(1) The agent in charge of the building, premises, structure or facility.

(2) The owner of the building, premises, structure or facility when such owner know or reasonable should have known the nature of the business located therein.

(3) The owner of the business or the manager of the business.

Sec. 9-901.

Effective Date

This ordinance shall become effective and be in full force from and after the 1st day of August 1996. Adopted by the Duplin County Board of Commissioners this the 15th day of July 1996.

Zettie B. Williams

Chairman

Duplin County Board of Commissioners

ATTEST: James W. Barnhardt, Jr.

Clerk to the Board

THE MOBILE HOME
AND
TRAVEL TRAILER PARK ORDINANCE
OF
DUPLIN COUNTY, NORTH CAROLINA

PREPARED BY
THE DUPLIN COUNTY PLANNING BOARD
AND
THE DUPLIN COUNTY PLANNING DEPARTMENT

Effective December 1, 1998

ENACTMENT

This is an ordinance establishing regulations for mobile home and travel trailer parks within the jurisdiction of Duplin County, North Carolina and providing for the administration enforcement and amendment thereof and repealing the Duplin County Mobile Home and Travel Trailer Park Ordinance effective July 1, 1996.

PREAMBLE

WHEREAS, in the opinion of the Duplin County Board of Commissioners to promote the health, safety, morals, and general welfare of the residents of Duplin County it is necessary and advisable to establish regulations to further the orderly layout of mobile home and travel trailer parks, to secure safety from fire, flood and other dangers, to insure adequate facilities for transportation, parking, water, sewerage, and recreation, and

WHEREAS, the Duplin County Planning Board has developed this ordinance with due consideration and has submitted final recommendations to the Duplin County Commissioners, and

WHEREAS, all applicable requirements of the General Statutes of North Carolina have been met.

NOW, THEREFORE BE IT ORDAINED BY THE COUNTY COMMISSIONERS OF THE COUNTY OF DUPLIN AS FOLLOWS:

ARTICLE I AUTHORITY

SECTION 10

The provisions of this ordinance are adopted under authority granted by North Carolina General Statute 153A-121.

ARTICLE II - JURISDICTION

SECTION 20

This regulation shall govern the establishment of each and every new mobile home and travel trailer park and the alteration or expansion of existing mobile home and travel trailer parks within the jurisdiction of Duplin County. The jurisdiction of Duplin County shall not include the area within the extra territorial jurisdiction of any municipality.

ARTICLE III APPLICABILITYSECTION 30

After the effective date of this ordinance it shall be unlawful for any person to establish, operate or expand a mobile home park or travel trailer park in a manner which is inconsistent with the provisions and requirements of this ordinance

ARTICLE IV TITLESECTION 40

This ordinance shall be known and referred to as The Mobile Home and Travel Trailer Park Ordinance of Duplin County, North Carolina

ARTICLE V INTERPRETATIONSSECTION 50Tense and Number

- (1) The present tense includes the future tense and the future tense includes the present tense.
- (2) The singular number includes the plural number and the plural number includes the singular number.

SECTION 51Word Interpretations

For the purposes of this ordinance the following words shall be interpreted as specified below:

- (1) The word "may" is permissive.
- (2) The words "shall" and "will" are mandatory.
- (3) The word "County" shall mean the County of Duplin, North Carolina.
- (4) The words "Planning Board" shall refer to the Duplin County Planning Board.
- (5) The words "County Commissioners" shall refer to the Duplin County Board of Commissioners.
- (6) The word "person" shall include firm, organization, association, company, trust, corporation or other entity.
- (7) The words "used" or "occupied" includes intended, designed and arranged.

SECTION 52Definitions

For the purposes of this ordinance the following terms shall be defined as specified below. Unless specifically defined, words or phrases used in this ordinance shall be interpreted to give them the meaning they have in common usage and to give this ordinance the most reasonable application.

- (1) Buffer Strip
A 10 foot wide strip of living plant material planted with one or more species of trees and or shrubs at spacings which will provide a

permanent, continuous, year-round, visual screen extending from the surface of the ground to a minimum height of six (6) feet at maturity.

- (2) Construction Permit
A permit issued by the enforcement officer authorizing the mobile home park owner to construct a mobile home park or travel trailer park in accordance with a plan approved by the Planning Board.

- (3) Developer
Any person, firm, trust, partnership, association or corporation engaged in development or proposed development of a mobile home or travel trailer park.

- (4) Enforcement Office
This ordinance shall be enforced by the Duplin County Planning Department.

- (5) Mobile Home

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 8 feet in width. As used in this ordinance, mobile home also means a double wide mobile home which is two or more portable manufactured housing units designed for transportation on their own chassis, which connect on site for placement on a temporary or semi-permanent foundation having a measurement of over 32 feet in length and over 8 feet in width.

- (6) Mobile Home Park
Shall mean and include any place, area or tract of land maintained, offered or used for the parking of more than two mobile homes used or intended to be used for human habitation purposes. Provided further that this Regulation shall not apply where up to three mobile homes are used by an immediate family relationship such as father and son or a relationship considered by the Health Department as equal to this and no rent is charged or paid. Also provided that this ordinance shall not apply to permitted migrant labor camps or subdivisions.

- (7) Mobile Home Lot
Any parcel of ground within a mobile home park designated for the exclusive use of one mobile home.

- (8) Operation Permit
A permit issued by the Enforcement Officer to a mobile home or travel trailer park owner, upon the completion of a mobile home park which authorizes the lease or rental of spaces and operation of the park.

- (9) Permitted Migrant Labor Camp
Mobile homes under valid permit by the Duplin County Health Department and other applicable agencies for use as housing for migrant laborers. Mobile home parks as defined by this ordinance will be subject to the requirements of this ordinance when not under valid permit as a migrant labor camp.

- (10) Site Plan
A plan of a proposed mobile home or travel trailer park, prepared in accordance with this ordinance and presented to the Duplin County Planning Board for approval.

- (11) Travel Trailer
A wheeled vehicular portable structure built on a chassis, designed to be used as a temporary dwelling for travel and/or recreational purposes, having a body width not exceeding 8 feet. This is also intended to include structures mounted on auto or truck bodies commonly referred to as campers.
- (12) Travel Trailer Park
Any site or tract of land upon which is located six or more travel trailer spaces, regardless of whether or not a charge is made for such service.
- (13) Travel Trailer Space
A plot of land within a travel trailer park designed for the accommodation of one travel trailer.
- (14) Variance
A modification of terms of this ordinance where, owing to conditions peculiar to the property, a literal enforcement of this ordinance would result in an unnecessary hardship.
- (15) Screen Fence
A structure of wood, stone, brick, block, or metal from the surface of the ground to a minimum height of 6 feet and of such materials and construction which creates a permanent, continuous, visual barrier.

ARTICLE VI MOBILE HOME PARK DESIGN STANDARDS

SECTION 60

Suitability of Land

Land subject to flooding, improper drainage, erosion, or that is for topographical or other reasons unsuitable for residential use as determined by the Planning Board, shall not be developed for mobile home parks if such use would continue or increase the danger to health, safety, or property unless the hazards can be, and are corrected or avoided. However, the Planning Board, in carrying out this directive, shall not, solely on the grounds of flood danger, prohibit mobile home park development or use if the Duplin County Flood Damage Prevention Ordinance allows such development or use. The Planning Board shall require any known flood plain or flood hazard area to be identified on the site plan, and when the Planning Board deems it advisable, may require the developer to give notice to potential tenants of the flood plain or flood hazard area prior to the tenants legally binding themselves to lease spaces.

SECTION 61

General Requirements

- (1) The owner/operator of a mobile home park shall not sell mobile homes on or within a mobile home park unless the mobile home unit for sale is individually and separately located upon an existing mobile home lot where all design standards have been met and all utilities have been installed as required by this ordinance. An individual mobile home

- owner residing in the park may sell his own mobile home.
- (2) The transfer of individual mobile home lots within the park by sale or other means shall be prohibited while the park is in operation.
 - (3) No enclosed structure in excess of 500 square feet shall be attached to any mobile home. Such additions shall not encroach into the minimum setbacks or separation requirements.
 - (4) Open porches and decks shall not be constructed nearer than five feet to adjacent interior or exterior lot lines.
 - (5) Only mobile homes shall be located within mobile home parks.
 - (6) Mobile home park identification signs shall not exceed thirty-two (32) square feet in area per side. Only diffused non-flashing lighting will be allowed. Lighting shall not directly illuminate the public roadway or reflect light beams or glare that would impair the vision of motorists or interfere with the operation of vehicles. Signs shall not be located within the public right-of-way and shall be located at least 20 feet from any mobile home.
 - (7) Buffers are intended to protect adjoining land uses, from the noise, dust, lights, threats to privacy, and aesthetic impacts of more intense land uses. Any portion of any mobile home or travel trailer park boundary which is BOTH within 500 feet AND is visible from any residence (other than that of the park owner) shall be screened from view with a buffer strip, as defined by this ordinance, along the boundary line facing the residence.

Any mobile home park with mobile homes located within 50 feet of a public road right-of-way shall be screened from view from the public road with a buffer as defined by this ordinance.

In addition, any mobile home park with more than five mobile homes adjacent to a public road right-of-way that do not have direct, individual driveway access to the public road shall be buffered from view from the road by a buffer strip as defined by this ordinance. The buffer requirement may be satisfied by a screen fence as defined by this ordinance. The buffer requirement may also be satisfied by existing natural vegetation meeting the intent of this ordinance provided that the natural vegetation is owned by the mobile home park owner.

- A. No particular species of plant materials are specified; however, performance of plant materials and methods used shall be in accordance with the requirements and intent of this ordinance. (See Appendix for chart of recommended plant materials and spacings.)
- B. Plant materials shall average a minimum of 12" in height at the time of planting.
- C. Persons operating mobile home and travel trailer parks shall utilize good husbandry techniques with regard to plant materials including but not limited to proper planting, mulching,

fertilization, pruning and otherwise proper maintenance to ensure a healthy, uniform, continuous solid vegetative screen as soon after planting as possible.

- D. Diseased, dead or damaged plant materials shall be replaced at the earliest appropriate planting time.
- (8) Within a mobile home park, one mobile home may be used as an administrative office.
- (9) Convenience establishments of a commercial nature, including food stores, coin operated laundries and dry cleaning establishments, laundry and dry cleaning pickup stations, beauty parlors, and barber shops may be permitted in mobile and travel trailer home and travel trailer parks subject to the following restrictions:
- A. Such establishments shall be located, intended and designed to serve only the trade or service needs of persons residing in the park.
- B. Such establishments shall be subordinate to the residential use and character of the park.
- C. Off-street parking for commercial establishments shall be provided at a ratio of one (1) space for every four hundred (400) square feet of gross floor area.
- D. Vehicular access to such establishments shall be from interior streets.
- E. Signs serving such establishments inside the mobile home park shall be limited to twenty (20) square feet in area, non-illuminated, and shall be attached to the establishment.

SECTION 62

Lots

- (1) Generally, lot sizes, shapes and locations shall be made with due regard to topographic conditions, soil conditions, and the surrounding land usage.
- (2) The area required for each mobile home lot shall be determined by the Duplin County Health Department after an investigation of soil conditions, proposed method of sewage disposal, and water supply. However in no case shall the area of a mobile home lot be less than six thousand (6,000) square feet.
- (3) Minimum Lot areas shall be as specified below:

Water and Sewer Service

Minimum Lot area and width

- | | |
|---|--------------------------------------|
| (A) Lots served by <u>both</u> off-site width water supply <u>and</u> off-site sewage disposal | 6,000 square ft. minimum 60 feet |
| (B) Lots served by <u>either</u> off-site | 10,000 square ft. minimum 80 feet |

- water supply or width
off-site sewage
disposal.
- (C) Lots served by both on-site water supply and on-site sewage disposal. 1/2 acre minimum minimum 100 feet width
- (4) Each mobile home lot shall have a minimum road frontage of twenty (20) feet.
- (5) Mobile home minimum setbacks on the lots shall be as follows. No portion of any setback shall be within the required buffer strip.
- (A) 10 feet from any interior side or rear lot line
- (B) 15 feet from any exterior park boundary line except that no mobile home may be situated within 50' of an established adjoining residential property line
- (C) 15 feet from any interior street right-of-way line
- (D) 30 feet from any public road right-of-way line
- (E) 20 feet from any building, other mobile home or mobile home park identification sign.
- (6) Each mobile home lot shall abut on an interior street which has direct access to a public road.
- (7) Each mobile home lot shall be assigned a street address by the Duplin County E-911 Coordinator. It shall be the responsibility of the mobile home park owner to post the address in accordance with the Duplin County Addressing and Road Naming Ordinance.

SECTION 63

Streets and Parking

- (1) Interior streets shall be private streets, owned and maintained by the mobile home park owner. The County assumes no responsibility for maintenance of any streets, parking areas, drainage structure or open spaces.
- (2) Interior streets shall have a traveled way, a minimum of eighteen (18) feet wide and be graded drained and stabilized.
- (3) Interior street surfaces shall consist of a minimum of 4" compacted stone or rock on suitable subgrade.
- (4) Streets shall be approximately centered in a access easement not less than forty (40) feet wide.
- (5) Mobile home parks with more than 20 lots shall have at least two access roads connecting to a public road.
- (6) Permanent dead end or cul-de-sac streets shall not exceed one thousand (1,000) feet in length and shall have a bulb or other suitable means for vehicles to turn around at the closed end. Bulbs shall have a right-of-way diameter of eighty (80) feet and a traveled portion with a diameter of seventy (70) feet. Other provisions for turning around may be allowed subject to approval by the Planning Board.
- (7) Streets and drives within the mobile home park shall intersect as nearly as possible at right angles to other streets. No streets shall intersect at an angle of less than sixty (60) degrees.

- (8) Interior streets shall be named by the mobile home park developer. Names shall not duplicate or be similar to existing County road names. Selection of street names are subject to approval by the Duplin County E-911 Addressing Coordinator.
- (9) Two automobile parking spaces shall be provided for each mobile home lot. No portion of the required spaces shall be within any street right-of-way.

SECTION 64

Utilities

- (1) (A) Each mobile home lot shall be provided with an approved water supply in accordance with 15A NCAC 18A.1700. Provided the water supply and distribution system serves 15 or more connections. it is classified as a "public water system" and must be listed with the Public Water Supply Section, Division of Environmental Health.
(B) Each mobile home lot must be connected to an approved sewage disposal system as determined by the Duplin County Health Department. The approval of water supply and sewage disposal system is a condition for approval of electrical service to each mobile home lot.
- (2) When public or community water systems or sewage systems are available, the developer shall, at his expense, make connection to those systems. Availability will be determined by the Planning Board.
- (3) All streets shall be illuminated from sunset to sunrise. Lights shall be pole mounted overhead style of a design suitable for the purpose. Light poles shall be located approximately along the easement lines of interior streets. Street lamps shall be a minimum of 175 watt mercury vapor type or its equivalent, spaced at intervals of not more than three hundred (300) feet.
- (4) Lighting shall be located to illuminate the entrance street at its intersection with the public right-of-way. Light poles shall be located outside the public right-of-way and shall not cast light or glare onto the public road of such intensity as to impair the vision of motorists or interfere with the operation of vehicles.
- (5) County owned solid waste and recycling collection centers shall serve as refuse collection facilities. Private collection may be provided by the mobile home park owner/operator subject to approval by the Duplin County Solid Waste Department.

SECTION 65

Recreation Area

- (1) Each mobile home park shall provide four hundred (400) square feet of recreation area for each mobile home lot that is less than ten thousand (10,000) square feet in area.
- (2) Mobile home parks with more than 20 lots shall provide 400 sq ft of suitable recreation area for each lot above 20.
- (3) No recreation area shall be less than 2,500 square feet in area.
- (4) Maintenance of any recreation areas will be the responsibility of the mobile home park owner/operator.

SECTION 70

Suitability of Land

Land subject to flooding, improper drainage, erosion, or that is for topographical or for other reasons unsuitable for travel trailer use as determined by the Planning Board, shall not be developed for travel trailer parks if such use would continue or increase the danger to health, safety, or property unless the hazards can be and are corrected or avoided.

SECTION 71

General Requirements

- (1) It shall be unlawful for a person to park or store a mobile home in a travel trailer park. However, one (1) mobile home may be allowed within a travel trailer park to be used as an office or residence of persons responsible for the operation and maintenance of the travel trailer park.
- (2) Travel trailer park identification signs shall be limited to one (1) sign located at the park entrance. No sign shall exceed thirty-two (32) square feet in area per side.
- (3) Commercial uses - Same as Article VI Section 61 (9).
- (4) Buffers - Same as Article VI Section 61 (7)

SECTION 72

Lots

- (1) Generally, lot sizes, shapes and locations shall be made with due regard to topographic conditions, soil conditions, and the surrounding land usage.
- (2) All spaces shall be located on sites with elevations that are not susceptible to flooding. Each space shall be properly graded to obtain a reasonably flat site and to provide adequate drainage away from the space. All ditch banks shall be sloped and seeded.
- (3) Each space shall consist of a minimum of fifteen hundred (1,500) square feet.
- (4) There shall be a minimum distance of fifteen (15) feet between each travel trailer or structure.

- (5) No space shall have direct vehicular access into a public road.
- (6) All spaces developed adjacent to a public road shall be set back a minimum of forty (40) feet from the right-of-way line.

SECTION 73

Streets and Parking

- (1) Interior streets shall be private streets, owned and maintained by the travel trailer park owner. The County assumes no responsibility for maintenance of any streets, parking areas, drainage structures or open spaces.
- (2) The park shall have all-weather roads that directly abut each space. All roads shall have a minimum width of eighteen (18) feet.
- (3) Cul-de-sacs or dead-end roads shall not exceed one thousand (1,000) feet in length. Any road designed to be permanently closed shall have a turnaround at the closed end with a minimum diameter of eighty (80) feet. The entire area of the turnaround shall be graded and have an all-weather surface. Other provisions for turning around may be allowed subject to approval by the Planning Board.

SECTION 74

Utilities

- (1) Each travel trailer lot shall be provided with an approved water, sewer and electrical service.
- (2) No method of sewage disposal shall be installed, altered or used without the approval of the Duplin County Health Department. All sewage wastes from each park, including wastes from toilets, showers, bathtubs, lavatories, wash basins, sinks, and water-using appliance not herein mentioned, shall be piped into the sewage disposal system.
- (3) Sewage dumping stations shall be approved by the Duplin County Health Department. Each park shall provide at least one (1) sewage dumping station.
- (4) All toilet, shower, lavatory and laundry facilities shall be provided and maintained in a clean and sanitary condition and kept in good repair at all times. They shall be safely and adequately lighted. Facilities shall be easily accessible and conveniently located. All toilet, shower, lavatory and laundry room facilities shall be acceptable to the Duplin County Health Department and shall be in conformity with all applicable codes.
- (5) Each park shall have a central structure or structures that provide separate toilet facilities for both sexes. This structure may also contain coin operated machines for the park residents' use only, provided there is no exterior advertising.

SECTION 75

Recreation Area

- (1) Each park shall provide recreation areas to serve the needs of the anticipated users. One half (1/2) acre of level well-drained ground for every fifteen (15) spaces shall be utilized as a recreation area. The park

owner is responsible for the development and maintenance of the recreation areas.

- (2) No swimming pool or bathing area shall be installed, altered, improved, or used without compliance with applicable regulations.

Article VIII MOBILE HOME AND TRAVEL TRAILER PARK OPERATION

SECTION 80

Maintenance

The mobile home and travel trailer park owner/operator shall be responsible for the continuous maintenance of the park. Streets, driveways rights-of-way, ditches, surface and subsurface drainage structures, erosion control structures, open space, recreation areas, utilities and signs shall be properly maintained to insure the safety and convenience of the public. Parks shall be maintained in a sanitary condition to minimize the harborage and breeding of insects and vermin.

SECTION 81

Review By Other Agencies

Compliance with this ordinance does not relieve the mobile home and travel park developer from compliance with regulations adopted and enforced by other local, state and federal agencies which regulate construction of roads, driveway access, water supply and distribution, sewage disposal, electrical supply, health standards, building codes, erosion and sedimentation control, drainage and flood control.

SECTION 82

Registration of Occupants

It shall be the duty of the owner or operator of a mobile home/travel trailer park to keep an accurate register containing a record of all occupants and owners of mobile homes or travel trailers located within a park. The register shall be available for inspection at all times by the Enforcement Officers, the County Health Department, and other government agencies and officials authorized by the Board of Commissioners. The register shall contain the following information:

- 1. Name of owner and/or occupant, if different.
- 2. Date entered and date of leaving park.
- 3. Lot or space number.
- 4. Make, model and register number of mobile home or travel trailer.
- 5. License tag number of tow vehicle

SECTION 83

Existing Parks

Existing mobile home and travel trailer parks which do not comply with the requirements of this ordinance may continue to operate subject to the regulations applicable at the time of approval. But in no case shall any mobile home or travel trailer park be allowed to be revised, reconstructed or expanded in a manner which is inconsistent with this ordinance.

Article IX Administration

SECTION 90Approval Required

After the effective date of this ordinance, no mobile home or travel trailer park within the jurisdiction of Duplin County shall be established, altered or expanded until a site plan has been approved by the Planning Board and a construction permit issued. The procedure for approval shall be as outlined below.

SECTION 91Preliminary Plan

The Planning Board shall first approve a preliminary site plan prior to the submittal of a final site plan. The preliminary plan process is intended to be a review of the layout and general design elements of the park which may be difficult or costly for the developer to change after the final site plan has been developed.

SECTION 91.1Preliminary Site Plan Submittal

The developer shall submit six (6) copies of the preliminary site plan to the Planning Department at least 7 working days prior to the Planning Board meeting at which the plan is to be considered.

Section 91.2Preliminary Site Plan Contents

The preliminary site plan shall be accurately drawn to scale using appropriate materials in a neat and legible manner. The preliminary plan shall show or be accompanied by the following information:

- (1) Proposed name of mobile home or travel trailer park
- (2) Name, address and telephone number of developer, owner/operator
- (3) Date, scale of plan and north arrow
- (4) Boundary of tract with deed book and page reference and acreage
- (5) Boundary of mobile home or travel trailer park
- (6) Location map showing names of adjacent property owners or subdivisions and use of adjacent property
- (7) Existing and proposed interior streets and right-of-way lines, public roadways and right-of-way lines, road names and numbers
- (8) Existing and proposed driveways and parking areas
- (9) Topographic information with contours on at least 2' intervals, existing and proposed ditches, streams, ponds and wooded areas
- (10) Existing and proposed easements or other rights-of-ways
- (11) Existing and proposed building and mobile home or travel trailer park locations
- (12) Existing and proposed mobile home and travel trailer lots, lot dimensions and lot numbers
- (13) Existing and proposed systems for surface and subsurface drainage, street lighting, water supply and distribution, sewage disposal and refuse collection
- (14) Areas within the 100 year flood plain
- (15) Existing and proposed buffers, recreation areas and open spaces
- (16) Any other such reasonable information as may be required by the Planning Board to adequately review the plan.

Review Fees

The Preliminary plan submittal shall include payment of any mobile home park review fees as established by the County Commissioners.

SECTION 91.4Technical Review Committee

The Planning Department shall present the proposed preliminary site plan to the Technical Review Committee for review of site plan contents and design. The technical review committee will consist of representatives from the County Health Department, Planning Department, Building Inspections Department, Water Department, and E-911 Department. The Technical Review Committee shall review the plan and make recommendations to the Planning Board concerning the plans compliance with this ordinance and other applicable regulations and policies. The Planning Department shall advise the developer of any plan deficiencies and of the findings and recommendations of the Technical Review Committee.

SECTION 91.5Planning Board Consideration

The Planning Board shall have forty-five (45) days from its initial consideration of the preliminary site plan in which to approve, approve conditionally or disapprove the plan.

(1) Approved Plans

If the preliminary site plan is approved by the Planning Board, one copy of the plan, so marked, will be retained by the Planning Board and one copy of the plan, along with a letter of approval will be sent to the developer and to the members of the Technical Review Committee. The preliminary plan approval is the developers' authorization to prepare and submit the final site plan.

(2) Approved Conditionally

If the preliminary site plan is approved conditionally by the Planning Board one copy of the plan so marked, will be retained by the Planning Board and one copy of the plan along with a letter stating the reasons for conditional approval and the conditions of approval will be sent to the developer, and to the members of the Technical Review Committee. Any conditions imposed on the plan shall be incorporated into the final site plan prior to submittal.

(3) Disapproved Plans

If the preliminary site plan is disapproved by the Planning Board one copy of the plan, so marked, will be retained by the Planning Board and one copy along with a letter stating the reasons for disapproval and outlining re-submittal and appeal options will be sent to the developer and to the members of the Technical Review Committee.

Following Planning Board Approval of the preliminary site plan, the developer is authorized to submit the final site plan. The developer shall submit six (6) copies of a the final site plan to the Planning Department at least 7 days prior to the Planning Board meeting at which the plan is to be considered. The final site plan must be prepared by a Registered Surveyor, Professional Engineer or Registered Landscape

Architect.

SECTION 92.1

Final Site Plan Contents

The site plan shall be accurately drawn to scale using appropriate materials in a neat and legible manner. The plan shall show or be accompanied by the following information:

- (1) Proposed name of mobile home or travel trailer park.
- (2) Name, address and telephone number of developer, owner/operator.
- (3) Name, address and telephone number of designer, planner, surveyor or engineer.
- (4) Township.
- (5) Date, scale of plan and north arrow.
- (6) Boundary of tract, including deed book and page reference and acreage.
- (7) Boundary of mobile home or travel trailer park.
- (8) Location map showing names of adjacent property owners or subdivisions and use of adjacent property.
- (9) Existing and proposed interior streets and right-of-way lines, public roadways and right-of-way lines, road names and numbers.
- (10) Existing and proposed driveways and parking areas.
- (11) Topographic information with contours on at least 2' intervals, existing and proposed ditches, streams, ponds and wooded areas.
- (12) Existing and proposed easements or other rights-of-way.
- (13) Existing and proposed building and mobile homes or travel trailers.
- (14) Existing and proposed mobile home and travel trailer lots, lot dimensions and lot numbers.
- (15) Existing and proposed systems for surface and subsurface drainage, street lighting, electrical power, water supply and distribution, sewage disposal and refuse collection.
- (16) Areas subject to flooding.
- (17) Locations of existing and proposed park identification signs, traffic control signs, and street name signs.
- (18) Existing and proposed buffers, recreation areas and open space areas.
- (19) Any other such reasonable information as may be required by the Planning Board, to adequately review the plan.

SECTION 92.2

Planning Board Consideration

The Planning Board shall have forty-five (45) days from its initial consideration of the final site plan in which to approve, approve conditionally or disapprove the plan.

- (1) Approved Plans
If the final site plan is approved by the Planning Board, one copy of the plan, so marked, will be retained by the Planning Board and one copy of the plan, along with a letter of approval will be sent to the developer and to the members of the Technical Review Committee.
- (2) Approved Conditionally
If the site final plan is approved conditionally by the Planning Board one copy of the plan so marked, will be retained by the Planning Board and one copy of the plan along with a letter stating the conditions of approval will be sent to the developer, and to the members of the Technical Review Committee.

3) DISAPPROVED PLANS
If the final site plan is disapproved by the Planning Board one copy of the plan, so marked, will be retained by the Planning Board and one copy along with a letter stating the reasons for disapproval and outlining re-submittal and appeal options will be sent to the developer and to the members of the Technical Review Committee.

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SECTION 92.3

Construction Permit

Upon Planning Board approval of the final site plan the enforcement officer shall issue a construction permit. The construction permit authorizes the developer to construct the mobile home or travel trailer park in accordance with plans as approved by the Planning Board. The permit does not authorize construction of improvements which would be in violation of any local, state or federal regulations. The construction permit does not authorize the developer to offer mobile home or travel trailer lots for rent or lease or to locate mobile homes or travel trailers on the property. The construction permit will be valid for six (6) months. If construction has not commenced within six (6) months, Planning Board approval shall become null and void. The Planning Board, at its discretion, may grant a six (6) month extension to the original approval. The enforcement officer may periodically observe construction during progress to determine if construction is in compliance with approved plans.

SECTION 93

Operation Permit

After construction is completed, the enforcement officer shall visit the mobile home park to determine if construction of improvements appears to be in accordance with approved plans and applicable regulations. The operation permit shall not be issued until the park is in compliance with all applicable regulations. If the park is determined to be in compliance, the enforcement officer shall issue an operation permit. This permit authorizes the developer to rent or lease mobile home or travel trailer lots and to operate the park.

SECTION 94

Violations

The operation permit shall be valid until revoked. The enforcement officer may periodically visit the park to determine continued compliance with this ordinance and other applicable regulations. If the park is determined to be in violation the enforcement officer shall notify the owner/operator in writing of the violations and of action necessary to bring the park into compliance. Failure by the owner/operator to correct violations within 120 days of notification shall constitute grounds for revocation of the permit. If the permit is revoked, the enforcement officer shall notify the owner/operator in writing of the status of the permit, the action needed to correct the violation, and the enforcement techniques available to the county to remedy continued violation. Operation of a mobile home park without a valid operation permit is a misdemeanor subject to enforcement actions as provided for by state law. When the enforcement officer determines that the park has been brought back into compliance with applicable regulations, he shall reinstate the operation permit.

SECTION 95

Transfer of Permits

Construction and operation permits are issued to the mobile home/travel trailer park owner and are not transferable. The park owner shall notify the enforcement officer of any transfer in park ownership within thirty (30) days.

SECTION 96Development In Sections

Developers are encouraged to submit plans showing the proposed mobile home/travel trailer park in its entirety. However, Planning Board approval, construction and operation permits may be issued for sections of the park. Sections shall contain a minimum of five (5) contiguous lots and must comply with all applicable regulations.

Article X Legal ProvisionsSECTION 100Minimum Requirements

The provisions of this ordinance shall be held to be minimum requirements adopted for the promotion of the public health, safety, and general welfare. Wherever the requirements of this ordinance differ with the requirements of any other adopted county, state or federal regulation, the most restrictive or that imposing the highest standard shall govern.

SECTION 101Enforcement

This ordinance may be enforced by any one or more of the remedies authorized by GDS. 153A-123, including but not limited to the following:

- (1) A violation of this ordinance shall constitute a misdemeanor, punishable by a maximum fine of \$50.00 or imprisonment for no more than 30 days.
- (2) Violation of this ordinance subjects the offender to a civil penalty of fifty (\$50.00) dollars.
- (3) This ordinance may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction.
- (4) This ordinance may be enforced by injunction, order of abatement or both.
- (5) Each day's continuing violation of this ordinance is a separate and distinct offense.

SECTION 102COMPLAINTS

Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a written complaint with the enforcement officer, stating the cause and basis for the complaint. The enforcement officer shall record the complaint, investigate and take such action as may be necessary to enforce this ordinance.

SECTION 103Separability

Should any section or provision of this ordinance be declared by the courts to be invalid for any reason, such declaration shall not affect the ordinance as a whole, or any part thereof other than the part so declared to be unconstitutional invalid.

Amendment

Petitions for amendment may be filed with the enforcement officer by any citizen of the County, any County department or agency, the County Planning Board or Board of Commissioners.

SECTION 104.1Amendment Procedure

The provisions and requirements of this ordinance may be amended by the County Commissioners according to the following procedure.

- (1) Planning Board Review
No amendment shall become effective unless it shall have been proposed by or shall have been reviewed by the Planning Board. The Planning Board shall have 45 days in which to review the proposed amendment and to make recommendations to the Commissioners. If the Planning Board fails to report to the Commissioners within 45 days it shall be deemed to have approved the proposed amendment.
- (2) Commissioner Review
The County Commissioners must approve any amendments or revisions to the ordinance.

SECTION 105Variance and Exception

The Planning Board may issue variances and exceptions from the design requirements of this ordinance such that would not be contrary to the public interest, or the spirit and intent of this ordinance, and where due to special conditions, a literal enforcement of the provisions of this ordinance would result in an unnecessary hardship. In granting a variance, the Planning Board may prescribe appropriate conditions and safeguards as it deems necessary to preserve the intent of this ordinance. In granting a variance or exception to this ordinance the Planning Board must determine the following:

- (1) Special conditions and circumstances exist which are peculiar to the land, or buildings involved and which are not applicable to other lands, or buildings.
- (2) The literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties.
- (3) Special conditions and circumstances do not result from the actions of the applicant; and
- (4) Granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, or buildings.

SECTION 106Appeal

The County Commissioners shall hear and decide appeals and review any orders, requirements decisions, or determinations made by the Planning Board or any County Department responsible for administration or enforcement of this ordinance. The Commissioners' decision is subject to review by the Superior Court of Duplin County.

SECTION 107

Effective Date

This ordinance shall become effective and be in full force from and after the 1st day of July, 1996. Adopted by the Duplin County Board of Commissioners this the 17th day of June, 1996.

s/Sherwood Fountain
Chairman
Duplin County Board of Commissioners

ATTEST: s/James W. Barnhardt, Jr.
Clerk to the Board

ARTICLE XI APPENDIX

SECTION 110 CHART OF RECOMMENDED PLANT MATERIAL(1) Trees

| <u>NAME</u> | <u>HEIGHT (H)</u> <u>SPREAD (S)</u> | <u>SPACING</u> | <u>GROWTH</u> <u>RATE</u> |
|-----------------------|--|----------------|------------------------------|
| American Holly | (H) 15-30' (S) 10-20' | 6' | Fast |
| Carolina Cherry | (H) 20-25' (S) 15-20' | 10' | Moderate |
| DaHoon Holly | (H) 15-20' (S) 10-15' | 6' | Fast |
| Eastern Red Cedar | (H) 30' (S) 15' | 6' | Moderate |
| Japanese Evergreen | (H) 20-40' (S) 8-16' | 8' | Moderate |
| Yaupon Holly | (H) 20' (S) 6-12' | 6' | Moderate |

(2) Shrubs

| | | | |
|------------------------|------------------------|-----|----------|
| Chinese Holly | (H) 10' (S) 6-8' | 10' | Moderate |
| Chinese Photinia | (H) 12' (S) 5-10' | 8' | Fast |
| Cleyera | (H) 10' (S) 5-6' | 10' | Moderate |
| Fortune's Osmanthus | (H) 15' (S) 5-7' | 10' | Moderate |
| Glossy Privet | (H) 8-10' (S) 5-10' | 12' | Fast |
| Japanese Holly | (H) 6-17' (S) 3-5' | 10' | Slow |
| Japanese Privet | (H) 4-20' (S) 5-6' | 10' | Fast |

(2) Shrubs Con't.

| <u>NAME</u> | <u>HEIGHT (H)</u> <u>SPREAD (S)</u> | <u>SPACING</u> | <u>GROWTH</u> <u>RATE*</u> |
|------------------------|--|----------------|-------------------------------|
| Luster Leaf Holly | (H) 8-12' (S) 7-11' | 10' | Moderate |
| Pittosporum | (H) 10-30' (S) 5-8' | 10' | Moderate |
| Southern Wax Myrtle | (H) 20' (S) 6-12' | 8' | Fast |
| Spice Plant | (H) 8-12' (S) 8-10' | 10' | Moderate |
| Thorny Elaeagnus | (H) 8-11' (S) 6-10' | 10' | Moderate |

*GROWTH RATE APPROXIMATIONS IN HEIGHT:

| | | |
|----------|---|--------------|
| Slow | - | 6" per year |
| Moderate | - | 8" per year |
| Fast | - | 12" per year |

AN ORDINANCE CREATING A

99-01

PARKS AND RECREATION ADVISORY COMMITTEE

DUPLIN COUNTY, NORTH CAROLINA

SECTION I. CREATION; NAME; NUMBER OF MEMBERS

There is hereby created the Duplin County Parks and Recreation Advisory Committee composed of nine (9) members, to be known as the Parks and Recreation Advisory Committee. A member from each of the following areas will comprise the Parks and Recreation Advisory Committee: County Commissioner District I, County Commissioner District II, County Commissioner District III, County Commissioner District IV, County Commissioner District V, County Commissioner District VI, County Representative (government), representative selected by the Municipal Association, and School Board Representative (member of board of education or teacher).

SECTION II. COMMITTEE; POWERS AND DUTIES

The Parks and Recreation Committee shall serve as the advisory body for the Parks and Recreation Department and the County Board of Commissioners (governing body). The Committee shall suggest policies to the department, the County Manager and the governing body, within its powers and responsibilities as stated in this ordinance. The Committee shall serve as a liaison between the department, the County Manager, the governing body of the unit and citizens of the community. The Committee shall consult with and advise the department, the County Manager and the governing body in matters affecting recreation policies, park policies, programs, personnel, finances, and the acquisition and disposal of lands and properties related to the total community recreation program, and to its long-range, projected programs for parks and recreation.

The Parks and Recreation Advisory Committee shall assume duties for parks and recreation purposes. The Parks and Recreation Advisory Committee shall make recommendations:

- a. for the establishment of a system of supervised recreation for the unit;
- b. to set land apart for use as parks, playgrounds, recreation centers, water areas, or other recreational areas and structures needed to support recreation, and may suggest improvements of such lands including construction of buildings, equipment and staffing of such building structures as may be necessary to the parks and recreation program;
- c. and advise the governing body in the acquisition of lands and structures through gifts, purchase, lease or loan;

- d. and advise the governing body in the acceptance of any grant, gift, bequest or donation, any personal or real property offered or made available for parks and recreation purposes and which is judged to be of present or possible future use for recreation. Any gift, bequest of money or other property, any grant, devise of real or personal property so acquired shall be held, by the governing body and finally disposed of in accordance with the terms under which such grant, gift or devise is made and accepted;
- e. and advise in the construction, equipping, operation, and maintenance of parks, playgrounds, recreation centers and all buildings and structures necessary or useful to department function, and will advise in regard to other recreation facilities, which are owned or controlled by the governing body or leased or loaned, to the unit.

SECTION III. APPOINTMENT OF THE COMMITTEE

The governing body of the unit shall appoint each member of the Committee.

SECTION IV. COMPOSITION

Each member of the governing body of the unit will be designated as an ex-officio member of the committee. The Parks and Recreation Director will be designated as an ex-officio member. The ex-officio members will not have a vote on items coming before the Parks and Recreation Advisory Committee.

SECTION V. LENGTH OF APPOINTMENT

Each member shall be appointed for a three-year term. Initial appointments shall be arranged so that approximately one-third of the terms will expire each year, except for the representative from the governing body of the unit who shall serve on the Parks and Recreation Advisory Committee concurrent with his/her term of office on the governing body.

SECTION VI. MEETINGS

Committee meetings shall be held on a monthly basis unless determined otherwise by the Committee. The Chairman of the Committee or, in his/her absence, the Vice-Chairman, may call a special meeting of the Committee at any time by complying with the North Carolina General Statutes. A quorum of the Committee shall be in attendance before action of an official nature can be taken. A quorum constitutes five (5) members being present. Ex-officio members are not to be included to make a quorum.

SECTION VII. ATTENDANCE OF MEMBERS

An appointed member who misses more than three (3) consecutive regular meetings loses his/her status as a member of the Committee. The governing body shall appoint a replacement. Absences due to sickness, death, or other emergencies of like nature shall be regarded as approved absences and shall not affect the member's status on the Committee except that in the event of a long illness, or other such cause for prolonged absence, the member may be replaced by the governing body.

SECTION VIII. COMPENSATION

Committee members shall serve without monetary compensation. Members shall be reimbursed for travel and subsistence to professional recreation meetings, conferences and workshops, with such reimbursement being made in compliance with the general policies of the unit, subject to the availability of funds.

SECTION IX. OFFICERS

There shall be a Chairman and Vice-Chairman of the Committee. An annual election of the Chairman and Vice-Chairman shall be held by the Committee members and shall occur at the regular monthly meeting in July. Officers shall serve for one year from election with eligibility for re-election. New officers shall take office at the subsequent regular meeting in August. In the event an officer's appointment to the Committee is terminated, a replacement to this office shall be elected by the Committee; from its membership, at the meeting following the termination. The Parks and Recreation Director shall serve as Secretary of the Committee.

SECTION X. OFFICERS' DUTIES

The Committee Chairman shall preside at all meetings and sign all documents relative to action taken by the Committee. The Chairman shall appoint all subcommittees including a nominating committee composed of two Committee members. A nominating committee shall be appointed at least thirty days prior to the July meeting..

SECTION XI. BY-LAWS

The Parks and Recreation Advisory Committee shall be charged with developing by-laws for approval by the governing board.

SECTION XII. SEPARABILITY

Should any section or provision of this ordinance be declared by the courts to be invalid for any reason, such declaration shall not affect the ordinance as a whole, or any part thereof other than the part so declared to be unconstitutionally invalid.

SECTION XIII. EFFECTIVE DATE

This ordinance shall become effective and be in full force from and after the 1st day of February, 1999. Adopted by the Duplin County Board of Commissioners this the 19th day of January, 1999.

Chairman

ATTEST:

James W. Bamhardt
Clerk

**ORDINANCE
ESTABLISHING FINANCING
OF THE E-911
EMERGENCY TELEPHONE SERVICE
DUPLIN COUNTY, NORTH CAROLINA**

ENACTMENT

This is an ordinance establishing and providing for the financing of the E-911 Emergency Telephone Service for Duplin County, North Carolina.

PREAMBLE

WHEREAS, in the opinion of the Duplin County Board of Commissioners, County-wide local 911 emergency telephone service will promote the health, safety and general welfare of the citizens of Duplin County, and

WHEREAS, County-wide local emergency telephone service will reduce the response time of emergency service agencies, and

WHEREAS, the Duplin County Board of Commissioners have solicited public comment and have given due notice of public hearing and have conducted such public hearing, and

WHEREAS, all applicable requirements of the General Statutes of North Carolina have been met.

NOW THEREFORE BE IT ORDAINED BY THE COUNTY COMMISSIONERS OF THE COUNTY OF DUPLIN AS FOLLOWS:

AUTHORITY

The provisions of this ordinance are adopted under authority granted by the Public Safety Telephone Act of the North Carolina General Statutes. (Chapter 62A)

JURISDICTION

The jurisdiction of this ordinance includes the entire geographic area of Duplin County. The municipal areas within Duplin County are included in this ordinance as evidenced by a resolution from each town requesting to be included in this ordinance.

CHARGES

An E-911 service fee will be added to the regular monthly bill for each exchange access

facility subscribed to by telephone subscribers whose exchange access lines are in the area served or which will be served by the E-911 service. Beginning September 1, 1999, the service provider shall bill subscribers a "911 Service Charge" of \$1.00 monthly.

PAYMENT AND COLLECTION OF CHARGES

The service supplier shall, on behalf of Duplin County, collect the charges from those subscribers to whom it provides exchange telephone service in the areas served by the 911 service. As part of its normal monthly billing process, the service supplier shall collect the charges for each month or part of the month an exchange access facility is in service. The service supplier may list the charge as a separate entry on each bill. If a service supplier receives a partial payment for a monthly bill from a subscriber, the service supplier shall apply the payment against the amount the subscriber owes the service supplier first.

The service supplier has no obligation to take any legal action to enforce the collection of the 911 charges for which any subscriber is billed. However, a collection action may be initiated by the local government that imposed the charges and reasonable costs and attorneys' fees associated with that collection action may be awarded to the local government collecting the 911 charges.

Duplin County shall remain ultimately responsible to the service supplier for all 911 installation, service, equipment, operation, and maintenance charges owed to the service supplier. Upon request by the County, the service supplier shall provide a list of amounts uncollected along with the names and addresses of telephone subscribers who have not paid the 911 charge.

Any taxes due on 911 service provided by the service supplier will be billed to the local government subscribing that service.

ADMINISTRATION

The service supplier is entitled to a one percent (%1) administrative fee as compensation for collecting the charges. The service supplier shall remit the rest of the charges it collects during a month to the County within ten days after the last day of each month.

EMERGENCY TELEPHONE SYSTEM FUND

The County shall deposit the charges in a separate, restricted fund. The fund shall be known as the Emergency Telephone System Fund. The fiscal officer may invest money in the fund in the same manner that other money of the local government may be invested. The fiscal officer shall deposit any income earned from such an investment in the Emergency Telephone System Fund.

PAYMENTS FROM FUND

Money from the Emergency Telephone System Fund shall be used only to pay for:

- (1) The lease, purchase, or maintenance of emergency telephone equipment, including

necessary computer hardware, software and database provisioning, addressing, and nonrecurring costs of establishing a 911 system, and

- (2) The rates associated with the service supplier's 911 service and other service supplier recurring charges.

The following expenses are not eligible for payment from the Fund: the lease or purchase of real estate, cosmetic remodeling of emergency dispatch centers, hiring, training, and compensating dispatchers, and the purchase of mobile communications vehicles, ambulances, fire engines, or other emergency vehicles.

The County may contract with a service supplier for any term negotiated by the service supplier and may make payments from the Emergency Telephone System Fund to provide any payments required by the contract.

TELEPHONE RECORDS

The telephone service supplier shall provide subscriber telephone numbers, names, and service addresses to 911 systems when required by the County. Although customer numbers, names and service addresses shall be available to 911 systems, such information shall remain the property of the disclosing service supplier. The total cost of the system shall include expenses paid to service suppliers to provide and maintain 911 information. This information shall be used only in providing emergency response services to 911 calls. The County may not release a telephone number required to be provided under this section to any person for purposes other than including the number in the emergency telephone system database or providing the number to permit a response to police, fire, medical, or other emergency situation.

To the extent necessary to provide 911 service, private listing customers of a service supplier in a 911 service area waive the privacy afforded by unlisted and nonpublished numbers when the 911 service is established.

LIMITATION OF LIABILITY

The service supplier, including any telephone company and its employees, directors, officers and agents, is not liable for any damages in a civil action for injuries, death, or loss to persons or property incurred by any person as a result of any act or omission of a service supplier or of any of its employees, directors, officers, or agents, except for willful or wanton misconduct, in connection with developing, adopting, implementing, maintaining, or operating any 911 system.

MISUSE OF 911 SYSTEM PENALTY

Any person who intentionally calls the 911 number for other than purposes of obtaining public safety assistance commits a misdemeanor.

DEFINITIONS

- (1) "911 system" or "911 service" means an emergency telephone system that provides the user of the public telephone system the ability to reach a public safety answering point by dialing the digits 911. The term 911 system or 911 service also

- includes "Enhanced 911 service", which means an emergency telephone system that provides the user of the public telephone system with 911 service and, in addition, directs 911 calls to appropriate public safety answering points by selective routing based on the geographical location from which the call originated and provides the capability for automatic number identification and automatic location identification features.
- (2) "911 charge" means a contribution to the local government for the 911 service start-up equipment costs, subscriber notification costs, addressing costs, billing costs, and nonrecurring and recurring installation, maintenance, service, and network charges of a service supplier providing 911 service pursuant to this chapter.
 - (3) "Addressing" means the assigning of a numerical address and street name (the street name may be numerical) to each location within a local government's geographical area necessary to provide public safety service as determined by the local government. This address replaces any route and box number currently in place in the 911 database and facilitates quicker response by public safety agencies.
 - (4) "Exchange access facility" means the access from a particular telephone-subscriber's premises to the telephone system of a service supplier. Exchange access facilities include service supplier provided access lines, PBX trunks and centrex network access registers, all as defined by tariffs of telephone companies as approved by the North Carolina Utilities Commission. Exchange access facilities do not include service supplier owned and operated telephone pay station lines, or Wide Area Telecommunications Services (WATS), Foreign Exchange (FX) or incoming only lines.
 - (5) "Local government" means any city, county, or political subdivision of North Carolina and its agencies.
 - (6) "Public agency" means the state and any city, county, municipal corporation, chartered organization, public district, or public authority located in whole or in part within the state which provides or has authority to provide firefighting, law enforcement, ambulance, medical, or other emergency services.
 - (7) "Public safety agency" means a functional division of a public agency which provides firefighting, law enforcement, medical, suicide prevention, civil defense, poison control, or other emergency services.
 - (8) "Service supplier" means a person or entity who provides exchange telephone service to a telephone subscriber.
 - (9) "Telephone subscriber" or "subscriber" means a person or entity to whom exchange telephone service, either residential or commercial, provided and in return for which the person or entity is billed on a monthly basis. When the same person, business, or organization has several telephone access lines, each exchange access facility shall constitute a separate subscription.

EFFECTIVE DATE

This ordinance shall become effective and be in full force from and after the 26th day of

April, 1999. Adopted by the Duplin County Board of Commissioners this the 19th day of April 1999.

H. C. Powers

H C Powers, Chairman
Duplin County Board of Commissioners

ATTEST:

James W. Baird
Clerk to the Board

DUPLIN COUNTY SUBDIVISION REGULATION

10-7-1999

ARTICLE I

INTRODUCTORY PROVISIONS

Section 101. Title

This ordinance shall be known and may be cited as the Subdivision Regulations of Duplin County, North Carolina, and may be referred to as the Subdivision Regulations.

Section 102. Purpose

The purpose of this ordinance is to establish procedures and standards for the development and subdivision of land within the territorial jurisdiction of Duplin County. It is further designed to provide for the orderly growth and development of the county; for the coordination of streets and highways within proposed subdivisions with existing or planned streets and highways and with other public facilities; for the dedication or reservation of recreation areas serving residents of the immediate neighborhood within the subdivision and of rights-of-way or easements for street and utility purposes; and for the distribution of population and traffic in a manner that will avoid congestion and overcrowding and will create conditions essential to public health, safety, and the general welfare. This ordinance is designed to further facilitate adequate provision of water, sewerage, parks, schools, and playgrounds, and also to facilitate the further resubdivision of larger tracts into smaller parcels of land.

Section 103. Authority

This ordinance is hereby adopted under the authority and provisions of the General Statutes of North Carolina, Chapter 153A, Article 18, Part 2.

Section 104. Jurisdiction

The regulations contained herein, as provided in G.S. 153A, Article 18 shall govern each and every subdivision within Duplin County outside of the jurisdiction of any incorporated municipality.

Section 105. Prerequisite to Plat Recordation

After the effective date of this ordinance, each individual subdivision plat of land within the County's jurisdiction shall be approved by the Duplin County Planning Board according to the procedure set forth in this ordinance.

Section 106. Zoning and Other Plans

The proposed subdivisions must comply in all respects with the requirements of any zoning ordinance in effect in the area to be subdivided, and any other officially adopted plans.

ARTICLE II

LEGAL PROVISIONS

Section 201. General Procedure for Plat Approval

After the effective date of this ordinance, no subdivision plat of land within the county's jurisdiction shall be filed or recorded until it has been submitted to and approved by the Planning Board as set forth in Section 105 of this ordinance. The administrator of this ordinance shall not certify a plat for recording that has not been approved in accordance with this ordinance. The Clerk of Superior Court may not order or direct the recording of a plat if the recording would be in conflict with this ordinance.

The Register of Deeds shall not file or record a plat of a subdivision of land located within the territorial jurisdiction of the county that has not been approved in accordance with these provisions.

Section 202. Statement by Owner

The owner of land shown on a subdivision plat submitted for recording, or his authorized agent, shall sign a statement on the plat stating whether or not any land shown thereon is within the subdivision-regulation jurisdiction of the county.

Section 203. Effect of Plat Approval on Dedications

Pursuant of G.S. 153A-333, the approval of a plat does not constitute or effect the acceptance by the county or the public of the dedication of any street or other ground, public utility line, or other public facility shown on the plat and shall not be construed to do so.

Section 204. Penalties for Violation

- 204.1 After the effective date of this ordinance, any person who, being the owner or agent of the owner of any land located within the territorial jurisdiction of this ordinance, thereafter subdivides his land in violation of this ordinance or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under the terms of this ordinance and recorded in the Office of the Duplin County Register of Deeds, shall be guilty of a misdemeanor. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this penalty. The county through its attorney or other official designated by the Board of Commissioners may enjoin illegal subdivision, transfer or sale of land by action for injunction. Further, violators of this ordinance shall be subject, upon conviction, to fine and/or imprisonment as provided by G.S. 14-4.
- 204.2 Each day's continuing violation of this ordinance shall be a separate and distinct offense.
- 204.3 Nothing in this section shall be construed to limit the use of remedies available to the county. The county may seek to enforce this ordinance by using any one, all, or a combination of remedies.

Section 205. Separability

Should any section or provision of this ordinance be decided by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

Section 206. Variances

The Planning Board may authorize a variance from these regulations when, in its opinion, undue hardship may result from strict compliance. In granting any variance, the Planning Board shall make the findings required below, taking into account the nature of the proposed subdivision, the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. No variance shall be granted unless the Planning Board finds;

- A. That there are special circumstances or conditions affecting said property such that the strict application of the provisions of this ordinance would deprive the applicant of the reasonable use of his land.
- B. That the variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner.
- C. That the circumstances giving rise to the need for the variance are peculiar to the parcel and are not generally characteristic of other parcels in the jurisdiction of this ordinance.
- D. That the granting of the variance will not be detrimental to the public health, safety and welfare or injurious to other property in the territory in which said property is situated.

Section 207. Amendments - The provisions and requirements of this ordinance may be amended by the Board of Commissioners

Amendment shall not become effective unless proposed by or submitted to the Planning Board for review and recommendation. The Planning Board shall have forty-five (45) days from the time the proposed amendment is submitted to it within which to submit its report. If the Planning Board fails to submit a report within the specified time, it shall be deemed to have recommended approval of the amendment.

No amendment shall be adopted by the County Commissioners until a public hearing has been held on the amendment. Notice of the hearing shall be published in a newspaper of general circulation in the county area at least once a week for two (2) successive calendar weeks prior to the hearing. The initial notice shall appear not more than twenty-five (25) nor less than ten (10) days prior to the hearing date. In computing the ten (10) -- twenty-five (25) day period, the date of the publication is not to be counted, but the date of the hearing is.

Section 208. Abrogation

It is not intended that this ordinance repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulations, or permits previously adopted or issued pursuant to law. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall govern.

000302 Section 209. Effective Date

This ordinance shall take effect and be in force from and after the 1st day of December 1999.

Section 210. Adoption

Duly adopted by the Board of Commissioners of Duplin County, North Carolina this 4th day of October, 1999.

James W. Barnhardt, Jr.
Clerk

H. C. Powers
Chairman of the Board of Commissioners

Section 210. Administrator

The holder of the Office of the County Planner is hereby appointed to serve as subdivision administrator.

ARTICLE III

PROCEDURE FOR REVIEW AND APPROVAL OF SUBDIVISION PLATS

Section 301. Plat Shall Be Required On Any Subdivision of Land

Pursuant of N.C.G.S. 153A-331, a final plat shall be prepared, approved, and recorded pursuant to the provisions of this Ordinance whenever any subdivision of land takes place including town houses, condominiums, planned unit developments and non-residential subdivisions. However, the subdivider may qualify for an exemption to filing a subdivision plat if the conditions in subsections 301.1 are met, provided that the exemption outlined below shall not be self executing.

301.1 Exemption for Road Frontage Lots

The said recorded plat shall not be required for a landowner who wishes to subdivide a parcel that meets all of the following requirements:

- A. the proposed subdivision shall abut a state maintained secondary road; **and**
- B. the proposed subdivision shall create only five new parcels of land; **and**
- C. the minimum dimensions of all resulting new parcels shall be no less than 20,000 sq ft in area and shall have no less than one hundred feet (100) of frontage abutting a state maintained road.

Section 302. Approval Prerequisite to Plat Recordation

Pursuant to G.S. 153A-331, no final plat of a subdivision within the jurisdiction of Duplin County as established in Section 104 of this ordinance shall be recorded by the Duplin County Register of Deeds until it has been approved by the Planning Board as provided herein. To secure such approval of a final plat, the subdivider shall follow the procedures established in this article.

Section 303. Procedure for Review and Approval of Final Minor Subdivision Plats

The intent of the minor subdivision provision of this ordinance is to provide an abbreviated plat submission procedure where a developer may progress directly to a final plat for subdivision where no major improvements are proposed that would necessitate a preliminary plat for construction purposes.

A minor subdivision constitutes any subdivision of land consisting of ten (10) or fewer lots each containing at least twenty thousand (20,000) sq ft per lot fronting on an existing state maintained road, not involving any new streets or road or utility extensions and not conflict with any provision or portion of the county land use plan and/or zoning ordinance.

In lieu of the procedural requirements established herein for major subdivisions, the developer may receive final approval for any minor subdivision through procedures expressed herein.

The procedural requirements for procuring minor final subdivision plat approval are as follows:

- A. The subdivider shall submit to the county planning department two (2) mylar reproducible copies, and six (6) blue line prints of the proposed minor subdivision in order that copies thereof may be distributed to a representative of the environmental health department, tax office, water department and the state department of transportation for perusal and compliance with other applicable standards.
- B. The subdivider shall submit the final plat so marked to the ordinance administrator not less than 7 days prior to the Planning Board meeting at which it will be reviewed.

- C. A review fee of \$10.00 per lot shall accompany submission of the final plat.
- D. The final plat shall be prepared by a Professional Land Surveyor currently licensed by the State of North Carolina State Liscensing Board for Professional Engineers and Professional Land Surveyors. The final plat shall conform to the provisions for plats, subdivisions and mapping requirements set forth in G.S. 47-30 and the "Standards of Practice for Board Rule 1600" and shall also depict the following information.
1. The name of the subdivision;
 2. The location of existing and plotted property, buildings, streets, railroads, bridges, culverts, water courses, transmission lines, sewers, drainpipes, water mains and other public utility easements, town and county boundary lines;
 3. Boundaries of tracts shown with bearings, distances and closures;
 4. Existing zoning classification of land to be subdivided and adjacent properties, if applicable;
 5. Names of Adjacent Property owners or subdivisions;
 6. Adjacent streets, street names and rights-of-way;
 7. Locations of proposed utility easements (storm and sanitary sewer, water, gas, electricity and telephone);
 8. Proposed areas for parks, school sites or public open spaces;
 9. Proposed lot lines, lot and block numbers and lot dimensions;
 10. Proposed building setback lines;
 11. Title of subdivision, date, north arrow properly labeled and graphic scale;
 12. Location of 100-year floodplain boundary and floodway;
 13. Approximate mean high water mark (mhw) of state waters classified as outstanding resource waters, if applicable;
 14. Wetland areas or areas of environmental concern;
 15. Name of owner and surveyor who prepared the plat;
 16. Data shall be provided relative to acreage in total tract to be subdivided or developed, acreage in parks or other public usage, other than streets or easements, smallest lot size and total number of lots; and
 17. A location map depicting the relationship between the proposed subdivision and the adjacent area.

The following statements and certificates shall appear on all copies of the final plat.

A. Certificate of Ownership and Dedication

I hereby certify that I am the owner of the property shown and described hereon, which is located in the subdivision jurisdiction of the County of Duplin and that I hereby adopt this plan of subdivision with my free consent and install and construct all improvements in this subdivision in compliance with the minimum design requirements as established by this ordinance.

B. Certificate of Survey and Accuracy

I, _____, certify that this map was drawn under my direction and supervision from an actual survey of land; that the error of closure as calculated by latitudes and departures is 1:_____; that the boundaries not surveyed are shown as broken lines; that this map was prepared in accordance with G.S. 47-30 as amended. Witness my hand and seal this _____ day of _____, 19 ____.

C. Certificate of Approval for Recording

I hereby certify that the subdivision plat shown hereon has been found to comply with Section 303 of the Duplin County Subdivision Ordinance and is hereby approved for recording in the Office of the Register of Deeds of Duplin County.

Date

Planning Director, Duplin County

The Planning Board shall review the final plat of the proposed minor subdivision at its next regularly scheduled meeting which follows submittal to the Planning Department.

The Planning Board shall recommend conditional approval with recommended changes to bring the plat into compliance, or disapproval with reasons, within sixty (60) days of its first consideration of the plat.

Failure of the Planning Board to make a written finding by the second regularly scheduled meeting after a plat has been submitted for consideration shall constitute approval by the Planning Board.

A. Approval

If the Planning Board approves the final plat, the original shall be returned to the owner for submittal to the plat review officer and the Planning Department shall retain recordation and one (1) reproducible copy.

B. Conditional Approval

If the Planning Board recommends conditional approval of the final plat with modifications to bring the plat into compliance, it shall retain one (1) print of the plat for its minutes, return its written recommendations, the original and the reproducible copy of the plat to the subdivider. The subdivider shall have sixty (60) days in which to make the changes needed to bring the plat into compliance. The subdivider shall submit the original plat and the reproducible copy to the Planning Department who will review it to ensure that the recommended changes have been completed. If the subdivider fails to resubmit the plat within sixty (60) days, and then the resubmitted final plat must be reviewed again by the Planning Board before approval can be given.

C. Disapproval

If the final plat is disapproved by the Planning Board, the reasons for such disapproval shall be stated in writing, specifying the provisions of this Ordinance with which the final plat does not comply. One (1) copy of such reasons and one (1) print of the plat shall be retained by the Planning Board as part of its proceedings; one (1) copy of the reasons, the original and the reproducible copy of the plat shall be returned to the subdivider.

If the Planning Board recommends disapproval of the final plat, the subdivider may submit a revised plat to be considered before the second regularly scheduled meeting of the board from the date the plat was disapproved. The developed shall submit the plat to be reconsidered, with corrections, to the Planning Department at least seven (7) days prior to the regular meeting of the Planning Board at which it is to be considered.

If the Planning Board disapproves the revised plat, or if the developed does not submit a revised plat for consideration at least seven (7) days before the second regularly scheduled Planning Board meeting after the plat was disapproved, the original disapproval shall stand and the plat shall become null and void.

Subdivision plats resubmitted after being disapproved by the Planning Board as outlined above shall be treated as a newly submitted plat. The subdivision application procedure must be completed by the Developer, as well as payment of all applicable fees.

The Developer shall submit the plat to the review officer for recordation within twelve (12) months of Planning Board approval or approval becomes null and void. The planning board at its discretion may grant a six month extension to the original approval.

304.1 Number of Copies and Contents

Prior to the preliminary plat submission, the subdivider shall submit to the Planning Board three (3) copies of a sketch plan of the proposed subdivision containing the following information:

- A. A sketch vicinity map showing the location of the subdivision in relation to neighboring tracts, subdivisions, roads, and waterways;
- B. The boundaries of the tract and the portion of the tract to be subdivided;
- C. The total acreage to be subdivided;
- D. The existing and proposed uses of the land within the subdivision and the existing uses of land adjoining it;
- E. The proposed street layout with approximate pavement and right-of-way width, lot layout and size of lots;
- F. The name, address, and telephone number of the owner;
- G. The name, if any, of the proposed subdivision;
- H. Streets and lots of adjacent developed or platted properties;
- I. A zoning classification of the tract and of adjacent properties;
- J. Topographic information with contours on at least 2' interval showing existing and proposed surface and subsurface drainage, ditches, ponds, wooded Areas, wetlands, etc...
- K. Area of 100 years flood and areas of environmental concern;

304.2 Submission and Review Procedure

The sketch plan shall be submitted at least 7 working days prior to the Planning Board meeting at which it will be reviewed. The Planning Board shall review the sketch plan for general compliance with the requirements of this ordinance and any zoning ordinances the Planning Board shall advise the subdivider or his authorized agent of the regulations pertaining to the proposed subdivision and the procedures to be followed in the preparation and submission of the preliminary and final plats.

The copy of the sketch plan shall be retained as a part of the minutes of the Planning Board. One copy will be submitted to the Duplin County Health Department with the other copy being returned to the subdivider or his authorized agent.

Section 305. Preliminary Plat Submission and Review305.1 Submission Procedure

For every subdivision within the territorial jurisdiction established by Section 104 of this ordinance, which does not qualify for the abbreviated procedure, the subdivider shall submit a preliminary plat, which shall be reviewed and approved by the Planning Board before any construction, or installation of improvements may begin.

Six copies of the preliminary plat (as well as any additional copies which the administrator determines are needed to be sent to other agencies) shall be submitted to the administrator of this ordinance at least seven days prior to the Planning Board meeting at which the subdivider desires the Planning Board to review the preliminary plat.

Preliminary plats shall meet the specifications in Section 308.

Section 306. Review

306.1 Review by other Agencies

After having received the preliminary plat from the subdivider, the administrator may submit copies of the preliminary plat and any accompanying material to other officials and agencies concerned with new development to invite their comment including but not limited to:

- A. The N.C. Department of Transportation
- B. The Duplin County Health Department
- C. The Duplin County Water Department
- D. Utility companies
- E. Other agencies or individuals as deemed necessary by the administrator

306.2 Review Procedure

The Planning Board shall review the preliminary plat at its next regularly scheduled meeting, which follows the receipt of comments from the appropriate agencies. Other review agencies will have 60 days in which to comment on the proposed plat.

The Planning Board shall, in writing, approve, conditionally approve, or disapprove the preliminary plat within 60 days of its first consideration of the plat.

If the Planning Board recommends approval of the preliminary plat, it shall retain one (1) copy of the plat for its minutes and transmit two (2) copies of the plat, to the owner with its determination.

If the Planning Board grants conditional approval of the preliminary plat it shall keep one (1) copy of the plat for its minutes and return the one copy of the plat and the reasons for granting conditional approval to the subdivider.

If the Planning Board disapproves the preliminary plat, it shall retain one (1) copy of the plat for its minutes and return the one copy of the plat and its recommendation to the subdivider.

If the preliminary plat is disapproved, the subdivider may make the recommended changes and submit a revised preliminary plat, or appeal the decision to the Board of Commissioners.

If the Planning Board does not make a written recommendation within 60 days after its first consideration of the plat, the subdivider may apply to the Board of Commissioners for approval or disapproval.

If the Board of Commissioners approved the preliminary plat, such approval shall be noted on three (3) copies of the plat, one (1) copy of the plat shall be retained by the Board of Commissioners and one copy shall be sent to the Planning Board and one (1) copy shall be returned to the subdivider. If the Board of Commissioners approves the preliminary plat with conditions, approval shall be noted on three (3) copies of the plat along with a reference to the conditions. One (1) copy of the plat along with the conditions shall be retained by the Board of Commissioners, one copy shall be sent to the Planning Board and one (1) copy of the preliminary plat along with the conditions shall be returned to the subdivider. If the Board of Commissioners disapproves the preliminary plat, the reasons for such disapproval shall be specified in writing. One (1) copy of the plat and the reasons shall be retained by the Board of Commissioners one copy shall be sent to the Planning Board and one (1) copy shall be returned to the subdivider.

Section 307. Final Plat Submission and Review307.1 Preparation of Final Plat and Installation of Improvements

Upon approval of the preliminary plat by the Planning Board, the subdivider may proceed with the preparation of the final plat, and the installation of or arrangements for required improvements in accordance with the approved preliminary plat and the requirements of this ordinance. Prior to approval of a final plat, the subdivider shall have installed the improvements specified in this ordinance or guaranteed their installation as provided herein. The Planning Board will accept no final plat for review unless accompanied by written notice by the Planning Director acknowledging compliance with the improvement and guarantee standards of this ordinance. The final plat shall constitute only that portion

of the preliminary plat, which the subdivider proposes to record, and develop at that time; such portion shall conform to all requirements of this ordinance.

307.2 Improvements Guarantees

A. Agreement and Security Required

In lieu of requiring the completion, installation and dedication of all improvements prior to final plat approval the county may enter into an agreement with the subdivider whereby the subdivider shall agree to complete all required improvements. Once said agreement is signed by both parties and the security required herein is provided, the final plat may be approved by the Planning Board, if all other requirements of this ordinance are met. To secure this agreement, the subdivider shall provide, subject to the approval of the Planning Board, either one, or a combination of the following guarantees not exceeding 1.25 times the entire cost as provided herein:

1. Surety Performance Bond(s)

The subdivider shall obtain a performance bond(s) from a surety bonding company authorized to do business in North Carolina. The bonds shall be payable to Duplin county and shall be in an amount equal to 1.25 times the entire cost, as estimated by the design engineer and approved by the Planning Board, of installation all required improvements. The duration of the bond(s) shall be until such time as the improvements are installed in accordance with the approved Preliminary Plat.

2. Cash or Equivalent Security

The subdivider shall deposit cash, an irrevocable letter of credit or other instrument readily convertible into cash at face value, either with the county finance officer or in escrow with a financial institution designated as an official depository of the county. The use of any instrument other than cash shall be subject to the approval of the county. The amount of deposit shall be equal to 1.25 times the cost, as estimated by the design engineer and approved by the Planning Board, of installing all required improvements. If cash or other instrument is deposited in escrow with a financial institution as provided above, then the subdivider shall file with the Planning Board an agreement between the financial institution and himself guaranteeing the following:

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

B. Default

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

C. Release of Guarantee Security

The Planning Board may, on request of a professional engineer or surveyor, release a portion of any security posted as the improvements are completed. If the Planning Board approves said improvements, then it shall immediately release any security posted.

307.3 Submission Procedure

The Subdivider shall submit the final plat, so marked, to the subdivision administrator not less than 7 working days prior to the Planning Board meeting at which it will be reviewed. The final plat for the first stage of the subdivision shall be submitted not more than 12 months after the date on which the preliminary plat was approved; otherwise such approval shall be null and void. Upon the subdividers request, the Planning Board may grant a 12 month extension of the preliminary plat on or before the 12 month anniversary of the approval of the preliminary plat.

The final plat shall be prepared by a Professional Land Surveyor currently licensed by the State of North Carolina State Licensing Board for Professional Engineers and Professional Land Surveyors. The final plat shall conform to the provisions for plats, subdivisions, and mapping requirements set forth in G.S. 47-30 and the Standards of Practice for Land Surveying in North Carolina.

Five (5) copies of the final plat shall be submitted; two (2) of these shall be on reproducible material; three (3) shall be on black or blue line paper prints. Material and drawing medium for the original shall be in accordance with the Standard of Practice for Land Surveying in North Carolina, where applicable, and the requirements of the Duplin County Register of Deeds.

The final plat shall be of size suitable for recording with the Duplin County Register of Deeds and shall be at a scale of not less than one (1) inch equals two hundred (200) feet. Maps may be placed on more than one (1) sheet with appropriate match lines.

A filing fee of \$ 10.00 per lot not to exceed \$ 150.00 shall accompany submission of the final plat.

The final plat shall meet the specifications in Section 308 of this ordinance.

The following signed certificates shall appear on all five (5) copies of the final plat:

A. Certificate of Ownership and Dedication

I hereby certify that I am the owner of the property shown and described hereon, which is located in the subdivision jurisdiction of Duplin County and that I hereby adopt this plan of subdivision with my free consent, established minimum building setback lines, and dedicate all streets, alleys, walks, parks, and other sites and easements to public or private use as noted.

Date

Owners

B. Certificate of Survey and Accuracy

In accordance with G.S. 47-30:

There shall appear on each plat a certificate by the person under whose supervision such survey or such plat was made, stating the origin of the information shown on the plat, including recorded deed and plat references shown hereon. The ration of precision as calculated by latitudes and departures before any adjustments must be shown. Any lines on the plat that were not actually surveyed must be clearly indicated and a statement included revealing the source of information. The execution of such certificate shall be acknowledged before any officer authorized to take acknowledgements by the registered land surveyor preparing the plat. All plats to be recorded shall be probated as required by law for the registration of deeds. Where a plat consists of more than one sheet, only the first sheet must contain the certification and all subsequent sheets must be signed and sealed.

The certificate required above shall include the source of information for the survey and data indicating the accuracy of closure of the plat before adjustments and shall be in substantially the following form:

" _____, certify that this plat was drawn under my supervision from (an actual survey made under my supervision) (deed description recorded in Book ____, Page ____, etc.) (other); that the boundaries not surveyed are shown as broken lines plotted from information found in Book ____, Page ____; that this plat was prepared in accordance with G.S. 47-30 as amended. Witness my original signature, registration number, and seal this ____ day of _____, A.D., 19__.

Seal or Stamp

Surveyor

Registration Number

Certificate of approval of the design of streets shall read as follows:

I hereby certify that the streets indicated on this plat have been designed in an acceptable manner according to the current North Carolina Department of Transportation Minimum Construction Standards for Subdivision Roads.

N C Department of Transportation
District Engineer

Date

C. The Certificate of the Duplin County Health Department shall read as follows:

In the event that artificial drainage is to be installed within the subdivision the following addendum shall also be included:

Artificial drainage has been installed in this subdivision according to plans and specifications prepared by (Name of Certifier) and based upon the requirements of the Duplin County Health Department to keep the seasonal high water table a minimum of twelve inches (12') below the septic tank nitrification lines. Proper landscaping and maintenance of these drainage facilities are the responsibility of the property owners to insure that septic tank malfunctions do not occur. The Duplin County Health Department assumes no responsibility for the design, maintenance, or the guaranteed performance of the artificial drainage measures and their effects.

Certifier of Drainage Facilities

Date

Environmental Health Specialist

Date

D. The Certificate of Approval for Recording shall read as follows:

I hereby certify that the subdivision plat shown hereon has been found to comply with the Subdivision Regulations of Duplin County, North Carolina and that this plat has been approved by the Duplin County Planning Board for recording in the Office of the Register of Deeds of Duplin County.

Planning Director

Date

The Planning Board shall review the final plat at or before its next regularly scheduled meeting which follows at least fifteen (15) days after the subdivision administrator receives the final plat. The Planning Board shall approve, conditionally approve, or disapprove the final plat. The subdivision administrator shall notify the applicant on action taken by the Planning Board with an explanation of any conditional approval or disapproval.

During its review of the final plat, the Planning Board may appoint an appropriate consultant to confirm the accuracy of the final plat (if agreed to by the County Commissioners). If substantial errors are found, the consultant fees incurred shall be charged to the subdivider and the plat shall not be recommended for approval until such errors have been corrected.

Failure of the Planning Board to act on a subdivision application within sixty (60) days after its first review of the final plat shall constitute grounds for the subdivider to appeal to the County Commissioners for consideration.

If the Planning Board approves the final plat, the Planning Board Chairman shall sign the Certificate of Approval for Recording on each plat.

If the final plat is disapproved by the Planning Board, the reasons for such disapproval shall be stated in writing, specifying the provisions of this ordinance with which the final plat does not comply. One (1) copy of such reasons and one (1) print of the plat shall be retained by the Planning Board as part of its minutes; one (1) copy of the reasons and three (3) copies of the plat shall be transmitted to the subdivider. If the final plat is disapproved, the subdivider may make such changes as will bring the final plat into compliance and resubmit same for reconsideration by the Planning Board.

If the final plat is approved by the Planning Board, the original and one print shall be returned to the subdivider. One (1) reproducible copy and one (1) print shall be retained by the subdivision administrator.

The subdivider shall file the approved final plat with the Register of Deeds of Duplin County within twelve (12) months of Planning Board approval; otherwise such approval shall be null and void.

Section 308. Information to be contained in or depicted on preliminary and final plats

The preliminary and final plats shall depict or contain the information indicated in the following table. An x indicates that the information is required.

| Preliminary | Final | Information |
|-------------|-------|---|
| | | <i>Title block containing</i> |
| X | X | Property designation |
| X | X | Name of owner |
| X | X | Location (including township county and state) |
| X | X | Date or dates survey was conducted and plat prepared |
| X | X | Scale drawing in feet per inch in words or figures and a bar graph |
| X | X | Name, address, registration number and seal of the registered land surveyor and or engineer who prepared the plat |
| X | X | Sketch vicinity map showing the relationship between the proposed subdivision and surrounding area |
| X | X | Corporate limits, township boundaries, county lines if on subdivision tract |
| X | X | The names, addresses and telephone numbers of all owners, registered land surveyors, land planner, architects, landscape architects and professional engineers responsible for the subdivisions |
| X | | The registration numbers and seals of the professional engineers |
| X | X | North arrow and orientation |
| X | X | The boundaries of the tract or portion thereof to be subdivided, distinctly and accurately represented with all bearings and distances shown |
| | X | The exact boundary lines of the tract to be subdivided, full dimensioned by lengths and bearings, and the location of existing boundary lines of adjoining lands |
| X | X | The names of owners of adjoining properties |
| X | X | The name of any adjoining subdivision of record or those under review |
| X | X | Minimum building setback lines |
| X | X | The zoning classifications of the tract to be subdivided and adjoining properties if applicable |
| X | X | Existing property lines on the tract to be subdivided |
| X | | Existing buildings or other structures, watercourses, railroads, bridges |
| X | | Proposed lot lines, lot and block numbers and approximate dimensions |
| X | X | The lots numbered consecutively throughout the subdivision |
| X | | Wooded areas, marshes, swamps, out-crops, ponds or lakes, streams |

| | | |
|---|---|--|
| | | or stream beds and other natural features affecting the site |
| X | X | The exact location of the flood hazard areas from the community's FHBM or other FEMA maps |
| X | X | Base flood elevations |
| X | X | 404 Wetland boundaries |
| | | <i>The following data concerning streets</i> |
| X | X | Proposed streets |
| X | X | Existing and platted streets on adjoining properties and in the proposed subdivision |
| X | X | Right-of-way, locations and dimensions |
| X | | Pavement widths |
| X | | Approximate grades |
| X | X | Design engineering data for all corners and curves |
| X | | Typical street cross sections |
| X | X | Street names |
| | X | Street maintenance agreement |
| | X | Evidence that the subdivider has obtained approval (DOT) approval on street design and driveway permits |
| X | X | Utility and other easements |
| X | X | Riding trails |
| X | X | Natural buffers |
| X | X | Pedestrian or bicycle paths |
| X | X | Parks and recreation areas with specific type indicated |
| X | X | School sites |
| X | X | Areas to be dedicated to or reserved for public use |
| X | X | Areas to be used for purpose other than residential with the purposes of each stated |
| X | X | The future ownership (dedication or reservation for public use to governmental body, for owners to duly constituted homeowner's association or for tenants remaining in subdivider's ownership) of recreation and open space lands |
| | | <i>Plans for utility layouts including</i> |
| X | | Sanitary sewers |
| X | | Storm sewers |
| X | | Other drainage facilities, if any |
| X | | Water distribution lines |
| X | | Natural gas lines |
| X | | Telephone lines |
| X | | Electric lines |
| X | | Illustration of connections to existing systems, showing line sizes, the location of fire hydrants, blowoffs, manholes, force mains and gate valves |
| X | | Plans for individual water supply and sewage disposal systems, if any |
| X | | Profiles based upon mean sea level datum for sanitary sewers and storm sewers |
| | | <i>Site calculations including</i> |
| X | X | Acreage in total tract to be subdivided |
| X | X | Acreage in parks and recreation areas and other nonresidential uses |
| X | X | Total number of parcels created |
| X | X | Size of the smallest lot in the subdivision |
| X | | Linear feet in streets |
| X | X | The name and location of any property or buildings within the proposed subdivision or within any contiguous property that is located on the U.S. Department of Interior's National Register of Historic Places |
| | X | Sufficient engineering data to determine readily and reproduce on the ground every straight or curved line, street line, right-of-way, easement line, and setback line, including dimensions, bearings or deflection angles, radii, central angles, and tangent distance for the centerline of curved property lines that are not the boundary line of curved streets. All dimensions shall be measured to the nearest one one-hundredth of a foot and all angles to a minimum angular accuracy of the nearest minute. |
| | X | The accurate locations and descriptions of all monuments, markers and control points |
| | X | A copy of any proposed deed restrictions is mandatory when private recreation areas, roads or common areas are established |
| | X | Evidence of erosion control plan approval |
| X | | Topographic map with contour intervals as determined by the planning director |
| X | | Building envelopes (if required by the planning director) |

Section 309. Recombination of Land

- 309.1 Any plat or any part of any plat may be vacated by the owner at any time before the sale of any lot in the subdivision by a written instrument to which a copy of such plat shall be attached, declaring the same to be vacated.
- 309.2 Such an instrument shall be approved by the same agencies as approved the final plat. The governing body may reject any such instrument, which abridges or destroys any public rights in any of its public uses, improvements, streets or alleys.
- 309.3 Such an instrument shall be executed, acknowledged or approved and recorded and filed in the same manner as a final plat; and being duly recorded or filed shall operate to destroy the force and effect of the recording of the plat so vacated, and to divest all public rights in the streets, alleys, and public grounds, and all dedications laid out or described in such plat
- 309.4 When lots have been sold, the plat may be vacated in the manner provided in Section 309.1 through 309.3 by all owners of the lots in such plat joining in the execution of such writing.

Section 310. Resubdivision procedures

For any re-platting or re-subdivision of land, the same procedure, rules and regulations shall apply as prescribed herein for an original subdivision except that lots sizes may be varied on an approval plat after recording.

Section 311. Multifamily developments

For condominium, multifamily developments and townhouse subdivisions, all information as requested in this ordinance shall be submitted. In addition, the following shall be required prior to Planning Board approval:

- A. All documents as required by law (N.C. Condominium Act).
- B. All documents pertaining to property owners association or the like including provisions for the maintenance of all improvements such as streets, parking areas and common areas.
- C. All restrictive covenants.
- D. Survey data and descriptive material to establish building locations and building envelopes.

All private streets shall be built to the construction standards and specifications of the North Carolina Department of Transportation. Such standards may also apply to the construction of accessways and driveways where deemed necessary by the Planning Board. Parking areas and other off-street areas requiring pavement shall be installed according to sound engineering standards as approved by the Planning Board.

Section 312. Townhouse subdivisions (except duplex subdivisions)

For townhouse lots with individual septic tanks, all shall comply with the minimum lot area requirements of section 406.2 or by a combination of lot area and contiguous open space. No townhouse shall be placed on a lot of less than fifteen hundred (1500) square feet.

Lots served by public water and public sewer shall have:

- A. A minimum lot size of one thousand five hundred (1,500) square feet. A minimum lot width of not less than fifteen (15) feet.
- B. A front yard setback of not less than twenty (20) feet.
- C. A rear yard setback of not less than twenty (20) feet.
- D. No side yard setback except on corner lots (measured from the exterior building line of the principle structure). This shall not be less than one-half the front yard setback.

Five-foot access easements shall be reserved in each rear yard and ten-foot access easements shall be located between each principal building.

No dwelling shall be connected on more than two (2) sides by common wall.

Each townhouse shall be provided with at least two (2) eight-foot by twenty-foot parking spaces.

Section 313. Homeowner's association and common area

A homeowner's association shall be established for each subdivision containing common areas. The covenants, conditions and restrictions shall specify lot owner's responsibilities for maintenance of common facilities, and shall provide for assessments to finance all maintenance activities. Final plats for subdivisions containing common areas will not be approved until the subdivider's homeowner's association documents have been submitted and approved by the Planning Board.

All areas on the preliminary and final plat other than building sites and public rights-of-way, shall be shown and designated as common areas, the fee simple title to which shall be conveyed by the developer to the homeowner's association. All common areas shall be designated as a single parcel regardless of the proximity of each common area to one (1) or all of the other common areas, and such areas shall not be subdivided or conveyed by homeowner's association. This shall be so stated in the covenants and restrictions, and shall be noted on the final plat.

ARTICLE IV

REQUIRED IMPROVEMENTS, DEDICATION, RESERVATION, MINIMUM DESIGN STANDARDS

Section 401. General

Each subdivision shall contain the improvements specified in this article, which shall be installed in accordance with the requirements of this ordinance and paid for by the subdivider, unless another means of financing is specifically stated in this ordinance. Land shall be dedicated and reserved in each subdivision as specified in this article. Each subdivision shall adhere to the minimum standards of design established by this article.

Section 402. Suitability of land

- 402.1 Land which has been determined by the Planning Board on the basis of engineering or other expert surveys to pose an ascertainable danger to life or property by reason of its unsuitability for the use proposed shall not be platted for that purpose, unless and until the subdivider has taken the necessary measures to correct said conditions and to eliminate said dangers.
- 402.2 Areas that have been used for disposal of solid waste shall not be subdivided unless tests by the Duplin County Health Department, a structural engineer and a soils expert determine that the land is suitable for the purpose proposed.
- 402.3
- A. All subdivision proposals shall be consistent with the need to minimize flood damage and shall conform with the Duplin County Flood Damage Prevention Ordinance.
 - B. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
- 402.4 Applicants for subdivisions adjoining public trust waters and other publicly owned water bodies are encouraged to provide for public access to the water.
- 402.5 All residential construction located within the 100 year flood plain as identified on the Duplin County Flood Hazard Boundary maps or the flood insurance rate maps as prepared by the Federal Emergency Management Agency shall comply with the requirements of the Duplin County Flood Damage Prevention Ordinance.

Section 403. Name Duplication

The name of the subdivision shall not duplicate nor closely approximate the name of an existing subdivision within Duplin County.

Section 404. Subdivision Design

- 404.1 Block
- A. The lengths, widths, and shapes of blocks shall be determined with due regard to: provision of adequate building sites suitable to the special needs of the type of use contemplated; zoning requirements; needs for vehicular and pedestrian circulation; control and safety of street traffic; limitations and opportunities of topography; and convenient access to water areas.
 - B. Blocks shall not be less than 400 feet or more than 1000 feet.

- C. Blocks shall have sufficient width to allow two (2) tiers of lots of minimum depth except where single tier lots are required to separate residential development from through vehicular traffic or another type of use, in nonresidential subdivisions, or where abutting a water area.
- D. Where deemed necessary by the Planning Board, a pedestrian crosswalk at least fifteen (15) feet in width may be required to provide convenient public access to a public area such as a park or school, to a water area, or to areas such as religious or transportation facilities.

404.2 Lots

- A. All lots in new subdivisions shall conform to the zoning requirements of the district in which the subdivision is located. Conformance to zoning requirements means, among other things, that the smallest lot in the subdivision must meet all dimensional requirements of the zoning ordinance. It is not sufficient merely for the average lot to meet zoning requirements.

Lot sizes for unzoned areas shall conform to the following chart.

This chart is for unzoned areas:

| | Public Water and Sewer | Public Water, No Public Sewer | No Public Water No Public Sewer |
|---------------------------------|------------------------|-------------------------------|---------------------------------|
| Minimum Lot Area in Square Feet | 12,000 | 15,000 | 20,000 |
| Minimum Lot Width in Feet | 85 | 90 | 100 |
| Minimum Lot Depth in Feet | 100 | 120 | 150 |
| Minimum Setback Lines in Feet | | | |
| Front | 20 | 25 | 30 |
| Side | 15 | 15 | 20 |
| Side Abutting Street | 15 | 20 | 20 |
| Rear | 15 | 20 | 20 |

- B. Lots shall meet any applicable Duplin County Health Department Requirements.
- C. Double frontage lots shall be avoided wherever possible.
- D. Side lot lines shall be substantially at right angles to or radial to street lines.
- E. Lots shall have a minimum 20' road frontage, except town houses, and at least 20' building setbacks from any lot line.

404.3 Easements

Easements shall be provided as follows:

A. Utility Easements

Easements for underground or above ground utilities shall be provided, where necessary, across lots or centered on rear or side lot lines and shall be at least 20 feet wide for water and sanitary sewer lines and as required by the companies involved, for telephone, gas and power lines.

The Planning Board will determine whether one (1) easement is sufficient or whether several easements are necessary to accommodate the various facilities and the subdivider shall provide the required easements.

B. Drainage Easements

Where a subdivision is traversed by a stream or drainage way, an easement shall be provided conforming with the lines of such stream and of sufficient width as will be adequate for the purpose.

404.4 Buffer Strips

In residential districts a buffer strip at least twenty five feet (25') in depth in addition to the normal lot size and depth required shall be provided adjacent to all railroads and controlled access highways, commercial and/or industrial developments, multi-family housing and mobile home parks, and any other land use that the Planning Board deems necessary and where there may be potential conflict. This strip shall be a part of the platted lots, but shall have the following restrictions lettered on the face of the plat: **"This strip shall be reserved for the planting of trees or shrubs by the owner; the building of structures hereon is prohibited."**

Section 405. Streets405.1 Type of Street Required

All subdivision lots shall abut on a public street. All streets shall be built to the standards of this ordinance and all other applicable standards of the county and the North Carolina Department of Transportation. Public streets which are eligible for acceptance into the State Highway System shall be constructed to the standards necessary to be put on the State Highway System or the standards in this ordinance, whichever is stricter in regard to each particular item, and shall be put on such system. Streets which are not eligible to be put on the State Highway System because there are too few lots or residences shall, nevertheless, be dedicated to the public and shall be in accordance with the standards in this ordinance or the standards necessary to be put on the State Highway System, whichever is stricter in regard to each particular item, so as to be eligible to be put on the system at a later date. A written maintenance agreement which provisions for maintenance of the street until it is put on the State System shall be included with the final plat.

405.2 Subdivision Street Disclosure Statement

All streets shown on the final plat shall be designated in accordance with G.S. 136-102.6 and designation as public shall be conclusively presumed an offer of dedication to the public. Where streets are dedicated to the public but not accepted into the State System, before lots are sold, a statement explaining the status of the street shall be included with the final plat.

405.3 Half-Streets

The dedication of half streets of less than the N.C. Department of Transportation requirements at the perimeter of a new subdivision shall be prohibited. If circumstances render this impractical, adequate provision for the concurrent dedication of the remaining half of the street shall be furnished by the subdivider. Where there exists a half-street in an adjoining subdivision, the remaining half shall be provided by the proposed subdivision.

405.4 Access to Adjacent Properties

Where, in the opinion of the Planning Board, it is necessary to provide for street access to an adjoining property, proposed streets shall be extended by dedication to the boundary of such property and a temporary turn around provided.

405.5 Nonresidential Streets

The subdivider of a nonresidential subdivision shall provide streets in accordance with of the North Carolina Roads, Minimum construction Standards, January 1, 1999; and the standards in this ordinance, whichever are stricter in regard to each particular item.

405.6 Design Standards

The design of all streets and roads within the jurisdiction of this ordinance shall be in accordance with the N.C. Department of Transportation, Division of Highways' Subdivision Roads Minimum Construction standards.

405.7 Intersections

- A. Streets shall be laid out so as to intersect as nearly as possible at right angles, and no street shall intersect any other street at an angle less than sixty (60) degrees.
- B. Property lines at intersections should be set so that the distance from the edge of pavement, of the street turnout, to the property line will be at least great as the distance from the edge of pavement to the property line along the intersecting streets. This property line can be established as a radius or as a sight triangle. Greater offsets from the edge of pavement to the property lines will be required, if necessary, to provide sight distance for the vehicle on the side street.
- C. Offset intersections are to be avoided unless exception is granted by the Division of Highways. A minimum length of 200 feet should separate intersections, which cannot be aligned, between survey center lines.
- D. Intersections with arterials, collectors and thoroughfares shall be at least one thousand (1000) feet from center line to center line, or more if required by the N.C. Department of Transportation

405.8 Cul-de-sacs

Permanent dead-end streets should not exceed one thousand (1000) feet in length unless necessitated by topography or property accessibility. Suitable provisions for emergency vehicles to turn around shall be provided every 2500 feet. The distance from the edge of pavement on the vehicular turnaround to the right-of-way line shall not be less than the distance from the edge of pavement to right-of-way line on the street approaching the turnaround. Cul-de-sacs should not be used to avoid connection with an existing street or to avoid the extension of an important street, unless exception is granted to the Planning Board.

405.9 Alleys

- A. Alleys shall be required to serve lots used for commercial and industrial purposes except that this requirement may be waived where other definite and assured provision is made for service access.
- B. The width of an alley shall be at least twenty (20) feet.
- C. Dead-end alleys shall be avoided where possible, but if unavoidable, shall be provided with adequate turnaround facilities at the dead-end as may be approved by the Planning Board.
- D. Sharp changes in alignment and grade shall be avoided.
- E. All alleys shall be designed in accordance with N.C. Department of Transportation Standards.

405.10 Other RequirementsA. Through Traffic Discouraged on Residential Collector and Local Streets

Residential collector and local streets shall be laid out in such a way that their use by through traffic will be discouraged. Streets shall be designed or walkways dedicate to assure convenient access to parks, playgrounds, schools, or other places of public assembly.

B. Sidewalks

Sidewalks may be required by the Planning Board on one or both sides of the street in areas likely to be subject to heavy pedestrian traffic such as near schools and shopping areas. Such sidewalks shall be constructed to a minimum width of four (4) feet, and shall consist of a minimum thickness of four (4) inches of concrete. All sidewalks shall be placed in a right-of-way, unless the development is platted as a planned unit or group development. Sidewalks shall consist of a minimum of six (6) inches of concrete at driveway crossings.

C. Street Names

Proposed streets, which are, obviously in alignment with existing streets shall be given the same name. In assigning new names, duplication of existing names shall be avoided and in no case shall the proposed name be phonetically similar to existing names in the county irrespective of the use of a suffix such as street, road, drive, place, court, etc. Street names shall be approved by the E-911 addressing department prior to final plat approval.

D. Street Name Signs

The subdivider shall be required to provide and erect street name signs to county standards at all intersections within the subdivision.

E. Permits for Connection to State Roads

An approved permit is required for connection to an existing state system road. This permit is required prior to any construction on the street or road. The application is available at the office of the nearest district engineer of the Division of Highways.

F. Offsets to Utility Poles

No utility poles shall be located within the road right of way.

G. Wheelchair Ramps

In accordance with Chapter 136, Article 2A, Section 136-44.14, all street curbs in North Carolina being constructed or reconstructed for maintenance procedures, traffic operations, repairs, correction of utilities, or altered for any reason shall provide wheelchair ramps for the physically handicapped at all intersections where both curb and gutter and sidewalks are provided and at other major points of pedestrian flow.

Section 406. Utilities

406.1

- A. (1) Each lot shall be provided with an approved water supply in accordance with 15A NCAC 18A.1700. Provided the water supply and distribution system serves 15 or more connections, it is classified as a "public water system" and must be listed with the Public Water Supply Section, Division of Environmental Health
(2) Each lot must be connected to an approved sewage disposal system as determined by the Duplin County Health Department. The approval of water supply and sewage disposal system is a condition for approval of electrical service to each mobile home lot.

- B. When public or community water systems or sewage systems are available, the developer shall, at his expense, make connection to those systems. Availability will be determined by the Planning Board.

Water and sanitary sewer lines, connections, and materials shall be in accordance with policies and procedures for utility extensions maintained by the county utilities department.

406.2 Storm Water Drainage System

The Subdivider shall provide a surface water drainage system constructed to the standards of the N.C. Department of Transportation.

- A. No surface water shall be channeled or directed into a sanitary sewer.
B. Where feasible, the subdivider shall connect to an existing storm drainage system.

- C. Where an existing storm drainage system cannot feasibly be extended to the subdivision, a surface drainage system shall be designed to protect the proposed development from water damage.
- D. Surface drainage courses shall have side slopes of at least three (3) feet of horizontal distance for each one (1) foot of vertical distance, and courses shall be of sufficient size to accommodate the drainage area without flooding, and designed to comply with the standards and specifications for erosion control of the North Carolina Sedimentation Pollution control Act, G.S. 143-34.12, Chapter 113A, Article 4 and the N.C. Administrative Code Title 15, Chapter 4, and any locally adopted erosion and sedimentation control ordinances.
- E. The minimum grade along the bottom of a surface drainage course shall be a vertical fall of at least one (1) foot in each two hundred (200) feet of horizontal distance.
- F. Streambanks and channels downstream from any land disturbing activity shall be protected from increased degradation by accelerated erosion caused by increased velocity of runoff from the land disturbing activity in accordance with the North Carolina Sedimentation Pollution Control Act, G.S. 143-34.12, Chapter 114A, Article 4 and the North Carolina Administrative Code Title 15, Chapter 4.
- G. Anyone constructing a dam or impoundment within the subdivision must comply with the North Carolina Dam Safety Law of 1967 and the North Carolina Administrative Code Title 15, Subchapter 2 K.
- H. In all areas of special flood hazards, all subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

406.3 Private Streets

A disclosure statement shall be issued in accordance with G.S. 136-102.6. Such shall be submitted prior to final plat approval. The provisions for road maintenance including parking areas shall be stated on the final plat.

406.4 Review by County Commissioners

The county commissioners may review each and every subdivision proposal prior to final plat and submit findings to the planning board for consideration. If final plat approval is denied by the Planning Board, the applicant may appeal to the County Commissioners.

406.5 Federal Wetlands

All areas within a subdivision identified as federal wetlands shall be delineated on the final plat along with a statement as to applicable restrictions. Such delineation shall be certified in a manner acceptable to the Duplin County Planning Board as being the true and actual boundary of any 404 Wetland areas consistent with policies and regulations of the U.S. Army Corps of engineers.

406.6 Deed Information

The planning board may require that provisions for the maintenance of roads, drainage systems, easements, or other special conditions pertaining to all or part of a subdivision be made a part of the deed, other legal form of conveyance or restrictive covenants for a lot or a group of lots. The development of suitable restrictive covenants shall be encouraged by the planning board.

406.7 Private Driveways

Interior lots may be accessed by a driveway platted and recorded as such with provisions for maintenance appearing on the final plat. No driveway may serve more than two (2) lots and driveways shall not be used to circumvent good design practices or the requirement for a street built according to the provisions of this ordinance.

406.8 Environmental Impact Statement

Pursuant to Chapter 113 of the North Carolina General Statutes, the Planning Board may require the subdivider to submit an environmental impact statement due to the nature of the land to be subdivided or peculiarity in the proposed layout.

406.9 Eligibility for National Flood Insurance

If a proposed subdivision is in a location subject to the 100-year flood, an appropriate statement indicating such location shall appear on the final plat. If a proposed subdivision is within the area subject to the 100-year flood and is not eligible for participation in the National Flood Insurance Program, an appropriate statement indicating such exclusion shall be placed on the final plat.

406.10 Cautions and Certifications

The planning board may required that cautions and other specialized certifications be affixed to the final plat prior to approval.

ARTICLE V

PLANNED UNIT DEVELOPMENT

Section 501. Introduction

A planned unit development is intended to encourage unified development of property in an innovative manner using contemporary design patterns and sound engineering principals.

Section 502. Planned unit development (PUD)

Planned unit development means an area of land, controlled by one (1) or more landowners, to be developed under unified control or unified plan of development for residential, commercial, educational, recreational, or industrial uses, or any combination of the foregoing, the plan for which does not correspond in lot size, bulk or type of use, density, lot coverage, open space, or other restrictions to the existing land use regulations.

Section 503. Common open space

"Common open space" means a parcel of land, an area of water, or a combination of land and water, within the site designated for a planned unit development, designed and intended primarily for the use or enjoyment of residents, occupants and owners of the planned unit development. Areas included in driveways or otherwise required to move cars in or out of parking spaces shall not be considered as common open space.

Section 504. Plan

"Plan" means the provisions for development of a planned unit development, which may include, but need not be limited to easements, covenants and restrictions relating to use, location and bulk of building and other structures, intensity of use or density of development, utilities, private and public streets, ways, roads, pedestrian areas, and parking facilities, common open space, and other public facilities. "Provisions of the plan" means the written and graphic material referred to in this definition.

Section 505. Purposes and objective of development

PUD's shall be designed to meet the following objectives:

- A. To provide for necessary commercial, recreational and educational facilities conveniently located to housing;
- B. To provide well-located, clean, safe and pleasant industrial sites;
- C. To encourage innovations in residential, commercial and industrial development;
- D. To encourage a more efficient use of land and of public services, or private services in lieu thereof;
- E. To minimize the impact of traffic on streets and highways;
- F. To conserve the value of the land;
- G. To provide a procedure which can relate the type, design and layout of residential, commercial and industrial development to the particular site, thereby encouraging preservation of the site's natural characteristics; and
- H. To encourage integrated planning in order to achieve the purposes of the development.

Section 506. Conformity with land-use plan required

No PUD shall be approved unless it is found by the Planning Board to be in conformity with the county's land use plan.

Section 507. Subdivision provisions modification authorized

It is recognized that the uniqueness of each proposal for a PUD requires that the specifications, standards, and requirements for various facilities, including but not limited to streets, highways, alleys, utilities, curbs, gutters, sidewalks, streetlights, parks, playgrounds, school grounds, storm drainage, water supply and distribution, and sewage collections and treatment, may be subject to modification from the specifications, standards and requirements established in the subdivision regulations.

The county may, therefore, waive or modify the specifications, standards and requirements which would be otherwise applicable to the proposed development.

Section 508. Compatibility of land use elements

It is recognized that certain individual land uses, regardless of their adherence to all the design elements provided for in this article, might not exist compatibly with one another. Therefore, a proposed PUD shall be considered from the point of view of land use compatibility and no PUD shall be approved which contains incompatible elements.

Section 509. Conditions for approval

The planning board may approve a proposed PUD upon finding that it will implement the purposes of this ordinance and will meet the standards and requirements set forth in this ordinance.

Section 510. Site plan criteria, general requirements

The PUD shall meet the following site plan criteria, depicted on a site plan furnished by the developer, unless the applicant can demonstrate that one (1) or more of them is not applicable or that another practical solution has been otherwise achieved:

- A. The PUD shall have an appropriate relationship to the surrounding area, with adverse effects on the surrounding area being minimized.
- B. The PUD shall provide an adequate internal street circulation system designed for the type of traffic generated, safety, separation from the living areas, convenience and access. Private internal streets may be permitted provided that adequate access for police, fire and emergency protection is maintained; streets are named in a logical fashion to avoid confusion; and provisions for using and maintaining such streets are imposed upon the private users and approved by the Planning Board.
- C. The PUD shall provide parking areas adequate in terms of location, area, circulation, safety, convenience, separation and screening.
- D. The PUD shall provide common open space adequate in terms of location, area and type of the common open space, and in terms of the uses permitted in the PUD. The PUD shall provide for preservation of natural features of the terrain.
- E. The PUD shall provide for variety in housing types and densities, other facilities and common open space.
- F. The PUD shall provide adequate privacy between dwelling units.
- G. The PUD shall provide pedestrian ways adequate in terms of safety, separation, convenience, access to points of destination and attractiveness.

Section 511. Off-street parking

The number of off-street parking spaces for each use in a PUD shall be determined by the Planning Board through consideration of the following factors.

- A. Estimated number of cars to be used by occupants of dwellings in the PUD;
- B. Temporary and permanent parking needs of nondwelling uses.
- C. Varying time periods of use whenever joint use of common parking areas is proposed; and
- D. Parking and storage needs for recreational vehicles including but not necessarily limited to campershells, boats, and travel trailers.

Section 512. Minimum land area

The minimum size of land that may compromise a PUD shall be 25 acres.

Section 513. Lot area and coverage, setbacks and clustering

The minimum lot areas and the minimum setback restrictions may be decreased below and the maximum lot coverage may be increased above those applicable to like lots and buildings to accommodate specific building types with unusual orientation on the lot or relationship between buildings. The averaging of lot areas shall be permitted to provide flexibility in design and relate lot size to topography, but each lot shall contain an acceptable building site. The clustering of development with useable common open areas shall be permitted to encourage provision for and access to common open areas and to save street and utility construction and maintenance costs. Such clustering is also intended to accommodate contemporary building types which are not spaced individually on their own lots but share common side walls, whether or not providing for separate ownership of land and buildings.

Section 514. Residential density

The overall average residential density shall be no greater than the maximum density for the particular area in the county's land use plan. The overall average residential shall be calculated by summing the number of residential dwelling units planned within the boundary of the PUD and dividing by the total gross areas expressed in acres within the boundary of the PUD. Averaging and transferring of densities within the PUD shall be allowed upon a showing of conformance to the purposes of this ordinance through appropriate utilization of the area within the PUD to achieve high standards of design and habitability.

Section 515. Permitted uses

- A. Subject to the provisions of Section 508, the following uses, separate or in combination, may be permitted in a PUD;
- a. Single-family and multifamily residential dwelling units in detached, semidetached, attached, clustered or multistoried structures, or any combination thereof;
 - b. Sale or rental of goods or services;
 - c. Recreation facilities;
 - d. Public and private offices;
 - e. Convention facilities;
 - f. Restaurants;
 - g. Lodging places, including motels, hotels, lodges and dormitories;
 - h. Schools and other education institutions;
 - i. Churches and hospitals;
 - j. Business and commercial uses;
 - k. Industrial uses; and
 - l. Any other uses shown to be appropriate.
- B. The uses which shall be permitted in any particular PUD shall be only those permitted by the approved PUD plan.

Section 516. Common open space

A minimum of twenty-five (25) percent of the total area within the boundary of any residential PUD shall be devoted to useable and accessible common open space; provided, however, that the planning board may reduce such requirement if it finds that such decrease is warranted by the design of, and the amenities and features incorporated into, the plan and that the needs of the occupants of the PUD for common open space can otherwise be met in the proposed PUD and the surrounding area.

Section 517. Application for PUD review

The plan shall show generally within the PUD where each type of use will be located and shall indicate the total acreage which will be devoted to each use. The precise location of each use and the location of lots, blocks or other parcels within each area devoted to each use shall be shown.

The minimum lot area, maximum lot coverage, minimum setbacks, maximum height of buildings and all other use and occupancy restrictions applicable to any PUD, shall only be those which are approved at the time of final plat approval by the planning board.

The applicant shall initiate any request for PUD approval in writing, and shall include with his written request the following:

- A. A legal description of the area and a statement of the ownership of all interests in the property to be included in the PUD, and the written consent of all of the owners and, upon request of the planning board, evidence of title in such quality as is acceptable to the board;
- B. A plan indicating the broad concept of the proposed development. Such plan shall indicate:
 - a. The maximum number of dwelling units proposed within the overall area,
 - b. The minimum acreage which will be dedicated to common open space,
 - c. The type of uses proposed and the acreage devoted to each use,
 - d. Major internal vehicular traffic circulation system,
 - e. The acreage which will be dedicated for school sites or other public uses,
 - f. The general nature and location of commercial and industrial uses, if any,
 - g. Provision for water, sewer, telephone, electricity and other utilities,
 - h. Other restrictions proposed by the applicant such as building setbacks, height limits and access requirements to be applied to particular areas,
 - i. How the common open space will be owned and maintained;
- C. A location map, on a scale of one (1) inch equaling not more than four hundred (400) feet, illustrating site boundaries, acreage, existing structures and adjacent property owners and land uses;
- D. A map, on a scale of one (1) inch equaling not more than one hundred (100) feet, illustrating site boundaries, acreage, existing structures and
- E. A site plan on a scale of one (1) inch equaling not more than one hundred (100) feet, depicting site plan criteria which the applicant is required to meet in Section 510;
- F. A topographic map of the site or phase, showing at a scale of one (1) inch equaling not more than one hundred (100) feet showing streams, rivers, ditches, and areas subject to 100 year flooding.
- G. The written request shall additionally contain the following information:
 - a. An explanation of the objectives to be achieved by the PUD and an agreement to abide by the provisions of this ordinance.
 - b. A development schedule indicating the approximate dates when construction of the various stages of the PUD can be expected to begin and be completed,
 - c. Copies of any special easements, covenants, conditions and restrictions which will govern the use or occupancy of the PUD; provided, however, that the applicant may impose additional covenants, conditions and restrictions on any particular area in connections with the platting of such areas.
 - d. A statement and findings by a Professional Engineer which shall provide evidence of the following as adequate to service the PUD:
 1. The proposed water distribution system,
 2. The proposed method of sewage collection,
 3. The general manner in which storm drainage will be handled, and
 4. The general manner in which provision will be made for any potential natural hazards in the area,
 - e. Easements showing vested legal access for ingress and egress, if applicable

- f. Evidence that the PUD has been designed which consideration of the natural environment of the site and the surrounding area and does not unreasonably destroy or displace wildlife, natural vegetation, or unique natural or historic features,
 - g. A statement of financial capability
 - h. A discussion of the major internal vehicular system and its relation to the existing system of streets, roads or highways,
- H. The applicant may submit any other information or exhibits which he deems pertinent in evaluating his proposed PUD.

Section 518. Planning Board

The Planning Board is responsible for initially investigating all PUD applications, plans and accompanying information in detail to ensure conformity with the provisions of this ordinance. Within thirty (30) days from receipt, the Board shall approve a PUD application, disapprove it, or approve it upon the imposition of conditions reasonably related to the intent of this PUD section.

Approval may be given on a conditional basis provided the developer submits a written agreement, approved by the planning board to incorporate such conditions upon approval of the final PUD application and plan.

ARTICLE VI

DEFINITIONS

Section 601. "Subdivision Defined"

For the purposes of this ordinance, "subdivision" means all divisions of a tract of 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 shall include all divisions of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within this definition nor be subject to any regulations enacted pursuant to this ordinance.

- A. The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the county as shown in this ordinance;
- B. The division of land into parcels greater than one (1) acre where no street right-of-way is involved;
- C. The public acquisition by purchase of strips of land for the widening or opening of streets, and
- D. The division of a tract in single ownership whose entire area is not greater than two (2) acres into not more than three (3) lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the county as shown in this ordinance.
- E. Land surveyed among heirs. If the Planning Board determines that the intent to make use of this provision is to circumvent the requirements of this ordinance, then the use of this exemption may be denied.

Section 602. Other Definitions

For the purpose of this ordinance, certain words or terms used herein shall be defined as follows:

Block - A piece of land bounded on one or more sides by streets or roads.

Buffer Strip - A 25 foot strip of land in addition to the lot size and depth planted with one or more species of trees and or shrubs at spacings which will provide a permanent, continuous, year round visual screen.

Building Setback Line - A line parallel to the front property line in front of which no structure shall be erected. Setbacks shall be figured from the right-of-way line.

Dedication - A gift, by the owner, or a right to use if land for a specified purpose or purposes. Because a transfer of property rights is entailed, dedication must be made by written instrument, and is completed with an acceptance.

Easement - A grant by the property owner of a strip of land for a specified purpose and use by the public, a corporation, or persons.

Half Street - A street whose centerline coincides with a subdivision plat boundary, with one-half (1/2) the street right-of-way width being contained within the subdivision plat. Also, any existing street to which the parcel of land to be subdivided abuts on only one side.

Lot - A portion of a subdivision, or any other parcel of land, intended as a unit of transfer of ownership or for development or both.

Lot of Record - A lot which is part of a subdivision, a plat of which has been recorded in the Office of the Register of Deeds of Duplin County prior to the adoption of this ordinance, or a lot described by meters and bounds, the description of which has been so recorded prior to the effective date of this ordinance.

Lot types:

Corner Lot - A lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point in the lot meet at an interior angle of less than one hundred thirty-five (135) degrees.

Double Frontage Lot - A continuous (through) lot, which is accessible from both streets upon which it fronts.

Interior Lot - A lot other than a corner lot with only one frontage on a street.

Through Lot or a "Double Frontage Lot" - A lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as double frontage lots.

Reversed Frontage Lot - A lot on which the frontage is at right angles or approximately right angles (interior angles less than one hundred thirty-five (135) degrees) to the general pattern in the area. A reversed frontage lot may also be a corner lot, an interior lot or a through lot.

Single-Tier Lot - A lot which backs upon a limited access highway, a railroad, and a physical barrier, or another type of land use and to which access from the rear is usually prohibited.

Official Maps or Plans - Any maps or plans officially adopted by the Planning Board.

Open Space - An area (land and/or water) generally lacking in man-made structures and reserved for enjoyment in its unaltered state.

Planned Unit Development - (PUD) same as section 502

Plat - A map or plan of a parcel of land, which is to be, or has been subdivided.

Private Driveway - A roadway serving two (2) or fewer lots, building sites or other division of land and not intended to be public ingress or egress.

Private Street - An undedicated private right-of-way which affords access to abutting properties and requires a subdivision streets disclosure statement in accordance with G.S. 136-102.6.

Recreation Area or Park - An area of land or combination of land and water resources that is developed for active and/or passive recreation pursuits with various man-made features that accommodate such activities.

Reservation - A reservation of land does not involve any transfer of property rights. It simply constitutes an obligation to keep property free from development for a stated period of time.

Street - A dedicated and accepted public right-of-way for vehicular

Subdivider - Any person, firm or corporation who subdivides or develops any land deemed to be subdivision as herein defined.

Section 603. Word Interpretation

For the purpose of this ordinance, certain words shall be interpreted as follows:

Words used in the present tense include the future tense.

Words used in the singular number include the plural and words used in the plural number include the singular, unless the natural construction of the wording indicates otherwise.

The word "person" includes a firm, association, corporation, trust, and company as well as an individual.

The word "used for" shall include the meaning "designed for".

The word "structure" shall include the word "building".

The word "lot" shall include the words "plot", "parcel", or "tract".

The word "shall" is always mandatory and not merely directory.

**AN ORDINANCE
LEVYING A TAX ON GROSS RECEIPTS DERIVED FROM
RETAIL SHORT-TERM LEASE OR RENTAL OF VEHICLES**

WHEREAS, the North Carolina General Assembly has ratified Senate Bill 1076, which has been designated as Session Law 2000-2 (the "Act") and made effective for taxable years beginning on or after July 1, 2000, and

WHEREAS, the Act repealed the property tax on certain vehicles leased or rented under retail short-term leases or rentals and authorized municipalities to replace the lost revenue through enactment of a local tax on gross receipts derived from retail short-term leases or rentals.

NOW, THEREFORE, BE IT ORDAINED by the Duplin County Board of Commissioners that:

Section 1. Definitions. In addition to the common meanings of words, the following definitions shall be applicable herein:

- (a) "Customer" shall mean any person that leases or rents a vehicle on a short-term lease or rental basis.
- (b) "General Statutes" shall refer to the North Carolina General Statutes and any reference to a particular section thereof shall include the same as may be from time to time amended, modified, supplemented, revised or superseded.
- (c) "Gross receipts" shall mean the amount that is or would be reported as gross receipts on a business's state income tax return, or on the federal income tax return filed with the state income tax return if the state return does not separately state gross receipts for the most recently completed tax year. Taxes collected hereunder are not subject to the tax herein imposed and are not included in gross receipts.
- (d) "Lease or rental" shall mean a transfer, for consideration, of the use but not the ownership of property to another for a period of time. (G.S. 105-164.3(7a))
- (e) "Long-term lease or rental" shall mean a lease or rental made under a written agreement to lease or rent property to the same person for a period of at least three hundred sixty-five (365) continuous days. (G.S. 105-187.1(3)).
- (f) "Person" shall mean any individual, trustee, executor, other fiduciary, corporation, unincorporated association, partnership, sole proprietorship, company, firm, or other legal entity.
- (g) "Short-term lease or rental" shall mean any lease or rental of a vehicle that is not a long-term lease or rental. (G.S. 160A-215.1(e)(2) and G.S. 105-187.1(4)).
- (h) "Taxpayer" means any person liable for the taxes imposed by this Ordinance.
- (i) "Vehicle" shall mean any of the following:
 - (i) a motor vehicle of the private passenger type, including a passenger van, minivan, or sport utility vehicle.

- (ii) a motor vehicle of the cargo type, including a cargo van, pickup truck, or truck with a gross vehicle weight of 26,000 pounds or less used predominantly in the transportation of property for other than commercial freight, and that does not require the operator to possess a commercial drivers license.
- (iii) a trailer or semi-trailer with a gross vehicle weight of 6,000 pounds or less (G.S. 160A-215.1(e)(1))

Section 2. Levy of Tax. A tax is hereby imposed and levied in an amount equal to one and one-half percent (1.5%) of the gross receipts derived from the short-term lease or rental of vehicles at retail to the general public. This tax on gross receipts is in addition to the privilege taxes authorized by G.S. 160A-211.

Section 3. Collection of the Tax. Every person engaged in the business of the short-term lease or rental of vehicles at retail to the general public shall collect at the time of the lease or rental the tax herein levied, place the tax so collected in a segregated account, and thereafter remit such tax to Duplin County in accordance with the provisions of this Ordinance. The taxpayer shall include a provision in each retail short-term lease or rental agreement stating that the percentage amount enacted by this Ordinance of the total lease or rental price, excluding sales tax, is being charged as a tax on gross receipts. The amount of the tax shall be stated separately from the lease or rental and show separately on the taxpayers records. The tax shall be paid by the customer to the taxpayer as trustee for and on account of Duplin County. The taxpayer shall be liable for the collection thereof and for its payment to Duplin County and the taxpayer's failure to charge or to collect said tax from the customer shall not affect such liability.

Section 4. Report and Payment of Tax. Taxes levied under this Ordinance are due and payable when a return is required to be filed. Every taxpayer shall, within the time specified, submit a return to Duplin County on the form prescribed by Duplin County. A return must be signed by the taxpayer or the taxpayer's agent. Returns of taxpayers are due to Duplin County each month on or before the fifteenth (15th) day of the month following the month in which the tax accrues. A return filed for this purpose is not a public record as defined by Section 132-1 of the General Statutes and information contained in a return may not be disclosed except as required by law.

Section 5. Taxpayer to Keep Records. The taxpayer shall keep and preserve suitable records of the gross receipts received by such taxpayer in the conduct of business and such other books or accounts as may be necessary to determine the amount of the tax for which such taxpayer is liable under the provisions of this Ordinance.

Section 6. Duplin County to Provide Forms. Duplin County shall design, prepare, print and make available to all taxpayers operating within the boundaries of Duplin County forms and instructions for filing returns to insure a full collection of and an accounting for taxes due. The failure of any taxpayer to obtain or receive forms shall not relieve such taxpayer from the payment of the tax at the time and in the manner provided.

Section 7. Situs. The transaction giving rise to the tax herein levied shall be deemed to have occurred at the location of the entity from which the customer takes delivery of the vehicle. (G.S. 160A-215.1(b))

Section 8. Penalties, Interest, and Remedies. The provisions with respect to penalties, interest and remedies applicable to Subchapter VIII (Local Government Sales and Use Tax) of Chapter 105 of the General Statutes, as contained in Article 5 and Article 9, Subchapter 1, Chapter 105 thereof, and the provisions applicable to remedies provided by the Machinery Act (Chapter 105, Subchapter II of the General Statutes), shall be applicable in like manner to the tax levied and collected under this Ordinance, to the extent that the same are not inconsistent with the provisions hereof.

Without limiting the foregoing, and subject to any changes in the General Statutes with respect to penalties, interest and remedies, the following shall be applicable with respect to the levy and collection of the taxes imposed herein:

Any taxpayer who fails to file a return on the date it is due, determined with regard to any extension of time for filing, shall pay a penalty equal to five percent (5%) of the amount of the tax if the failure to file is for not more than one month, with an additional five percent (5%) for each additional month, or fraction thereof, during which the failure continues, not exceeding twenty-five (25%) in the aggregate, or \$5.00, whichever is greater.

Any taxpayer who fails to pay the tax levied herein when due, without intent to evade the tax, shall pay a penalty equal to ten percent (10%) of the tax, except that the penalty shall in no event be less than \$5.00.

Taxes shall be payable at par or face amount if paid on or before the filing date as set forth in Section 4. Taxes paid after the filing date will be delinquent and shall be subject to interest charges. Interest shall accrue at the rate of three-fourths of one percent (3/4%) a month or fraction thereof until the principal amount of the taxes, the accrued interest, and any penalties are paid.

When the bank upon which any uncertified check tendered to Duplin County in payment of taxes, penalties or interest returns the check because of insufficient funds or the nonexistence of an account of the drawer, the County shall assess a penalty equal to ten percent (10%) of the check, subject to a minimum of one dollar (\$1.00) and a maximum of one thousand dollars (\$1,000.00).

Any taxpayer who willfully attempts, or any person who aids or abets any taxpayer to attempt in any manner to evade or defeat a tax imposed herein or its payment, shall, in addition to other penalties provided by law, be guilty of a Class H felony.

Any taxpayer required to collect, withhold, account for, and pay over any tax who willfully fails to collect or truthfully account for and pay over the tax shall, in addition to other penalties provided by law, be guilty of a Class 1 misdemeanor.

Any taxpayer required to pay any tax, to make a return, to keep any records, or to supply any information, who willfully fails to pay the tax, make the return, keep the records, or supply the information, at the time or times as required by law, or rules issued pursuant thereto, shall, in addition to other penalties provided by law, be guilty of a Class misdemeanor.

If a corporation or a limited liability company fails to file any return or pay the tax required for 90 days after it is due, the County shall inform the Secretary of State of this failure pursuant to the provisions of Section 230 of Chapter 105 of the General Statutes.

Duplin County shall have the rights of attachment and garnishment as set forth in Sections 242 or 368 of Chapter 105 of the General Statutes in enforcing the collection of taxes imposed herein, and any other remedies authorized by law.

Section 9. Administration. In addition to the provisions herein, the levy and collection of the taxes herein imposed shall be otherwise administered in the same manner as the Sales and Use Tax as provided in Article 5, Subchapter 1, Chapter 105 of the General Statutes. (G.S. 160A-215.1(d))

Section 10. Severability. If any section, clause, or provision of this Ordinance shall be found to be invalid, the validity of the remaining sections, clauses or provisions shall not be affected thereby.

Section 11. Authority. This ordinance is enacted pursuant to the provisions of G.S. 153A-156.

Section 12. Effective Date. This Ordinance and the taxes thereby levied and imposed shall become effective August 1, 2000.

Adopted this the 24th day of July, 2000.

Zettie Williams
Chairman, Duplin County Board of Commissioners

ATTEST: James W. Barnhardt, Jr.
Clerk

**DUPLIN COUNTY INSPECTION DEPARTMENT
ADMINISTRATIVE PROCEDURES ORDINANCE**

BE IT ORDAINED BY THE DUPLIN COUNTY BOARD OF COMMISSIONERS:

ARTICLE I. ADOPTION OF REGULATORY CODES BY REFERENCE
(Authority: G. S. 153A-350-375; 143-138(d), (e))

Section 1-1 SCOPE OF ORDINANCE AND CODES.

The provision of this ordinance and of the regulatory codes herein adopted shall apply to the following:

- (a) The location, design, materials, equipment, construction, reconstruction, alteration, repair, maintenance, moving demolition, removal, use, and occupancy of every building or structure or any appurtenances connected or attached to such building or structure;
- (b) The installation, erection, alteration, repair, use and maintenance of plumbing systems consisting of house sewers, building drains, waste and vent systems, hot and cold water supply systems, and all fixtures and appurtenances thereof;
- (c) The installation, erection, alteration, repair, use and maintenance of electrical systems and appurtenances thereof;

The adoption of this ordinance and the codes herein adopted by reference shall constitute a resolution within the meaning of G. S. 143-138 making the regulatory codes herein adopted applicable to dwellings and out buildings used in connection therewith and to apartment buildings and all commercial structures wherever situated in the county.

Section 1-2 BUILDING CODE ADOPTED

The North Carolina State Building Code, Volume I, General Construction, as adopted by the North Carolina Building Code Council and as amended, is hereby adopted by reference as fully as though set forth herein as the Building Code of Duplin County to the extent such Code is applicable for safe and stable design, methods of construction, minimum standards, and use of materials in buildings or structures hereafter erected, enlarged, altered, repaired, or otherwise constructed or reconstructed.

Section 1-3 RESIDENTIAL BUILDING CODE

The North Carolina Uniform Residential Building Code, Vol. 1B, as adopted by the North Carolina Building Code Council is hereby adopted by reference as fully as though set forth herein as the Residential Building Code for one and two family residential buildings in Duplin County.

Section 1-4 PLUMBING CODE ADOPTED

The North Carolina Plumbing Code, Volume II) as adopted and published by the North Carolina Building Code Council and as amended, is hereby adopted by reference as fully as though set forth herein as the Plumbing Code for Duplin County.

Section 1-5 HEATING CODE ADOPTED

The North Carolina Heating Code (Volume III) as adopted and published by the North Carolina Building Code Council and as amended, is hereby adopted by reference as fully as though set forth herein as the Heating Code for Duplin County.

Section 1-6 ELECTRICAL CODE ADOPTED

The National Electric Code, Volume IV of the National Fire Protection Association, as adopted by the North Carolina Building Code Council and as amended, is hereby adopted by reference as fully as though set forth herein as the Electrical Code for Duplin County.

Section 1-7 MOBILE AND MODULAR HOME REGULATIONS ADOPTED

The North Carolina State Regulations for Mobile Homes and Modular Housing as adopted and published by the North Carolina Department of Insurance and as amended is hereby adopted by reference as fully as though set forth herein as the Mobile Home and Modular Housing Code for Duplin County.

Section 1-8 COMPLIANCE WITH CODES

- (a) All buildings or structures which are hereafter constructed, reconstructed, erected, altered, extended, enlarged, repaired, demolished, or moved shall conform to the requirements, minimum standards, and other provisions of either the North Carolina State Building Code, General Construction Volume I, or the North Carolina Uniform Residential Building Code, whichever is applicable, or of both if both are applicable.
- (b) Every building or structure intended for human habitation, occupancy, or use shall have plumbing, plumbing systems, or plumbing fixtures installed, constructed, altered, extended, repaired or reconstructed in accordance with the minimum standards, requirements, and other provisions of the North Carolina Plumbing Code, (Volume II).
- (c) All mechanical systems consisting of heating, ventilating, air conditioning, and refrigeration systems, fuel burning equipment, and appurtenances shall be installed, erected, altered, repaired, used and maintained in accordance with the minimum standards, requirements, and other provisions of the North Carolina Heating Code (Volume III).
- (d) All electrical wiring, installations, and appurtenances shall be erected, altered, repaired, used and maintained in accordance with the minimum standards, requirements, and other provisions of the North Carolina Electrical Code (Volume IV).

Section 1-9 COPIES OF CODES FILED WITH THE COUNTY BUILDING INSPECTOR

An official copy of each regulatory code adopted herein, and official copies of all amendments thereto, shall be kept on file in the office of the County Building Inspector. Such copies shall be the official copies of the codes and the amendments.

ARTICLE II. INSPECTION DEPARTMENT

Section 2-1 ORGANIZATION OF DEPARTMENT

The Inspection Department shall consist of a Chief Inspector and such other Inspectors or positions as may be authorized by the Governing Body.

Section 2-2 GENERAL DUTIES OF DEPARTMENT AND INSPECTORS

It shall be the duty of the Inspection Department to enforce all of the provisions of this ordinance and of the regulatory codes adopted herein, and to make all inspections necessary to determine whether or not the provisions of this ordinance and such codes are being met.

Section 2-3 CONFLICTS OF INTEREST

No officer or employee of the Inspection Department shall be financially interested in the furnishing of labor, material, or appliances for the construction, alteration, or maintenance of a building or any part thereof, or in the making of plans or specifications therefore, unless he is the owner of such building. No officer or employee of the Inspection Department shall engage in any work which is inconsistent with his duties or with the interests of the County.

Section 2-4 REPORTS AND RECORDS

The Inspection Department, and each Inspector, shall keep complete, permanent, and accurate records in convenient form of all applications received, permits issued, inspections, and re-inspections made, and all other work and activities of the Inspection Department. Periodic reports shall be submitted to the Duplin County Board of Commissioners, and to other agencies, as required.

Section 2-5 INSPECTION PROCEDURE

- (a) Inspections. The Inspection Department shall inspect all buildings and structures and work therein for which a permit of any kind has been issued as often as necessary in order to determine whether the work complies with this ordinance and the appropriate codes.

When deemed necessary by the appropriate Inspector, materials and assemblies may be inspected at the point of manufacture or fabrication, or inspections may be made by approved and recognized inspection organizations; provided, no approval shall be based upon reports of such organizations unless the same are in writing and certified by a responsible officer of such organization.

- (1) Footing Inspection. To be made after trenches are excavated and the necessary reinforcement and forms are in place, and before concrete is placed. Drilled footings, piles, and similar types of foundation shall be inspected as installed.
- (2) Foundation Wall Inspection: To be made after concrete placed in footing trenches, and piers have been placed and before wood members have been attached.

- (3) Floor Inspection: To be made before any subfloor is placed on system.
 - (4) Framing Inspection. To be made after all structural framing is in place and all roughing-in of plumbing, electrical and heating has been installed, after all fire blocking, chimneys, bracing and vents are installed, but before any of the structure is enclosed or covered. Poured in place concrete structural elements shall be inspected before each pour of any structural member.
 - (5) Insulation Inspection. To be made after all insulation which will be rendered inaccessible by wall or ceiling coverings is in place with required vapor barrier.
 - (6) Final Inspection. To be made after building or structure has all doors hung, fixtures set, and ready for occupancy, but before the building is occupied.
- (b) Calls for Inspection. Request for inspections may be made to the office of the Inspection Department. The Inspection Department shall make inspections as soon as practicable after request is made.

Reinspections may be made at the convenience of the Inspector. No work shall be inspected until it is in proper and completed condition ready for inspection. All work which has been concealed before the inspection and approval shall be uncovered at the request of the Inspector and placed in condition for proper inspection. Approval or rejection of the work shall be furnished by the appropriate Inspector in the form of a notice posted on the building or given to the permit holder or his agent. Failure to call for inspections or proceedings without approval at each state of construction shall be deemed a violation of this ordinance.

- (c) Certificate of Occupancy. No new building or part thereof shall be occupied, and no addition or enlargement of any existing building shall be occupied, and no existing building after being altered or moved shall be occupied, and no change of occupancy shall be made in any existing building or part thereof, until the Inspection Department has issued a certificate of occupancy therefore. A temporary certificate of occupancy may be issued for a portion or portions of a building which may safely be occupied prior to final completion and occupancy of the entire building. Application for a certificate of occupancy may be made by the owner or his agent after all final inspections have been made for new buildings, or, in the case of existing buildings, after supplying the information and data necessary to determine compliance with this ordinance, the appropriate regulatory codes and the zoning ordinance for the occupancy intended. The Inspection Department shall issue a certificate of occupancy when, after examination and inspection, it is found that the building in all respects conforms to the provisions of this ordinance, the regulatory codes, and the zoning ordinance for the occupancy intended.

Section 2-6 OVERSIGHT NOT TO LEGALIZE VIOLATION

No oversight or dereliction of duty on the part of any Inspector or other official or employee of the Inspection Department shall be deemed to legalize the violation of any provision of this ordinance or any provision of any regulatory code herein adopted.

Section 2-7 POWERS OF INSPECTION OFFICIALS

- (a) Authority. Inspectors are hereby authorized, empowered, and directed to enforce all the provisions of this ordinance and the regulatory codes herein adopted.
- (b) Right-of-Entry. Inspectors shall have the right-of-entry on any premises within the jurisdiction of the regulatory codes herein adopted at reasonable hours for the purpose of inspection or enforcement of the requirements of this ordinance and the regulatory codes, upon presentation of proper credentials.
- (c) Stop Orders. Whenever any building or structure or part thereof is being demolished, constructed, reconstructed, altered, or repaired in a hazardous manner, or in violation of any provision of this ordinance or any other Duplin County ordinance or in violation of any provision of any regulatory code herein adopted, or in violation of the terms of the permit or permits issued therefore, or in such manner as to endanger life or property, the appropriate Inspector may order such work to be immediately stopped. Such order shall be in writing to the owner of the property or to his agent, or to the person doing the work, and shall state the reasons therefore and the conditions under which the work may be resumed.

ARTICLE III. ENFORCEMENT

Section 3-1 REGISTRATION OF CONTRACTORS

Every person carrying on the business of building contractor, plumbing contractor, heating-air conditioning contractor, electrical contractor, or insulation contractor within Duplin County shall register at the office of the Inspection Department, giving name and place of business.

Section 3-2 PERMITS REQUIRED

- (a) **Building Permit.** No person shall commence or proceed with the construction, reconstruction, alteration or repair of any building or other structure or any part thereof, without a written permit therefore from the Inspection Department; provided, however, that no building permit shall be required for work the total cost of which does not exceed \$5,000 and which does not involve any change of the structural parts or the stairways, elevators, fire escapes or other means of egress of the building or the structure in question. Duplin County Health Department approval of property for septic tank usage shall be required where the sewage system will not be connected to a city system.
- (b) **Plumbing permit.** No person shall commence or proceed with the installation, extension, or general repair of any plumbing system without a written permit therefore from the Inspection Department; provided, however, no permit shall be required for minor repairs or replacements on the house side of a trap to an installed system of plumbing if such repairs or replacements do not disrupt the original water supply or waste or ventilating systems. Duplin County Health Department approval of property for septic tank usage shall be required where the sewage system cannot be connected to city sewer.
- (c) **Heating-Air Conditioning Permit.** No person shall commence or proceed with the installation, extension, alteration or general repair of any heating or cooling equipment system without a written permit from the Inspection Department; provided, however, no permit shall be required for minor repairs or minor burner services or filter replacements of warm air furnaces or cooling system.
- (d) **Electrical Permit.** No person shall commence or proceed with the installation, extension, alteration, or general repair of any electrical wiring, devices, appliances or equipment without a written permit therefore from the Inspection Department; provided further, no permit shall be required for the installation, alteration, or repair of the electrical wiring, devices, appliances, and equipment installed by or for an electrical public utility corporation for the use of such corporation in the generation, transmission, distribution, or metering of electrical energy, or for the use of such corporation in the operation of signals or the transmission of intelligence.

Section 3-4 APPLICATION FOR PERMIT

Written applications shall be made for all permits required by this ordinance, and shall be made on forms provided by the Inspection Department. Such application shall be made by the owner of the building or structure affected or by his authorized agent or representative, and, in addition to such other information as may be required by the appropriate Inspector to enable him to determine whether the permit applied for should be issued, shall show the following:

- (a) Name, residence, and business address of owners;
- (b) Name, residence, and business of authorized representative or agent, if any;
- (c) Name and address of the contractor, if any, together with evidence that he has obtained a certificate from the appropriate state licensing board for such contractors, if such be required for the work involved in the permit for which application is made.

Section 3-5 PLANS AND SPECIFICATIONS

Detailed plans and specifications shall accompany each application for permit when the estimated total cost of the building or structure is in excess of \$90,000, and for any other building or structure where plans and specifications are deemed necessary by the appropriate Inspector in order for him to determine whether the proposed work complies with the appropriate regulatory codes. Plans shall be drawn to scale with sufficient clarity to indicate the nature and extent of the work proposed, and the plans and specifications together shall contain information sufficient to indicate that the work proposed will conform to the provisions of this ordinance and the appropriate regulatory codes. Where plans and specifications are required, a copy of the same shall be kept at the work until all authorized operations have been completed and approved by the appropriate Inspector.

Section 3-6 LIMITATIONS ON ISSUANCE OF PERMITS

- (a) No building permit shall be issued for any building or structure the estimated total cost of which is more than \$40,000 unless the work is to be performed by a licensed general contractor.
- (b) No building permit shall be issued for any building or structure, other than a one or two family dwelling, of 2500 sq. ft. or more or the total cost of which is more than \$90,000, unless the plans bear the North Carolina seal of a registered architect or a registered engineer.
- (c) Where any provision of the General Statutes of North Carolina or of any ordinance requires that work be done by a licensed specialty contractor of any kind, no permit for such work shall be issued unless it is to be performed by such licensed specialty contractor.

- (d) Where detailed plans and specifications are required under this ordinance, no building permit shall be issued unless such plans and specifications have been provided.

Section 3-7 ISSUANCE OF PERMIT

When permit application for a permit has been made, and the appropriate Inspector is satisfied that the application and the proposed work comply with the provisions of this ordinance and the appropriate regulatory codes, he shall issue such permit, upon payment of the proper fee or fees as hereinafter provided in Section 3-11.

Section 3-8 REVOCATION OF PERMITS

The appropriate Inspector may revoke and require the return of any permit by notifying the permit holder in writing stating the reason for such revocation. Permits shall be revoked for any material departure from the approved application, plans or specifications; for refusal or failure to comply with proper orders of the Inspector; for refusal or failure to comply with requirements of this ordinance and the appropriate regulatory codes; or for false statements or misrepresentations made in securing such permit.

Section 3-9 TIME LIMITATIONS ON VALIDITY OF PERMITS

All permits issued under this ordinance shall expire by limitation six (6) months after the date of issuance if the work authorized by the permit has not been commenced. If after commencement the work is discontinued for a period of twelve (12) months, the permit; therefore shall immediately expire. No work authorized by any permit which has been expired shall thereafter be performed until a new permit therefore has been secured.

Section 3-10 CHANGES IN WORK

After a permit has been issued, changes or deviations from the terms of the application and permit, or changes or deviations from the plans or specifications involving any work under the jurisdiction of this ordinance or of any regulatory code adopted herein, shall not be made until specific written approval of such changes or deviations has been obtained from the appropriate Inspector.

Section 3-11 PERMIT FEES

Permit fees shall be as specified in Appendix A.

ARTICLE IV. CONDEMNATION, REPAIR, AND DEMOLITION OF UNSAFE BUILDINGS

Section 4-1 DUTY OF BUILDING INSPECTOR

Any building or structure or part thereof, partially destroyed or otherwise, which is found by the Building Inspector to be in such a dilapidated state of disrepair or other substandard condition as to be dangerous to life, health, or other property, or to constitute a fire or safety hazard or a public nuisance shall be declared by the Building Inspector to be unsafe.

Such unsafe condition may be caused by defective construction, overloaded structural parts, decay, susceptibility to fire, exits, or any other hazardous conditions or circumstances. The Building Inspector shall have authority, and it shall be his duty, to declare all such buildings or structures unsafe and to take appropriate action to have such conditions corrected or removed. Such declaration by the Building Inspector shall constitute an order of condemnation for the purposes of this Article.

Section 4-2 DUTY OF OWNER: PROCEDURE

Whenever any building or structure has been condemned by the Building Inspector, and the existence of such building or structure in a dilapidated state of disrepair or other substandard condition is found and determined by the Building Inspector or, upon appeal from or report by the Building Inspector as hereafter provided, by the Board of Commissioners to be dangerous to life, health, or other property, or is in such condition as to constitute a fire or safety hazard or a public nuisance, the owner or owners of such building or structure shall be required to demolish and remove the same and remedy such conditions under the regulations and procedures herein provided; and in the event such owner fails or refuses to do so within the time directed by the Building Inspector or by the Board of Commissioners, as hereinafter provided, the Board of Commissioners may, in its judgment, cause the same to be demolished and removed or such other steps taken as it may find to be necessary to suppress and abate the nuisance and remove the fire or safety hazard and the danger to life, health, or other property found to exist, and specially assess the cost and expense of doing said work against the lot or parcel of land on which the said building or structure is located.

Section 4-3 NOTICE AND HEARING

Before any building or structure may be ordered to be demolished and removed as provided in Section 4-2 herein, the Building Inspector shall notify the owner or owners thereof, in writing by certified or registered mail to the last known address of such owner, or by personal service of such notice by said Building Inspector or his assistant or by posting notice as hereinafter; provided, that said building or structure is in such condition as appears to constitute a fire or safety hazard or dangerous to life, health, or other property, or to be a public nuisance, and that a hearing will be held before said Building Inspector at such written notice, at a designated place at a time not less than ten (10) days after the notice of such written notice, at which time and place the owner shall be entitled to be heard in person or by counsel upon all legal or factual questions relating to the matter and shall be entitled to offer such evidence as he may desire which is relevant or material to the questions sought to be determined or the remedies sought to be effected. If the name or whereabouts of the owner cannot, after due diligence, be discovered, the notice herein referred to shall be considered properly and adequately serviced if a copy thereof is posted on the outside of the building or structure in question at least ten (10) days prior to the date fixed for the hearing and a notice of the hearing is published one time in a newspaper having general circulation in the County at least one week prior to the date fixed for such hearing. Such notice shall state the address or location of the building or structure and the time, place and purpose of the hearing.

Section 4-4 ORDER TO REMEDY OR DEMOLISH

If, upon such hearing, the Building Inspector shall find that the building or structure in question is in such a dilapidated or substandard state of disrepair as to constitute a fire or safety hazard or to be dangerous to life, health, or other property, or is a public nuisance, he shall make an order in writing, directed to the owner of said building or structure, requiring the owner to remedy such conditions so found to exist by demolishing and removing said buildings or structure or taking such other steps as may be necessary to abate the nuisance and remove the hazards, within such period, not less than sixty (60) days, as the Building Inspector may prescribe.

Section 4-5 APPEAL: FINALITY OF ORDER IF NOT APPEALED

The owner of any building or structure ordered by the Building Inspector to be demolished and removed, or who is directed by the Building Inspector to take any other steps to abate a nuisance or remove hazards found by the Building Inspector to exist, shall have the right of appeal from such orders to the Board of Commissioners; provided, such owner gives notice of appeal to the Building Inspector at the time of the hearing at which the order is made, or within ten (10) days after such order is made and filed with the Building Inspector a written notice of such appeal. Notice of appeal shall state the grounds therefore. Unless an appeal is taken within the time and in the manner herein prescribed, the action of the Building Inspector shall be deemed final, subject only to such action as the Board of Commissioners may take as herein elsewhere provided. Where an appeal has been properly taken and notice thereof given in accordance with the provisions of this section, it shall be the duty of the Building Inspector to report the same to the County Manager who shall cause the matter to be placed on the agenda for action by the Board of Commissioners at its next ensuing regular meeting. The Board of Commissioners shall have the right to continue the hearing of the appeal from time to time, at its discretion.

Section 4-6 REPORT WHEN OWNER FAILS TO COMPLY

In the event the owner does not appeal from the final order or direction of the Building Inspector requiring that the building or structure be demolished and removed or the taking of such other steps as may be required to abate such nuisance and remove the hazards, and fails or refuses to comply with such order and direction, it shall be the duty of the Building Inspector to file a written report thereof with the Duplin County Manager who shall cause such report to be placed on the agenda for action by the Board of Commissioners at its next ensuing regular meeting or to some subsequent meeting to which the Board of Commissioners may continue the same. The Building Inspector shall mail a copy of said report by certified or registered mail to the owner at his last known address, or have a copy of said report delivered to said owner. Said report shall specify the date of the meeting of the Board of Commissioners for which the matter will be docketed for action.

Section 4-7 ORDER OF BOARD OF COMMISSIONERS: ASSESSMENT OF COSTS

In all cases referred to in this ordinance which reach the Board of Commissioners for action, either upon appeal of the owner from the ruling of the Building Inspector or upon report of the Building Inspector that the owner fails or refuses to comply with his order or direction, the Board of Commissioners shall hear the matter, and if it finds and determines that the building or structure in question is in such a dilapidated or substandard state of disrepair as to constitute a fire or safety hazard, or to be dangerous to life, health, or other property, or is a public nuisance, and that the owner of said building or structure has failed or refused to abate the nuisance and has failed or refused to take such other steps as may be necessary to abate the nuisance and remove the hazards found to exist, to be done, or effect such other remedies as may be necessary to abate the nuisance and remove the hazards, and specially assess the cost of such work against the lot or parcel of land on which the building or a structure was situated; and such assessment shall constitute a specific lien upon said lot or parcel of land, which may be enforced by an action instituted in the name of Duplin County in the nature of an action to foreclose a mortgage as provided by G.S. 105-414 in the case of Ad Valorem taxes and local improvement assessments.

Section 4-8 WHEN NOTICE OF BOARD OF COMMISSIONERS HEARING REQUIRED

In cases in which the Building Inspector has been unable to give the owner actual notice of hearing in the manner hereinabove provided, and has given such notice by posting and publishing the same as authorized in Section 4-3, and the owner has failed or refused to comply with the order or direction of the Building Inspector to demolish and remove the building or structure, or take such other remedial action as will remove the hazards and such case is referred to the Board of Commissioners for action, the Board of Commissioners shall before taking such action, cause to be posted on the outside of the building or structure in question at least ten (10) days prior to the date fixed for the hearing, and published one time in a newspaper having general circulation in the County at least one week prior to the date fixed for such hearing, a written notice stating the address or location of the building or structure involved and the time, place, and purpose of the hearing, and such other information as the Board of Commissioners deem advisable.

Section 4-9 PRESUMPTION OF DANGER TO PUBLIC

In all cases in which the Board of Commissioners, under authority of this Article, causes the demolition and removal of any building or structure to be carried out, or directs such other remedial steps to be taken as may be necessary to abate the nuisance and remove the hazards, it shall be conclusively presumed that the public nuisance and the fire and safety hazard and danger to life, health or other property, created and maintained by the continued presence of said building or structure in such condition as is found to exist, constitute a clear as present danger amounting to a situation of emergency involving the public health, safety and general welfare, which requires entry upon private property for the summary statement and removal of such danger, in the public interest.

Section 4-10 WILLFUL FAILURE OR REFUSAL TO COMPLY WITH ORDER

It shall be unlawful for any person to willfully fail or refuse to comply with any final order or direction of the Building Inspector or Board of Commissioners made by virtue and in pursuance of this Article, and any person violating this Article shall, upon conviction, be punished as provided by G.S. 14-4 for the violation of local ordinances, and every day such person shall willfully fail or refuse to comply with any final order or direction of the Building Inspector or the Board of Commissioners made by virtue and in pursuance of this Article shall constitute a separate and distinct offense.

Section 4-11 CONSTRUCTION OF ARTICLE

It is the legislative intent of the Board of Commissioners in enacting this Article that each section and subdivision is separate and divisible from any other section, and if any provision hereof should be held or declared by a court of competent jurisdiction to be invalid for any reason, such decision or holding shall not affect the validity of any other section or provision hereof.

This Article is an addition to, and not in substitution for, any other ordinance affecting the same subject matter.

ARTICLE V. ENFORCEMENT OF HOUSING CODE

Section 5-1 DUTY OF INSPECTION DEPARTMENT

The Inspection Department shall be responsible for the enforcement of any ordinances or codes adopted by the Board of Commissioners relating to the repair, closing, and demolition of dwellings unfit for human habitation, pursuant to Article 15, Chapter 160, of the General Statutes of North Carolina.

APPENDIX

PERMIT FEES

A. BUILDING PERMITS

1. New dwellings

| | | |
|-----|----------------------|-----------|
| (a) | Up to 1200 sq. ft. | \$ 125.00 |
| (b) | 1201 to 2500 sq. ft. | \$ 150.00 |
| (c) | Over 2500 sq. ft. | \$ 200.00 |

2. Dwelling additions

| | | |
|-----|------------------|----------|
| (a) | 0 to 400 sq. ft. | \$ 20.00 |
| (b) | Over 400 sq. ft. | \$ 50.00 |

3. Multi-family dwellings

| | | |
|-----|--------------------|---------------|
| (a) | 2 to 4 units | \$150.00 |
| (b) | Next 5 to 10 units | \$ 50.00 each |
| (c) | All over 10 units | \$ 40.00 each |

4. Mobile, modular and relocated homes permit fee to include set-up, tie down and plumbing connections, but not electrical.

| | | |
|-----|-----------------------------|----------|
| (a) | Mobile homes | \$ 50.00 |
| (b) | Modular and relocated homes | \$ 50.00 |

5. Reinspection shall be \$20.00 per trip.

6. Nonresidential construction, and residential renovations.

| | | |
|-----|-------------------|---|
| (a) | Up to 2500 | No fee required* |
| (b) | 2501 to 50,000 | \$20.00 + 1.50 per 1,000 over 1,000 or fraction thereof |
| (c) | 50,001 to 75,000 | \$ 95.00 + \$1.25 per 1,000 over 50,000 or fraction thereof |
| (d) | 75,001 to 100,000 | \$125.00 + \$1.00 per 1,000 over 75,000 or fraction thereof |
| (e) | Over 100,000 | \$200.00 plus \$1.50 per 1,000 over 100,000 |

*Not involving changes in load bearing structure.

B. INSULATION INSPECTIONS

existing dwellings \$10.00
- New \$20.00

C. ELECTRICAL PERMITS

1. Permanent service poles and service changes

25.00

2. Temporary service pole, service change, wire addition, sign

25.00

3. New dwellings

| | | |
|-----|------------------|----------|
| (a) | 100 to 175 amp | \$ 30.00 |
| (b) | 200 to 350 amp | \$ 50.00 |
| (c) | 400 amp and over | \$ 60.00 |

4. Multi-family dwellings

| (a) | No. of units | SIZE OF SERVICE | | |
|-----|--------------|-----------------|------------|--------------|
| | | 100 to 175 | 200 to 300 | 400 and over |
| (b) | First 2 to 4 | 20 | 30 | 35 |
| (c) | Next 5 to 10 | 15 | 25 | 30 |
| (d) | All over 10 | 10 | 15 | 25 |

- 5. Nonresidential
 - (a) 100 to 175 amp \$ 30.00
 - (b) 200 to 350 amp \$ 50.00
 - (c) 400 to 500 amp \$ 60.00
 - (d) 600 amp and over \$ 10.00 per 100 amp

6. Farm buildings

Farm buildings shall be based on the nonresidential fee for size of service. Bulk barns shall be \$20.00 for 1 barn, \$10.00 for the second barn and \$5.00 for each additional barn inspected at the same time and location.

D. PLUMBING PERMITS

1. New dwellings

- (a) Up to 1200 sq. ft. \$ 30.00
- (b) 1201 to 2500 sq. ft. \$ 45.00
- (c) Over 2500 sq. ft. \$ 50.00

2. Nonresidential buildings and residential additions

Each of the following and all similar items shall have a \$3.00 permit fee:

- | | |
|--------------------------|----------------------------------|
| Soil or Vent Stack | Floor Drain |
| House or building sewer | Sand trap or bar connection |
| Water closet | Bath tub |
| Soda Fountain | Shower bath |
| Wash rack | Drinking fountain |
| Water distribution pipes | Refrigeration w/water connection |
| Washer drain | Urinal |
| Dishwasher | Slop sink |
| Garbage disposal | Wash basin or sink |
| Water heater | |
| Laundry equipment, etc. | |

A minimum fee of \$20.00 shall be charged for each plumbing inspection not in conjunction with other trade inspections.

E. HEATING AND AIR CONDITIONING PERMIT FEES

- 1. For each air conditioning unit up to 3 ton capacity \$ 30.00
 - 2. For each air conditioning unit 3 to 10 ton capacity \$ 40.00
 - 3. For each air conditioning unit over 10 ton capacity \$ 50.00
- For each space heating unit (dry) \$ 30.00
 For each central heating unit \$ 30.00

Heat pumps (combination units) shall be charged at the air conditioning rate.

In the case of multi-units at one location the permit fee for all units over 4, the inspection fee shall be 1/2 the individual fee.

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed. This ordinance shall become effective on and after July 1, 2001.

DUPLIN COUNTY BOARD OF COMMISSIONERS

Arliss Albertson
Chairman

ATTEST: James W. Barnhardt, Jr.
Clerk

ABOLISHED 03/31/03

003309

ABOLISHED 3/31/03

DUPLIN COUNTY SUBDIVISION REGULATION

11-28-01

ARTICLE 1

INTRODUCTORY PROVISIONS

Section 101. Title

This ordinance shall be known and may be cited as the Subdivision Regulations of Duplin County, North Carolina, and may be referred to as the Subdivision Regulations.

Section 102. Purpose

The purpose of this ordinance is to establish procedures and standards for the development and subdivision of land within the territorial jurisdiction of Duplin County. It is further designed to provide for the orderly growth and development of the county; for the coordination of streets and highways within proposed subdivisions with existing or planned streets and highways and with other public facilities; for the dedication or reservation of recreation areas serving residents of the immediate neighborhood within the subdivision and of rights-of-way or easements for streets and utility purposes; and for the distribution of population and traffic in a manner that will avoid congestion and overcrowding and will create conditions essential to public health, safety, and the general welfare. This ordinance is designed to further facilitate adequate provision of water, sewerage, parks, schools, and playgrounds, and also to facilitate the further resubdivision of larger tracts into smaller parcels.

Section 103. Authority

This ordinance is hereby adopted under the authority and provisions of the General Statutes of North Carolina, Chapter 153A, Article 18, Part 2.

Section 104. Jurisdiction

The regulations contained herein, as provided in G.S. 153A, Article 18 shall govern each and every subdivision within Duplin County outside of the jurisdiction of any incorporated municipality.

Section 105. Prerequisite to Plate Recordation

After the effective date of this ordinance, each individual subdivision plat of land within the County's jurisdiction shall be approved by the Duplin County Planning Board according to the procedure set forth in this ordinance.

Section 106. Zoning and Other Plans

The proposed subdivisions must comply in all respects with the requirements of any zoning ordinance in effect in the area to be subdivided, and any other officially adopted plans.

ARTICLE II

LEGAL PROVISIONS

Section 201. General Procedure for Plat Approval

After the effective date of this ordinance, no subdivision plat of land within the county's jurisdiction shall be filed or recorded until it has been submitted to and approved by the Planning Board as set forth in Section 105 of this ordinance. The administrator of this ordinance shall not certify a plat for recording that has not been approved in accordance with this ordinance. The Clerk of Superior Court may not order or direct the recording of a plat if the recording would be in conflict with this ordinance.

The Register of Deeds shall not file or record a plat of a subdivision of land located within the territorial jurisdiction of the county that has not been approved in accordance with these provisions.

Section 202. Statement by Owner

The owner of land shown on a subdivision plat submitted for recording, or his authorized agent, shall sign a statement on the plat stating whether or not any land shown thereon is within the subdivision-regulation jurisdiction of the county.

Section 203. Effect of Plat Approval on Dedications

Pursuant of G.S. 153A-333, the approval of a plat does not constitute or effect the acceptance by the county or the public of the dedication of any street or other ground, public utility line, or other public facility shown on the plat and shall not be construed to do so.

Section 204. Penalties for Violation

- 204.1 After the effective date of this ordinance, any person who, being the owner or agent of the owner of any land located within the territorial jurisdiction of this ordinance, therefore subdivides his land in violation of this ordinance or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under the terms of this ordinance and recorded in the Office of the Duplin County Register of Deeds, shall be guilty of a misdemeanor. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this penalty. The county through its attorney or other official designated by the Board of Commissioners may enjoin illegal subdivision, transfer or sale land by action for injunction. Further, violators of this ordinance shall be subject, upon conviction, to fine and/or imprisonment as provided by G.S. 14-4.
- 204.2 Each day's continuing violation of this ordinance shall be a separate and distinct offense.
- 204.3 Nothing in this section shall be construed to limit the use of remedies available to the county. The county may seek to enforce this ordinance by using any one, all, or a combination of remedies.

Section 205. Separability

Should any section or provision of this ordinance be decided by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

Section 206. Variances

The Planning Board may authorize a variance from these regulations when, in its opinion, undue hardship may result from strict compliance. In granting any variance, the Planning Board shall make the findings required below, taking into account the nature of the proposed subdivision, the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. No variance shall be granted unless the Planning Board finds;

- A. That there are special circumstances or conditions affecting said property such that the strict application of the provisions of this ordinance would deprive the applicant of the reasonable use of his land.
- B. That the variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner.
- C. That the circumstances giving rise to the need for the variance are peculiar to the parcel and are not generally characteristic of other parcels in the jurisdiction of this ordinance.
- D. That the granting of the variance will not be detrimental to the public health, safety and welfare or injurious to other property in the territory in which said property is situated.

Section 207. Amendments - The provisions and requirements of this ordinance may be amended by the Board of Commissioners.

Amendment shall not become effective unless proposed by or submitted to the Planning Board for review and recommendation. The Planning Board shall have forty-five (45) days from the time the proposed amendment is submitted to it within which to submit its report. If the Planning Board fails to submit a report within the specified time, it shall be deemed to have recommended approval of the amendment.

No amendment shall be adopted by the County Commissioners until a public hearing has been held on the amendment. Notice of the hearing shall be published in a newspaper of general circulation in the county area at least once a week for two (2) successive calendar weeks prior to the hearing. The initial notice shall appear not more than twenty-five (25) or less than ten (10) days prior to the hearing. In computing the ten (10) --twenty-five (25) day period, the date of the publication is not to be counted, but the date of the hearing is.

Section 208. Abrogation

It is not intended that this ordinance repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulations, or permits previously adopted or issued pursuant to law. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall govern.

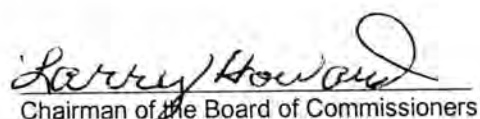
Section 209. Effective Date

This ordinance shall take effect and be in force from and after the 31st day of March 2002.

Section 210. Adoption

Duly adopted by the Board of Commissioners of Duplin County, North Carolina this 18th day of February 2002.


Clerk


Chairman of the Board of Commissioners

ARTICLE III

PROCEDURE FOR REVIEW AND APPROVAL OF SUBDIVISION PLATS

Section 301. Plat Shall Be Required On Any Subdivision of Land

Pursuant of N.C.G.S. 153A-331, a final plat shall be prepared, approved, and recorded pursuant to the provisions of this Ordinance whenever any subdivision of land takes place including town houses, condominiums, planned unit developments and non-residential subdivisions. However, the sub divider may qualify for an exemption to filing a subdivision plat if the conditions in subsections 301.1 are met, provided that the exemption outlined below shall not be self-executing.

301.1 Exemption for Road Frontage Lots

The said recorded plat shall not be required for a landowner who wishes to subdivide a parcel that meets all of the following requirements:

- A. the proposed subdivision shall abut a state maintained road;
- B. the proposed subdivision shall create only five new parcels of land; and
- C. the minimum dimensions of all resulting new parcels shall be no less than 20,000 sq ft in area and shall have no less than one hundred feet (100) of frontage abutting a state maintained road.

Section 302. Approval Prerequisite to Plat Recordation

Pursuant to G.S. 153A-331, no final plat of a subdivision within the jurisdiction of Duplin County as established in Section 104 of this ordinance shall be recorded by the Duplin County Register of Deeds until it has been approved by the Planning Board as provided herein. To secure such approval of a final plat, the sub divider shall follow the procedures established in this article.

Section 303. Procedure for Review and Approval of Final Minor Subdivision Plats

The intent of the minor subdivision provision of this ordinance is to provide an abbreviated plat submission procedure where a developer may progress directly to a final plat for subdivision where no major improvements are proposed that would necessitate a preliminary plat for construction purposes.

A minor subdivision constitutes any subdivision of land consisting of ten (10) or fewer lots each containing at least twenty thousand (20,000) sq ft and 100 feet (100) of frontage abutting on an existing state maintained road. Minor subdivisions shall not include any new streets or road or utility extensions nor conflict with any provision or portion of the county land use plan and/or zoning ordinance.

303.1 Lots on Private Roads

The intent of this provision is to allow the creation of a limited number of parcels accessible by private ingress and egress easement in lieu of the street design requirements specified in Article IV. The sub divider may qualify for the private easement exemption if all the conditions of subsections 303.2 are met.

- 303.2 Subdivisions that qualify for the private easement exemption follow the procedural requirements for minor subdivisions as required in section 304 provided all the following are met.

- 00013
- A. All parcels created by the subdivision about a private ingress and egress easement of at least 50' in width.
 - B. The subdivision creates a maximum of five contiguous parcels.
 - C. The minimum area of all new parcels shall be no less than 20,000 sq. ft. in area and have no less than twenty feet (20) of frontage along the ingress and egress easement.
 - D. Adequate documentation concerning the ownership and perpetual maintenance of the private ingress and egress easement is submitted with the plat and noted on the plat.
 - E. In addition, the private easement exemption may be used only once for any parent parcel or unit of ownership.

Section 304. In lieu of the procedural requirements established herein for major subdivisions, the developer may receive final approval for any minor subdivision through procedures expressed herein.

The procedural requirements for procuring minor final subdivision plat approval are as follows:

- A. The sub divider shall submit to the county planning department two (2) mylar reproducible copies, and six (6) blue line prints of the proposed minor subdivision in order that copies thereof may be distributed to a representative of the environmental health department, tax office, water department and the state department of transportation for perusal and compliance with other applicable standards.
- B. The sub divider shall submit the final plat so marked to the ordinance administrator not less than 7 days prior to the Planning Board meeting at which it will be reviewed.

A review fee of \$10.00 per lot shall accompany submission of the final plat.
- C. The final plat shall be prepared by a Professional Land Surveyor currently licensed by the State of North Carolina State Licensing Board for Professional Engineers and Professional Land Surveyors. The final plat shall conform to the provisions for plats, subdivisions and mapping requirements set forth in G.S. 47-30 and the "Standards of Practice for Board Rule 1600" and shall also depict the following information:
 - 1. The name of the subdivision;
 - 2. The location of existing and platted property, buildings, streets, railroads, bridges, culverts, water courses, transmission lines, sewers, drainpipes, water mains and other public utility easements, town and county boundary lines;
 - 3. Boundaries of tracts shown with bearings, distances and closures;
 - 4. Existing zoning classification of land to be subdivided and adjacent properties, if applicable;
 - 5. Names of adjacent property owners or subdivisions;
 - 6. Adjacent streets, street names and rights-of way;

7. Locations of proposed utility easements (storm and sanitary sewer, water, gas, electricity and telephone);
8. Proposed areas for parks, school sites or public open spaces;
9. Proposed lot lines, lot and block numbers and lot dimensions;
10. Proposed building setback lines;
11. Title of subdivision, date, north arrow properly labeled and graphic scale;
12. Location of 100-year floodplain boundary and floodway;
13. Approximate mean high water mark (mhw) of state waters classified as outstanding resource waters, if applicable;
14. Wetland areas or areas of environmental concern;
15. Name of owner and surveyor who prepared the plat;
16. Data shall be provided relative to acreage in total tract to be subdivided or developed, acreage in parks or other public usage, other than streets or easements, smallest lot size and total number of lots; and
17. A location map depicting the relationship between the proposed subdivision and the adjacent area.

The following statements and certificates shall appear on all copies of the final plat.

A. Certificate of Ownership and Dedication

I hereby certify that I am the owner of the property shown and described hereon, which is located in the subdivision jurisdiction of the County of Duplin and that I hereby adopt this plan of subdivision with my free consent and install and construct all improvements in this subdivision in compliance with the minimum design requirements as established by this ordinance.

B. Certificate of Survey and Accuracy

I, _____, certify that this map was drawn under my direction and supervision from an actual survey of land; that the error of closure as calculated by latitudes and departures is 1: _____; that the boundaries not surveyed are shown as broken lines; that this map was prepared in accordance with G.S. 47-30 as amended. Witness my hand and seal this _____ day of _____, 19____.

C. Certificate of Approval for Recording

I hereby certify that the subdivision plat shown hereon has been found to comply with Section 303 of the Duplin County Subdivision Ordinance and is hereby approved for Recording in the Office of the Register of Deeds of Duplin County.

Date

Subdivision Administrator, Duplin County

The Planning Board shall review the final plat of the proposed minor subdivision at its next regular scheduled meeting which follows submittal to the Planning Department.

The Planning Board shall recommend conditional approval with recommended changes to bring the plat into compliance, or disapproval with reasons, within sixty (60) days of its first consideration of the plat.

Failure of the Planning Board to make a written finding by the second regularly scheduled meeting after a plat has been submitted for consideration shall constitute approval by the Planning Board.

A. Approval

If the Planning Board approves the final plat, the original shall be returned to the owner for submittal to the plat review officer and the Planning Department shall retain recordation and one (1) reproducible copy.

B. Conditional Approval

If the Planning Board recommends conditional approval of the final plat with modifications to bring the plat into compliance, it shall retain one (1) print of the plat for its minutes, return its written recommendations, the original and the reproducible copy of the plat to the sub divider. The sub divider shall have sixty (60) days in which to make the changes needed to bring the plat into compliance. The sub divider shall submit the original plat and the reproducible copy to the Planning Department who will review it to ensure that the recommended changes have been completed. If the sub divider fails to resubmit the plats within sixty (60) days, and then the resubmitted final plat must be reviewed again by the Planning Board before approval can be given.

C. Disapproval

If the final plat is disapproved by the Planning Board, the reasons for such disapproval shall be stated in writing, specifying the provisions of this Ordinance with which the final plat does not comply. One (1) copy of such reasons and one (1) print of the plat shall be retained by the Planning Board as part of its proceedings; one (1) copy of the reasons, the original and the reproducible copy of the plat shall be returned to the sub divider.

If the Planning Board recommends disapproval of the final plat, the sub divider may submit a revised plat to be considered before the second regularly scheduled meeting of the board from the date the plat was disapproved. The developed shall submit the plat to be reconsidered, with corrections, to the Planning Department at least seven (7) days prior to the regular meeting of the Planning Board at which it is to be considered.

If the Planning Board disapproves the revised plat, or if the developed does not submit a revised plat for consideration at least seven (7) days before the second regularly scheduled Planning Board meeting after the plat was disapproved, the original disapproval shall stand and the plat shall become null and void.

Subdivision plats resubmitted after being disapproved by the Planning Board as outlined above shall be treated as a newly submitted plat. The subdivision application procedure must be completed by the developer, as well as payment of all applicable fees.

The developer shall submit the plat to the review officer for recordation within twelve (12) months of Planning Board approval or approval becomes null and void. The Planning Board at its discretion may grant a six-month extension to the original approval.

Section. 305. Sketch Plan for Major Subdivisions

305.1 Number of Copies and Contents

Prior to the preliminary plat submission, the sub divider shall submit to the Planning Board three (3) copies of a sketch plan of the proposed subdivision containing the following information:

- A. A sketch vicinity map showing the location of the subdivision in relation to neighboring tracts, subdivisions, roads, and waterways;
- B. The boundaries of the tract and the portion of the tract to be subdivided.
- C. The total acreage to be subdivided;
- D. The existing and proposed uses of the land within the subdivision and the existing uses of land adjoining it;
- E. The proposed street layout with approximate pavement and right-of-way width, lot layout and size of lots;
- F. The name, address, and telephone number of the owner;
- G. The name, if any, of the proposed subdivision;
- H. Streets and lots of adjacent developed or platted properties;
- I. A zoning classification of the tract and of adjacent properties;
- J. Topographic information with contours on at least 2' interval showing existing and proposed surface and subsurface drainage, ditches, ponds, wooded areas, wetlands, etc...
- K. Area of 100 years flood and areas of environmental concern;

305.2 Submission and Review Procedure

The sketch plan shall be submitted at least 7 working days prior to the Planning Board meeting at which it will be reviewed. The Planning Board shall review the sketch plan for general compliance with the requirements of this ordinance and any zoning ordinances. The Planning Board shall advise the sub divider or his authorized agent of the regulations pertaining to the proposed subdivision and the procedures to be followed in the preparation and submission of the preliminary and final plats.

One copy of the sketch plan shall be retained as a part of the minutes of the Planning Board. One copy will be submitted to the Duplin County Health Department with the other copy being returned to the sub divider or his authorized agent.

Section 306. Preliminary Plat Submission and Review

306.1 Submission Procedure

For every subdivision within the territorial jurisdiction established by Section 104 of this ordinance, which does not qualify for the abbreviated procedure, the sub divider shall submit a preliminary plat, which shall be reviewed and approved by the

Planning Board before any construction, or installation of improvements may begin.

Six copies of the preliminary plat (as well as any additional copies which the administrator determines are needed to be sent to other agencies) shall be submitted to the administrator of this ordinance at least seven days prior to the Planning Board meeting at which the sub divider desires the Planning Board to review the preliminary plat.

Preliminary plats shall meet the specifications in Section 309.

Section 307. Review

307.1 Review by other Agencies

After having received the preliminary plat from the sub divider, the administrator may submit copies of the preliminary plat and any accompanying material to other officials and agencies concerned with new development to invite their comment including but not limited to:

- A. The N.C. Department of Transportation
- B. The Duplin County Health Department
- C. The Duplin County Water Department
- D. Utility companies
- E. Other agencies or individuals as deemed necessary by the administrator

307.2 Review Procedure

The Planning Board shall review the preliminary plat at its next regularly scheduled meeting, which follows the receipt of comments from the appropriate agencies. Other review agencies will have 60 days in which to comment on the proposed plat.

The Planning Board shall, in writing, approve, conditionally approve, or disapprove the preliminary plat within 60 days of its first consideration of the plat.

If the Planning Board recommends approval of the preliminary plat, it shall retain one (1) copy of the plat for its minutes and transmit two (2) copies of the plat, to the owner with its determination.

If the Planning Board grants conditional approval of the preliminary plat it shall keep one (1) copy of the plat for its minutes and return one copy of the plat and the reasons for granting conditional approval to the sub divider.

If the Planning Board disapproves the preliminary plat, it shall retain one (1) copy of the plat for its minutes and return one copy of the plat and its recommendation to the sub divider.

If the preliminary plat is disapproved, the sub divider may make the recommended changes and submit a revised preliminary plat, or appeal the decision to the Board of Commissioners.

If the Planning Board does not make a written recommendation within 60 days after its first consideration of the plat, the sub divider may apply to the Board of Commissioners for approval or disapproval.

If the Board of Commissioners approved the preliminary plat, such approval shall be noted on three (3) copies of the plat, one (1) copy of the plat shall be retained by the Board of Commissioners and one copy shall be sent to the Planning Board and one (1) copy shall be returned to the sub divider. If the Board of Commissioners approves the preliminary plat with conditions, approval shall be noted on three (3) copies of the plat along with a reference to the conditions. One (1) copy of the plat along with the conditions shall be retained by the Board of Commissioners, one copy shall be sent to the Planning Board and one (1) copy of the preliminary plat along with the conditions shall be returned to the sub divider. If the Board of Commissioners disapproves the preliminary plat, the reasons for such disapproval shall be specified in writing. One(1) copy of the plat and the reasons shall be retained by the Board of Commissioners, one copy shall be sent to the Planning Board and one (1) copy shall be returned to the sub divider.

Section 308. Final Plat Submission and Review

308.1 Preparation of Final Plat and Installation of Improvements

Upon approval of the preliminary plat by the Planning Board, the sub divider may proceed with the preparation of the final plat, and the installation of or arrangements for required improvements in accordance with the approved preliminary plat and the requirements of this ordinance. Prior to approval of a final plat, the sub divider shall have installed the improvements specified in this ordinance or guaranteed their installation as provided herein. The Planning Board will accept no final plat for review unless accompanied by written notice by the Subdivision Administrator acknowledging compliance with the improvement and guarantee standards of this ordinance. The final plat shall constitute only that portion of the preliminary plat, which the sub divider proposes to record, and develop at that time; such portion shall conform to all requirements of this ordinance.

308.2 Improvements Guarantees

A. Agreement and Security Required

In lieu of requiring the completion, installation and dedication of all improvements prior to final plat approval, the county may enter into an agreement with the sub divider whereby the sub divider shall agree to complete all required improvements. Once said agreement is signed by both parties and the security required herein is provided, the final plat may be approved by the Planning Board, if all other requirements of this ordinance are met. To secure this agreement, the sub divider shall provide, subject to the approval of the Planning Board, either one, or a combination of the following guarantees not exceeding 1.25 times the entire cost as provided herein:

1. Surety Performance Bond(s)

The sub divider shall obtain a performance bond(s) from a surety bonding company authorized to do business in North Carolina. The bonds shall be payable to Duplin County and shall be in an amount equal to 1.25 times the entire cost, as estimated by the design engineer and approved by the Planning Board, of installation all required improvements. The duration of the bond(s) shall be until such time as the improvements are installed in accordance with the approved Preliminary Plat.

2. Cash or Equivalent Security

The sub divider shall deposit cash, an irrevocable letter of credit or other instrument readily convertible into cash at face value, either with the county finance officer or in escrow with a financial institution designated as an official depository of the county. The use of any instrument other than cash shall be subject to the approval of the county. The amount of deposit shall be equal to 1.25 times the cost, as estimated by the design engineer and approved by the Planning Board, of installing all required improvements. If cash or other instrument is deposited in escrow with a financial institution as provided above, then the sub divider shall file with the Planning Board an agreement between the financial institution and himself guaranteeing the following:

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

B. Default

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

C. Release of Guarantee Security

The Planning Board may, on request of a professional engineer or surveyor, release a portion of any security posted as the improvements are completed. If the Planning Board approves said improvements, then it shall immediately release any security posted.

308.3 Submission Procedure

The sub divider shall submit the final plat, so marked, to the subdivision administrator not less than 7 working days prior to the Planning Board meeting at which it will be reviewed. The final plat for the first stage of the subdivision shall be submitted not more than 12 months after the date on which the preliminary plat was approved; otherwise such approval shall be null and void. Upon the sub dividers request, the Planning Board may grant a 12-month extension of the preliminary plat on or before the 12-month anniversary of the approval of the preliminary plat.

The final plat shall be prepared by a Professional Land Surveyor or currently licensed by the State of North Carolina State Licensing Board for Professional Engineers and Professional Land Surveyors. The final plat shall conform to the provisions for plats, subdivisions, and mapping requirements set forth in G.S. 47-30 and the Standards of Practice for Land Surveying in North Carolina.

Five (5) copies of the final plat shall be submitted; two (2) of these shall be on reproducible material; three (3) shall be on black or blue line paper prints. Material and drawing medium for the original shall be in accordance with the Standard of Practice for Land Surveying in North Carolina, where applicable, and the requirements of the Duplin County Register of Deeds.

The final plat shall be of size suitable for recording with the Duplin County Register of Deeds and shall be at a scale of not less than one (1) inch equals two hundred (200) feet. Maps may be placed on more than one (1) sheet with appropriate match lines.

A filing fee of \$10.00 per lot not to exceed \$ 150.00 shall accompany submissions of the final plat.

The final plat shall meet the specifications in Section 308 of this ordinance.

The following signed certificates shall appear on all five (5) copies of the final plat.

A. Certificate of Ownership and Dedication

I hereby certify that I am the owner of the property shown and described hereon, which is located in the subdivision jurisdiction of Duplin County and that I hereby adopt this plan of subdivision with my free consent, established minimum building setback lines, and dedicate all streets, alleys, walks, parks, and other sites and easements to public or private use as noted.

_____ Date _____ Owners

B. Certificate of Survey and Accuracy

In accordance with G.S. 47-30:

There shall appear on each plat a certificate by the person under whose supervision such survey or such plat was made, stating the origin of the information shown on the plat, including recorded deed and plat references shown hereon. The ration of precision as calculated by latitudes and departures before any adjustments must be shown. Any lines on the plat that were not actually surveyed must be clearly indicated and a statement included revealing the source of information. The execution of such certificate shall be acknowledged before any officer authorized to take acknowledgements by the registered land surveyor preparing the plat. All plats to be recorded shall be probated as required by law for the registration of deeds. Where a plat consists of more than one sheet, only the first sheet must contain the certification and all subsequent sheets must be signed and sealed.

The certificate required above shall include the source of information for the survey and data indicating the accuracy of closure of the plat before adjustments and shall be in substantially the following form:

"_____, certify that this plat was drawn under my supervision from (an actual survey made under my supervision) (deed description recorded in Book __, Page __, etc.) (other); that the boundaries not surveyed are shown as broken lines plotted from information found in Book __, Page __; that this plat was prepared in accordance with G.S. 47-30 as amended. Witness my original signature, registration number, and seal this ___ day of _____, A.D., 19 _____.

Surveyor

Seal or Stamp

Registration Number

C. Certificate of approval of the design of streets shall read as follows:

I hereby certify that the streets indicated on this plat have been designed in an acceptable manner according to the current North Carolina Department of Transportation Minimum Construction Standards for Subdivision Roads.

N.C. Department of Transportation
District Engineer

Date

D. The Certificate of the Duplin County Health Department shall read as follows:

In the event that artificial drainage is to be installed within the subdivision the following addendum shall be included:

Artificial drainage has been installed in this subdivision according to plans and specifications prepared by (Name of Certifier) and based upon the requirements of the Duplin County Health Department to keep the seasonal high water table a minimum of twelve inches (12") below the septic tank nitrification lines. Proper landscaping and maintenance of these drainage facilities are the responsibility of the property owners to insure that septic tank malfunctions do not occur. The Duplin County Health Department assumes no responsibility for the design, maintenance, or the guaranteed performance of the artificial drainage measures and their effects.

Certifier of Drainage Facilities

Date

Environmental Health Specialist

Date

E. The Certificate of Approval for Recording shall read as follows:

I hereby certify that the subdivision plat shown hereon has been found to comply with the Subdivision Regulations of Duplin County, North Carolina and that this plat has been approved by the Duplin County Planning Board for recording in the Office of the Register of Deeds of Duplin County.

Subdivision Administrator

Date

F. Exemption Certification

Where the subdivision is exempt from this ordinance, but a plat is prepared for recording, the following exemption certification may be shown on the plat to specify the section of the ordinance allowing the exemption:

The property shown on this plat is within the subdivision jurisdiction of Duplin County and is exempt from the subdivision regulation per section ____ of the Duplin County Subdivision Regulation.

The Planning Board shall review the final plat at or before its next regularly scheduled meeting which follows at least fifteen (15) days after the subdivision administrator receives the final plat. The Planning Board shall approve, conditionally approve, or disapprove the final plat. The subdivision administrator shall notify the applicant on action taken by the Planning Board with an explanation of any conditional approval or disapproval.

During its review of the final plat, the Planning Board may appoint an appropriate consultant to confirm the accuracy of the final plat (if agreed to by the County Commissioners). If substantial errors are found, the consultant fees incurred shall be charges to the sub divider and the plat shall not be recommended for approval until such errors have been corrected.

Failure of the Planning Board to act on a subdivision application within sixty (60) days after its first review of the final plat shall constitute grounds for the sub divider to appeal to the County Commissioners for consideration.

If the Planning Board approves the final plat, the Planning Board Chairman shall sign the Certificate of Approval for Recording on each plat.

If the final plat is disapproved by the Planning Board, the reasons for such disapproval shall be stated in writing, specifying the provision of this ordinance with which the final plat does not comply. One (1) copy of such reasons and one (1) print of the plat shall be retained by the Planning Board as part of its minutes; one (1) copy of the reasons and three (3) copies of the plat shall be transmitted to the sub divider. If the final plat is disapproved, the sub divider may make such changes as will bring the final plat into compliance and resubmit same for reconsideration by the Planning Board.

If the final plat is approved by the Planning Board, the original and one print shall be returned to the sub divider. One (1) reproducible copy and one (1) print shall be retained by the subdivision administrator.

The sub divider shall file the approved final plat with the Register of Deeds of Duplin County within twelve (12) months of Planning Board approval; otherwise such approval shall be null and void.

Section 309. Information to be contained in or depicted on preliminary and final plats

The preliminary and final plats shall depict or contain the information indicated in the following table. An X indicates that the information is required.

| Preliminary | Final | Information |
|-------------|-------|--|
| | | <i>Title block containing</i> |
| X | X | Property designation |
| X | X | Name of owner |
| X | X | Location (including township county and state) |
| X | X | Date or dates survey was conducted and plat prepared |
| X | X | Scale drawing in feet per inch in words or figures and a bar graph |
| X | X | Name, address, registration number and seal of the registered land surveyor and or engineer who prepared the plat |
| X | X | Sketch vicinity map showing the relationship between the proposed subdivision and surrounding area |
| X | X | Corporate limits, township boundaries, county lines if on subdivision tract |
| X | X | The names, addresses, an telephone numbers of all owners, registered land surveyors, land planner, architects, landscape architects and professional engineers responsible for the subdivision |
| X | X | The registration numbers and seals of the professional engineers |
| X | X | North arrow and orientation |
| X | X | The boundaries of the tract or portion thereof to be subdivided distinctly and accurately represented with all bearings and distances shown |
| | X | The exact boundary lines of the tract to be subdivided, full dimensioned by lengths and bearings, and the location of existing boundary lines of adjoining lands |
| X | X | The names of owners of adjoining properties |
| X | X | The name of any adjoining subdivision of record or those under review |
| X | X | Minimum building setback lines |
| X | X | The zoning classifications of the tract to be subdivided and adjoining properties if applicable |
| X | X | Existing property lines on the tract to be subdivided |
| X | | Existing buildings or other structures, watercourses, railroads, bridges |
| X | | Proposed lot lines, lot and block numbers and approximate dimensions |
| X | X | The lots numbered consecutively throughout the subdivision |
| X | | Wooded areas, marshes, swamps, out-crops, ponds or lakes, streams or stream beds and other natural features affecting the site |
| X | X | The exact location of the flood hazard areas from the community's FHBM or other FEMA maps |
| X | X | Base flood elevations |
| X | X | 404 Wetland boundaries |
| | | |

| <i>The following data concerning streets</i> | | |
|--|---|--|
| X | X | Proposed streets |
| X | X | Existing and platted streets on adjoining properties and in the proposed subdivision |
| X | X | Right-of-way, locations and dimensions |
| X | | Pavement widths |
| X | | Approximate grades |
| X | X | Design engineering data for all corners and curves |
| X | | Typical street cross sections |
| X | X | Street names |
| | X | Street maintenance agreement |
| | X | Evidence that the sub divider has obtained approval (DOT) approval on street design and driveway permits |
| X | X | Utility and other easements |
| X | X | Riding trails |
| X | X | Natural buffers |
| X | X | Pedestrian or bicycle paths |
| X | X | Parks and recreation areas with specific type indicated |
| X | X | School sites |
| X | X | Areas to be dedicated to or reserved for public use |
| X | X | Areas to be used for purpose other than residential with the purpose of each stated |
| X | X | The future ownership (dedication or reservation for public use to government body, for owners to duly constituted homeowner's association or for tenants remaining in sub divider's ownership) of recreation and open space lands |
| <i>Plans for utility layouts including</i> | | |
| X | | Sanitary sewers |
| X | | Storm sewers |
| X | | Other drainage facilities, if any |
| X | | Water distribution lines |
| X | | Natural gas lines |
| X | | Telephone lines |
| X | | Electric lines |
| X | | Illustration of connections to existing systems, showing line sizes, the location of fire hydrants, blowoffs, manholes, force mains and gate valves |
| X | | Profiles based upon mean sea level datum for sanitary sewers and storm sewers |
| <i>Site calculations including</i> | | |
| X | X | Acreage in total tract to be subdivided |
| X | X | Acreage in parks and recreation areas and other nonresidential uses |
| X | X | Total number of parcels created |
| X | X | Size of the smallest lot in the subdivision |
| X | | Linear feet in streets |
| X | X | The name and location of any property buildings within the proposed subdivision or within any contiguous property that is located on the U.S. Department of Interior's National Register of Historic Places |
| | X | Sufficient engineering data to determine readily and reproduce on the ground every straight or curved line, street line, right-of-way, easement line, and setback line, including dimensions, bearings or deflection angles, radii, central angles, and tangent distance for the centerline of curved property lines that are not the boundary line of |

| | | |
|---|---|---|
| | | curved streets. All dimensions shall be measured to the nearest one one-hundredth of a foot and all angles to a minimum angular accuracy of the nearest minute. |
| | X | The accurate locations and descriptions of all monuments, markers and control points |
| | X | A copy of any proposed deed restrictions in mandatory when private recreation areas, roads or common areas are established |
| | X | Evidence of erosion control plan approval |
| X | | Topographic map with contour intervals as determined by the subdivision administrator |
| X | | Building envelopes (if required by the subdivision administrator) |

Section 310. Recombination of Land

- 310.1 Any plat or any part of any plat may be vacated by the owner at any time before the sale of any lot in the subdivision by a written instrument to which a copy of such plat shall be attached, declaring the same to be vacated.
- 310.2 Such an instrument shall be approved by the same agencies as approved the final plat. The governing body may reject any such instrument, which abridges or destroys any public rights in any of its public uses, improvements, streets or alleys.
- 310.3 Such an instrument shall be executed, acknowledged or approved and recorded and filed in the same manner as a final plat; and being duly recorded or filed shall operate to destroy the force and effect of the recording of the plat so vacated, and to divest all public rights in the streets, alleys, and public grounds, and all dedications laid out or described in such plat.
- 310.4 When lots have been sold, the plat may be vacated in the manner provided in Section 309.1 through 309.3 by all owners of the lots in such plat joining in the execution of such writing.

Section 311. Resubdivision procedures

For any replatting or resubdivision of land, the same procedure, rules and regulations shall apply as prescribed herein for an original subdivision except that lots sizes may be varied on an approval plat after recording.

Section 312. Multifamily developments

For condominium, multifamily developments and townhouse subdivisions, all information as requested in this ordinance shall be submitted. In addition, the following shall be required prior to Planning Board approval:

- A. All documents as required by law (N.C. Condominium Act).
- B. All documents pertaining to property owners association or the like including provisions for the maintenance of all improvements such as streets, parking areas and common areas.
- C. All restrictive covenants.
- D. Survey data and descriptive material to establish building locations and envelopes.

All private streets shall be built to the construction standards and specifications of the North Carolina Department of Transportation. Such standards may also apply to the construction of accessways and driveways where deemed necessary by the Planning Board. Parking areas and other off-street areas requiring pavement shall be installed according to sound engineering standards as approved by the Planning Board.

Section 313. Townhouse subdivisions (except duplex subdivisions)

For townhouse lots with individual septic tanks, all shall comply with the minimum lot area requirements of section 406.2 or by a combination of lot area and contiguous open space. No townhouse shall be placed on a lot of less than fifteen hundred (1500) square feet.

Lots served by public water and public sewer shall have:

- A. A minimum lot size of one thousand five hundred (1,500) square feet. A minimum lot width of not less than fifteen (15) feet.
- B. A front yard setback of not less than twenty (20) feet.
- C. A rear yard setback of not less than twenty (20) feet.
- D. No side yard setback except on corner lots (measured from the exterior building line of the principle structure). This shall be less than one-half the front yard setback.

Five-foot access easements shall be reserved in each yard and ten-foot access easements shall be located between each principal building.

No dwelling shall be connected on more than two (2) sides by common wall.

Each townhouse shall be provided with at least two (2) eight-foot by twenty-foot parking spaces.

Section 314. Homeowner's association and common area

A homeowner's association shall be established for each subdivision containing common areas. The covenants, conditions and restrictions shall specify lot owner's responsibilities for maintenance of common facilities, and shall provide for assessments to finance all maintenance activities. Final plats for subdivisions containing common areas will not be approved until the sub divider's homeowner's association documents have been submitted and approved by the Planning Board.

All areas on the preliminary and final plat other than building sites and public rights-of-way, shall be shown and designated as common areas, the fee simple title to which shall be conveyed by the developer to the homeowner's association. All common areas shall be designated as a single parcel regardless of the proximity of each common area to one (1) or all of the other common areas, and such areas shall not be subdivided or conveyed by homeowner's association. This shall be stated in the covenants and restrictions and shall be noted on the final plat.

ARTICLE IV

REQUIRED IMPROVEMENTS, DEDICATION, RESERVATION, MINIMUM DESIGN STANDARDS

Section 401. General

Each subdivision shall contain the improvements specified in this article, which shall be installed in accordance with the requirements of this ordinance and paid for by the sub divider, unless another means of financing is specifically stated in this ordinance. Land shall be dedicated and reserved in each subdivision as specified in this article. Each subdivision shall adhere to the minimum standards of design established by this article.

Section 402. Suitability of land

- 402.1 Land which has been determined by the Planning Board on the basis of engineering or other expert surveys to pose an ascertainable danger to life or property by reason of its unsuitability for the use proposed shall not be platted for that purpose, unless and until the sub divider has taken the necessary measures to correct said conditions and to eliminate said dangers.
- 402.2 Areas that have been used for disposal of solid waste shall not be subdivided unless tests by the Duplin County Health Department, a structural engineer and a soils expert determine that the land is suitable for the purpose proposed.
- 402.3
 - A. All subdivision proposals shall be consistent with the need to minimize flood damage and shall conform with the Duplin County Flood Damage Prevention Ordinance.
 - B. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
- 402.4 Applicants for subdivisions adjoining public trust waters and other publicly owned water bodies are encouraged to provide for public access to the water.
- 402.5 All residential construction located within the 100 year flood plain as identified on the Duplin County Flood Hazard Boundary maps or the flood insurance rate maps as prepared by the Federal Emergency Management Agency shall comply with the requirements of the Duplin County Flood Damage Prevention Ordinance.

Section 403. Name Duplication

The name of the subdivision shall not duplicate nor closely approximate the name of an existing subdivision within Duplin County.

Section 404. Subdivision Design

- 404.1 Block
 - A. The lengths, widths, and shapes of blocks shall be determined with due regard to: provision of adequate building sites suitable to the special needs of the type of use contemplated; zoning requirements; needs for vehicular and pedestrian circulation; control and safety of street traffic; limitations and opportunities of topography; and convenient access to water areas.

- B. Blocks shall not be less than 400 feet or more than 1000 feet.
- C. Blocks shall have sufficient width to allow two (2) tiers of lots minimum depth except where single tier lots are required to separate residential development from through vehicular traffic, or another type of use, nonresidential subdivisions, or where abutting a water area.
- D. Where deemed necessary by the Planning Board, a pedestrian crosswalk at least fifteen (15) feet in width may be required to provide convenient public access to a public area such as a park or school, to a water area, or to areas such as religious or transportation facilities.

404.2. Lots

- A. All lots in new subdivision shall conform to the zoning requirements of the district in which the subdivision is located. Conformance to zoning requirements means, among things, that the smallest lot in the subdivision must meet all dimensional requirements of the zoning ordinance. It is not sufficient merely for the average lot to meet zoning requirements.

Lot sizes for unzoned areas shall conform to the following chart.

This chart is for unzoned areas:

| | Public Water and Sewer | Public Water, No Public Sewer | No Public Water No Public Sewer |
|-------------------------------------|------------------------|-------------------------------|---------------------------------|
| Minimum Lot Area in Square Feet | 12,000 | 15,000 | 20,000 |
| Minimum Lot Width in Feet | 85 | 90 | 100 |
| Minimum Lot Depth in Feet | 100 | 120 | 150 |
| Minimum Setback Lines in Feet Front | 20 | 25 | 30 |
| Side | 15 | 15 | 20 |
| Side Abutting Street | 15 | 20 | 20 |
| Rear | 15 | 20 | 20 |

- B. Lots shall meet any applicable Duplin County Heath Department Requirements.
- C. Double frontage lots shall be avoided wherever possible.
- D. Side lot lines shall be substantially at right angles to or radial to street lines.
- E. Lots shall have a minimum 20' road frontage, except town houses . Flag lots shall be prohibited unless a variance is approved by the Planning Board.

404.3 Easements

Easements shall be provided as follows:

A. Utility Easements

Easements for underground or above ground utilities shall be provided, where necessary, across lots or centered on rear or side lot lines and shall be at least 20 feet wide for water and sanitary sewer lines and as required by the companies involved, for telephone, gas and power lines.

The Planning Board will determine whether one (1) easement is sufficient or whether several easements are necessary to accommodate the various facilities and the sub divider shall provide the required easements.

B. Drainage Easements

Where a subdivision is traversed by a stream or drainage way, an easement shall be provided conforming with the lines of such stream and of sufficient width as will be adequate for the purpose.

404.4 Buffer Strips

In residential districts a buffer strip at least twenty five feet (25') in depth in addition to the normal lot size and depth required shall be provided adjacent to all railroads and controlled access highways, commercial and/or industrial developments, multi-family housing and mobile home parks, and any other land use that the Planning Board deems necessary and where there may be potential conflict. This strip shall be a part of the platted lots, but shall have the following restrictions lettered on the face of the plat: "This strip shall be reserved for the planting of trees or shrubs by the owner; the building of structures hereon is prohibited."

Section 405. Streets

405.1 Public Streets

Except as allowed by Section 303 and Article V, all subdivision lots shall abut on a public street. All streets shall be built to the standards of this ordinance and all other applicable standards of the county and the North Carolina Department of Transportation. Public streets which are eligible for acceptance into the State Highway System shall be constructed to the standards necessary to be put on the State Highway System or the standards in the ordinance, whichever is stricter in regard to each particular item, and shall be put on such system. Streets which are not eligible to be put on the State Highway System because there are too few lots or residences shall, nevertheless, be dedicated to the public and shall be in accordance with the standards in this ordinance or the standards necessary to be put on the State Highway System, whichever is stricter in regard to each particular item, so as to be eligible to be put on the system at a later date. A written maintenance agreement with provisions for maintenance of the street until it is put on the State System shall be included with the final plat.

405.2 Subdivision Street Disclosure Statement

All streets shown on the final plat shall be designated in accordance with G.S.136-102.6 and designation as public shall be conclusively presumed an offer of dedication to the public. Where streets are dedicated to the public but not accepted into the State System, a statement explaining the status of the street shall be included on the final plat.

405.3 Half-Streets

The dedication of half streets of less than the N.C. Department of Transportation requirements at the perimeter of a new subdivision shall be prohibited. If circumstances render this impractical; adequate provision for the concurrent dedication of the remaining half of the street shall be furnished by the sub divider. Where there exists a half-street in an adjoining subdivision, the remaining half shall be provided by the propose subdivision.

405.4 Access to Adjacent Properties

Where, in the opinion of the Planning Board, it is necessary to provide for street access to an adjoining property, proposed streets shall be extended by dedication to the boundary of such property and a temporary turn around provided.

405.5 Nonresidential Streets

The sub divider of a nonresidential subdivision shall provide streets in accordance with the North Carolina Roads, Minimum construction Standards, January 1, 1999; and the standards in this ordinance, whichever are stricter in regard to each particular item.

405.6 Design Standards

Except as allowed by Section 303 and Article V, the design of all streets and roads within the jurisdiction of this ordinance shall be in accordance with the N.C. Accordance with the N.C. Department of Transportation, Division of Highways' Subdivision Roads Minimum Construction standards.

405.7 Intersections

- A. Streets shall be laid out so as to intersect as nearly as possible at right angles, and no street shall intersect any other street at an angle less than sixty (60) degrees.
- B. Property lines at intersections should be set so that the distance from the edge of pavement, of the street turnout, to the property line will be at least great as the distance from the edge of pavement to the property line along the intersecting streets. This property line can be established as a radius or as a sight triangle. greater offsets from the edge of pavement to the property lines will be required, if necessary, to provide sight distance for the vehicle on the side street.
- C. Offset intersections are to be avoided unless exception is granted by the Division of Highways. A minimum length of 200 feet should separate intersections, which cannot be aligned, between survey centerlines.

- D. Intersections with arterials, collectors and thoroughfares shall be at least one thousand (1000) feet from centerline to centerline, or more if required by the N.C. Department of Transportation.

405.8 Cul-de-sacs

Permanent dead-end streets should not exceed one thousand (1000) feet in length unless necessitated by topography, or property accessibility. Suitable provisions for emergency vehicles to turn around shall be provided every 2500 feet. The distance from the edge of pavement on the vehicular turnaround to the right-of-way line shall not be less than the distance from the edge of pavement to right-of-way line on the street approaching the turnaround. Cul-de-sacs should not be used to avoid connection with an existing street or to avoid the extension of an important street, unless exception is granted to the Planning Board.

405.9 Alleys

- A. Alleys shall be required to serve lots used for commercial and industrial purposes except that this requirement may be waived where other definite and assured provision is made for service access.
- B. The width of an alley shall be at least twenty (20) feet.
- C. Dead-end alleys shall be avoided where possible, but if unavoidable, shall be provided with adequate turnaround facilities at the dead-end as may be approved by the Planning Board.
- D. Sharp changes in alignment and grade shall be avoided.
- E. All alleys shall be designed in accordance with N.C. Department of Transportation Standards.

405.10 Other Requirements

A. Through Traffic Discouraged on Residential Collector and Local Streets

Residential collector and local streets shall be laid out in such a way that their use by through traffic will be discouraged. Streets shall be designed or walkways dedicated to assure convenient access to parks, playgrounds, schools, or other places of public assembly.

B. Sidewalks

Sidewalks may be required by the Planning Board on one or both sides of the street in areas likely to be subject to heavy pedestrian traffic such as near schools and shopping areas. Such sidewalks shall be constructed to a minimum width of four (4) feet, and shall consist of a minimum thickness of four (4) inches of concrete. All sidewalks shall be placed in a right-of-way, unless the development is platted as a planned unit or group development. Sidewalks shall consist of a minimum of six (6) inches of concrete at driveway crossings.

C. Street Names

Proposed streets, which are, obviously in alignment with existing streets shall be given the same name. In assigning new names, duplication of existing names shall be avoided and in no case shall the proposed name be phonetically similar to existing names in the county irrespective of the use of a suffix such as street, road, drive, place, court, etc. Street names shall be approved by the E-911 addressing department prior to final plat approval.

D. Street Name Signs

The sub divider shall be required to provide and erect street name signs to county standards at all intersections within the subdivision.

E. Permits for Connection to State Roads

An approved permit is required for connection to an existing state system road. This permit is required prior to any construction on the street or road. The application is available at the office of the nearest district engineer of the Division of Highways.

F. Offsets to Utility Poles

No utility poles shall be located within the road right of way.

G. Wheelchair Ramps

In accordance with Chapter 136, Article 2A, Section 136-44.14, all street curbs in North Carolina being constructed or reconstructed for maintenance procedures, traffic operations, repairs, correction of utilities, or altered for any reason shall provide wheelchair ramps for the physically handicapped at all intersections where both curb and gutter and sidewalks are provided and at other major points of pedestrian flow.

Section 406. Utilities

- 406.1 A. (1) Each lot shall be provided with an approved water supply in accordance with 15A NCAC 18A.1700. Provided the water supply and distribution system serves 15 or more connections, it is classified as a "public water system" and must be listed with the Public Water Supply Section, Division of Environmental Health
 (2) Each lot must be connected to an approved sewage disposal system as determined by the Duplin County Health Department. The approval of water supply and sewage disposal system is a condition for approval of electrical service to each lot.
- B. When public or community water systems or sewage systems are available, the developer shall, at his expense, make connection to those systems. Availability will be determined by the Planning Board.
- Water and sanitary sewer lines, connections, and materials shall be in accordance with policies and procedures for utility extensions maintained by the county utilities department.

406.2 Storm Water Drainage System

The sub divider shall provide a surface water drainage system constructed to the standards of the N.C. Department of Transportation.

- A. No surface water shall be channeled or directed into a sanitary sewer.
- B. Where feasible, the sub divider shall connect to an existing storm drainage system.
- C. Where an existing storm drainage system cannot feasibly be extended to the subdivision, a surface drainage system shall be designed to protect the proposed development from water damage.
- D. Surface drainage courses shall have side slopes of at least three (3) feet of horizontal distance for each one (1) foot of vertical distance, and courses shall be of sufficient size to accommodate the drainage area without flooding, and designed to comply with the standards and specifications for erosion control of the North Carolina Sedimentation Pollution control Act, G.S. 143-34.12, Chapter 113A, Article 4 and the N.C. Administrative Code Title 15, Chapter 4, and any locally adopted erosion and sedimentation control ordinances.
- E. The minimum grade along the bottom of a surface drainage course shall be a vertical fall of at least one (1) foot in each two hundred (200) feet of horizontal distance.
- F. Streambanks and channels downstream from any land disturbing activity shall be protected from increased degradation by accelerated erosion caused by increased velocity of runoff from the land disturbing activity in accordance with the North Carolina Sedimentation Pollution Control Act, G.S. 143-34.12, Chapter 114A, Article 4 and the North Carolina Administrative Code Title 15, Chapter 4.
- G. Anyone constructing a dam or impoundment within the subdivision must comply with the North Carolina Dam Safety Law of 1967 and the North Carolina Administrative Code Title 15, subchapter 2 K.
- H. In all areas of special flood hazards, all subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

406.3 Private Streets

A disclosure statement shall be issued in accordance with G.S. 136-102.6. Such shall be submitted prior to final plat approval. The provision for road maintenance including parking areas shall be stated on the final plat.

Subdivisions meeting all the requirements of section 303.2, with private ingress and egress easements, shall construct private streets to the following standards:

Streets shall have a traveled way, a minimum of 18 feet wide and shall be graded, drained and stabilized.

The street surface shall consist of a minimum of 4" of compacted stone or rock.

406.4 Review by County Commissioners

The County Commissioners may review each and every subdivision proposal prior to final plat and submit findings to the Planning Board for consideration. If final plat approval is denied by the Planning Board, the applicant may appeal to the County Commissioners.

406.5 Federal Wetlands

All areas within a subdivision identified as federal wetlands shall be delineated on the final plat along with a statement as to applicable restrictions. Such delineation shall be certified in a manner acceptable to the Duplin County Planning Board as being the true and actual boundary of any 404 Wetland areas consistent with policies and regulations of the U.S. Army Corps of engineers.

406.6 Deed Information

The Planning Board may require that provisions for the maintenance of roads, drainage systems, easements, or other special conditions pertaining to all or part of a subdivision be made a part of the deed, other legal form of conveyance or restrictive covenants for a lot or a group of lots. The development of suitable restrictive covenants shall be encouraged by the Planning Board.

406.7 Private Driveways

Interior lots may be accessed by a driveway platted and recorded as such with provisions for maintenance appearing on the final plat. No driveway may serve more than two (2) lots and driveways shall not be used to circumvent good design practices of the requirement for a street built according to the provisions of this ordinance.

406.8 Environmental Impact Statement

Pursuant to Chapter 113 of the North Carolina General Statutes, the Planning Board may require the sub divider to submit an environmental impact statement due to the nature of the land to be subdivided or peculiarity in the proposed lay out.

406.9 Eligibility for National Flood Insurance

If a proposed subdivision is in a location subject to the 100-year flood, an appropriate statement indicating such location shall appear on the final plat. If a proposed subdivision is within the area subject to the 100-year flood and is not eligible for participation in the National Flood Insurance Program, an appropriate statement indicating such exclusion shall be placed on the final plat.

406.10 Cautions and Certifications

The Planning Board may require that cautions and other specialized certifications be affixed to the final plat prior to approval.

ARTICLE V

PLANNED UNIT DEVELOPMENT

Section 501. Introduction

A planned unit development is intended to encourage unified development of property in an innovative manner using contemporary design patterns and sound engineering principals.

Section 502. Planned unit development (PUD)

Planned unit development means an area of land, controlled by one (1) or more landowners, to be developed under unified control or unified plan of development for residential, commercial, educational, recreational, or industrial uses, or any combination of the foregoing, the plan for which does not correspond in lot size, bulk or type of use, density, lot coverage, open space, or other restrictions to the existing land use regulations.

Section 503. Common open space

"Common open space" means a parcel of land, an area of water, or a combination of land and water, within the site designated for a planned unit development, designed and intended primarily for the use or enjoyment of residents, occupants and owners of the planned unit development. Areas included in driveways or otherwise required to move cars in or out of parking spaces shall not be considered as common open space.

Section 504. Plan

"Plan" means the provision for development of a planned unit development, which may include, but need not be limited to easements, covenants and restrictions relating to use, location and bulk of building and other structures, intensity of use or density of development, utilities, private and public streets, ways, roads, pedestrian areas, and parking facilities, common open space, and other public facilities. "Provisions of the plan" means the written and graphic material referred to in this definition.

Section 505. Purposes and objective of development

PUD's shall be designed to meet the following objectives:

- A. To provide for necessary commercial, recreational and educational facilities conveniently located to housing;
- B. To provide well-located, clean, safe and pleasant industrial sites;
- C. To encourage innovations in residential, commercial and industrial development;
- D. To encourage a more efficient use of land and of public services, or private services in lieu thereof;
- E. To minimize the impact of traffic on streets and highways;
- F. To conserve the value of the land;
- G. To provide a procedure which can relate the type, design and layout of residential, commercial and industrial development to the particular site, thereby encouraging preservation of the site's natural characteristics; and

- H. To encourage integrated planning in order to achieve the purposes of the development.

Section 506. Conformity with land-use plan required

No PUD shall be approved unless it is found by the Planning Board to be in conformity with the county's land use plan.

Section 507. Subdivision provisions modification authorized

It is recognized that the uniqueness of each proposal for a PUD requires that the specifications, standards, and requirements for various facilities, including but not limited to streets, highways, alleys, utilities, curbs, gutters, sidewalks, streetlights, parks, playgrounds, school grounds, storm drainage, water supply and distribution, and sewage collections and treatment, may be subject to modification from the specifications, standards and requirements established in the subdivision regulations.

The county may, therefore, waive or modify the specifications, standards and requirements which would be otherwise applicable to the proposed development.

Section 508. Compatibility of land use elements

It is recognized that certain individual land uses, regardless of their adherence to all the design elements provided for in this article, might not exist compatibly with one another. Therefore, a proposed PUD shall be considered from the point of view of land use compatibility and no PUD shall be approved which contains incompatible elements.

Section 509. Conditions for approval

The Planning Board may approve a proposed PUD upon finding that it will implement the purposes of this ordinance and will meet the standards and requirements set forth in this ordinance.

Section 510. Site plan criteria, general requirements

The PUD shall meet the following site plan criteria, depicted on a site plan furnished by the developer, unless the applicant can demonstrate that one (1) or more of them is not applicable or that another practical solution has been otherwise achieved:

- A. The PUD shall have an appropriate relationship to the surrounding area, with adverse effects on the surrounding area being minimized.
- B. The PUD shall provide an adequate internal street circulation system designed for the type of traffic generated, safety, separation from the living areas, convenience and access. Private internal streets may be permitted provided that adequate access for police, fire and emergency protection is maintained; streets are named in a logical fashion to avoid confusion; and provisions for using and maintaining such streets are imposed upon the private users and approved by the Planning Board.
- C. The PUD shall provide parking areas adequate in terms of location, area, circulation, safety, convenience, separation and screening.
- D. The PUD shall provide common open space adequate in terms of location, area and type of the common open space, and in terms of the uses permitted in the PUD. The PUD shall provide for preservation of natural features of the terrain.
- E. The PUD shall provide for variety in housing types and densities, other facilities and common open space.

- F. The PUD shall provide adequate privacy between dwelling units.
- G. The PUD shall provide pedestrian ways adequate in terms of safety, separation, convenience, access to points of destination and attractiveness.

Section 511. Off-street parking

The number of off-street parking spaces for each use in a PUD shall be determined by the Planning Board through consideration of the following factors.

- A. Estimated number of cars to be used by occupants of dwelling in the PUD.
- B. Temporary and permanent parking needs of nondwelling uses.
- C. Varying time periods of use whenever joint use of common parking areas is proposed and
- D. Parking and storage needs for recreational vehicles including but not necessarily limited to campershells, boats, and travel trailers.

Section 512. Minimum land area

The minimum size of land that may comprise a PUD shall be 25 acres.

Section 513. Lot area and coverage, setbacks and clustering

The minimum lot areas and the minimum setback restrictions may be decreased below and the maximum lot coverage may be increased above those applicable to like lots and buildings to accommodate specific building types with unusual orientation on the lot or relationship between buildings. The averaging of lot areas shall be permitted to provide flexibility in design and relate lot size to topography, but each lot shall contain an acceptable building site. The clustering of development with useable common open areas shall be permitted to encourage provision for and access to common open areas and to save street and utility construction and maintenance costs. Such clustering is also intended to accommodate contemporary building types which are not spaced individually on their own lots but share common sidewalls, whether or not providing for separate ownership of land and buildings.

Section 514. Residential density

The overall average residential density shall be no greater than the maximum density for the particular area in the county's land use plan. The overall average residential shall be calculated by summing the number of residential dwelling units planned within the boundary of the PUD and dividing by the total gross areas expressed in acres within the boundary of the PUD. Averaging and transferring of densities within the PUD shall be allowed upon a showing of conformance to the purposes of this ordinance through appropriate utilization of the area within the PUD to achieve high standards of design and habitability.

Section 515. Permitted uses

- A. Subject to the provisions of Section 508, the following uses, separate or in combination, may be permitted in a PUD;
 - a. Single-family and multifamily residential dwelling units in detached, semidetached, attached, clustered or multistoried structures, or any combination thereof;

- b. Sale or rental of goods or services;
- c. Recreation facilities;
- d. Public and private offices;
- e. Convention facilities;
- f. Restaurants;
- g. Lodging places, including motels, hotels, and dormitories;
- h. Schools and other education institutions;
- i. Churches and hospitals;
- j. Business and commercial uses;
- k. Industrial uses; and
- l. Any other uses shown to be appropriate.

B. The uses which shall be permitted in any particular PUD shall be only those permitted by the approved PUD plan.

Section 516. Common open space

A minimum of twenty-five (25) percent of the total area within the boundary of any residential PUD shall be devoted to useable and accessible common open space; provided, however, that the planning board may reduce such requirement if it finds that such decrease is warranted by the design of, and the amenities and features incorporated into, the plan and that the needs of the occupants of the PUD for common open space can otherwise be met in the proposed PUD and the surrounding area.

Section 517. Application for PUD review

The plan shall show generally within the PUD where each type of use will be located and shall indicate the total acreage which will be devoted to each use. The precise location of each use and the location of lots, blocks or other parcels within each area devoted to each use shall be shown.

The minimum lot area, maximum lot coverage; minimum setbacks, maximum height of buildings and all other use and occupancy restrictions applicable to any PUD, shall only be those which are approved at the time of final plat approval by the Planning Board.

The applicant shall initiate any request for PUD approval in writing, and shall include with his written request the following:

- A. A legal description of the area and a statement of the ownership of all interests in the property to be included in the PUD, and the written consent of all of the owners and, upon request of the planning board, evidence of title in such quality as is acceptable to the board;
- B. A plan indicating the broad concept of the proposed development. Such plan shall indicate:
 - a. The maximum number of dwelling units proposed within the overall area,

- b. The minimum acreage which will be dedicated to common open space,
 - c. The type of uses proposed and the acreage devoted to each use,
 - d. Major internal vehicular traffic circulation system,
 - e. The acreage which will be dedicated for school sites or other public uses,
 - f. The general nature and location of commercial and industrial uses, if any,
 - g. Provision for water, sewer, telephone, electricity and other utilities,
 - h. Other restrictions proposed by the applicant such as building setbacks, height limits and access requirements to be applied to particular areas,
 - i. How the common open space will be owned and maintained;
- C. A location map, on a scale of one (1) inch equaling not more than four hundred (400) feet, illustrating site boundaries, acreage, existing structures and adjacent property owners and land uses;
- D. A map, on a scale of one (1) inch equaling not more than one hundred (100) feet, illustrating site boundaries, acreage, existing structures and
- E. A site plan on a scale of one (1) inch equaling not more than one hundred (100) feet, depicting site plan criteria which the applicant is required to meet in Section 510;
- F. A topographic map of the site or phase, showing at a scale of one (1) inch equaling not more than one hundred (100) feet showing streams, rivers, ditches, and areas subject to 100-year flooding.
- G. The written request shall additionally contain the following information;
- a. An explanation of the objectives to be achieved by the PUD and an agreement to abide by the provisions of this ordinance.
 - b. A development schedule indicating the approximate dates when construction of the various stages of the PUD can be expected to begin and be completed,
 - c. Copies of any special easements, covenants, conditions, and restrictions which will govern the use or occupancy of the PUD; provided, however, that the applicant may impose additional covenants, conditions and restrictions on any particular area in connections with the platting of such areas.
 - d. A statement and findings by a Professional Engineer which shall provide evidence of the following as adequate to service the PUD:
 - 1. The proposed water distribution system,
 - 2. The proposed method of sewage collection,
 - 3. The general manner in which storm drainage will be handled, and
 - 4. The general manner in which provision will be made for any potential natural hazards in the area,

- e. Easement showing vested legal access for ingress and egress, if applicable
 - f. Evidence that the PUD has been designed with consideration of the natural environment of the site and the surrounding area and does not unreasonably destroy or displace wildlife, natural vegetation, or unique natural or historic features,
 - g. A statement of financial capability
 - h. A discussion of the major internal vehicular system and its relation to the existing system of streets, roads or highways,
- H. The applicant may submit any other information or exhibits which he deems pertinent In evaluating his proposed PUD.

Section 518. Planning Board

The Planning Board is responsible for initially investigating all PUD applications, plans and accompanying information in detail to ensure conformity with the provisions of this ordinance. Within thirty (30) days from receipt, the Board shall approve a PUD application, disapprove it, or approve it upon the imposition of conditions reasonably related to the intent of this PUD section.

Approval may be given on a conditional basis provided the developer submits a written agreement, approved by the Planning Board to incorporate such conditions upon approval of the final PUD application and plan.

ARTICLE VI

DEFINITIONS

Section 601. "Subdivision Defined"

For the purpose of this ordinance, "subdivision" means all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for purpose of sale or building development (whether immediate or future) and shall include all division of land involving the dedication of a new street or a change in existing street; but the following shall not be included within this definition nor be subject to any regulations enacted pursuant to this ordinance;

- A. The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the county as shown in this ordinance;
- B. The division of land into parcels greater than ten (10) acres where no street right-of-way 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 not greater than two (2) acres into not more than three (3) lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the county as shown in this ordinance.

Section 602. Other Definitions

For the purpose of this ordinance, certain words or terms used herein shall be defined as follows:

Block - A piece of land bounded on one or more sides by streets or roads.

Buffer Strip - A 25 foot strip of land in addition to the lot size and depth planted with one or more species of trees and or shrubs at spacings which will provide a permanent, continuous, year round visual screen.

Building Setback Line - A line parallel to the front property line in front of which no structure shall be erected. Setbacks shall be figured from the right-of-way line.

Dedication - A gift, by the owner, or a right to use if land for a specified purpose or purposes because a transfer of property rights is entailed, dedication must be made by written instrument, and is completed with an acceptance.

Easement - A grant by the property owner of a strip of land for a specified purpose and use by the public, a corporation, or persons.

Half Street - A street whose centerline coincides with a subdivision plat boundary, with one-half (1/2) the street right-of-way width being contained within the subdivision plat. Also, any existing street to which the parcel of land to be subdivided abuts on only one side.

Lot - A portion of a subdivision or any other parcel of land, intended as a unit of transfer of ownership or for development or both.

Lot of Record - A lot which is part of a subdivision, a plat of which has been recorded in the Office of the Register of Deeds of Duplin County prior to the adoption of this ordinance, or a lot described by meters and bounds, the description of which has been so recorded prior to the effective date of this ordinance.

Lot types:

Corner Lot - A lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point in the lot meet at an interior angle of less than one hundred thirty-five (135) degrees.

Double Frontage Lot - A continuous (through) lot, which is accessible from both streets upon which it fronts.

Interior Lot - A lot other than a corner lot with only one frontage on a street.

Through Lot or a "Double Frontage Lot" - a lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as double frontage lots.

Reversed Frontage Lot - A lot on which the frontage is at right angles or approximately right angles (interior angles less than one hundred thirty-five (135) degrees) to the general pattern in the area. A reversed frontage lot may also be a corner lot, an interior lot or a through lot.

Single-Tier Lot - A lot which backs upon a limited access highway, a railroad, and a physical barrier, or another type of land use and to which access from the rear is usually prohibited.

Official Maps or Plans - Any maps or plans officially adopted by the Planning Board.

Open Space - An area (land and/or water) generally lacking in man-made structures and reserved for enjoyment in its unaltered state.

Planned Unit Development - (PUD) same as section 502

Plat - A map or plan of a parcel of land, which is to be, or has been subdivided.

Private Driveway - A roadway serving two (2) or fewer lots, building sites or other division of land and not intended to be public ingress or egress.

Private Street - An undedicated private right-of-way which affords access to abutting properties and requires a subdivision streets disclosure statement in accordance with G.S. 136-102.6.

Recreation Area or Park - An area of land or combination of land and water resources that is developed for active and/or passive recreation pursuits with various man-made features that accommodate such activities.

Reservation - A reservation of land does not involve any transfer of property rights. It simply constitutes an obligation to keep property free from development for a stated period of time.

Street - A dedicated and accepted public right-of-way for vehicular

Sub divider - Any person, firm or corporation who subdivides or develops any land deemed to be subdivision as herein defined.

Subdivision Administrator - The County Planning Department staff, including the County Planner and Community Development Planner.

Section 603. Word Interpretation

For the purpose of this ordinance, certain words shall be interpreted as follows:

Words used in the present tense include the future tense.

Words used in the singular number include the plural and words used in the plural number include the singular, unless the natural construction of the wording indicates otherwise.

The word "person" includes a firm, association, corporation, trust, and company as well as an individual.

The word "used for" shall include the meaning "designed for".

The word "structure" shall include the word "building".

The word "lot" shall include the words "plot", "parcel", or "tract".

The word "shall" is always mandatory and not merely directory.

THE MANUFACTURED HOME
AND
TRAVEL TRAILER PARK ORDINANCE
OF
DUPLIN COUNTY, NORTH CAROLINA

PREPARED BY
THE DUPLIN COUNTY PLANNING BOARD
AND
THE DUPLIN COUNTY PLANNING DEPARTMENT

Effective December 1, 2002

ENACTMENT

This is an ordinance establishing regulations for manufactured home and travel trailer parks within the jurisdiction of Duplin County, North Carolina and providing for the administration enforcement and amendment thereof and repealing the Duplin County Manufactured Home and Travel Trailer Park Ordinance effective Dec. 1, 1998.

PREAMBLE

WHEREAS, in the opinion of the Duplin County Board of Commissioners to promote the health, safety, morals, and general welfare of the residents of Duplin County it is necessary and advisable to establish regulations to further the orderly layout of manufactured home and travel trailer parks, to secure safety from fire, flood and other dangers, to insure adequate facilities for transportation, parking, water, sewerage, and recreation, and

WHEREAS, the Duplin County Planning Board has developed this ordinance with due consideration and has submitted final recommendations to the Duplin County Commissioners, and

WHEREAS, all applicable requirements of the General Statutes of North Carolina have been met.

NOW, THEREFORE BE IT ORDAINED BY THE COUNTY COMMISSIONERS OF THE COUNTY OF DUPLIN AS FOLLOWS:

ARTICLE I AUTHORITY

SECTION 10

The provisions of this ordinance are adopted under authority granted by North Carolina General Statute 153A-121.

ARTICLE II - JURISDICTION

SECTION 20

This regulation shall govern the establishment of each and every new manufactured home and travel trailer park and the alteration or expansion of existing manufactured home and travel trailer parks within the jurisdiction of Duplin County. The jurisdiction of Duplin County shall not include the area within the extra territorial jurisdiction of any municipality.

ARTICLE III - APPLICABILITY

SECTION 30

After the effective date of this ordinance it shall be unlawful for any person to establish, operate or expand a manufactured home park or travel trailer park in a manner which is inconsistent with the provisions and requirements of this ordinance.

ARTICLE IV TITLE

- SECTION 40 This ordinance shall be known and referred to as The Manufactured Home and Travel Trailer Park Ordinance of Duplin County, North Carolina.

ARTICLE V INTERPRETATIONS

SECTION 50

Tense and Number

- (1) The present tense includes the future tense and the future tense includes the present tense.
- (2) The singular number includes the plural number and the plural number includes the singular number.

SECTION 51

Word Interpretations

For the purposes of this ordinance the following words shall be interpreted as specified below:

- (1) The word "may" is permissive.
- (2) The words "shall" and "will" are mandatory.
- (3) The word "County" shall mean the County of Duplin, North Carolina.
- (4) The words "Planning Board" shall refer to the Duplin County Planning Board.
- (5) The words "County Commissioners" shall refer to the Duplin County Board of Commissioners.
- (6) The word "person" shall include firm, organization, association, company trust, corporation or other entity.
- (7) The words "used" or "occupied" includes intended, designed and arranged.

SECTION 52

Definitions

For the purposes of this ordinance the following terms shall be defined as specified below. Unless specifically defined, words or phrases used in this ordinance shall be interpreted to give them the meaning they have in common usage and to give this ordinance the most reasonable application.

- (1) Buffer Strip
A 10 foot wide strip of living plant material planted with one or more species of trees and or shrubs at spacings which will provide a permanent, continuous, year-round, visual screen extending from the surface of the ground to a minimum height of six (6) feet at maturity.
- (2) Construction Permit
A permit issued by the enforcement officer authorizing the manufactured home park owner to construct a manufactured home park or travel trailer park in accordance with a plan approved by the Planning Board.

- (3) Developer
Any person, firm, trust, partnership, association or corporation engaged in development or proposed development of a manufactured home or travel trailer park.
- (4) Enforcement Office
This ordinance shall be enforced by the Duplin County Planning Department.
- (5) 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 subsection 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 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 chassis that connect on site for placement on a temporary or semipermanent foundation having a measurement of over 32 feet in length and over eight feet in width.
- (6) Manufactured Home Park
Shall mean and include any place, area or tract of land maintained, offered or used for the parking of more than two manufactured homes used or intended to be used for human habitation purposes. Provided further that this regulation shall not apply where up to three manufactured homes are used by an immediate family relationship such as father and son or a relationship considered by the Health Department as equal to this and no rent is charged or paid. Also provided that this ordinance shall not apply to permitted migrant labor camps or subdivisions.

- (7) Manufactured Home Lot
Any parcel or ground within a manufactured home park designated for the exclusive use of one manufactured home.
- (8) Operation Permit
A permit issued by the Enforcement Officer to a manufactured home or travel trailer park owner, upon the completion of a manufactured home park which authorizes the lease or rental of spaces and operation of the park.
- (9) Permitted Migrant Labor Camp
Manufactured homes under valid permit by the Duplin County Health Department and other applicable agencies for use as housing for migrant laborers. Manufactured home parks as defined by this ordinance will be subject to the requirements of this ordinance when not under valid permit as a migrant labor camp.
- (10) Site Plan
A plan of a proposed manufactured home or travel trailer park, prepared in accordance with this ordinance and presented to the Duplin County Planning Board for approval.
- (11) Travel Trailer
A wheeled vehicular portable structure built on a chassis, designed to be used as a temporary dwelling for travel and/or recreational purposes, having a body width not exceeding 8 feet. This is also intended to include structures mounted on auto or truck bodies commonly referred to as campers.
- (12) Travel Trailer Park
Any site or tract of land upon which is located six or more travel trailer spaces, regardless of whether or not a charge is made for such service.
- (13) Travel Trailer Space
A plot of land within a travel trailer park designed for the accommodation of one travel trailer.
- (14) Variance
A modification of terms of this ordinance where, owing to conditions peculiar to the property, a literal enforcement of this ordinance would result in an unnecessary hardship.
- (15) Screen Fence
A structure of wood, stone, brick, block, or metal from the surface of the ground to a minimum height of 6 feet and of such materials and construction which creates a permanent, continuous, visual barrier.

ARTICLE VI MANUFACTURED HOME PARK DESIGN STANDARDS

SECTION 60

Suitability of Land

Land subject to flooding, improper drainage, erosion, or that is for topographical or other reasons unsuitable for residential use as determined by the Planning Board, shall not be developed for manufactured home parks if such use would continue or increase the danger to health, safety, or property unless the hazards can be, and are corrected or avoided.

SECTION 61

General Requirements

- (1) The owner/operator of a manufactured home park shall not sell manufactured homes on or within a manufactured home park unless the manufactured home unit for sale is individually and separately located upon an existing manufactured home lot where all design standards have been met and all utilities have been installed as required by this ordinance. An individual manufactured home owner residing in the park may sell his own manufactured home.
- (2) The transfer of individual manufactured home lots within the park by sale or other means shall be prohibited while the park is in operation.
- (3) No enclosed structure in excess of 500 square feet shall be attached to any manufactured home. Such additions shall not encroach into the minimum setbacks or separation requirements.
- (4) Open porches and decks shall not be constructed nearer than five feet to adjacent interior or exterior lot lines.
- (5) Only manufactured homes shall be located within manufactured home parks.
- (6) Manufactured home park identification signs shall not exceed thirty-two (32) square feet in area per side. Only diffused nonflashing lighting will be allowed. Lighting shall not directly illuminate the public roadway or reflect light beams or glare that would impair the vision of motorists or interfere with the operation of vehicles. Signs shall not be located within the public right-of-way and shall be located at least 20 feet from any manufactured home.
- (7) The separation requirement of the ordinance is intended to protect property values, preserve the character and integrity of the County and to promote the health, safety and welfare of County residents. No manufactured home park may be located within 1,000 feet in any direction from an existing mobile home park, school, church or residence.
- (8) Buffers are intended to protect adjoining land uses, from the noise, dust, lights, threats to privacy, and aesthetic impacts of more intense land uses. Any portion of any manufactured home or travel trailer park boundary which is BOTH within 1,000 feet AND is visible from any schools, churches or residences (other than that of the park owner) shall be screened from view with a buffer strip, as defined by this ordinance, along the boundary line facing the residence. Any manufactured home park with manufactured homes located within 50 feet of a public road right-of-way shall be screened from view from the public road with a buffer as defined by this ordinance. In addition, any manufactured home park with more than five manufactured homes adjacent to a public road right-of-way that do not have direct, individual driveway access to the public road shall be buffered from view from the road by a buffer strip as defined by this ordinance. The buffer requirement may be satisfied by a screen fence as defined by this ordinance. The buffer requirement may also be satisfied by existing natural vegetation meeting the intent of this ordinance provided that the natural vegetation is owned by the manufactured home park owner.

- A. No particular species of plant materials are specified; however, performance of plant materials and methods used shall be in accordance with the requirements and intent of this ordinance. (See Appendix for chart of recommended plant materials and spacings.)
 - B. Plant materials shall average a minimum of 12" in height at the time of planting.
 - C. Persons operating manufactured home and travel trailer parks shall utilize good husbandry techniques with regard to plant materials including but not limited to proper planting, mulching, fertilization, pruning and otherwise proper maintenance to ensure a healthy, uniform, continuous solid vegetative screen as soon after planting as possible.
 - D. Diseased, dead or damaged plant materials shall be replaced at the earliest appropriate planting time.
- (9) Within a manufactured home park, one manufactured home may be used as an administrative office.
- (10) Convenience establishments of a commercial nature, including food stores, coin operated laundries and dry cleaning establishments, laundry and dry cleaning pickup stations, beauty parlors, and barber shops may be permitted in manufactured and travel trailer home and travel trailer parks subject to the following restrictions:
- A. Such establishments shall be located, intended and designed to serve only the trade or service needs of persons residing in the park.
 - B. Such establishments shall be subordinate to the residential use and character of the park.
 - C. Off-street parking for commercial establishments shall be provided at a ratio of one (1) space for every four hundred (400) square feet of gross floor area.
 - D. Vehicular access to such establishments shall be from Interior streets.
 - E. Signs serving such establishments inside the manufactured home park shall be limited to twenty (20) square feet in area, non-illuminated, and shall be attached to the establishment.

SECTION 62

Lots

- (1) Generally, lot sizes, shapes and locations shall be made with due regard to topographic conditions, soil conditions, and the surrounding land usage.
- (3) The area required for each manufactured home lot shall be determined by the Duplin County Health Department after an investigation of soil conditions, proposed method of sewage disposal, and water supply. However in no case shall the area of a manufactured home lot be less than ten thousand (10,000) square feet.

- (3) Minimum Lot areas shall be as specified below:

| <u>Water and Sewer Service</u> | <u>Minimum Lot area and width</u> |
|--|--|
| (A) Lots served by both off-site water supply and off-site sewage disposal | 10,000 square ft. minimum 60 feet width |
| (B) Lots served by on site sewage disposal. | 21,780 square ft. (1/2 acre) minimum 120 feet width |

- (4) Each manufactured home lot shall have a minimum road frontage of thirty 30 feet.
- (5) Manufactured home minimum setbacks on the lots shall be as follows: No portion of any setback shall be within the required buffer strip.
- (A) 10 feet from any interior side or rear lot line
 - (B) 15 feet from any exterior park boundary line except that no manufactured home may be situated within 100' of an established adjoining residential property line.
 - (C) 15 feet from any interior street-right-of-way line
 - (D) 30 feet from any public road right-of-way line
 - (E) 20 feet from any building, other manufactured home or manufactured home park identification sign
- (6) Each manufactured home lot shall abut on an interior street which has direct access to a public road.
- (7) Each manufactured home lot shall be assigned a street address by the Duplin County E-911 Coordinator. It shall be the responsibility of the manufactured home park owner to post the address in accordance with the Duplin County Addressing and Road Naming Ordinance.

SECTION 63

Streets and Parking

- (1) Interior streets shall be private streets, owned and maintained by the manufactured home park owner. The county assumes no responsibility for maintenance of any streets, parking areas, drainage structure or open spaces.
- (2) Interior streets shall have a traveled way, a minimum of eighteen (18) feet wide and be graded drained and stabilized.
- (3) Interior street surfaces shall consist of a minimum of 4" compacted stone or rock on suitable sub-grade.
- (4) Streets shall be approximately centered in an access easement lot less than forty (40) feet wide.
- (5) Manufactured home parks with more than 20 lots shall have at least two access roads connecting to a public road.

- (6) Permanent dead end or cul-de-sac streets shall not exceed one thousand (1,000) feet in length and shall have a bulb or other suitable means for vehicles to turn around at the closed end. Bulbs shall have a right-of-way diameter of eighty (80) feet and a traveled portion with a diameter of seventy (70) feet. Other provisions for turning around may be allowed subject to approval by the Planning Board.
- (7) Streets and drives within the manufactured home park shall intersect as nearly as possible at right angles to other streets. No streets shall intersect at an angle of less than sixty (60) degrees.
- (8) Interior streets shall be named by the manufactured home park Developer. Names shall not duplicate or be similar to existing County road names. Selection of street names are subject to approval by the Duplin County E-911 Addressing Coordinator.
- (9) Two automobile parking spaces shall be provided for each manufactured home lot. No portion of the required spaces shall be within any street right-of-way.

SECTION 64

Utilities

- (1) (A) Each manufactured home lot shall be provided with an approval water supply in accordance with 15A NCAC 18A.1700. Provided the water supply and distribution system serves 15 or more connections, it is classified as "public water system" and must be listed with the Public Water Supply Section, division of Environmental Health.
(B) Each manufactured home lot must be connected to an approved sewage disposal system as determined by the Duplin County Health Department. The approval of water supply and sewage disposal system is a condition for approval of electrical service to each manufactured home lot.
- (2) When public or community water systems or sewage systems are available, the developer shall, at his expense, make connection to those systems. Availability will be determined by the Planning Board.
- (3) All streets shall be illuminated from sunset to sunrise. Lights shall be pole mounted overhead style of a design suitable for the purpose. Light poles shall be located approximately along the easement lines of interior streets. Street lamps shall be a minimum of 175 watt mercury vapor type or its equivalent, spaced at intervals of not more than three hundred (300) feet.
- (4) Lighting shall be located to illuminate the entrance street at its intersection with the public right-of-way. Light poles shall be located outside the public right-of-way and shall not cast light or glare onto the public road of such intensity as to impair the vision of motorists or interfere with the operation of vehicles.
- (5) County owned solid waste and recycling collection centers shall serve as refuse collection facilities. Private collection may be provided by the manufactured home park owner/operator subject to approval by the Duplin County Solid Waste Department.

SECTION 65

Recreation Area

- (1) Each manufactured home park shall provide four hundred (400) square feet of recreation area for each manufactured home lot that is less than twenty-two thousand (21,780) square feet in area.
- (2) Manufactured home parks with more than 20 lots shall provide 400 sq. ft. of suitable recreation area for each lot above 20.
- (3) No recreation area shall be less than 2,500 square feet in area.
- (4) Maintenance of any recreation areas will be the responsibility of the manufactured home park owner/operator.

ARTICLE VII TRAVEL TRAILER PARK DESIGN STANDARDS

SECTION 70

Suitability of Land

Land subject to flooding, improper drainage, erosion, or that is for topographical or for other reasons unsuitable for travel trailer use as determined by the Planning Board, shall not be developed for travel trailer parks if such use would continue or increase the danger to health, safety, or property unless the hazards can be and are corrected or avoided.

SECTION 71

General Requirements

- (1) It shall be unlawful for a person to park or store a manufactured home in a travel trailer park. However, one (1) home may be allowed within a travel trailer park to be used as an office or residence of persons responsible for the operation and maintenance of the travel trailer park.
- (2) Travel trailer park identification signs shall be limited to one (1) sign located at the park entrance. No sign shall exceed thirty-two (32) square feet in area per side.
- (3) Commercial uses - same as Article VI Section 61 (9).
- (4) Buffers - Same as Article VI Section 61 (8).

SECTION 72

Lots

- (1) Generally, lot sizes, shapes and location shall be made with due regard to topographic conditions, soil conditions, and the surrounding land usage.
- (2) All spaces shall be located on sites with elevations that are not susceptible to flooding. Each space shall be properly graded to obtain a reasonably flat site and to provide adequate drainage away from the space. All ditch banks shall be sloped and seeded.
- (3) Each space shall consist of a minimum of fifteen hundred (1,500) square feet.
- (4) There shall be a minimum distance of fifteen (15) feet between each travel trailer or structure.
- (5) No space shall have direct vehicular access into a public road.

- (5) All spaces developed adjacent to a public road shall be set back a minimum of forty (40) feet from the right-of-way line.

SECTION 73

Streets and Parking

- (1) Interior streets shall be private streets, owned and maintained by the travel trailer park owner. The County assumes no responsibility for maintenance of any streets, parking areas, drainage structures or open spaces.
- (2) The park shall have all-weather roads that directly abut each space. All roads shall have a minimum width of eighteen (18) feet.
- (3) Cul-de-sacs or dead-end roads shall not exceed one thousand (1,000) feet in length. Any road designed to be permanently closed shall have a turnaround at the closed end with a minimum diameter of eighty (80) feet. The entire area of the turnaround shall be graded and have an all-weather surface. Other provisions for turning around may be allowed subject to approval by the Planning Board.

SECTION 74

Utilities

- (1) Each travel trailer lot shall be provided with an approved water, sewer and electrical service.
- (2) No method of sewage disposal shall be installed, altered or used without the approval of the Duplin County Health Department. All sewage wastes from each park, including wastes from toilets, showers, bathtubs, lavatories, wash basins, sinks, and water-using appliance not herein mentioned, shall be piped into the sewage disposal system.
- (3) Sewage dumping stations shall be approved by the Duplin County Health Department. Each park shall provide at least one (1) sewage dumping station.
- (4) All toilet, shower, lavatory and laundry facilities shall be provided and maintained in a clean and sanitary condition and kept in good repair at all times. They shall be safely and adequately lighted. Facilities shall be easily accessible and conveniently located. All toilet, shower, lavatory and laundry room facilities shall be acceptable to the Duplin county Health Department and shall be in conformity with all Applicable codes.
- (5) Each park shall have a central structure or structures that provide separate toilet facilities for both sexes. This structure may also contain coin operated machines for the park residents' use only, provided there is no exterior advertising.

SECTION 75

Recreation Area

- (1) Each park shall provide recreation areas to serve the needs of the anticipated users. One half (1/2) acre of level well-drained ground for every fifteen (15) spaces shall be utilized as a recreation area. The park owner is responsible for the development and maintenance of the recreation areas.

- (2) No swimming pool or bathing area shall be installed, altered, improved, or used without compliance with applicable regulations.

Article VIII MANUFACTURED HOME AND TRAVEL TRAILER PARK OPERATION

SECTION 80

Maintenance

The manufactured home and travel trailer park owner/operator shall be responsible for the continuous maintenance of the park. Streets, driveways rights-of-way, ditches, surface and subsurface drainage structures, erosion control and signs shall be properly maintained to insure the safety and convenience of the public. Parks shall be maintained in a sanitary condition to minimize the harborage and breeding of insects and vermin.

SECTION 81

Review By Other Agencies

Compliance with this ordinance does not relieve the manufactured home and travel park developer from compliance with regulations adopted and enforced by other local, state and federal agencies which regulate construction of roads, driveway access, electrical supply, health standard, building codes, erosion and sedimentation control, drainage and flood control.

SECTION 82

Registration of Occupants

It shall be the duty of the owner or operator of a manufactured home/travel trailer park to keep an accurate register containing a record of all occupants and owners of manufactured homes or travel trailers located within a park. The register shall be available for inspection at all times by the Enforcement Officers, the County Health Department, and other government agencies and officials authorized by the Board of Commissioners. The register shall contain the following information:

1. Name and mailing address of owner and/or occupant, if different.
2. Date entered and date of leaving park.
3. Lot or space number.

SECTION 83

Existing Parks

Existing manufactured home and travel trailer parks which do not comply with the requirements of this ordinance may continue to operate subject to the regulations applicable at the time of approval. But in no case shall any manufactured home or travel trailer park be allowed to be revised, reconstructed or expanded in a manner which is inconsistent with this ordinance.

ARTICLE IX ADMINISTRATION

- SECTION 90 Approval Required
After the effective date of this ordinance, no manufactured home or travel trailer park within the jurisdiction of Duplin County shall be established, altered or expanded until a site plan has been approved by the Planning Board and a construction permit issued. The procedure for approval shall be as outlined below.
- SECTION 91 Review Fees
The plan submittal shall include payment of \$10.00 per lot park review fee as established by the County Commissioners.
- SECTION 91.1 Technical Review Committee
The Planning Department shall present the proposed site plan to the Technical Review committee for review of site plan contents and design. The technical review committee will consist of representatives from the County Health Department, Planning Department, Building Inspections Department, Water Department, and E-911 Department. The Technical Review committee shall review the plan and make recommendations to the Planning Board concerning the plans compliance with this ordinance and other applicable regulations and policies. The Planning Department shall advise the developer of any plan deficiencies and of the findings and recommendations of the Technical Review Committee.
- SECTION 92 Plan Submittal
The developer shall submit six (6) copies of the site plan to the Planning Department at least 7 days prior to the Planning Board meeting at which the plan is to be considered. The site plan must be prepared by a Professional Land Surveyor, Professional Engineer or Registered Landscape Architect.
- SECTION 92.1 Site Plan Contents
The site plan shall be accurately drawn to scale using appropriate materials in a neat and legible manner. The plan shall show or be accompanied by the following information:
- (1) Proposed name of manufactured home or travel trailer park.
 - (2) Name, address and telephone number of developer, owner/operator.
 - (3) Name, address and telephone number of designer, planner, surveyor or engineer.
 - (4) Township.
 - (5) Date, scale of plan and north arrow.
 - (6) Boundary of tract, including deed book and page reference and acreage.
 - (7) Boundary of manufactured home or travel trailer park.
 - (8) Location map showing names of adjacent property owners or subdivisions and use of adjacent property.

- (9) Existing and proposed interior streets and right-of-way lines, public roadways and right-of-way lines, road names and numbers.
- (10) Existing and proposed driveways and parking areas.
- (11) Topographic information with contours on at least 2' intervals, existing and proposed ditches, streams, ponds and wooded areas.
- (12) Existing and proposed easements or other rights-of-way.
- (13) Existing and proposed building and manufactured homes or travel trailers.
- (14) Existing and proposed manufactured home and travel trailer lots, lot dimensions and lot numbers.
- (15) Existing and proposed systems for surface and subsurface drainage, street lighting, electrical power, water supply and distribution, sewage disposal and refuse collection.
- (16) Areas subject to flooding.
- (17) Locations of existing and proposed park identification signs, traffic control signs, and street name signs.
- (18) Existing and proposed buffers, recreation areas and open space areas.
- (19) Any other such reasonable information as may be required by the Planning Board, to adequately review the plan.

SECTION 92.2

Planning Board Consideration

The Planning board shall have forty-five (45) days from its initial consideration of the site plan in which to approve, approve conditionally or disapprove the plan.

- (1) Approved Plans
If the site plan is approved by the Planning Board, one copy of the plan, so marked, will be retained by the Planning Board and one copy of the plan, along with a letter of approval will be sent to the developer and to the members of the Technical Review Committee.
- (2) Approved Conditionally
If the site plan is approved conditionally by the Planning Board one copy of the plan so marked, will be retained by the Planning Board and one copy of the plan along with a letter stating the conditions of approval will be sent to the developer, and to the members of the Technical Review Committee.
- (3) Disapproved Plans
If the site plan is disapproved by the Planning Board one copy of The plan, so marked, will be retained by the Planning Board and one Copy along with a letter stating the reasons for disapproval and Outlining re-submittal and appeal options will be sent to the developer and to the members of the Technical Review Committee.

SECTION 92.3

Construction Permit

Upon Planning Board approval of the site plan the enforcement officer shall issue a construction permit. The construction permit authorizes the developer to construct the manufactured home or travel trailer park in accordance with plans as approved by the Planning Board. The construction permit does not relieve the developer from compliance with any applicable regulations and does not authorize construction of improvements which would be in violation of any local, state or federal regulations. The construction permit does not authorize the developer to offer manufactured home or travel trailer lots for rent or lease or to locate manufactured homes or travel trailers on the property. The construction permit will be valid for six (6) months. If construction has not commenced within six (6) months, Planning Board approval shall become null and void. The Planning Board, at its discretion, may grant a six (6) month extension to the original approval. The enforcement officer may periodically observe construction during progress to determine if construction is in compliance with approved plans.

SECTION 93

Operation Permit

After construction is completed, the enforcement officer shall visit the manufactured home park to determine if construction of improvements appears to be in accordance with approved plans and applicable regulations. The operation permit shall not be issued until the park is in compliance with all applicable regulations. If the park is determined to be in compliance, the enforcement officer shall issue an operation permit. This permit authorizes the developer to rent or lease manufactured home or travel trailer lots and to operate the park.

SECTION 94

Violations

The operation permit shall be valid until revoked. The enforcement officer may periodically visit the park to determine continued compliance with this ordinance and other applicable regulations. If the park is determined to be in violation the enforcement officer shall notify the owner/operator in writing of the violations and of action necessary to bring the park into compliance. Failure by the owner/operator to correct violations within 120 days of notification shall constitute grounds for revocation of the permit. If the permit is revoked, the enforcement officer shall notify the owner/operator in writing of the status of the permit, the action needed to correct the violation, and the enforcement techniques available to the county to remedy continued violation. Operation of a manufactured home park without a valid operation permit is a misdemeanor subject to enforcement actions as provided for by state law. When the enforcement officer determines that the park has been brought back into compliance with applicable regulations, he shall reinstate the operation permit.

SECTION 95

Transfer of Permits

Construction and operation permits are issued to the manufactured home/travel trailer park owner and are not transferable. The park owner shall notify the enforcement officer of any transfer in park ownership within thirty (30) days.

SECTION 96

Development In Sections

Developers are encouraged to submit plans showing the proposed manufactured home/travel trailer park in its entirety. However, Planning Board approval, construction and operation permits may be issued for sections of the park. Sections shall contain a minimum of five (5) contiguous lots and must comply with all applicable regulations.

ARTICLE X LEGAL PROVISIONS

SECTION 100

Minimum Requirements

The provisions of this ordinance shall be held to be minimum requirements adopted for the promotion of the public health, safety, and general welfare. Wherever the requirements of this ordinance differ with the requirements of any other adopted county, state or federal regulation, the most restrictive or that imposing the highest standard shall govern.

SECTION 101

Enforcement

This ordinance may be enforced by any one or more of the remedies. Authorized by G.S. 153A-123, including but not limited to the following:

- (1) A violation of this ordinance shall constitute a misdemeanor, punishable by a maximum fine of \$50.00 or imprisonment for no more than 30 days.
- (2) Violation of this ordinance subjects the offender to a civil penalty of fifty (\$50.00) dollars.
- (3) This ordinance may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction.
- (4) This ordinance may be enforced by injunction, order of abatement or both.
- (5) Each day's continuing violation of this ordinance is a separate and distinct offense.

SECTION 102

Complaints

Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a written complaint with the enforcement officer, stating the cause and basis for the complaint. The enforcement officer shall record the complaint, investigate and take such action as may be necessary to enforce this ordinance.

SECTION 103

Separability

Should any section or provision of this ordinance be declared by the courts to be invalid for any reason, such declaration shall not affect the ordinance as a whole, or any part thereof other than the part so declared to be unconstitutional invalid.

SECTION 104

Amendment

Petitions for amendment may be filed with the enforcement officer by any citizen of the County any county department or agency, the County Planning Board or Board of Commissioners.

SECTION 104.1

Amendment Procedure

The provisions and requirements of this ordinance may be amended by the County Commissioners according to the following procedure.

(1) Planning Board Review

No amendment shall become effective unless it shall have been proposed by or shall have been reviewed by the Planning Board. The Planning Board shall have 45 days in which to review the proposed amendment and to make recommendations to the Commissioners. If the Planning Board fails to report to the Commissioners within 45 days it shall be deemed to have approved the proposed amendment.

(2) Commissioner Review

The County Commissioners must approve any amendments or revisions to the ordinance.

SECTION 105

Variance and Exception

The Board of Adjustment, (as may be established and appointed by the Duplin County, NC Board of Commissioners pursuant to NCGS 160D-302) may issue variances and exceptions from the design requirements of this ordinance such that would not be contrary to the public interest, or the spirit and intent of this ordinance, and where due to special conditions, a literal enforcement of the provisions of this ordinance would result in an unnecessary hardship. In granting a variance, the Board of Adjustment may prescribe appropriate conditions and safeguards as it deems necessary to preserve the intent of this ordinance. In granting a variance or exception to this ordinance the Board of Adjustment must determine the following:

- (1) Special conditions and circumstances exist which are peculiar to the land or buildings involved and which are not applicable to other lands, or buildings.
- (2) The literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties.
- (3) Special conditions and circumstances do not result from the actions of the applicant; and
- (4) Granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, or buildings.

SECTION 106

Appeal

The Board of Adjustment shall hear and decide appeals and review any orders, requirements decisions, or determinations made by the Planning Board or any County Department responsible for administration or enforcement of this ordinance. The Commissioners' decision is subject to review by the Superior Court of Duplin County.

SECTION 107 Effective Date

This ordinance shall become effective and be in full force from and after the 1st Day of December 2002. Adopted by the Duplin County Board of Commissioners this the 4th day of November 2002.

Larry Howard
 Chairman
 Duplin County Board of Commissioners

ATTEST: *Judy Beard*
 Deputy Clerk to the Board

ARTICLE XI APPENDIX

SECTION 110

CHART OF RECOMMENDED PLANT MATERIAL

| (1) <u>Trees</u> <u>NAME</u> | <u>HEIGHT (H)</u> <u>SPREAD (S)</u> | <u>SPACING</u> | <u>GROWTH</u> <u>RATE</u> |
|---------------------------------|--|----------------|------------------------------|
| American Holly | (H) 15-30' (S) 10-20' | 6' | Fast |
| Carolina Cherry | (H) 20-25' (S) 15-20' | 10' | Moderate |
| DaHoon Holly | (H) 15-20' (S) 10-15' | 6' | Fast |
| Eastern Red Cedar | (H) 30' (S) 15' | 6' | Moderate |
| Japanese Evergreen | (H) 20-40' (S) 8-16' | 8' | Moderate |
| Yaupon Holly | (H) 20' (S) 6-12' | 8' | Moderate |
| (2) <u>Shrubs</u> | | | |
| Chinese Holly | (H) 10' (S) 6-8' | 10' | Moderate |
| Chinese Photinia | (H) 12' (S) 5-10' | 8' | Fast |
| Cleyera | (H) 10' (S) 5-6' | 10' | Moderate |
| Fortune's Osmanthus | (H) 15' (S) 5'-7' | 10' | Moderate |
| Glossy Privet | (H) 8-10' (S) 5-10' | 12' | Fast |

(2) Shrubs Con't.

| <u>NAME</u> | <u>HEIGHT (H) SPREAD (S)</u> | <u>SPACING</u> | <u>GROWTH RATE*</u> |
|------------------------|----------------------------------|----------------|-------------------------|
| Japanese Holly | (H) 6-17' (S) 3-5' | 10' | Slow |
| Japanese Privet | (H) 4-20' (S) 5-6' | 10' | Fast |
| Luster Leaf Holly | (H) 8-12' (S) 7-11' | 10' | Moderate |
| Pittosporum | (H) 10-30' (S) 5-8' | 10' | Moderate |
| Southern Wax Myrtle | (H) 20' (S) 6-12' | 8' | Fast |
| Spice Plant | (H) 8-12' (S) 8-10' | 10' | Moderate |
| Thorny Elaeagnus | (H) 8-11' (S) 6-10' | 10' | Moderate |

*GROWTH RATE APPROXIMATIONS IN HEIGHT:

| | | |
|----------|---|--------------|
| Slow | - | 6" per year |
| Moderate | - | 8" per year |
| Fast | - | 12" per year |

DUPLIN COUNTY SUBDIVISION REGULATION

3-13-03

ARTICLE 1

INTRODUCTORY PROVISIONS

Section 101. Title

This ordinance shall be known and may be cited as the Subdivision Regulations of Duplin County, North Carolina, and may be referred to as the Subdivision Regulations.

Section 102. Purpose

The purpose of this ordinance is to establish procedures and standards for the development and subdivision of land within the territorial jurisdiction of Duplin County. It is further designed to provide for the orderly growth and development of the county; for the coordination of streets and highways within proposed subdivisions with existing or planned streets and highways and with other public facilities; for the dedication or reservation of recreation areas serving residents of the immediate neighborhood within the subdivision and of rights-of-way or easements for streets and utility purposes; and for the distribution of population and traffic in a manner that will avoid congestion and overcrowding and will create conditions essential to public health, safety, and the general welfare. This ordinance is designed to further facilitate adequate provision of water, sewerage, parks, schools, and playgrounds, and also to facilitate the further resubdivision of larger tracts into smaller parcels.

Section 103. Authority

This ordinance is hereby adopted under the authority and provisions of the General Statutes of North Carolina, Chapter 153A, Article 18, Part 2.

Section 104. Jurisdiction

The regulations contained herein, as provided in G.S. 153A, Article 18 shall govern each and every subdivision within Duplin County outside of the jurisdiction of any incorporated municipality.

Section 105. Prerequisite to Plate Recordation

After the effective date of this ordinance, each individual subdivision plat of land within the County's jurisdiction shall be approved by the Duplin County Planning Board according to the procedure set forth in this ordinance.

Section 106. Zoning and Other Plans

The proposed subdivisions must comply in all respects with the requirements of any zoning ordinance in effect in the area to be subdivided, and any other officially adopted plans.

ARTICLE II

LEGAL PROVISIONS

Section 201. General Procedure for Plat Approval

After the effective date of this ordinance, no subdivision plat of land within the county's jurisdiction shall be filed or recorded until it has been submitted to and approved by the Planning Board as set forth in Section 105 of this ordinance. The administrator of this ordinance shall not certify a plat for recording that has not been approved in accordance with this ordinance. The Clerk of Superior Court may not order or direct the recording of a plat if the recording would be in conflict with this ordinance.

The Register of Deeds shall not file or record a plat of a subdivision of land located within the territorial jurisdiction of the county that has not been approved in accordance with these provisions.

Section 202. Statement by Owner

The owner of land shown on a subdivision plat submitted for recording, or his authorized agent, shall sign a statement on the plat stating whether or not any land shown thereon is within the subdivision-regulation jurisdiction of the county.

Section 203. Effect of Plat Approval on Dedications

Pursuant of G.S. 153A-333, the approval of a plat does not constitute or effect the acceptance by the county or the public of the dedication of any street or other ground, public utility line, or other public facility shown on the plat and shall not be construed to do so.

Section 204. Penalties for Violation

- 204.1 After the effective date of this ordinance, any person who, being the owner or agent of the owner of any land located within the territorial jurisdiction of this ordinance, therefore subdivides his land in violation of this ordinance or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under the terms of this ordinance and recorded in the Office of the Duplin County Register of Deeds, shall be guilty of a misdemeanor. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this penalty. The county through its attorney or other official designated by the Board of Commissioners may enjoin illegal subdivision, transfer or sale land by action for injunction. Further, violators of this ordinance shall be subject, upon conviction, to fine and/or imprisonment as provided by G.S. 14-4.
- 204.2 Each day's continuing violation of this ordinance shall be a separate and distinct offense.
- 204.3 Nothing in this section shall be construed to limit the use of remedies available to the county. The county may seek to enforce this ordinance by using any one, all, or a combination of remedies.

Section 205. Separability

Should any section or provision of this ordinance be decided by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

Section 206. Variations

The Board of Adjustment (as may be established and appointed by the Duplin County, NC Board of Commissioners pursuant to NCGS 160D-302) may authorize a variance from these regulations when, in its opinion, undue hardship may result from strict compliance. In granting any variance, the Board of Adjustment shall make the findings required below, taking into account the nature of the proposed subdivision, the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. No variance shall be granted unless the Board of Adjustment finds;

- A. That there are special circumstances or conditions affecting said property such that the strict application of the provisions of this ordinance would deprive the applicant of the reasonable use of his land.
- B. That the variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner.
- C. That the circumstances giving rise to the need for the variance are peculiar to the parcel and are not generally characteristic of other parcels in the jurisdiction of this ordinance.
- D. That the granting of the variance will not be detrimental to the public health, safety and welfare or injurious to other property in the territory in which said property is situated.

Section 207. Amendments- The provisions and requirements of this ordinance may be amended by the Board of Commissioners.

Amendment shall not become effective unless proposed by or submitted to the Planning Board for review and recommendation. The Planning Board shall have forty-five (45) days from the time the proposed amendment is submitted to it within which to submit its report. If the Planning Board fails to submit a report within the specified time, it shall be deemed to have recommended approval of the amendment.

No amendment shall be adopted by the County Commissioners until a public hearing has been held on the amendment. Notice of the hearing shall be published in a newspaper of general circulation in the county area at least once a week for two (2) successive calendar weeks prior to the hearing. The initial notice shall appear not more than twenty-five (25) or less than ten (10) days prior to the hearing. In computing the ten (10) –twenty-five (25) day period, the date of the publication is not to be counted, but the date of the hearing is.

Section 208. Abrogation

It is not intended that this ordinance repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulations, or permits previously adopted or issued pursuant to law. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall govern.

Section 209. Effective Date

This ordinance shall take effect and be in force from and after the 1ST Day of April 2003.

Section 210. Adoption

Duly adopted by the Board of Commissioners of Duplin County, North Carolina this _____ 17th day of March 2003.


Deputy Clerk


Chairman of the Board of Commissioners

This Ordinance was amended to reflect the establishment of a County Board of Adjustment, as approved by the Duplin County Board of Commissioners following public hearing on March 6, 2023.

ARTICLE III

PROCEDURE FOR REVIEW AND APPROVAL OF SUBDIVISION PLATS

Section 301. Plat Shall Be Required On Any Subdivision of Land

Pursuant of N.C.G.S. 153A-331, a final plat shall be prepared, approved, and recorded pursuant to the provisions of this Ordinance whenever any subdivision of land takes place including town houses, condominiums, planned unit developments and non-residential subdivisions. However, the sub divider may qualify for an exemption to filing a subdivision plat if the conditions in subsections 301.1 are met, provided that the exemption outlined below shall not be self-executing.

Section 302. Approval Prerequisite to Plat Recordation

Pursuant to G.S. 153A-331, no final plat of a subdivision within the jurisdiction of Duplin County as established in Section 104 of this ordinance shall be recorded by the Duplin County Register of Deeds until it has been approved as provided herein. To secure such approval of a final plat, the sub divider shall follow the procedures established in this article.

Section 303. Procedure for Review and Approval of Final Minor Subdivision Plats

The intent of the minor subdivision provision of this ordinance is to provide an abbreviated plat submission procedure where a developer may progress directly to a final plat for subdivision where no major improvements are proposed that would necessitate a preliminary plat for construction purposes.

A minor subdivision constitutes any subdivision of land consisting of ten (10) or fewer lots each containing at twenty-one thousand seven hundred and eighty (21,780) sq. ft. and one hundred twenty (120) feet of frontage abutting on an existing state maintained road. Minor subdivisions shall not include any new streets or road or utility extensions nor conflict with any provision or portion of the county land use plan and/or zoning ordinance.

303.1 Lots on Private Roads

The intent of this provision is to allow the creation of a limited number of parcels accessible by private ingress and egress easement in lieu of the street design requirements specified in Article IV. The sub divider may qualify for the private easement exemption if all the conditions of subsections 303.2 are met.

303.2 Subdivisions that qualify for the private easement exemption follow the procedural requirements for minor subdivisions as required in section 304 provided all the following are met.

- A. All parcels created by the subdivision abut a private ingress and egress easement of at least 50' in width.
- B. The subdivision creates a maximum of three contiguous parcels.
- C. The minimum area of all new parcels shall be no less than 21,780 sq. ft. in area and have no less than twenty feet (20) of frontage along the ingress and egress easement.
- D. Adequate documentation concerning the ownership and perpetual maintenance of the private ingress and egress easement is submitted with the plat and noted on the plat.

- E. In addition, the private easement exemption may be used only once for any parent parcel or unit of ownership.

Section 304.

In lieu of the procedural requirements established herein for major subdivisions, the developer may receive final approval for any minor subdivision through procedures expressed herein. The procedural requirements for procuring minor final subdivision plat approvals are as follows:

- A. The sub divider shall submit to the county planning department two (2) mylar reproducible copies, and six (6) blue line prints of the proposed minor subdivision in order that copies thereof may be distributed to a representative of the environmental health department, tax office, water department and the state department of transportation for perusal and compliance with other applicable standards.
- B. The sub divider shall submit the final plat so labeled to the ordinance administrator not less than 7 days prior to the Planning Board meeting at which it will be reviewed.

A review fee of \$10.00 per lot shall accompany submission of the final plat.

- C. The final plat shall be prepared by a Professional Land Surveyor currently licensed by the State of North Carolina State Licensing Board for Professional Engineers and Professional Land Surveyors. The final plat shall conform to the provisions for plats, subdivisions and mapping requirements set forth in G.S. 47-30 and the "Standards of Practice for Board Rule 1600" and shall also depict the following information.
 1. The name of the subdivision;
 2. The location of existing and platted property, streets, railroads, bridges, culverts, water courses, transmission lines, sewers, drainpipes, water mains and other public utility easements, town and county boundary lines;
 3. Boundaries of tracts shown with bearings, distances and closures;
 4. Existing zoning classification of land to be subdivided and adjacent properties, if applicable;
 5. Names of adjacent property owners or subdivisions;
 6. Adjacent streets, street names and rights-of way;
 7. Locations of proposed utility easements (storm and sanitary sewer, water, gas, electricity and telephone);
 8. Proposed areas for parks, school sites or public open spaces;
 9. Proposed lot lines, lot and block numbers and lot dimensions;
 10. Proposed building setback lines;
 11. Title of subdivision, date, north arrow properly labeled and graphic scale;
 12. Location of 100-year floodplain boundary and floodway;
 13. Approximate mean high water mark (mhw) of state waters classified as outstanding resource waters, if applicable;

- 14. Wetland areas or areas of environmental concern;
- 15. Name, address and phone number of owner and surveyor who prepared the plat;
- 16. Data shall be provided relative to acreage in total tract to be subdivided or developed, acreage in parks or other public usage, other than streets or easements, smallest lot size and total number of lots; and
- 17. A location map depicting the relationship between the proposed subdivision and the adjacent area.

The following statements and certificates shall appear on all copies of the final plat.

A. Certificate of Ownership and Dedication

I hereby certify that I am the owner of the property shown and described hereon, which is located in the subdivision jurisdiction of the County of Duplin and that I hereby adopt this plan of subdivision with my free consent and install and construct all improvements in this subdivision in compliance with the minimum design requirements as established by this ordinance.

B. Certificate of Survey and Accuracy

_____, certify that this map was drawn under my direction and supervision from an actual survey of land; that the error of closure as calculated by latitudes and departures is 1: _____; that the boundaries not surveyed are shown as broken lines; that this map was prepared in accordance with G.S. 47-30 as amended. Witness my hand and seal this _____ day of _____, 20____

C. Certificate of Approval for Recording

I hereby certify that the subdivision plat shown hereon has been found to comply with Section 303 of the Duplin County Subdivision Ordinance and is hereby approved for Recording in the Office of the Register of Deeds of Duplin County.

_____ Date

_____ Subdivision Administrator, Duplin County

The Planning Board shall review the final plat of the proposed minor subdivision at its next regular scheduled meeting which follows submittal to the Planning Department.

The Planning Board shall recommend conditional approval with recommended changes to bring the plat into compliance, or disapproval with reasons, within sixty (60) days of its first consideration of the plat.

Failure of the Planning Board to make a written finding by the second regularly scheduled meeting after a plat has been submitted for consideration shall constitute approval by the Planning Board.

Exemption to Planning Board Approval of Final Minor Subdivision Plats

The intent of this section is to allow staff review and approval of minor subdivision plats that meet all of the following requirements:

- A. The proposed subdivision shall abut a state maintained road;
- B. The proposed subdivision shall create only five new parcels; and
- C. The minimum dimensions of all resulting new parcels shall be no less than 21,780 sq. ft. in area and shall have no less than one hundred and twenty feet (120) of road frontage abutting a state maintained road.

A. Approval

If the Planning Board approves the final plat, the original shall be returned to the owner for submittal to the plat review officer and the Planning Department shall retain recordation and one (1) reproducible copy.

B. Conditional Approval

If the Planning Board recommends conditional approval of the final plat with modifications to bring the plat into compliance, it shall retain one (1) print of the plat for its minutes, return its written recommendations, the original and the reproducible copy of the plat to the sub divider. The sub divider shall have sixty (60) days in which to make the changes needed to bring the plat into compliance. The sub divider shall submit the original plat and the reproducible copy to the Planning Department who will review it to ensure that the recommended changes have been completed. If the sub divider fails to resubmit the plats within sixty (60) days, and then the resubmitted final plat must be reviewed again by the Planning Board before approval can be given.

C. Disapproval

If the final plat is disapproved by the Planning Board, the reasons for such disapproval shall be stated in writing, specifying the provisions of this Ordinance with which the final plat does not comply. One (1) copy of such reasons and one (1) print of the plat shall be retained by the Planning Board as part of its proceedings; one (1) copy of the reasons, the original and the reproducible copy of the plat shall be returned to the sub divider.

If the Planning Board recommends disapproval of the final plat, the sub divider may submit a revised plat to be considered before the second regularly scheduled meeting of the board from the date the plat was disapproved. The developed shall submit the plat to be reconsidered, with corrections, to the Planning Department at least seven (7) days prior to the regular meeting of the Planning Board at which it is to be considered.

If the Planning Board disapproves the revised plat, or if the developed does not submit a revised plat for consideration at least seven (7) days before the second regularly scheduled Planning Board meeting after the plat was disapproved, the original disapproval shall stand and the plat shall become null and void.

Subdivision plats resubmitted after being disapproved by the Planning Board as outlined above shall be treated as a newly submitted plat. The subdivision application procedure must be completed by the developer, as well as payment of all applicable fees.

The developer shall submit the plat to the review officer for recordation within twelve (12) months of Planning Board approval or approval becomes null and void. The Planning Board at its discretion may grant a six-month extension to the original approval.

Section 305. Sketch Plan for Major Subdivisions305.1 Number of Copies and Contents

Prior to the preliminary plat submission, the sub divider shall submit to the Planning Board three (3) copies of a sketch plan of the proposed subdivision containing the following information:

- A. A sketch vicinity map showing the location of the subdivision in relation to neighboring tracts, subdivisions, roads, and waterways;
- B. The boundaries of the tract and the portion of the tract to be subdivided.
- C. The total acreage to be subdivided;
- D. The existing and proposed uses of the land within the subdivision and the existing uses of land adjoining it;
- E. The proposed street layout with approximate pavement and right-of-way width, lot layout and size of lots;
- E. The name, address, and telephone number of the owner;
- G. The name, if any, of the proposed subdivision;
- H. Streets and lots of adjacent developed or platted properties;
- I. A zoning classification of the tract and of adjacent properties;
- J. Topographic information with contours on at least 2' interval showing existing and proposed surface and subsurface drainage, ditches, ponds, wooded areas, wetlands, etc...
- K. Area of 100 years flood and areas of environmental concern;

305.2 Submission and Review Procedure

The sketch plan shall be submitted at least 7 working days prior to the Planning Board meeting at which it will be reviewed. The Planning Board shall review the sketch plan for general compliance with the requirements of this ordinance and any zoning ordinances. The Planning Board shall advise the sub divider or his authorized agent of the regulations pertaining to the proposed subdivision and the procedures to be followed in the preparation and submission of the preliminary and final plats.

One copy of the sketch plan shall be retained as a part of the minutes of the Planning Board. One copy will be submitted to the Duplin County Health Department with the other copy being returned to the sub divider or his authorized agent.

Section 306. Preliminary Plat Submission and Review306.1 Submission Procedure

For every subdivision within the territorial jurisdiction established by Section 104 of this ordinance, which does not qualify for the abbreviated procedure, the sub divider shall submit a preliminary plat, which shall be reviewed and approved by the Planning Board before any construction, or installation of improvements may begin.

Six copies of the preliminary plat (as well as any additional copies which the administrator determines are needed to be sent to other agencies) shall be submitted to the administrator of this ordinance at least seven days prior to the Planning Board meeting at which the sub divider desires the Planning Board to review the preliminary plat.

Preliminary plats shall meet the specifications in Section 309.

Section 307. Review

307.1 Review by other Agencies

After having received the preliminary plat from the sub divider, the administrator may submit copies of the preliminary plat and any accompanying material to other officials and agencies concerned with new development to invite their comment including but not limited to:

- A. The N.C. Department of Transportation
- B. The Duplin County Health Department
- C. The Duplin County Water Department
- D. Utility companies
- E. Other agencies or individuals as deemed necessary by the administrator

307.2 Review Procedure

The Planning Board shall review the preliminary plat at its next regularly scheduled meeting, which follows the receipt of comments from the appropriate agencies. Other review agencies will have 60 days in which to comment on the proposed plat.

The Planning Board shall, in writing, approve, conditionally approve, or disapprove the preliminary plat within 60 days of its first consideration of the plat. If the Planning Board recommends approval of the preliminary plat, it shall retain one (1) copy of the plat for its minutes and transmit two (2) copies of the plat, to the owner with its determination.

If the Planning Board grants conditional approval of the preliminary plat it shall keep one (1) copy of the plat for its minutes and return one copy of the plat and the reasons for granting conditional approval to the sub divider. If the Planning Board disapproves the preliminary plat, it shall retain one (1) copy of the plat for its minutes and return one copy of the plat and its recommendation to the sub divider.

If the preliminary plat is disapproved, the sub divider may make the recommended changes and submit a revised preliminary plat, or appeal the decision to the Board of Commissioners.

If the Planning Board does not make a written recommendation within 60 days after its first consideration of the plat, the sub divider may apply to the Board of Commissioners for approval or disapproval.

If the Board of Commissioners approved the preliminary plat, such approval shall be noted on three (3) copies of the plat, one (1) copy of the plat shall be retained by the Board of Commissioners and one copy shall be sent to the Planning Board and one (1) copy shall be returned to the sub divider. If the Board of Commissioners approves the preliminary plat with conditions, approval shall be noted on three (3) copies of the plat along with a

reference to the conditions. One (1) copy of the plat along with the conditions shall be retained by the Board of Commissioners, one copy shall be sent to the Planning Board and one (1) copy of the preliminary plat along with the conditions shall be returned to the sub divider. If the Board of Commissioners disapproves the preliminary plat, the reasons for such disapproval shall be specified in writing. One (1) copy of the plat and the reasons shall be retained by the Board of Commissioners, one copy shall be sent to the Planning Board and one (1) copy shall be returned to the sub divider.

Section 308. Final Plat Submission and Review

308.1 Preparation of Final Plat and Installation of Improvements

Upon approval of the preliminary plat by the Planning Board, the sub divider may proceed with the preparation of the final plat, and the installation of or arrangements for required improvements in accordance with the approved preliminary plat and the requirements of this ordinance. Prior to approval of a final plat, the sub divider shall have installed the improvements specified in this ordinance or guaranteed their installation as provided herein. The Planning Board will accept no final plat for review unless accompanied by written notice by the Subdivision Administrator acknowledging compliance with the improvement and guarantee standards of this ordinance. The final plat shall constitute only that portion of the preliminary plat, which the sub divider proposes to record, and develop at that time; such portion shall conform to all requirements of this ordinance.

308.2 Improvements Guarantees

A. Agreement and Security Required

In lieu of requiring the completion, installation and dedication of all improvements prior to final plat approval, the county may enter into an agreement with the sub divider whereby the sub divider shall agree to complete all required improvements. Once said agreement is signed by both parties and the security required herein is provided, the final plat may be approved by the Planning Board, if all other requirements of this ordinance are met. To secure this agreement, the sub divider shall provide, subject to the approval of the Planning Board, either one, or a combination of the following guarantees not exceeding 1.25 times the entire cost as provided herein:

1. Surety Performance Bond(s)

The sub divider shall obtain a performance bond(s) from a surety bonding company authorized to do business in North Carolina. The bonds shall be payable to Duplin County and shall be in an amount equal to 1.25 times the entire cost, as estimated by the design engineer and approved by the Planning Board, of installation all required improvements. The duration of the bond(s) shall be until such time as the improvements are installed in accordance with the approved Preliminary Plat.

2. Cash or Equivalent Security

The sub divider shall deposit cash, an irrevocable letter of credit or other instrument readily convertible into cash at face value, either with the county finance officer or in escrow with a financial institution designated as an official depository of the county. The use of any instrument other than cash shall be subject to the approval of the county. The amount of deposit shall be equal to 1.25 times the cost, as estimated by the design engineer and approved by the Planning Board, of installing all required improvements. If cash or other instrument is deposited in escrow with a financial institution as provided above, then the sub divider shall file with the Planning Board an agreement between the financial institution and himself guaranteeing the following:

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

B. Default

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

C. Release of Guarantee Security

The Planning Board may, on request of a professional engineer or surveyor, release a portion of any security posted as the improvements are completed. If the Planning Board approves said improvements, then it shall immediately release any security posted.

308.3 Submission Procedure

The sub divider shall submit the final plat, so marked, to the subdivision administrator not less than 7 working days prior to the Planning Board meeting at which it will be reviewed. The final plat for the first stage of the subdivision shall be submitted not more than 12 months after the date on which the preliminary plat was approved; otherwise such approval shall be null and void. Upon the sub dividers request, the Planning Board may grant a 12-month extension of the preliminary plat on or before the 12-month anniversary of the approval of the preliminary plat.

The final plat shall be prepared by a Professional Land Surveyor or currently licensed by the State of North Carolina State Licensing Board for Professional Engineers and Professional Land Surveyors. The final plat shall conform to the provisions for plats, subdivisions, and mapping requirements set forth in G.S. 47-30 and the Standards of Practice for Land Surveying in North Carolina.

Five (5) copies of the final plat shall be submitted; two (2) of these shall be on reproducible material; three (3) shall be on black or blue line paper prints. Material and drawing medium for the original shall be in accordance with the Standard of Practice for Land Surveying in North Carolina, where applicable, and the requirements of the Duplin County Register of Deeds.

The final plat shall be of size suitable for recording with the Duplin County Register of Deeds and shall be at a scale of not less than one (1) inch equals two hundred (200) feet. Maps may be placed on more than one (1) sheet with appropriate match lines.

A filing fee of \$10.00 per lot not to exceed \$ 150.00 shall accompany submissions of the final plat.

The final plat shall meet the specifications in Section 308 of this ordinance.

The following signed certificates shall appear on all five (5) copies of the final plat.

A. Certificate of Ownership and Dedication

I hereby certify that I am the owner of the property shown and described hereon, which is located in the subdivision jurisdiction of Duplin County and that I hereby adopt this subdivision plat with my free consent, establish minimum building setback lines, and dedicate all streets, alleys, walks, parks, and other sites and easements to public or private use as noted.

_____ Date _____ Owners

B. Certificate of Survey and Accuracy

In accordance with G.S. 47-30:

There shall appear on each plat a certificate by the person under whose supervision such survey or such plat was made, stating the origin of the information shown on the plat, including recorded deed and plat references shown hereon. The ratio of precision as calculated by latitudes and departures before any adjustments must be shown. Any lines on the plat that were not actually surveyed must be clearly indicated and a statement included revealing the source of information. The execution of such certificate shall be acknowledged before any officer authorized to take acknowledgements by the registered land surveyor preparing the plat. All plats to be recorded shall be probated as required by law for the registration of deeds. Where a plat consists of more than one sheet, only the first sheet must contain the certification and all subsequent sheets must be signed and sealed.

The certificate required above shall include the source of information for the survey and data indicating the accuracy of closure of the plat before adjustments and shall be in substantially the following form:

" _____, certify that this plat was drawn under my supervision from (an actual survey made under my supervision) (deed description recorded in Book _____, Page _____, etc.) (other); that the boundaries not surveyed are shown as broken lines plotted from information found in Book _____, Page _____; that this plat was prepared in accordance with G.S. 47-30 as amended. Witness my original signature, registration number, and seal this _____ day of _____, A.D., 19 _____.

_____ Surveyor

Seal or Stamp

_____ Registration Number

C. Certificate of approval of the design of streets shall read as follows:

I hereby certify that the streets indicated on this plat have been designed in an acceptable manner according to the current North Carolina Department of Transportation Minimum Construction Standards for Subdivision Roads.

N.C. Department of Transportation
District Engineer

Date

D. The Certificate of the Duplin County Health Department shall read as follows:

In the event that artificial drainage is to be installed within the subdivision the following addendum shall be included:

Artificial drainage has been installed in this subdivision according to plans and specifications prepared by (Name of Certifier) and based upon the requirements of the Duplin County Health Department to keep the seasonal high water table a minimum of twelve inches (12") below the septic tank nitrification lines. Proper landscaping and maintenance of these drainage facilities are the responsibility of the property owners to insure that septic tank malfunctions do not occur. The Duplin County Health Department assumes no responsibility for the design, maintenance, or the guaranteed performance of the artificial drainage measures and their effects.

Certifier of Drainage Facilities

Date

Environmental Health Specialist

Date

E. The Certificate of Approval for Recording shall read as follows:

I hereby certify that the subdivision plat shown hereon has been found to comply with the Subdivision Regulations of Duplin County, North Carolina and that this plat has been approved by the Duplin County Planning Board for recording in the Office of the Register of Deeds of Duplin County.

Subdivision Administrator

Date

F. Exemption Certification

Where the subdivision is exempt from this ordinance, but a plat is prepared for recording, the following exemption certification may be shown on the plat to specify the section of the ordinance allowing the exemption:

The property shown on this plat is within the subdivision jurisdiction of Duplin County and is exempt from the subdivision regulation per section ___ of the Duplin County Subdivision Regulation.

The Planning Board shall review the final plat at or before its next regularly scheduled meeting which follows at least fifteen (15) days after the subdivision administrator receives the final plat. The Planning Board shall approve, conditionally approve, or disapprove the final plat. The subdivision administrator shall notify the applicant on action taken by the Planning Board with an explanation of any conditional approval or disapproval.

During its review of the final plat, the Planning Board may appoint an appropriate consultant to confirm the accuracy of the final plat (if agreed to by the County Commissioners). If substantial errors are found, the consultant fees incurred shall be charges to the sub divider and the plat shall not be recommended for approval until such errors have been corrected.

Failure of the Planning Board to act on a subdivision application within sixty (60) days after its first review of the final plat shall constitute grounds for the sub divider to appeal to the County Commissioners for consideration.

If the Planning Board approves the final plat, the Planning Board Chairman shall sign the Certificate of Approval for Recording on each plat.

If the final plat is disapproved by the Planning Board, the reasons for such disapproval shall be stated in writing, specifying the provision of this ordinance with which the final plat does not comply. One (1) copy of such reasons and one (1) print of the plat shall be retained by the Planning Board as part of its minutes; one (1) copy of the reasons and three (3) copies of the plat shall be transmitted to the sub divider. If the final plat is disapproved, the sub divider may make such changes as will bring the final plat into compliance and resubmit same for reconsideration by the Planning Board.

If the final plat is approved by the Planning Board, the original and one print shall be returned to the sub divider. One (1) reproducible copy and one (1) print shall be retained by the subdivision administrator.

The sub divider shall file the approved final plat with the Register of Deeds of Duplin County within twelve (12) months of Planning Board approval; otherwise such approval shall be null and void.

Section 309. Information to be contained in or depicted on preliminary and final plats

The preliminary and final plats shall depict or contain the information indicated in the following table. An X indicates that the information is required.

| Preliminary | Final | Information |
|-------------|-------|---|
| | | <i>Title block containing</i> |
| X | X | Property designation |
| X | X | Name of owner |
| X | X | Location (including township county and state) |
| X | X | Date or dates survey was conducted and plat prepared |
| X | X | Scale drawing in feet per inch in words or figures and a bar graph |
| X | X | Name, address, registration number and seal of the registered land surveyor and or engineer who prepared the plat |

C. Certificate of approval of the design of streets shall read as follows:

I hereby certify that the streets indicated on this plat have been designed in an acceptable manner according to the current North Carolina Department of Transportation Minimum Construction Standards for Subdivision Roads.

N.C. Department of Transportation
District Engineer

Date

D. The Certificate of the Duplin County Health Department shall read as follows:

In the event that artificial drainage is to be installed within the subdivision the following addendum shall be included:

Artificial drainage has been installed in this subdivision according to plans and specifications prepared by (Name of Certifier) and based upon the requirements of the Duplin County Health Department to keep the seasonal high water table a minimum of twelve inches (12") below the septic tank nitrification lines. Proper landscaping and maintenance of these drainage facilities are the responsibility of the property owners to insure that septic tank malfunctions do not occur. The Duplin County Health Department assumes no responsibility for the design, maintenance, or the guaranteed performance of the artificial drainage measures and their effects.

Certifier of Drainage Facilities

Date

Environmental Health Specialist

Date

E. The Certificate of Approval for Recording shall read as follows:

I hereby certify that the subdivision plat shown hereon has been found to comply with the Subdivision Regulations of Duplin County, North Carolina and that this plat has been approved by the Duplin County Planning Board for recording in the Office of the Register of Deeds of Duplin County.

Subdivision Administrator

Date

F. Exemption Certification

Where the subdivision is exempt from this ordinance, but a plat is prepared for recording, the following exemption certification may be shown on the plat to specify the section of the ordinance allowing the exemption:

The property shown on this plat is within the subdivision jurisdiction of Duplin County and is exempt from the subdivision regulation per section ___ of the Duplin County Subdivision Regulation.

The Planning Board shall review the final plat at or before its next regularly scheduled meeting which follows at least fifteen (15) days after the subdivision administrator receives the final plat. The Planning Board shall approve, conditionally approve, or disapprove the final plat. The subdivision administrator shall notify the applicant on action taken by the Planning Board with an explanation of any conditional approval or disapproval.

During its review of the final plat, the Planning Board may appoint an appropriate consultant to confirm the accuracy of the final plat (if agreed to by the County Commissioners). If substantial errors are found, the consultant fees incurred shall be charges to the sub divider and the plat shall not be recommended for approval until such errors have been corrected.

Failure of the Planning Board to act on a subdivision application within sixty (60) days after its first review of the final plat shall constitute grounds for the sub divider to appeal to the County Commissioners for consideration.

If the Planning Board approves the final plat, the Planning Board Chairman shall sign the Certificate of Approval for Recording on each plat.

If the final plat is disapproved by the Planning Board, the reasons for such disapproval shall be stated in writing, specifying the provision of this ordinance with which the final plat does not comply. One (1) copy of such reasons and one (1) print of the plat shall be retained by the Planning Board as part of its minutes; one (1) copy of the reasons and three (3) copies of the plat shall be transmitted to the sub divider. If the final plat is disapproved, the sub divider may make such changes as will bring the final plat into compliance and resubmit same for reconsideration by the Planning Board.

If the final plat is approved by the Planning Board, the original and one print shall be returned to the sub divider. One (1) reproducible copy and one (1) print shall be retained by the subdivision administrator.

The sub divider shall file the approved final plat with the Register of Deeds of Duplin County within twelve (12) months of Planning Board approval; otherwise such approval shall be null and void.

Section 309. Information to be contained in or depicted on preliminary and final plats

The preliminary and final plats shall depict or contain the information indicated in the following table. An X indicates that the information is required.

| Preliminary | Final | Information |
|-------------|-------|---|
| | | <i>Title block containing</i> |
| X | X | Property designation |
| X | X | Name of owner |
| X | X | Location (including township county and state) |
| X | X | Date or dates survey was conducted and plat prepared |
| X | X | Scale drawing in feet per inch in words or figures and a bar graph |
| X | X | Name, address, registration number and seal of the registered land surveyor and or engineer who prepared the plat |

| | | |
|---|---|---|
| X | X | Sketch vicinity map showing the relationship between the proposed subdivision and surrounding area |
| X | X | Corporate limits, township boundaries, county lines if on subdivision tract |
| X | X | The names, addresses, and telephone numbers of all owners, registered land surveyors, land planner, architects, landscape architects and professional engineers responsible for the subdivision |
| X | X | The registration numbers and seals of the professional engineers |
| X | X | North arrow and orientation |
| X | X | The boundaries of the tract or portion thereof to be subdivided distinctly and accurately represented with all bearings and distances shown |
| | X | The exact boundary lines of the tract to be subdivided, full dimensioned by lengths and bearings, and the location of existing boundary lines of adjoining lands |
| X | X | The names of owners of adjoining properties |
| X | X | The name of any adjoining subdivision of record or those under review |
| X | X | Minimum building setback lines |
| X | X | The zoning classifications of the tract to be subdivided and adjoining properties if applicable |
| X | X | Existing property lines on the tract to be subdivided |
| X | | Existing buildings or other structures, watercourses, railroads, bridges |
| X | | Proposed lot lines, lot and block numbers and approximate dimensions |
| X | X | The lots numbered consecutively throughout the subdivision |
| X | | Wooded areas, marshes, swamps, out-crops, ponds or lakes, streams or stream beds and other natural features affecting the site |
| X | X | The exact location of the flood hazard areas from the community's FHBM or other FEMA maps |
| X | X | Base flood elevations |
| X | X | 404 Wetland boundaries |
| | | |
| | | <i>The following data concerning streets</i> |
| X | X | Proposed streets |
| X | X | Existing and platted streets on adjoining properties and in the proposed subdivision |
| X | X | Right-of-way, locations and dimensions |
| X | | Pavement widths |
| X | | Approximate grades |
| X | X | Design engineering data for all corners and curves |
| X | | Typical street cross sections |
| X | X | Street names |
| | X | Street maintenance agreement |
| | X | Evidence that the sub divider has obtained approval (DOT) approval on street design and driveway permits |
| X | X | Utility and other easements |
| X | X | Riding trails |
| X | X | Natural buffers |
| X | X | Pedestrian or bicycle paths |
| X | X | Parks and recreation areas with specific type indicated |
| X | X | School sites |
| X | X | Areas to be dedicated to or reserved for public use |

| | | |
|---|---|--|
| X | X | Areas to be used for purpose other than residential with the purpose of each stated |
| X | X | The future ownership (dedication or reservation for public use to government body, for owners to duly constituted homeowner's association or for tenants remaining in sub divider's ownership) of recreation and open space lands |
| | | <i>Plans for utility layouts including</i> |
| X | | Sanitary sewers |
| X | | Storm sewers |
| X | | Other drainage facilities, if any |
| X | | Water distribution lines |
| X | | Natural gas lines |
| X | | Telephone lines |
| X | | Electric lines |
| X | | Illustration of connections to existing systems, showing line sizes, the location of fire hydrants, blowoffs, manholes, force mains and gate valves |
| X | | Profiles based upon mean sea level datum for sanitary sewers and storm sewers |
| | | <i>Site calculations including</i> |
| X | X | Acreage in total tract to be subdivided |
| X | X | Acreage in parks and recreation areas and other nonresidential uses |
| X | X | Total number of parcels created |
| X | | Size of the smallest lot in the subdivision |
| X | | Linear feet in streets |
| X | X | The name and location of any property buildings within the proposed subdivision or within any contiguous property that is located on the U.S. Department of Interior's National Register of Historic Places |
| | X | Sufficient engineering data to determine readily and reproduce on the ground every straight or curved line, street line, right-of-way, easement line, and setback line, including dimensions, bearings or deflection angles, radii, central angles, and tangent distance for the centerline of curved property lines that are not the boundary line of curved streets. All dimensions shall be measured to the nearest one one-hundredth of a foot and all angles to a minimum angular accuracy of the nearest minute. |
| | X | The accurate locations and descriptions of all monuments, markers and control points |
| | X | A copy of any proposed deed restrictions in mandatory when private recreation areas, roads or common areas are established |
| | X | Evidence of erosion control plan approval |
| X | | Topographic map with contour intervals as determined by the subdivision administrator |
| X | | Building envelopes (if required by the subdivision administrator) |

Section 310. Recombination of Land

- 310.1 Any plat or any part of any plat may be vacated by the owner at any time before the sale of any lot in the subdivision by a written instrument to which a copy of such plat shall be attached, declaring the same to be vacated.
- 310.2 Such an instrument shall be approved by the same agencies as approved the final plat. The governing body may reject any such instrument, which abridges or destroys any public rights in any of its public uses, improvements, streets or alleys.

- 310.3 Such an instrument shall be executed, acknowledged or approved and recorded and filed in the same manner as a final plat; and being duly recorded or filed shall operate to destroy the force and effect of the recording of the plat so vacated, and to divest all public rights in the streets, alleys, and public grounds, and all dedications laid out or described in such plat.
- 310.4 When lots have been sold, the plat may be vacated in the manner provided in Section 309.1 through 309.3 by all owners of the lots in such plat joining in the execution of such writing.

Section 311. Re-subdivision procedures

For any re-platting or re-subdivision of land, the same procedure, rules and regulations shall apply as prescribed herein for an original subdivision except that lots sizes may be varied on an approval plat after recording.

Section 312. Multifamily developments

For condominium, multifamily developments and townhouse subdivisions, all information as requested in this ordinance shall be submitted. In addition, the following shall be required prior to Planning Board approval:

- A. All documents as required by law (N.C. Condominium Act).
- B. All documents pertaining to property owners association or the like including provisions for the maintenance of all improvements such as streets, parking areas and common areas.
- C. All restrictive covenants.
- D. Survey data and descriptive material to establish building locations and envelopes.

All private streets shall be built to the construction standards and specifications of the North Carolina Department of Transportation. Such standards may also apply to the construction of accessways and driveways where deemed necessary by the Planning Board. Parking areas and other off-street areas requiring pavement shall be installed according to sound engineering standards as approved by the Planning Board.

Section 313. Townhouse subdivisions (except duplex subdivisions)

For townhouse lots with individual septic tanks, all shall comply with the minimum lot area requirements of section 406.2 or by a combination of lot area and contiguous open space. No townhouse shall be placed on a lot of less than fifteen hundred (1500) square feet.

Lots served by public water and public sewer shall have:

- A. A minimum lot size of one thousand five hundred (1,500) square feet. A minimum lot width of not less than fifteen (15) feet.
- B. A front yard setback of not less than twenty (20) feet.
- C. A rear yard setback of not less than twenty (20) feet.
- D. No side yard setback except on corner lots (measured from the exterior building line of the principle structure). This shall be less than one-half the front yard setback.

Five-foot access easements shall be reserved in each yard and ten-foot access easements shall be located between each principal building.

No dwelling shall be connected on more than two (2) sides by common wall.

Each townhouse shall be provided with at least two (2) eight-foot by twenty-foot parking spaces.

Section 314. Homeowner's association and common area

A homeowner's association shall be established for each subdivision containing common areas. The covenants, conditions and restrictions shall specify lot owner's responsibilities for maintenance of common facilities, and shall provide for assessments to finance all maintenance activities. Final plats for subdivisions containing common areas will not be approved until the sub divider's homeowner's association documents have been submitted and approved by the Planning Board.

All areas on the preliminary and final plat other than building sites and public rights-of-way, shall be shown and designated as common areas, the fee simple title to which shall be conveyed by the developer to the homeowner's association. All common areas shall be designated as a single parcel regardless of the proximity of each common area to one (1) or all of the other common areas, and such areas shall not be subdivided or conveyed by homeowner's association. This shall be stated in the covenants and restrictions and shall be noted on the final plat.

ARTICLE IV

REQUIRED IMPROVEMENTS, DEDICATION, RESERVATION, MINIMUM DESIGN STANDARDS

Section 401. General

Each subdivision shall contain the improvements specified in this article, which shall be installed in accordance with the requirements of this ordinance and paid for by the sub divider, unless another means of financing is specifically stated in this ordinance. Land shall be dedicated and reserved in each subdivision as specified in this article. Each subdivision shall adhere to the minimum standards of design established by this article.

Section 402. Suitability of land

- 402.1 Land which has been determined by the Planning Board on the basis of engineering or other expert surveys to pose an ascertainable danger to life or property by reason of its unsuitability for the use proposed shall not be platted for that purpose, unless and until the sub divider has taken the necessary measures to correct said conditions and to eliminate said dangers.
- 402.2 Areas that have been used for disposal of solid waste shall not be subdivided unless tests by the Duplin County Health Department, a structural engineer and a soils expert determine that the land is suitable for the purpose proposed.
- 402.3
- A. All subdivision proposals shall be consistent with the need to minimize flood damage and shall conform with the Duplin County Flood Damage Prevention Ordinance.
 - B. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
- 402.4 Applicants for subdivisions adjoining public trust waters and other publicly owned water bodies are encouraged to provide for public access to the water.
- 402.5 All residential construction located within the 100 year flood plain as identified on the Duplin County Flood Hazard Boundary maps or the flood insurance rate maps as prepared by the Federal Emergency Management Agency shall comply with the requirements of the Duplin County Flood Damage Prevention Ordinance.

Section 403. Name Duplication

The name of the subdivision shall not duplicate nor closely approximate the name of an existing subdivision within Duplin County.

Section 404. Subdivision Design404.1 Block

- A. The lengths, widths, and shapes of blocks shall be determined with due regard to: provision of adequate building sites suitable to the special needs of the type of use contemplated; zoning requirements; needs for vehicular and pedestrian circulation; control and safety of street traffic; limitations and opportunities of topography; and convenient access to water areas.

- B. Blocks shall not be less than 400 feet or more than 1000 feet.
- C. Blocks shall have sufficient width to allow two (2) tiers of lots minimum depth except where single tier lots are required to separate residential development from through vehicular traffic, or another type of use, nonresidential subdivisions, or where abutting a water area.
- D. Where deemed necessary by the Planning Board, a pedestrian crosswalk at least fifteen (15) feet in width may be required to provide convenient public access to a public area such as a park or school, to a water area, or to areas such as religious or transportation facilities.

404.2. Lots

- A. All lots in new subdivision shall conform to the zoning requirements of the district in which the subdivision is located. Conformance to zoning requirements means, among things, that the smallest lot in the subdivision must meet all dimensional requirements of the zoning ordinance. It is not sufficient merely for the average lot to meet zoning requirements.

Lot sizes for un-zoned areas shall conform to the following chart.

This chart is for un-zoned areas:

| | Public Water and Sewer | No Public Water No Public Sewer |
|-------------------------------------|------------------------|------------------------------------|
| Minimum Lot Area in Square Feet | 12,000 | 21,780 |
| Minimum Lot Width in Feet | 85 | 120 |
| Minimum Lot Depth in Feet | 100 | 150 |
| Minimum Setback Lines in Feet Front | 20 | 30 |
| Side | 15 | 20 |
| Side Abutting Street | 15 | 20 |
| Rear | 15 | 20 |

- B. Lots shall meet any applicable Duplin County Health Department Requirements
- C. Double frontage lots shall be avoided wherever possible.
- D. Side lot lines shall be substantially at right angles to or radial to street lines.
- E. Lots shall have a minimum 20' road frontage, except town houses. Flag lots shall be prohibited unless a variance is approved by the Board of Adjustment.

404.3 Easements

Easements shall be provided as follows:

A. Utility Easements

Easements for underground or above ground utilities shall be provided, where necessary, across lots or centered on rear or side lot lines and shall be at least 20 feet wide for water and sanitary sewer lines and as required by the companies involved, for telephone, gas and power lines.

The Planning Board will determine whether one (1) easement is sufficient or whether several easements are necessary to accommodate the various facilities and the sub divider shall provide the required easements.

404.4 Drainage Easements

Where a subdivision is traversed by a stream or drainage way, an easement shall be provided conforming with the lines of such stream and of sufficient width as will be adequate for the purpose.

404.4 Buffer Strips

In residential districts a buffer strip at least twenty five feet (25') in depth in addition to the normal lot size and depth required shall be provided adjacent to all railroads and controlled access highways, commercial and/or industrial developments, multi-family housing and mobile home parks, and any other land use that the Planning Board deems necessary and where there may be potential conflict. This strip shall be a part of the platted lots, but shall have the following restrictions lettered on the face of the plat: "This strip shall be reserved for the planting of trees or shrubs by the owner; the building of structures hereon is prohibited."

Section 405. Streets

405.1 Public Streets

Except as allowed by Section 303 and Article V, all subdivision lots shall abut on a public street. All streets shall be built to the standards of this ordinance and all other applicable standards of the county and the North Carolina Department of Transportation. Public streets which are eligible for acceptance into the State Highway System shall be constructed to the standards necessary to be put on the State Highway System or the standards in the ordinance, whichever is stricter in regard to each particular item, and shall be put on such system. Streets which are not eligible to be put on the State Highway System because there are too few lots or residences shall, nevertheless, be dedicated to the public and shall be in accordance with the standards in this ordinance or the standards necessary to be put on the State Highway System, whichever is stricter in regard to each particular item, so as to be eligible to be put on the system at a later date. A written maintenance agreement with provisions for maintenance of the street until it is put on the State System shall be included with the final plat.

405.2 Subdivision Street Disclosure Statement

All streets shown on the final plat shall be designated in accordance with G.S.136-102.6 and designation as public shall be conclusively presumed an offer of dedication to the public. Where streets are dedicated to the public but not accepted into the State System, a statement explaining the status of the street shall be included on the final plat.

405.3 Half-Streets

The dedication of half streets of less than the N.C. Department of Transportation requirements at the perimeter of a new subdivision shall be prohibited. If circumstances render this impractical; adequate provision for the concurrent dedication of the remaining half of the street shall be furnished by the sub divider. Where there exists a half-street in an adjoining subdivision, the remaining half shall be provided by the propose subdivision.

405.4 Driveway Access

Where a tract of land 5 acres or more abuts a state maintained road, the subdivision shall be forwarded to the NC Dept. of Transportation for review prior to approval by the planning board.

405.5 Access to Adjacent Properties

Where, in the opinion of the Planning Board, it is necessary to provide for street access to an adjoining property, proposed streets shall be extended by dedication to the boundary of such property and a temporary turn around provided.

405.6 Nonresidential Streets

The sub divider of a nonresidential subdivision shall provide streets in accordance with the North Carolina Roads, Minimum construction Standards, January 1, 1999; and the standards in this ordinance, whichever are stricter in regard to each particular item.

405.7 Design Standards

Except as allowed by Section 303 and Article V, the design of all streets and roads within the jurisdiction of this ordinance shall be in accordance with the N.C. Accordance with the N.C. Department of Transportation, Division of Highways' Subdivision Roads Minimum Construction standards.

405.8 Intersections

- A. Streets shall be laid out so as to intersect as nearly as possible at right angles, and no street shall intersect any other street at an angle less than sixty (60) degrees.
- B. Property lines at intersections should be set so that the distance from the edge of pavement, of the street turnout, to the property line will be at least great as the distance from the edge of pavement to the property line along the intersecting streets. This property line can be established as a radius or as a sight triangle. greater offsets from the edge of pavement to the property lines will be required, if necessary, to provide sight distance for the vehicle on the side street.
- C. Offset intersections are to be avoided unless exception is granted by the Division of Highways. A minimum length of 200 feet should separate intersections, which cannot be aligned, between survey centerlines.
- D. Intersections with arterials, collectors and thoroughfares shall be at least one thousand (1000) feet from centerline to centerline, or more if required by the N.C. Department of Transportation.

405.9 Cul-de-sacs

Permanent dead-end streets should not exceed one thousand (1000) feet in length unless necessitated by topography, or property accessibility. Suitable provisions for emergency vehicles to turn around shall be provided every 2500 feet. The distance from the edge of pavement on the vehicular turnaround to the right-of-way line shall not be less than the distance from the edge of pavement to right-of-way line on the street approaching the turnaround. Cul-de-sacs should not be used to avoid connection with an existing street or to avoid the extension of an important street, unless exception is granted to the Planning Board.

405.10 Alleys

- A. Alleys shall be required to serve lots used for commercial and industrial purposes except that this requirement may be waived where other definite and assured provision is made for service access.
- B. The width of an alley shall be at least twenty (20) feet.
- C. Dead-end alleys shall be avoided where possible, but if unavoidable, shall be provided with adequate turnaround facilities at the dead-end as may be approved by the Planning Board.
- D. Sharp changes in alignment and grade shall be avoided.
- E. All alleys shall be designed in accordance with N.C. Department of Transportation Standards.

405.11 Other RequirementsA. Through Traffic Discouraged on Residential Collector and Local Streets

Residential collector and local streets shall be laid out in such a way that their use by through traffic will be discouraged. Streets shall be designed or walkways dedicated to assure convenient access to parks, playgrounds, schools, or other places of public assembly.

B. Sidewalks

Sidewalks may be required by the Planning Board on one or both sides of the street in areas likely to be subject to heavy pedestrian traffic such as near schools and shopping areas. Such sidewalks shall be constructed to a minimum width of four (4) feet, and shall consist of a minimum thickness of four (4) inches of concrete. All sidewalks shall be placed in a right-of-way, unless the development is platted as a planned unit or group development. Sidewalks shall consist of a minimum of six (6) inches of concrete at driveway crossings.

C. Street Names

Proposed streets, which are, obviously in alignment with existing streets shall be given the same name. In assigning new names, duplication of existing names shall be avoided and in no case shall the proposed name be phonetically similar to existing names in the county irrespective of the use of a suffix such as street, road, drive, place, court, etc. Street names shall be approved by the E-911 addressing department prior to final plat approval.

D. Street Name Signs

The sub divider shall be required to provide and erect street name signs to county standards at all intersections within the subdivision.

E. Permits for Connection to State Roads

An approved permit is required for connection to an existing state system road. This permit is required prior to any construction on the street or road. The application is available at the office of the nearest district engineer of the Division of Highways.

F. Offsets to Utility Poles

No utility poles shall be located within the road right of way.

G. Wheelchair Ramps

In accordance with Chapter 136, Article 2A, Section 136-44.14, all street curbs in North Carolina being constructed or reconstructed for maintenance procedures, traffic operations, repairs, correction of utilities, or altered for any reason shall provide wheelchair ramps for the physically handicapped at all intersections where both curb and gutter and sidewalks are provided and at other major points of pedestrian flow.

Section 406. Utilities

- 406.1 A. (1) Each lot shall be provided with an approved water supply in accordance with 15A NCAC 18A.1700. Provided the water supply and distribution system serves 15 or more connections, it is classified as a "public water system" and must be listed with the Public Water Supply Section, Division of Environmental Health (2) Each lot must be connected to an approved sewage disposal system as determined by the Duplin County Health Department. The approval of water supply and sewage disposal system is a condition for approval of electrical service to each lot.

- B. When public or community water systems or sewage systems are available, the developer shall, at his expense, make connection to those systems. Availability will be determined by the Planning Board.

Water and sanitary sewer lines, connections, and materials shall be in accordance with policies and procedures for utility extensions maintained by the county utilities department.

406.2 Storm Water Drainage System

The sub divider shall provide a surface water drainage system constructed to the standards of the N.C. Department of Transportation.

- A. No surface water shall be channeled or directed into a sanitary sewer.
- B. Where feasible, the sub divider shall connect to an existing storm drainage system.

- C. Where an existing storm drainage system cannot feasibly be extended to the subdivision, a surface drainage system shall be designed to protect the proposed development from water damage.
- D. Surface drainage courses shall have side slopes of at least three (3) feet of horizontal distance for each one (1) foot of vertical distance, and courses shall be of sufficient size to accommodate the drainage area without flooding, and designed to comply with the standards and specifications for erosion control of the North Carolina Sedimentation Pollution control Act, G.S. 143-34.12, Chapter 113A, Article 4 and the N.C. Administrative Code Title 15, Chapter 4, and any locally adopted erosion and sedimentation control ordinances.
- E. The minimum grade along the bottom of a surface drainage course shall be a vertical fall of at least one (1) foot in each two hundred (200) feet of horizontal distance.
- F. Stream banks and channels downstream from any land disturbing activity shall be protected from increased degradation by accelerated erosion caused by increased velocity of runoff from the land disturbing activity in accordance with the North Carolina Sedimentation Pollution Control Act, G.S. 143-34.12, Chapter 114A, Article 4 and the North Carolina Administrative Code Title 15, Chapter 4.
- G. Anyone constructing a dam or impoundment within the subdivision must comply with the North Carolina Dam Safety Law of 1967 and the North Carolina Administrative Code Title 15, subchapter 2 K.
- H. In all areas of special flood hazards, all subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

406.3 Private Streets

A disclosure statement shall be issued in accordance with G.S. 136-102.6. Such shall be submitted prior to final plat approval. The provision for road maintenance including parking areas shall be stated on the final plat.

Subdivisions meeting all the requirements of section 303.2, with private ingress and egress easements, shall construct private streets to the following standards:

Streets shall have a traveled way, a minimum of 18 feet wide and shall be graded, drained and stabilized.

The street surface shall consist of a minimum of 4" of compacted stone or rock.

406.4 Review by County Commissioners

The County Commissioners may review each and every subdivision proposal prior to final plat and submit findings to the Planning Board for consideration. If final plat approval is denied by the Planning Board, the applicant may appeal to the County Commissioners.

406.5 Federal Wetlands

All areas within a subdivision identified as federal wetlands shall be delineated on the final plat along with a statement as to applicable restrictions. Such delineation shall be certified in a manner acceptable to the Duplin County Planning Board as being the true and actual boundary of any 404 Wetland areas consistent with policies and regulations of the U.S. Army Corps of engineers.

406.6 Deed Information

The Planning Board may require that provisions for the maintenance of roads, drainage systems, easements, or other special conditions pertaining to all or part of a subdivision be made a part of the deed, other legal form of conveyance or restrictive covenants for a lot or a group of lots. The development of suitable restrictive covenants shall be encouraged by the Planning Board.

406.7 Private Driveways

Interior lots may be accessed by a driveway platted and recorded as such with provisions for maintenance appearing on the final plat. No driveway may serve more than two (2) lots and driveways shall not be used to circumvent good design practices of the requirement for a street built according to the provisions of this ordinance.

406.8 Environmental Impact Statement

Pursuant to Chapter 113 of the North Carolina General Statutes, the Planning Board may require the subdivider to submit an environmental impact statement due to the nature of the land to be subdivided or peculiarity in the proposed lay out.

406.9 Eligibility for National Flood Insurance

If a proposed subdivision is in a location subject to the 100-year flood, an appropriate statement indicating such location shall appear on the final plat. If a proposed subdivision is within the area subject to the 100-year flood and is not eligible for participation in the National Flood Insurance Program, an appropriate statement indicating such exclusion shall be placed on the final plat.

406.10 Cautions and Certifications

The Planning Board may require that cautions and other specialized certifications be affixed to the final plat prior to approval.

ARTICLE V

PLANNED UNIT DEVELOPMENT

Section 501. Introduction

A planned unit development is intended to encourage unified development of property in an innovative manner using contemporary design patters and sound engineering principals.

Section 502. Planned unit development (PUD)

Planned unit development means an area of land, controlled by one (1) or more landowners, to be developed under unified control or unified plan of development for residential, commercial, educational, recreational, or industrial uses, or any combination of the forgoing, the plan for which does not correspond in lot size, bulk or type of use, density, lot coverage, open space, or other restrictions to the existing land use regulations.

Section 503. Common open space

"Common open space" means a parcel of land, an area of water, or a combination of land and water, within the site designated for a planned unit development, designed and intended primarily for the use or enjoyment of residents, occupants and owners of the planned unit development. Areas included in driveways or otherwise required to move cars in or out of parking spaces shall not be considered as common open space.

Section 504. Plan

"Plan" means the provision for development of a planned unit development, which may include, but need not be limited to easements, covenants and restrictions relating to use, location and bulk of building and other structures, intensity of use or density of development, utilities, private and public streets, ways, roads, pedestrian areas, and parking facilities, common open space, and other public facilities. "Provisions of the plan" means the written and graphic material referred to in this definition.

Section 505. Purposes and objective of development

PUD's shall be designed to meet the following objectives:

- A. To provide for necessary commercial, recreational and educational facilities conveniently located to housing;
- B. To provide well-located, clean, safe and pleasant industrial sites;
- C. To encourage innovations in residential, commercial and industrial development;
- D. To encourage a more efficient use of land and of public services, or private services in lieu thereof;
- E. To minimize the impact of traffic on streets and highways;
- F. To conserve the value of the land;
- G. To provide a procedure which can relate the type, design and layout of residential, commercial and industrial development to the particular site, thereby encouraging preservation of the site's natural characteristics; and
- H. To encourage integrated planning in order to achieve the purposes of the development.

Section 506. Conformity with land-use plan required

No PUD shall be approved unless it is found by the Planning Board to be in conformity with the county's land use plan.

Section 507. Subdivision provisions modification authorized

It is recognized that the uniqueness of each proposal for a PUD requires that the specifications, standards, and requirements for various facilities, including but not limited to streets, highways, alleys, utilities, curbs, gutters, sidewalks, streetlights, parks, playgrounds, school grounds, storm drainage, water supply and distribution, and sewage collections and treatment, may be subject to modification from the specifications, standards and requirements established in the subdivision regulations.

The county may, therefore, waive or modify the specifications, standards and requirements which would be otherwise applicable to the proposed development.

Section 508. Compatibility of land use elements

It is recognized that certain individual land uses, regardless of their adherence to all the design elements provided for in this article, might not exist compatibly with one another. Therefore, a proposed PUD shall be considered from the point of view of land use compatibility and no PUD shall be approved which contains incompatible elements.

Section 509. Conditions for approval

The Planning Board may approve a proposed PUD upon finding that it will implement the purposes of this ordinance and will meet the standards and requirements set forth in this ordinance.

Section 510. Site plan criteria, general requirements

The PUD shall meet the following site plan criteria, depicted on a site plan furnished by the developer, unless the applicant can demonstrate that one (1) or more of them is not applicable or that another practical solution has been otherwise achieved:

- A. The PUD shall have an appropriate relationship to the surrounding area, with adverse effects on the surrounding area being minimized.
- B. The PUD shall provide an adequate internal street circulation system designed for the type of traffic generated, safety, separation from the living areas, convenience and access. Private internal streets may be permitted provided that adequate access for police, fire and emergency protection is maintained; streets are named in a logical fashion to avoid confusion; and provisions for using and maintaining such streets are imposed upon the private users and approved by the Planning Board.
- C. The PUD shall provide parking areas adequate in terms of location, area, circulation, safety, convenience, separation and screening.
- D. The PUD shall provide common open space adequate in terms of location, area and type of the common open space, and in terms of the uses permitted in the PUD. The PUD shall provide for preservation of natural features of the terrain.
- E. The PUD shall provide for variety in housing types and densities, other facilities and common open space.
- F. The PUD shall provide adequate privacy between dwelling units.

- G. The PUD shall provide pedestrian ways adequate in terms of safety, separation, convenience, access to points of destination and attractiveness.

Section 511. Off-street parking

The number of off-street parking spaces for each use in a PUD shall be determined by the Planning Board through consideration of the following factors.

- A. Estimated number of cars to be used by occupants of dwelling in the PUD.
- B. Temporary and permanent parking needs of non-dwelling uses.
- C. Varying time periods of use whenever joint use of common parking areas is proposed and
- D. Parking and storage needs for recreational vehicles including but not necessarily limited to camper shells, boats, and travel trailers.

Section 512. Minimum land area

The minimum size of land that may comprise a PUD shall be 25 acres.

Section 513. Lot area and coverage, setbacks and clustering

The minimum lot areas and the minimum setback restrictions may be decreased below and the maximum lot coverage may be increased above those applicable to like lots and buildings to accommodate specific building types with unusual orientation on the lot or relationship between buildings. The averaging of lot areas shall be permitted to provide flexibility in design and relate lot size to topography, but each lot shall contain an acceptable building site. The clustering of development with useable common open areas shall be permitted to encourage provision for and access to common open areas and to save street and utility construction and maintenance costs. Such clustering is also intended to accommodate contemporary building types which are not spaced individually on their own lots but share common sidewalls, whether or not providing for separate ownership of land and buildings.

Section 514. Residential density

The overall average residential density shall be no greater than the maximum density for the particular area in the county's land use plan. The overall average residential shall be calculated by summing the number of residential dwelling units planned within the boundary of the PUD and dividing by the total gross areas expressed in acres within the boundary of the PUD. Averaging and transferring of densities within the PUD shall be allowed upon a showing of conformance to the purposes of this ordinance through appropriate utilization of the area within the PUD to achieve high standards of design and habitability.

Section 515. Permitted uses

- A. Subject to the provisions of Section 508, the following uses, separate or in combination, may be permitted in a PUD;
- a. Single-family and multifamily residential dwelling units in detached, semidetached, attached, clustered or multistoried structures, or any combination thereof;
 - b. Sale or rental of goods or services;
 - c. Recreation facilities;
 - d. Public and private offices;

- e. Convention facilities;
- f. Restaurants;
- g. Lodging places, including motels, hotels, and dormitories;
- h. Schools and other education institutions;
- i. Churches and hospitals;
- j. Business and commercial uses;
- k. Industrial uses; and
- l Any other uses shown to be appropriate.

B. The uses which shall be permitted in any particular PUD shall be only those permitted by the approved PUD plan.

Section 516. Common open space

A minimum of twenty-five (25) percent of the total area within the boundary of any residential PUD shall be devoted to useable and accessible common open space; provided, however, that the planning board may reduce such requirement if it finds that such decrease is warranted by the design of, and the amenities and features incorporated into, the plan and that the needs of the occupants of the PUD for common open space can otherwise be met in the proposed PUD and the surrounding area.

Section 517. Application for PUD review

The plan shall show generally within the PUD where each type of use will be located and shall indicate the total acreage which will be devoted to each use. The precise location of each use and the location of lots, blocks or other parcels within each area devoted to each use shall be shown.

The minimum lot area, maximum lot coverage; minimum setbacks, maximum height of buildings and all other use and occupancy restrictions applicable to any PUD, shall only be those which are approved at the time of final plat approval by the Planning Board.

The applicant shall initiate any request for PUD approval in writing, and shall include with his written request the following:

- A. A legal description of the area and a statement of the ownership of all interests in the property to be included in the PUD, and the written consent of all of the owners and, upon request of the planning board, evidence of title in such quality as is acceptable to the board;
- B. A plan indicating the broad concept of the proposed development. Such plan shall indicate:
 - a. The maximum number of dwelling units proposed within the overall area,
 - b. The minimum acreage which will be dedicated to common open space,
 - c. The type of uses proposed and the acreage devoted to each use,
 - d. Major internal vehicular traffic circulation system,

- e. The acreage which will be dedicated for school sites or other public uses,
 - f. The general nature and location of commercial and industrial uses, if any,
 - g. Provision for water, sewer, telephone, electricity and other utilities,
 - h. Other restrictions proposed by the applicant such as building setbacks, height limits and access requirements to be applied to particular areas,
 - i. How the common open space will be owned and maintained;
- C. A location map, on a scale of one (1) inch equaling not more than four hundred (400) feet, illustrating site boundaries, acreage, existing structures and adjacent property owners and land uses;
- D. A map, on a scale of one (1) inch equaling not more than one hundred (100) feet, illustrating site boundaries, acreage, existing structures and
- E. A site plan on a scale of one (1) inch equaling not more than one hundred (100) feet, depicting site plan criteria which the applicant is required to meet in Section 510;
- F. A topographic map of the site or phase, showing at a scale of one (1) inch equaling not more than one hundred (100) feet showing streams, rivers, ditches, and areas subject to 100-year flooding.
- G. The written request shall additionally contain the following information;
- a. An explanation of the objectives to be achieved by the PUD and an agreement to abide by the provisions of this ordinance.
 - b. A development schedule indicating the approximate dates when construction of the various stages of the PUD can be expected to begin and be completed,
 - c. Copies of any special easements, covenants, conditions, and restrictions which will govern the use or occupancy of the PUD; provided, however, that the applicant may impose additional covenants, conditions and restrictions on any particular area in connections with the platting of such areas.
 - d. A statement and findings by a Professional Engineer which shall provide evidence of the following as adequate to service the PUD:
 - 1. The proposed water distribution system,
 - 2. The proposed method of sewage collection,
 - 3. The general manner in which storm drainage will be handled, and
 - 4. The general manner in which provision will be made for any potential natural hazards in the area,
 - e. Easement showing vested legal access for ingress and egress, if applicable
 - f. Evidence that the PUD has been designed with consideration of the natural environment of the site and the surrounding area and does not unreasonably destroy or displace wildlife, natural vegetation, or unique natural or historic features,
 - g. A statement of financial capability

- h. A discussion of the major internal vehicular system and its relation to the existing system of streets, roads or highways,
- H. The applicant may submit any other information or exhibits which he deems pertinent in evaluating his proposed PUD.

Section 518. Planning Board

The Planning Board is responsible for initially investigating all PUD applications, plans and accompanying information in detail to ensure conformity with the provisions of this ordinance. Within thirty (30) days from receipt, the Board shall approve a PUD application, disapprove it, or approve it upon the imposition of conditions reasonably related to the intent of this PUD section.

Approval may be given on a conditional basis provided the developer submits a written agreement, approved by the Planning Board to incorporate such conditions upon approval of the final PUD application and plan.

ARTICLE VI

DEFINITIONS

Section 601. "Subdivision Defined"

For the purpose of this ordinance, "subdivision" means all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for purpose of sale or building development (whether immediate or future) and shall include all division of land involving the dedication of a new street or a change in existing street; but the following shall not be included within this definition nor be subject to any regulations enacted pursuant to this ordinance;

- A. The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the county as shown in this ordinance;
- B. The division of land into parcels greater than ten (10) acres where no street right-of-way 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 not greater than two (2) acres into not more than three (3) lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the county as shown in this ordinance.

Section 602. Other Definitions

For the purpose of this ordinance, certain words or terms used herein shall be defined as follows:

Block - A piece of land bounded on one or more sides by streets or roads.

Buffer Strip - A 25 foot strip of land in addition to the lot size and depth planted with one or more species of trees and or shrubs at spacings which will provide a permanent, continuous, year round visual screen.

Building Setback Line - A line parallel to the front property line in front of which no structure shall be erected. Setbacks shall be figured from the right-of-way line.

Dedication - A gift, by the owner, or a right to use if land for a specified purpose or purposes because a transfer of property rights is entailed, dedication must be made by written instrument, and is completed with an acceptance.

Easement - A grant by the property owner of a strip of land for a specified purpose and use by the public, a corporation, or persons.

Half Street - A street whose centerline coincides with a subdivision plat boundary, with one-half (1/2) the street right-of-way width being contained within the subdivision plat. Also, any existing street to which the parcel of land to be subdivided abuts on only one side.

Lot - A portion of a subdivision or any other parcel of land, intended as a unit of transfer of ownership or for development or both.

Lot of Record - A lot which is part of a subdivision, a plat of which has been recorded in the office of the Register of Deeds of Duplin County prior to the adoption of this ordinance, or a lot described by meters and bounds, the description of which has been so recorded prior to the effective date of this ordinance.

Lot types:

Corner Lot - A lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point in the lot meet at an interior angle of less than one hundred thirty-five (135) degrees.

Double Frontage Lot - A continuous (through) lot, which is accessible from both streets upon which it fronts.

Interior Lot - A lot other than a corner lot with only one frontage on a street.

Through Lot or a "Double Frontage Lot" - a lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as double frontage lots.

Reversed Frontage Lot - A lot on which the frontage is at right angles or approximately right angles (interior angles less than one hundred thirty-five (135) degrees) to the general pattern in the area. A reversed frontage lot may also be a corner lot, an interior lot or a through lot.

Single-Tier Lot - A lot which backs upon a limited access highway, a railroad, and a physical barrier, or another type of land use and to which access from the rear is usually prohibited.

Official Maps or Plans - Any maps or plans officially adopted by the Planning Board.

Open Space - An area (land and/or water) generally lacking in man-made structures and reserved for enjoyment in its unaltered state.

Planned Unit Development - (PUD) same as section 502

Plat - A map or plan of a parcel of land, which is to be, or has been subdivided.

Private Driveway - A roadway serving two (2) or fewer lots, building sites or other division of land and not intended to be public ingress or egress.

Private Street - An undedicated private right-of-way which affords access to abutting properties and requires a subdivision streets disclosure statement in accordance with G.S. 136-102.6.

Recreation Area or Park - An area of land or combination of land and water resources that is developed for active and/or passive recreation pursuits with various man-made features that accommodate such activities.

Reservation - A reservation of land does not involve any transfer of property rights. It simply constitutes an obligation to keep property free from development for a stated period of time.

Street - A dedicated and accepted public right-of-way for vehicular

Sub divider - Any person, firm or corporation who subdivides or develops any land deemed to be subdivision as herein defined.

Subdivision Administrator - The County Planning Department staff, including the County Planner and Community Development Planner.

Section 603: Word Interpretation

For the purpose of this ordinance, certain words shall be interpreted as follows:

Words used in the present tense include the future tense.

Words used in the singular number include the plural and words used in the plural number include the singular, unless the natural construction of the wording indicates otherwise.

The word "person" includes a firm, association, corporation, trust, and company as well as an individual.

The word "used for" shall include the meaning "designed for".

The word "structure" shall include the word "building".

The word "lot" shall include the words "plot", "parcel", or "tract".

The word "shall" is always mandatory and not merely directory.

DUPLIN COUNTY AIRPORT
HEIGHT RESTRICTION
ORDINANCE

000427

ABOLISHED 06/30/03

PREPARED BY:

THE DUPLIN COUNTY PLANNING BOARD
AND
THE DUPLIN COUNTY PLANNING DEPARTMENT

EFFECTIVE JULY 1, 1998

ENACTMENT

This is an ordinance establishing height regulations for structures and vegetation within the vicinity of the Duplin County Airport and providing for the administration, enforcement and amendment thereof.

PREAMBLE

WHEREAS, in the opinion of the Duplin County Board of Commissioners to further promote the health, safety, and general welfare of the residents of Duplin County, it is necessary and advisable to adopt regulations pertaining to the height of obstructions within the vicinity of the Duplin County Airport, and

WHEREAS, the Duplin County Planning Board in conjunction with the Duplin County Airport Commission has developed this ordinance with due consideration and has submitted final recommendations to the Duplin County Commissioners, and

WHEREAS, all applicable requirements of the General Statutes of North Carolina have been met,

NOW, THEREFORE BE IT ORDAINED BY THE COUNTY COMMISSIONERS OF THE COUNTY OF DUPLIN AS FOLLOWS:

ARTICLE I - AUTHORITY

SECTION 10

The provisions of this ordinance are adopted under authority granted by North Carolina General Statute 153A-121.

ARTICLE II - JURISDICTION

SECTION 20

This ordinance shall be applicable to the area designated within Duplin County in the vicinity of the Duplin County Airport as shown on a map entitled Duplin County Airport Approach and Vicinity Plan as maintained by the Duplin County Airport Commission and herein made a part of this ordinance.

ARTICLE III - TITLE

SECTION 30

This ordinance shall be known as and referred to as the Duplin County Airport Height Restriction Ordinance of Duplin County, North Carolina.

ARTICLE IV - INTERPRETATIONS

SECTION 40

Tense and Number

(1) The present tense includes the future tense and the future tense includes the present tense.

- (2) The singular number includes the plural number and the plural number includes the singular number.

000420

SECTION 41

Word Interpretations

For the purposes of this ordinance the following words shall be interpreted as specified below:

- (1) The word "may" is permissive.
- (2) The words "shall" and "will" are mandatory.
- (3) The word "County" shall mean the County of Duplin, North Carolina.
- (4) The words "Airport Commission" shall refer to the Duplin County Airport Commission.
- (5) The words "Planning Board" shall refer to the Duplin County Planning Board.
- (6) The words "County Commissioners" shall refer to the Duplin County Board of Commissioners.
- (7) The word "person" shall include firm, organization, association, company, trust, corporation or other entity.
- (8) The words "used" or "occupied" includes intended, designed and arranged.

SECTION 42

Definitions

For the purpose of this Ordinance, the following words and phrases shall have the meanings respectively ascribed to them by this section:

- (1) Airport means the Duplin County Airport.
- (2) Airport obstruction means any structure or tree which obstructs the aerial approaches of the airport exceeding the maximum height of structures permitted in the airport operation area or is otherwise hazardous to its use for landing or taking off.
- (3) Height means the vertical distance from the ground elevation to the highest point of a structure or tree, including any appurtenance thereon. Expressed as feet above mean sea level.
- (4) Airport operation area means the area designated for aircraft movement as shown on the map entitled Dated as maintained by the Duplin County Airport Commission.
- (5) Nonconforming structure means any structure or tree which does not conform to this Ordinance as of the effective date of these regulations.
- (6) Structure means any object, constructed or installed by human labor, including, but without limitation, buildings, towers, smokestacks and overhead transmission lines.
- (7) Tree means any object of natural growth

- (8) Height limitations means no structure or tree shall be erected, altered, allowed to grow or maintained in the Airport Operation Area to a height in excess of 100 feet above ground elevation or 236 feet above mean sea level (AMSL).
- (9) Enforcement Officer - This ordinance shall be enforced by the Duplin County Planning Department.

ARTICLE V - NONCONFORMITIES

SECTION 50

Nonconforming Uses

This regulation shall not be construed to require the removal, lowering or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of this ordinance, or otherwise interfere with the continuance of a nonconforming use. Nothing contained herein shall require any change in the construction, or intended use of any structure for which the construction or alteration was started or for which a building permit was acquired prior to the effective date of this ordinance.

Notwithstanding the preceding provision of this section, the owner of any existing nonconforming structure or tree is hereby required to allow the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the Duplin County Airport Commission to indicate to the operators of aircraft in the vicinity of the airport the presence of such obstruction. Such markers and lights shall be installed, operated and maintained at the expense of the Duplin County Airport.

SECTION 51

Existing Structures

Before any existing nonconforming structure may be replaced, altered, repaired, or rebuilt within the Airport Operation Area, a permit must be secured from the enforcement officer authorizing such replacement, change or repair. No such permit shall be granted that would allow the establishment or creation of an airport obstruction or permit a nonconforming structure to be made or become higher than the height allowed by this ordinance.

ARTICLE VI - PERMIT REQUIREMENTS

SECTION 60

New Structures

The Duplin County Building Inspector shall not issue a building permit for the construction of any new obstruction within the air operation area unless approved by the Duplin County Airport Commission and the enforcement officer.

SECTION 61

Permit Application

A permit application must be completed and submitted for each obstruction. The following information shall accompany the application:

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- (1) Map drawn to scale showing or including the following information:
 - Name, address and telephone number of applicant and property owner
 - Exact location and height of existing and proposed obstructions
 - Highway, right-of-way, intersection and other land uses
 - Existing and proposed buildings
 - Existing ground elevation certified by a Registered Land Surveyor
- (2) Nonrefundable application fee of \$50.00
- (3) Any additional information which may be necessary to determine compliance with this ordinance

SECTION 62

Review by Airport Commission

No permit for construction replacement or altering an existing structure regulated by this ordinance shall be issued by the enforcement officer unless approved by the Duplin County Airport Commission or its designee.

SECTION 63

Violations

Permits shall be valid until revoked. The enforcement officer may periodically inspect the obstruction to determine continued compliance with this ordinance. If the obstruction is in violation, the enforcement officer shall advise the owner in writing of the violations and of action necessary to bring the obstruction into compliance. Failure by the owner to correct violations within 120 days of notification shall constitute grounds for revocation of the permit.

SECTION 64

Revocation of Permit

Valid permits may be revoked by the enforcement officer for any of the following reasons:

- (1) Incorrect or misrepresented information on the permit application.
- (2) Failure to construct obstruction in accordance with application and permit.
- (3) Any other violation of this ordinance.

In the event the permit is revoked, the enforcement officer shall advise the obstruction owner in writing of the status of the permit, the action necessary to correct the violation and of the enforcement techniques available to the County to remedy continued violation. Maintaining an obstruction in violation of this ordinance is a misdemeanor subject to

enforcement action as provided by state law. When the enforcement officer determines that the obstruction has been brought back into compliance with this ordinance, he shall reinstate the permit.

ARTICLE VII - LEGAL PROVISIONS

SECTION 70

Enforcement

The ordinance may be enforced by any one or more of the remedies authorized by G.S. 153A-123.

SECTION 71

Complaints

Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a written complaint with the enforcement officer stating the cause and basis for the complaint. The enforcement officer shall record the complaint, investigate and take such action as may be necessary to enforce this ordinance.

SECTION 72

Separability

Should any section or provision of this ordinance be declared by the courts to be invalid for any reason, such declaration shall not affect the ordinance as a whole, or any part thereof other than the part so declared to be invalid.

SECTION 73

Amendment

Petitions for amendment may be filed with the Planning Department by any citizen of the County, any county department or agency, the County Planning Board or Board of Commissioners.

SECTION 73.1

Commissioners Review

The provisions and requirements of this ordinance may be amended by the County Commissioners according to the procedure set forth:

- (1) Planning Board Review - No amendment shall become effective unless it shall have been proposed by or shall have been reviewed by the Planning Board. The Planning Board shall have 45 days in which to review the proposed amendment and to make recommendation to the Commissioners. If the Planning Board fails to report to the Commissioners within 45 days, it shall be deemed to have approved the proposed amendment.
- (2) Airport Commission Review - No amendment shall become effective unless it shall have been proposed by or shall have been reviewed by the Airport Commission.
- (3) Commissioners Review - No amendment shall become effective until after being adopted by the County Commissioners.

SECTION 74

Variance and Exception

Upon recommendation of the Airport Commission, the Planning Board may issue variances and exceptions from the requirements of this ordinance such that would not be contrary to the public interest, or the spirit and intent of this ordinance, and where due to special conditions, a literal enforcement of the provisions of this ordinance would result in an unnecessary hardship. In granting a variance, the Planning Board may prescribe appropriate conditions and safeguards as it deems necessary to preserve the intent of this ordinance. In granting a variance or exception to this ordinance, the Planning Board must determine the following:

- (1) Special conditions and circumstances exist which are peculiar to the land or buildings involved and which are not applicable to other land or buildings.
- (2) The literal interpretations of the provision of this ordinance would deprive the applicant of rights commonly enjoyed by other properties.
- (3) Special conditions and circumstances do not result from the actions of the applicant.
- (4) Granting the variance required will not confer on the applicant any special privilege that is denied by this ordinance to other lands or buildings.

SECTION 75


Appeal

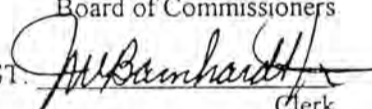
The County Planning Board shall hear and decide appeals and review any orders, requirements, decisions or determinations made by the enforcement officer responsible for administration or enforcement of this ordinance. The Planning Board's decision is subject to review by the Duplin County Board of Commissioners.

SECTION 76

Effective Date

This ordinance shall become effective and be in full force from and after the 1st day of July, 1998. Adopted by the Duplin County Board of County Commissioners July 14, 1998 (date).


 Chairman, Duplin County
 Board of Commissioners

ATTEST: 
 Clerk

DUPLIN COUNTY AIRPORT
HEIGHT RESTRICTION ORDINANCE

PREPARED BY:

THE DUPLIN COUNTY PLANNING BOARD
AND
THE DUPLIN COUNTY PLANNING DEPARTMENT

EFFECTIVE June 30, 2003

ENACTMENT

This is an ordinance establishing height regulations for structures and vegetation within the vicinity of the Duplin County Airport and providing for the administration, enforcement and amendment thereof;

PREAMBLE

WHEREAS, in the opinion of the Duplin County Board of Commissioners to further promote the health, safety, and general welfare of the residents of Duplin County, it is necessary and advisable to adopt regulations pertaining to the height of obstructions within the vicinity of the Duplin County Airport, and;

WHEREAS, the Duplin County Planning Board in conjunction with the Duplin County Airport Commission has developed this ordinance with due consideration and has submitted final recommendations to the Duplin County Commissioners, and;

WHEREAS, all applicable requirements of the General Statutes of North Carolina have been met,

NOW, THEREFORE BE IT ORDAINED BY THE COUNTY COMMISSIONERS OF THE COUNTY OF DUPLIN AS FOLLOWS:

ARTICLE I - AUTHORITY

SECTION 10

The provisions of this ordinance are adopted under authority granted by North Carolina General Statute 153A-121, pursuant to the authority conferred under Chapter 63 of the North Carolina General Statutes, Article 4.

ARTICLE II - JURISDICTION

SECTION 20

This ordinance shall be applicable to the area designated within Duplin County in the vicinity of the Duplin County Airport as shown on a map entitled Duplin County Airport Height Restriction Ordinance Map dated May 2003 as maintained by the Duplin County Airport Commission and herein made a part of this ordinance.

ARTICLE III - TITLE

SECTION 30

This ordinance shall be known as and referred to as the Duplin County Airport Height Restriction Ordinance of Duplin County, North Carolina.

ARTICLE IV – INTERPRETATIONS

SECTION 40

Tense and Number

- (1) The present tense includes the future tense and the future tense includes the present tense.
- (2) The singular number includes the plural number and the plural number includes the singular number.

SECTION 41

Word Interpretations

For the purposes of this Ordinance, the following words shall be interpreted as specified below:

- (1) The word “may” is permissive,
- (2) The words “shall” and “will” are mandatory.
- (3) The word “County” shall mean the County of Duplin, North Carolina.
- (4) The words “Airport Commission” shall refer to the Duplin County Airport Commission.
- (5) The words “Planning Board” shall refer to the Duplin County Planning Board.
- (6) The words “County Commissioners” shall refer to the Duplin County Board of Commissioners,
- (7) The word “person” shall include firm, organization, association, company, trust, corporation or other entity.
- (8) The words “used” or “occupied” includes intended, designed and arranged.

SECTION 42

Definitions

For the purpose of this Ordinance, the following words and phrases shall have the meanings respectively ascribed to them by this section:

- (1) Airport means the Duplin County Airport (KDPL).
- (2) Airport Elevation means the highest point of an airport’s usable landing area measured in feet (tenths) from mean sea level.
- (3) Airport obstruction means any structure or tree which obstructs the aerial approaches of the airport exceeding the maximum height of structures permitted in the airport operation area or is otherwise hazardous to its use for landing or taking off.
- (4) Height means the vertical distance from the ground elevation to the highest point of a structure or tree, including any appurtenance thereon expressed as feet above mean sea level (MSL).
- (5) Airport operation area refers to “ZONES ESTABLISHED” as noted below.
- (6) Nonconforming structure means any structure or tree which does not conform to this Ordinance as of the effective date of these regulations.

- (7) Structure means any object, constructed or installed by human labor, including, but without limitation, buildings, towers, smokestacks, and overhead transmission lines.
- (8) Tree means any object of natural growth.
- (9) Height limitations means no structure or tree shall be erected, altered, allowed to grow or maintained in any airport surface zone, with a height in excess of the height established for such zone. An area located in more than one of the following zones is considered to be only in the zone with the more restrictive height limitation
- (10) Enforcement Officer - This ordinance shall be enforced by the Duplin County Planning Department.
- (11) Runway End - means existing physical end of the hard-surfaced asphalt runway, having a defined coordinate and elevation as noted on the Duplin County Airport Height Restriction Ordinance Map.
- (12) Non-Precision Instrument Runway - means a runway end having instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in non-precision instrument approach procedure has been approved or planned.
- (13) Precision Instrument Runway - means a runway end having instrument approach procedure utilizing air navigation facilities with horizontal and vertical guidance, or area type navigation equipment, for which a straight-in precision instrument approach procedure has been approved or planned.

Zones Established

In order to carry out this ordinance, certain zones are hereby created and established, which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surface, and conical surface as they apply to the Duplin County Airport. Such zones are shown in plan and profile view on the Duplin County Airport Height Restriction Ordinance Map consisting of one (1) sheet, prepared by Talbert & Bright, Inc., dated May 2003. Such applicable height limitations are hereby established for each of the zones as follows:

- (1) Approach Surface Zone - means an inclined plane symmetrically centered along the extended runway centerline, longitudinally extending outward and upward from the end of the primary surface. The perimeter of the approach surface coincides with the perimeter of the approach zone, extending at a slope as shown on the Duplin County Airport Height Restriction Ordinance Map.

Runway End - Inner Width / Approach Length / Outer Width (Slope)

Runway 5 approach surface zone: 1,000' x 10,000' x 3,500'
(0'-10,000' @ 34:1)

Runway 23 approach surface zone: 1,000' x 50,000' x 16,000'
(0'-10,000' @ 50:1)
(10,001' to 50,000' @ 40:1)

- (2) Horizontal Surface Zone – means a plane, circular in shape, with its height one hundred fifty (150) feet above the established airport elevation and having a radius from the end of the primary surface for each runway end. The perimeter of the horizontal surface coincides with the perimeter of the horizontal zone as indicated on the Duplin County Airport Height Restriction Ordinance Map.

Runway 5-23 horizontal radius: 10,000'

- (3) Conical Surface Zone – means a surface radially extending outward and upward from the periphery of the horizontal surface zone at a slope of twenty to one (20:1) for a horizontal distance of 4,000 feet. The periphery of the conical surface zone is shown on the Duplin County Airport Height Restriction Ordinance Map.
- (4) Transitional Surface Zones – means inclined planes with a slope of seven to one (7:1) measured upward and outward in a vertical plane at right angles to the centerline of the runway and approach surfaces. The transitional surface zones, located on either side of the runway and symmetrically parallel to and level with the runway center line, extend upward and outward from the primary surface and approach surface elevation to a point intersecting the horizontal or conical surface. The transitional surface zones for each runway are shown on the Duplin County Airport Height Restriction Ordinance Map.

ARTICLE V – NONCONFORMITIES

SECTION 50

Nonconforming Uses – Regulations Not Retroactive

This regulation shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of this ordinance, or otherwise interfere with the continuance of a nonconforming use. Nothing contained herein shall require any change in the construction, or intended use of any structure for which the construction or alteration was started or for which a building permit was acquired prior to the effective date of this ordinance.

Notwithstanding the preceding provision of this section, the owner of any existing nonconforming structure or tree is hereby required to allow the installations operation and maintenance thereon of such markers and lights as shall be deemed necessary by the Duplin County Airport Commission to indicate to the operators of aircraft in the vicinity of the airport the presence of such obstruction. Such markers and lights shall be installed, operated and maintained at the expense of the Duplin County Airport. Reference FAA Advisory Circular 70-7460-1 for further guidance.

SECTION 51

Existing Structures

Except as specifically provided in this section, it not permissible for any person to engage in any activity that causes an increase in the extent of nonconformity of a nonconforming situation. Physical alteration of structures or the placement of new structures on open land is unlawful if they result in, an increase in the total amount of space devoted to a nonconforming use, or greater nonconformity with respect to height limitation.

Whenever the Duplin County Building Inspector determines that a nonconforming structure or tree has been abandoned or more than 80 percent torn down (or damaged more than 80 percent of the current County tax value), physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations.

ARTICLE VI - PERMIT REQUIREMENTS

SECTION 60

Permits Required – Existing Uses

Before any existing use, structure or tree may be replaced, substantially altered or repaired, rebuilt, allowed to grow higher or replanted within the inner-portion of the airport approach surface zone (up to 50' above ground level) and transitional surface zone extending laterally from the runway primary surface (area noted on Duplin County Airport Height Restriction Ordinance Map), a permit shall be secured authorizing such replacement, change or repair. No such permit shall be granted that would allow the establishment or creation of an airport hazard or permit a nonconforming use, structure or tree to be made or become higher, or become a greater hazard to air navigation, or than it is when the application for a permit is made. Except as indicated, all applications for a permit for replacement change or repair of an existing use, structure or tree shall be granted.

Permits Required – Future Uses

No material change shall be made in the use of land, and no structure or tree shall be erected, altered, planted or otherwise established in the any inner-portion of the airport approach surface zone (up to 50' above ground level) and transitional surface zone extending laterally from the runway primary surface (reference area noted on area noted on Duplin County Airport Height Restriction Ordinance Map) unless a permit therefore shall have been applied for and granted. Each such application shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure or tree would conform to the regulations prescribed in this article.

No permit for a use inconsistent with the provisions of this ordinance shall be granted unless a variance has been approved in accordance with SECTION 74.

- a. In the area lying within the limits of the horizontal zone and conical zone, no permit shall be required for any tree or structure less than 50 feet of vertical height above the ground, except when because of terrain, land contour, or topographic features, such tree or structure would extend above the height limits prescribed for the approach, transitional, horizontal and conical surface zones.
- b. In the areas lying within the limits of the transition zones beyond the perimeter of the horizontal zone, no permit shall be required for any tree or structure less than 50 feet of vertical height above the ground, except when such tree or structure, because of terrain, land contour, or topographic features, would extend above the height limit prescribed for such transition zones.

The Duplin County Building Inspector shall not issue a building permit for the construction of any new obstruction within the airspace zones established in SECTION 42, and as depicted on the Duplin County Airport Height Restriction Ordinance Map unless approved by the Duplin County Airport Commission and the Enforcement officer.

SECTION 61

Permit Application

A permit application, as required per SECTION 42, must be completed and submitted for each obstruction. The following information shall accompany the application:

- (1) Map drawn to scale showing or including the following information: Name, address and telephone number of applicant and property owner. Exact location (referenced coordinates) and height (ground elevation and above ground height certified by a Professional Land

Surveyor) of existing and proposed buildings and structures, highway, right-of-way, intersection and other land uses

- (2) Nonrefundable application fee of \$50.00
- (3) Any additional information which may be necessary to determine compliance with this Ordinance.

SECTION 62

Review by Airport Commission

No permit for construction replacement or altering an existing structure regulated by this ordinance shall be issued by the enforcement officer unless approved by the Duplin County Airport Commission or its designee.

SECTION 63

Violations

Permits shall be valid until revoked. The enforcement officer may periodically inspect the obstruction to determine continued compliance with this ordinance. If the obstruction is in violation, the enforcement officer shall advise the owner in writing of the violations and of action necessary to bring the obstruction into compliance. Failure by the owner to correct violations within 120 days of notification shall constitute grounds for revocation of the permit.

SECTION 64

Revocation of Permit

Valid permits may be revoked by the enforcement officer for any of the following reasons:

- (1) Incorrect or misrepresented information on the permit application.
- (2) Failure to construct obstruction in accordance with application and permit,
- (3) Any other violation of this ordinance.

In the event the permit is revoked, the enforcement officer shall advise the obstruction owner in writing of the status of the permit, the action necessary to correct the violation and of the enforcement techniques available to the County to remedy continued violation. Maintaining an obstruction in violation of this ordinance is a misdemeanor subject to enforcement action as provided by state law. When the enforcement officer determines that the obstruction has been brought back into compliance with this ordinance, he shall reinstate the permit.

ARTICLE VII - LEGAL PROVISIONS

- SECTION 70 Enforcement
The ordinance may be enforced by any one or more of the remedies authorized by G.S. 153A-123.
- SECTION 71 Complaints
Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a written complaint with the enforcement officer stating the cause and basis for the complaint. The enforcement officer shall record the complaint, investigate and take such action as may be necessary to enforce this ordinance.
- SECTION 72 Separability
Should any section or provision of this ordinance be declared by the courts to be invalid for any reason, such declaration shall not affect the ordinance as a whole, or any part thereof other than the part so declared to be invalid.
- SECTION 73 Amendment
Petitions for amendment may be filed with the Planning Department by any citizen of the County, any county department or agency, the County Planning Board or Board of Commissioners.
- SECTION 73.1 Commissioners Review
The provisions and requirements of this ordinance may be amended by the County Commissioners according to the procedure set forth:
(1) Planning Board Review - No amendment shall become effective unless it shall have been proposed by or shall have been reviewed by the Planning Board. The Planning Board shall have 45 days in which to review the proposed amendment and to make recommendation to the Commissioners. If the Planning Board fails to report to the Commissioners within 45 days, it shall be deemed to have approved the proposed amendment.
(2) Airport Commission Review - No amendment shall become effective unless it shall have been proposed by or shall have been reviewed by the Airport Commission.
(3) Commissioners Review - No amendment shall become effective until after being adopted by the County Commissioners.
- SECTION 74 Variance and Exception
Upon recommendations of the Airport Commission, the Planning Board may issue variances and exceptions from the requirements of this ordinance such that would not be contrary to the public interest, or the spirit and intent of this ordinance, and where due to special conditions, a literal enforcement of

the provisions of this ordinance would result in an unnecessary hardship. In granting a variance, the Planning Board may prescribe appropriate conditions and safeguards as it deems necessary to preserve the intent of this ordinance. In granting a variance or exception to this ordinance, the Planning Board must determine the following:

- (1) Special conditions and circumstances exist which are peculiar to the land or buildings involved and which are not applicable to other land or buildings.
- (2) The literal interpretations of the provision of this ordinance would deprive the applicant of rights commonly enjoyed by other properties.
- (3) Special conditions and circumstances do not result from the actions of the applicant.
- (4) Granting the variance required will not confer on the applicant any special privilege that is denied by this ordinance to other- lands or buildings.

SECTION 75

Appeal

The County Planning Board shall hear and decide appeals and review any orders, requirements, decisions or determinations made by the enforcement officer responsible for administration or enforcement of this ordinance. The Planning Board's decision is subject to review by the Duplin County Board of Commissioners.

SECTION 76

Effective Date

This ordinance shall become effective and be in full force from and after the 30th day of June, 2003. Adopted by the Duplin County Board of County Commissioners this the 2nd day of June, 2003.



Chairman, Duplin County
Board of Commissioners

ATTEST



Clerk

**DUPLIN COUNTY
VOLUNTARY AGRICULTURAL DISTRICTS
ORDINANCE**

ARTICLE I
TITLE

This program, adopted by the Board of Commissioners of Duplin County, North Carolina, shall be known as the **Duplin County Voluntary Agricultural Districts Ordinance**.

ARTICLE II
AUTHORITY

The articles and sections of this program ordinance are adopted pursuant to the authority conferred by N. C. General Statutes 106-735 through 106-743.

ARTICLE III
PURPOSE

The purpose of this program ordinance is to promote the health, safety, rural agricultural values, and general welfare of the County, and more specifically, increase identity and pride in the agricultural community and its way of life, encourage the economic and financial health of agriculture; increase protection from non-farm development; and increase the protection of farms from suits and other negative impacts on properly managed farms.

ARTICLE IV
JURISDICTION

The Duplin County Voluntary Agricultural Districts will follow the lines/boundaries of the existing six county commissioners' districts within the County and will cover all unincorporated areas within those.

ARTICLE V
DEFINITIONS

Agricultural Board: The Duplin County Agricultural Board.

Board of Commissioners: The Board of Commissioners of Duplin County, North Carolina.

Chairman: Chairman of the Duplin County Agricultural Board.

District: A voluntary agricultural district established under the terms and conditions of this program by the Board of Commissioners.

ARTICLE VI
QUALIFICATIONS AND CERTIFICATION OF FARMLAND

Section 600. Requirements

In order for farmland to qualify for participation under the terms of this program, it shall meet the following requirements:

- (1) The farmland shall be real property;
- (2) The farm property shall be participating in the farm present-use-value taxation program established by G.S. 105-277.2 through 105-277.7, or is otherwise determined by the County to meet all the qualifications of this program set forth in G. S. 105-277.3;
- (3) The property shall be certified by the Natural Resources Conservation Service of the United States Department of Agriculture, in consultation with the Cooperative Extension Service and the Farm Service Agency, as being a farm on which at least two-thirds of the land is composed of soils that:
 - (a) are best suited for providing food, seed, fiber, forage, timber, and horticultural crops, including Christmas trees and ornamentals;
 - (b) have good soil qualities;
 - (c) are favorable for all major crops common to the county where the land is located;
 - (d) have a favorable growing season; and
 - (e) receive the available moisture needed to produce high yields for an average of eight out of ten years; or
 - (f) soils on which at least two-thirds of the land has been actively used in agricultural, horticultural, or forestry operations as defined in G.S. 105-277.2.
- (4) The property, if highly erodible land exists on the farm, is managed in accordance with the Natural Resources Conservation Service defined erosion control practices that are addressed to said highly erodible land; and
- (5) The property is the subject of a conservation agreement, as defined in G.S. 121-35, between the County and the owner of such land that prohibits non-farm use or development of such land for a period of at least ten years, except for the creation of not more than three lots that meet applicable County watershed and subdivision regulations, or the regulations of any municipality which apply to the

farm property. The property owner may voluntarily revoke this conservation agreement by submitting a written request to the Board in accordance with Article VIII.

Section 601. Certification

The owner of the farm seeking to qualify his property for participation in the farmland preservation program ordinance shall submit written evidence that the property conforms with the requirements of Section 600 of this program. This written information shall be submitted to the Chairman of the Agricultural Board or the designated staff person on forms provided by the Board. The certification may be submitted at the same time the owner applies for inclusion in a district.

ARTICLE VII
APPLICATION, APPROVAL AND APPEAL PROCEDURES
FOR VOLUNTARY AGRICULTURAL DISTRICTS

Section 700. Creation of Voluntary Agricultural Districts

In order to implement the purposes stated in Article III, this program provides for the creation of voluntary agricultural districts which shall meet the following standards:

- (1) The district, when initially established, shall contain a minimum of 25 contiguous acres of qualified farmland, OR, two or more qualified farms which contain a minimum of 25 acres and are located within one mile of each other.
- (2) The landowner(s) requesting inclusion in the district shall execute an agreement with the County to sustain agriculture in the district in accordance with Section 600 (5) of this program. Said agreement shall be in a form which is reviewed and approved by the Agricultural Board; and
- (3) For each district created under the terms of this program, one of the existing Agricultural Board members shall be assigned to represent the district.

Section 701. Application to Participate

A landowner may apply to participate in the program by making application to the chairman of the Agricultural Board or to a designated staff person. The application shall be on forms provided by the Agricultural Board. The application to participate in a district may be filed with the certification of qualifying farmland.

Section 702. Approval Process

Upon review by the staff of the written certification and application submitted by the property owner, the Board shall meet within 30 days if possible to approve or disapprove the

application. The chairman shall notify the applicants by first class mail of said approval or disapproval of participation in the district.

Upon receipt of an application, the chairman of the Agricultural Board will forward a copy of the application to the County Manager, the County Tax Assessor, and the County Planning Board which may be asked to provide comments, if any, to the Agricultural Board prior to the vote on the application.

Section 703. Appeal

If an application is denied by the Agricultural Board, the petitioner has 30 days to appeal the decision to the Duplin County Board of Commissioners. Such appeal shall be presented in writing. The decision of the Board of Commissioners is final.

ARTICLE VII
REVOCATION OF CONSERVATION AGREEMENTS

By written notice to the board, a landowner of qualifying farmland may revoke the preservation agreement formulated pursuant to Section 600 (5) of this program, or the board may revoke same preservation agreement based on noncompliance by the landowner. Such revocation shall result in loss of qualifying farm status, and consequently, loss of eligibility to participate in a voluntary agricultural district and the benefits thereof. Revocation by a landowner of a preservation agreement and the resulting loss of qualifying farmland status for the purpose of participation in a voluntary agricultural district shall in no way affect the eligibility of the land to be taxed at its present use value as provided in N.C.G.S. 105-277.2 through N.C.G.S. 105-277.6. If a portion of a district is removed for any reason after being established by this program, the remaining qualified farms may remain in the program, provided they meet all other requirements except the minimum area requirements of Section 700 (1).

ARTICLE IX
AGRICULTURAL BOARD

Section 900. Creation

In accordance with N.C.G.S. 106-739, the Board of Commissioners hereby establishes an Agricultural Board to implement the provisions of this program ordinance.

Section 901. Appointments and Memberships

The Agricultural Board shall consist of nine members appointed by the Duplin County Board of Commissioners.

- (1) Requirements. Each Board member shall be a County resident or landowner of Duplin County.

(2) Membership

- (a) The Agricultural Board shall consist of no less than nine members which will be appointed by the Duplin County Board of Commissioners. One member that is actively engaged in farming shall be appointed from each of the six districts, plus the Director of the Duplin County Cooperative Extension Service, the Duplin County Planner, and the District Conservationist of the Duplin County Natural Resources Conservation Service (NRCS).
 - (b) The six members actively engaged in farming shall be selected for appointment by the Board of Commissioners from the names of individuals submitted to the Board of Commissioners by the Duplin Cooperative Extension Service, the Soil and Water Conservation District, the Farm Service Agency Committee, and the Duplin County Farm Bureau, with an effort to have the broadest geographical and commodity representation possible.
- (3) Tenure. The initial Agricultural Board shall consist of two members appointed for a term of one year, two members appointed for a term of two years, and two members appointed for a term of 3 years. Thereafter, all appointments to the Agricultural Board will be for a period of three years with reappointment permitted. The terms for the appointment of the initial Agricultural Board will be determined by lottery.
- (4) Vacancies. Any vacancy on the Agricultural Board is to be filled by the Board of Commissioners for the remainder of the unexpired term following the same procedure as for the initial appointment.
- (5) Removal for Cause. Any member of the Agricultural Board may be removed for cause by the Board of Commissioners upon written notice.
- (6) Funding. Appropriations for Performance of Duties. Funds shall be appropriated by the Board of Commissioners to the Agricultural Board to perform its duties. A budget request will be presented to the County Commissioners annually.

Section 902. Procedures

The Board shall adopt rules of procedure which are consistent with the enabling legislation and other applicable statutes.

- (1) Chairperson. The Board shall elect a chairperson and vice-chairperson each year at its first meeting of the fiscal year. The chairperson shall preside over all regular or special meetings of the Board. In the absence or disability of the chairperson, the vice-chairperson shall preside and shall have and exercise all the powers of the chairperson so absent or disabled. Additional officers may be elected as needed.
- (2) Jurisdiction and Procedures: Supplementary Rules. The jurisdiction and procedures of the Board are set out in this article, except that the Board may adopt supplementary rules of procedure not inconsistent with this article or with other provisions of law.
- (3) Board Year. The Board shall use the County fiscal year as its meeting year.
- (4) Meetings. Meetings of the Board, following such notice as required by this article, shall be held at the call of the Chairperson and at such other times as the Board in its rules of procedure may specify. A called meeting shall be held at least quarterly. A quorum shall consist of a majority of the members of the Board.
- (5) Voting. The concurring vote of a majority of the members of the Board shall be necessary to reverse any order, requirement, decision, or determination of any administrative official or agency to decide in favor of an applicant or to pass upon any other matter on which it is required to act under this article.
- (6) Records. The Board shall keep minutes of the proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions all of which shall be immediately filed in the office of the Board (Cooperative Extension) and shall be a public record.
- (7) Administrative Services. The Cooperative Extension Service Office shall serve the Agricultural Board for recordkeeping, correspondence, and application procedures under this article together with such other services the Board needs to complete its duties.

Section 903. Duties

The Agricultural Board shall:

- (1) Review and approve applications for qualified farmland and voluntary agricultural districts;
- (2) Advise the Board of Commissioners on projects, programs, or issues affecting the agricultural economy or activities within the County and that will affect agricultural districts;

- (3) Perform other related tasks or duties assigned by the Board of Commissioners.
- (4) Review and make recommendations concerning proposed amendments to this ordinance;
- (5) Develop a county-wide farmland protection plan as defined in N.C.G.S. 106-744 (c)(1) for presentation to the Board of Commissioners; and
- (6) Study additional methods of farmland preservation and make recommendations to the Board of Commissioners.

ARTICLE X
LAND USE INCENTIVES TO VOLUNTARY
AGRICULTURAL DISTRICT FORMATION

SECTION 1000. PURPOSE

The purpose of this section is to help meet the needs of agriculture as an industry and prevent conflicts between voluntary agricultural districts participants and non-farm landowners in proximity to districts.

Section 1001. Public Notification

- (1) Upon certification of qualifying farmland and designation of real property as an agricultural district, the title to that qualifying farmland and real property, which is contained in the Duplin County Land Records System, shall be changed to include a notice reasonably calculated to alert any person researching the title of a particular tract that such tract is located within one-half aerial mile of a Voluntary Agricultural District.
- (2) The Agricultural Board, in cooperation with the County, shall take measures as set forth below to provide notification to property owners, residents, and other interested persons in an adjacent to any designated agricultural district with a goal of informing all current and potential residents and property owners in and adjacent to an agricultural district that farming and agricultural activities may take place in this district any time during the day or night.
 - (a) Signs identifying approved agricultural districts shall be placed along the rights-of-way of major roads leading into the County. Members of the Agricultural District will place signs on their individual farms denoting their agricultural district membership in a way calculated to reasonably notify the public and adjoining of the presence of the farm property.
 - (b) Information identifying approved districts shall be provided to the Register of Deeds Office, the Duplin Soil and Water Conservation District, the Cooperative Extension Service Office, the Farm Service Agency, the Duplin County Planning Department, and the Duplin County Tax Department.

- (c) The following notice shall be displayed in a prominent position in the Office of the Register of Deeds and the public access area in the Duplin County Tax Department.

**NOTICE TO REAL ESTATE PURCHASERS IN DUPLIN COUNTY
DUPLIN COUNTY AGRICULTURAL DISTRICTS**

Duplin County has established agricultural districts to protect and preserve agricultural lands and activities. These districts have been developed and mapped to inform all purchasers of real property that certain agricultural activities, including but not limited to, pesticide spraying, manure spreading, machinery and truck operations, livestock operations, sawing, and similar activities may take place in these districts any time during the day or night. Maps and/or information on the location and establishment of these districts can be obtained from the Cooperative Extension Service Office, County Planning Department, Register of Deeds, Natural Resources Conservation Service, the Farm Service Agency Office, and the County Tax Department.

- (3) **Limit of Liability** -- In no event shall the County or any of its officers, employees, or agents be held liable in damages for any misfeasance, malfeasance, or nonfeasance occurring in good faith in connection with the duties or obligations imposed by this ordinance.
- (4) **No Cause of Action** -- In no event shall any cause of action arise out of the failure of any person, including a person researching the title of a particular tract, to report to any person the proximity of the tract to a qualifying farm or voluntary agricultural district as defined in this ordinance.

Section 1002. Expenditure of County Funds for Non-Farm Uses.

Prior to expending any monies which would convert land in a voluntary agricultural district to non-farm uses, the County or any other local unit of government shall submit to the Agricultural Board detailed information showing that said governmental unit has considered alternatives.

**ARTICLE XI
SUBDIVISION ORDINANCE AND ZONING ORDINANCE REVIEW**

Developers of major subdivisions or planned unit developments shall designate on preliminary development plans, the existence of the agricultural districts within one-half aerial mile of the proposed development.

ARTICLE XII
NORTH CAROLINA AGENCY NOTIFICATION

Section 1200. Consultation with N.C. Department of Agriculture and Consumer Services and Other Agencies

The Board may consult with the Cooperative Extension Service Office, the Natural Resources Conservation Service Office, the Farm Service Agency Office, The N.C. Department of Agriculture and Consumer Services, and any other such agency the Board deems necessary to properly conduct its business.

Section 1201. Recording the Program Ordinance

An official copy of this program ordinance shall be recorded with the North Carolina Commissioner of Agriculture's Office after adoption. At least once a year, the Voluntary Agricultural Board shall submit a written report to the Commissioner of Agriculture and County Commissioners, including the status, progress and activities of the County's farmland preservation program and voluntary agricultural districting information regarding:

- (1) Number of landowners enrolled;
- (2) Number of acres applied;
- (3) Number of acres certified;
- (4) Number of acres denied; and
- (5) Date certified.

ARTICLE XIII
LEGAL PROVISIONS

Section 1300. Severability, Conflict with Other Ordinances and Statutes, and Amendments

- (1) Severability. If any article, section, subsection, clause, phrase or portion of this ordinance is for any reason invalid or unconstitutional as determined by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.
- (2) Conflict with other ordinances and statutes. Whenever the provisions of any federal or state statute require more restrictive provisions than are required by this ordinance, the provisions of such statute shall govern.
- (3) Amendments. This ordinance may be amended from time to time after a public hearing, notice of which shall be sent to program participants by first class mail 30 days prior to the hearing, and in consultation with the Agricultural Board to the Board of Commissioners.

ARTICLE XIV
ENACTMENT

The Duplin County Board of Commissioners hereby adopts and enacts the preceding articles and sections of this ordinance.

Adopted this the 7th day of June, 2004.

[Signature]

ATTEST:

[Signature]
Clerk

Approved as to form:

[Signature]

FIRE PREVENTION AND PROTECTION CODE ORDINANCE

Section 1. TITLE AND AUTHORITY

This ordinance shall be known as the Fire Prevention and Protection Code Ordinance of Duplin County, North Carolina, and may be cited as such and referred to as the "ordinance". This ordinance is adopted under the provisions of North Carolina General Statutes 143-138(e), 143-139, 153A-123 and 160A-175.

Section 2. INTENT OF ORDINANCE

It is the intent of the ordinance to prescribe regulations consistent with nationally recognized practices, for the safety of the citizens of Duplin County from the hazards of fire, and explosions, arising from the storage, manufacturing, and handling of flammable materials.

The provisions of the ordinance shall apply to the repair, equipment, use, occupancy, and maintenance of every existing building or structure, other than one or two family dwellings and town homes. The provisions of this ordinance shall apply to the installation of fire protection systems.

The ordinance shall not be construed to hold the county responsible for any damage to persons, or property by reasons of the inspection or re-inspections authorized herein, or failure to inspect or re-inspect, or the permits issued or denied as herein provided, or by reason of the approval or disapproval of any permit authorized herein.

Section 3. DEFINITIONS

- (a) The word "Fire Code Enforcement Official" shall mean Fire Marshal, Assistant Fire Marshal, and Fire Inspector and designee.
- (b) The term "qualified" shall mean a person who possesses an appropriate valid certificate issued by the North Carolina Code Officials Qualification Board.
- (c) The term "he" is interchangeable with the term "she".
- (d) Small Business – Less than 5,000 square feet
- (e) Large Business – 5,001 square feet and greater
- (f) Inspections – Visit to occupancy or business to determine if fire codes are met
- (g) Permits – An official document or certificate issued by the authority having jurisdiction authorizing performance of specified activity
- (h) Re-inspections – A re-visit to determine if correction(s) have been made to any items not passing the first inspection

- (i) Annual Inspections – Inspections that occur on an annual basis
- (j) Special Use Permits – Temporary structure, i.e. tents or events not addressed in ordinance

Section 4. POWERS OF FIRE MARSHAL - AUTHORITY

Authority. The Fire Marshal and/or their designee(s) is hereby authorized, empowered, and directed to enforce all the provisions of this ordinance and the regulatory codes herein adopted.

- (a) Right-of-Entry. The Fire Marshal shall have the right-of-entry on any premises within the jurisdiction of the regulatory codes herein adopted at reasonable hours for the purpose of inspection or enforcement of the requirements of this ordinance and the regulatory codes, upon presentation of proper credentials.
- (b) Stop Orders. Whenever any building or structure or part thereof is being demolished, constructed, reconstructed, altered, or repaired in a hazardous manner, or in violation of any provision of this ordinance in violation of any provision of any regulatory code herein adopted, or in violation of the terms of the permit (s) issued therefore, or in such manner as to endanger life or property, the Fire Marshal may order such work to be immediately stopped. Such order shall be in writing to the owner of the property or to his/her agent, or to the person doing the work, and shall state the reasons therefore and the conditions under which the work may be resumed.
- (c) Solid waste ordinance Adopted by the Duplin County Board of Commissioners the 15th day of August, 1994, illegal burning section 43, 80, and 93.3.

Section 5. ADOPTION OF TECHNICAL CODES AND STANDARDS BY REFERENCE, COPIES ON FILE

- (a) There is hereby adopted by reference and incorporated herein that certain code known as and entitled The International Fire Code, with North Carolina Amendments. Copies of the Duplin County Fire Prevention and Protection Code Ordinance and all technical codes and standards adopted by reference shall be filed and available for public inspection in the Office of the Fire Marshal.
- (b) Amendments to codes and standards adopted by reference herein which are adopted and published by the North Carolina State Building Code Council shall be effective in Duplin County at the time such amendments become a part of the North Carolina Fire Prevention Code of the North Carolina State Building Code.

Section 6. INSPECTION OF BUILDING AND PREMISES

Subject to the limitations, and conditions stated in the North Carolina State Building Code, it shall be the duty of the Fire Code Enforcement Official, to inspect or cause to be

inspected as often as deemed necessary, or appropriate all buildings, structures, and premises within his jurisdiction for the purpose of ascertaining and causing to be corrected any condition which may cause a fire, or explosion, endanger life, from fire or explosion, or any violations of the provisions of the code.

Section 7. GENERAL DUTIES OF FIRE CODE ENFORCEMENT OFFICIAL

It shall be the duty of the Fire Marshal to enforce all of the provisions of this ordinance and of the regulatory codes adopted herein, and to make all inspections necessary to determine whether or not the provisions of this ordinance and such codes are being met.

Section 8. OVERSIGHT NOT TO LEGALIZE VIOLATION

No oversight or dereliction of duty on the part of any inspector or other official or employee of the Fire Marshal's Office shall be deemed to legalize the violation of any provision of this ordinance or any provision of any regulatory code herein adopted.

Section 9. CONFLICT OF INTEREST

No officer or employee of the Fire Marshal's Office shall be financially interested in the furnishing of labor, material, or appliances for the construction, alteration, or maintenance of a building or any part thereof, or in the making of plans or specifications therefore, unless he/she is the owner of such building. No officer or employee of the Fire Marshal's Office shall engage in any work which is inconsistent with his/her duties or with the interests of the County.

Section 10. REPORTS AND RECORDS

The Fire Marshal's Office, and each inspector, shall keep complete, permanent, and accurate records in convenient form of all applications received, permits issued, inspections, and re-inspections made, and all other work and activities of the Fire Marshal's Office. Periodic reports shall be submitted to the Duplin County Board of Commissioners, and to other agencies, as required.

Section 11. TYPES OF PERMITS

There shall be three types of permits as follows:

- (a) Operational permit. An operational permit allows the applicant to conduct an operation or a business for which a permit is required for either:
 - i. A prescribed period.
 - ii. Until renewed or revoked.
- (b) Construction permit. A construction permit allows the applicant to install or modify systems and equipment for which a permit is required.
- (c) Open burning permit.
 - i. No person shall kindle or maintain any grass or field fire or woods fire or wind row fire without a permit.
 - ii. When a permit is obtained to do the burning the fire shall be constantly attended by a competent person until such fire is extinguished.
 - iii. Open burning of leaves, tree branches or yard trimmings originating on the premises of private residences is allowed when the following conditions are met:
 - (1) Burning on those premises in areas where no public pick up facilities are available.
 - (2) Shall not create a nuisance.
 - (3) These fires shall be constantly attended by a competent person until such fire is extinguished. Such person shall have a garden hose connected to the water supply, or other fire extinguishing equipment readily available for use.
 - (4) The location is not less than fifty (50) feet from any structure and is not greater than one hundred (100) feet from an occupied private residence and adequate provision is made to prevent fire from spreading within fifty (50) feet of any structure.
 - (5) For a fire contained in an approved waste burner cannot be located less than fifteen (15) feet from any structure.

Open burning which requires a permit from the Division of Forest Resources under General Statutes 113-60.24 is allowed without a permit from the county. Open burning which is exempted from the necessity of obtaining a permit from the Division of Forest Resources under General Statutes 113-60.31 is allowed by the county with a permit.

If a person does not have a permit as required by General Statutes 113-60.24 from the Division of Forest Resources, this person will be in violation of this ordinance.

Section 12. APPLICATION FOR PERMIT

Written applications shall be made for all permits required by this ordinance, and shall be made on forms provided by the Fire Marshal's Office. Such application shall be made by the owner of the building or structure affected or by his/her authorized agent or representative, and in addition to such other information as may be required by the Fire Marshal to determine whether the permit applied for should be issued, shall show the following:

- (a) Name, residence, and business address of owners;
- (b) Name, residence, and business address of authorized representative or agent, if any;
- (c) Name and address of the contractor, if any, together with evidence that he has obtained a certificate from the appropriate state licensing board for such contractors, if such be required for the work involved in the permit for which application is made.

Section 13. ACTION ON APPLICATION

The Fire Marshal shall examine or cause to be examined applications for permits and amendments thereto within a reasonable time after filing. If the application or the construction documents do not conform to the requirements of pertinent laws, the Fire Marshal shall reject such application in writing, stating the reasons therefore. If the Fire Marshal is satisfied that the proposed work or operation conforms to the requirements of this Ordinance applicable thereto, the Fire Marshal shall issue a permit therefore as soon as practicable.

Section 14. REFUSAL TO ISSUE PERMIT

If the application for a permit describes a use that does not conform to the requirements of this code and other pertinent laws and ordinances, the Fire Marshal shall not issue a permit, but shall return the application to the applicant with the refusal to issue such permit. Such refusal shall, when requested, be in writing and shall contain the reasons for the refusal.

Section 15. INSPECTION AUTHORIZED

Before a new operational permit is approved, the Fire Marshal is authorized to inspect the receptacles, vehicles, buildings, devices, premises, storage spaces or areas to be used to determine compliance with this Ordinance and any operational constraints required.

Section 16. ISSUANCE OF PERMIT

When a permit application for a permit has been made, and the Fire Marshal is satisfied that the application and the proposed work comply with the provisions of this ordinance and the appropriate regulatory codes, he shall issue such permit, upon payment of the proper fee or fees as adopted by the Duplin County Board of Commissioners.

Section 17. REVOCATION OF PERMITS

The Fire Marshal may revoke and require the return of any permit by notifying the permit holder in writing stating the reason for such revocation. Permits shall be revoked for any material departure from the approved application, plans or specifications; for refusal or failure to comply with proper orders of the Fire Marshal; for refusal or failure to comply with requirements of this ordinance and the appropriate regulatory codes; or false statements or misrepresentations made in securing such permit.

Section 18. CONDITIONS OF A PERMIT

A permit shall constitute permission to maintain, store or handle materials; or to conduct processes which produce conditions hazardous to life or property; or to install equipment utilized in connect with such activities; or to install or modify any fire protection system or equipment or any other construction, equipment installation or modification in accordance with the provisions of this ordinance where a permit is required. Such permission shall not be construed as authority to violate, cancel or set aside any of the provisions of this Ordinance or applicable regulations or laws of the jurisdiction.

Section 19. EXPIRATION OF PERMITS

An operational permit shall remain in effect until reissued, renewed, or revoked or for such a period of time as specified in the permit. Permits are not transferable and any change in occupancy, operation, tenancy or ownership shall require that a new permit be issued.

Section 20. CONDITIONAL PERMITS

Where permits are required and upon the request of a permit applicant, the Fire Marshal's authorized to issue a conditional permit to occupy the premises or portion thereof before the entire work or operations on the premises is completed, provided that such portion or portions will be occupied safely prior to full completion or installation of equipment and operations without endangering life or public welfare. The Fire Marshal shall notify the permit applicant in writing of any limitations or restrictions necessary to keep the permit area safe. The holder of a conditional permit shall proceed only to the point for which approval has been given, at the permit holder's own risk and without assurance that approval for the occupancy or the utilization of the entire premises, equipment or operations will be granted.

Section 21. POSTING THE PERMIT

Issued permits shall be kept on the premises designated therein at all times and shall be readily available for inspection by the Fire Marshal.

Section 22. COMPLIANCE WITH CODE

The issuance or granting of a permit shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this code or of any other ordinance of the jurisdiction. Permits presuming to give authority to violate or cancel the provisions of this ordinance shall not be valid. The issuance of a permit based on construction documents and other data shall not prevent the Fire Marshal from requiring the correction of errors in the construction documents and other data. Any addition to or alteration of approved construction documents shall be approved in advance by the Fire Marshal, as evidenced by the issuance of a new or amended permit.

Section 23. TIME LIMITATIONS ON VALIDITY OF PERMITS

All permits issued under this ordinance shall expire by limitation six (6) months after the date of issuance if the work authorized by the permit has not been commenced. If after commencement, the work is discontinued for a period of twelve (12) months, the permit; therefore, shall immediately expire. No work authorized by any permit that has expired shall thereafter be performed until a new permit has been secured.

Section 24. EXTENSION OF PERMITS

A permittee holding an unexpired permit shall have the right to apply for an extension of the time within which the permittee will commence work under that permit when work is unable to be commenced within the time required by this section for good and satisfactory reasons. The Fire Marshal is authorized to grant, in writing, one or more extensions of the time period of a permit for periods of not more than 90 days each. Such extensions shall be required by the permit holder in writing and justifiable cause demonstrated.

Section 25. CHANGES IN WORK

After a permit has been issued, changes or deviations from the terms of the application and permit, or changes or deviations from the plans or specifications involving any work under the jurisdiction of this ordinance or of any regulatory code adopted herein, shall not be made until specific written approval of such changes or deviations has been obtained from the Fire Marshal.

Section 26. PLANS AND SPECIFICATIONS

Where plans and specifications are deemed necessary by the Fire Marshal in order for him to determine whether the proposed work complies with the appropriate regulatory codes; plans shall be drawn to scale with sufficient clarity to indicate the nature and extent of the work proposed, and the plans and specifications together shall contain

information sufficient to indicate that the work proposed will conform to the provisions of this ordinance and the appropriate regulatory codes. Where plans and specifications are required, a copy of the same shall be kept at the work site until all authorized operations have been completed and approved by the Fire Marshal.

Section 27. FEE SCHEDULE

- (a) Fees for inspections required by this Ordinance shall be determined by resolution of the Board of County Commissioners. An inspection fee schedule shall be filed with the Clerk of the Board of County Commissioners and the Fire Marshal's Office for public inspection.
- (b) Inspection fees shall be paid at the time of inspection or permit issued.

Section 28. VIOLATIONS AND PENALTIES

- (a) Any person who shall violate any of the provisions of the Ordinance hereby adopted or who shall fail to comply with any judicial warrant, lawful order, or regulation made hereunder, or who builds in violation of any specifications, or plans shall be guilty of a misdemeanor. Each day that such violation continues shall constitute a separate offense. In the name of the County, the County Fire Code Enforcement Official, through the County Attorney, may enjoin the construction or erection of any facility, building, or structure which does not conform to the provisions of the Ordinance.
- (b) This Ordinance may be enforced by any of the remedies set forth in G. S. 153A-123, in addition to others specifically set out herein.
- (c) Any person who violates this Ordinance subjects the offender to a civil debt if the offender does not pay the penalty within the time prescribed herein after he has been cited for violation of this ordinance. The penalty for a civil violation shall be adopted by the Duplin County Board of Commissioners. Each day of violation constitutes a separate and distinct offense.
- (d) Civil penalties must be paid within seven (7) business days after a citation has been issued by the Fire Code Enforcement Official for a violation. The Fire Code Enforcement Official is authorized to issue written citation (s) in the name of the County for violations.
- (e) If any person shall violate this ordinance or chapter or any provision thereof, he/she shall be guilty of a misdemeanor and shall be imprisoned and fined not more than the maximum imposed by N. C. G. S. 14-4.

Section 29. REMOVAL OF OBSTRUCTIONS PROHIBITED PARKING

Any vehicle found obstructing, any fire hydrant, fire protection equipment, designated and marked fire lane, or fire station, may be issued: a citation removed or towed away by or under the direction of the Fire Code Enforcement Official to a storage area or garage.

The owner of such vehicle shall be deemed to have appointed the Fire Code Enforcement Official as his/her agent for the purpose of arranging for the transportation and safe storage of the vehicle. The owner of such vehicle, before obtaining possession thereof, shall pay all reasonable cost incidental to the removal and storage of the vehicle due for the violation of prohibited parking. The County assumes no liability for any damages for vehicles towed that are in violation of this section.

Section 30. INVESTIGATION OF FIRES

- (a) The County Fire Marshal's Office shall investigate the cause, origin, and circumstances of every fire occurring in the County which is of a suspicious nature or which involves loss of life or injury to person (s) or when notified by any fire department of a fire protection district or when circumstances warrant. Such investigation shall begin immediately upon notification and the investigation activities will be coordinated with the fire department having jurisdiction. Any information obtained pursuant to any such investigation shall be confidential as authorized by law.
- (b) The Sheriff's Department, upon request of the Fire Code Enforcement Official, may render such assistance as necessary in the investigation of any fire determined to be suspicious in nature.

Section 31. ADMINISTRATION AND ENFORCEMENT

The County hereby adopts the North Carolina Administration and Enforcement Volume 1-A of the North Carolina State Building Code.

It is the legislative intent of the Board of Commissioners in enacting this Article that each section and subdivision is separate and divisible from any other section, and if any provision hereof should be held or declared by a court of competent jurisdiction to be invalid for any reason, such decision or holding shall not affect the validity of any other section or provision hereof.

Adopted this the 21st day of February, 2005 to become effective the 1st day of March, 2005

Reginald A. Wells
Chairman

ATTEST: Milly B...
Clerk

Duplin County Emergency Services
Fire inspections: Annual Permit Fee Schedule

BUSINESS INPECTIONS AND PERMITS:

Small businesses to include foster care, daycare, rest home, family care homes, nursing homes, and other health care facilities:

Permit and plan review, up to 5,000 sq. ft..... \$50.00

Large businesses and sprinkler systems; permit, plan review, and first inspection:

5,001 to 10,000 sq. ft..... \$ 75.00
10,001 to 25,000 sq. ft..... \$100.00
Over 25,000 sq .ft..... \$125.00

SPECIAL USER PERMITS:

Churches..... \$25.00
Fireworks for public display..... \$25.00
Tents greater than 700 square ft. and any Air Structure (30 days permit)..... \$25.00
Temporary kiosks or displays for merchandising..... \$10.00
Insecticide fogging fumigation..... \$25.00
Explosive materials (Blasting Permit)..... \$50.00
Special Assembly (gun shows, craft shows, etc)..... \$50.00
Any other special function requiring fire inspection or approval..... \$50.00

SPECIAL TEST, INSPECTIONS AND SERVICES

Sprinkler certification test..... \$50.00
Fire alarm testing..... \$50.00
Standpipe test..... \$50.00
Hood Systems and fixed fire suppression..... \$50.00

STORAGE TANKS (aboveground and underground tanks):

Removal (per tank)..... \$50.00
Installation (per tank)..... \$50.00
Pipe inspection and pressure test..... \$50.00

RE-INSPECTIONS:

First re-inspection..... \$25.00
Second and subsequent re-inspections..... \$50.00

PARKING CITATION FEES:

Per offence..... \$50.00

FLOOD DAMAGE PREVENTION ORDINANCE

Non-Coastal Regular Phase

ARTICLE 0. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES.**SECTION . STATUTORY AUTHORIZATION.**

County: The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Parts 3 and 4 of Article 18 of Chapter 153A; and Part 121, Article 6 of Chapter 153A of the North Carolina General Statutes, delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry.

Therefore, the Board of Commissioners of Duplin County, North Carolina, does ordain as follows:

SECTION . FINDINGS OF FACT.

- (0) The flood prone areas within the jurisdiction of Duplin County are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- (0) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities and by the occupancy in flood prone areas of uses vulnerable to floods or other hazards.

SECTION . STATEMENT OF PURPOSE.

It is the purpose of this ordinance to promote public health, safety, and general welfare and to minimize public and private losses due to flood conditions within flood prone areas by provisions designed to:

- (0) 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;
- (0) require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;
- (0) control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;
- (0) control filling, grading, dredging, and all other development that may increase erosion or flood damage; and
- (0) prevent or regulate the construction of flood barriers that will unnaturally divert floodwaters or which may increase flood hazards to other lands.

SECTION . OBJECTIVES.

The objectives of this ordinance are:

- (0) to protect human life and health;
- (0) to minimize expenditure of public money for costly flood control projects;
- (0) to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (0) to minimize prolonged business losses and interruptions;
- (0) to minimize damage to public facilities and utilities (i.e. water and gas mains, electric, telephone, cable and sewer lines, streets, and bridges) that are located in flood prone areas;
- (0) to help maintain a stable tax base by providing for the sound use and development of flood prone areas; and
- (0) to ensure that potential buyers are aware that property is in a Special Flood Hazard Area.

ARTICLE 0. DEFINITIONS.

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

"Accessory Structure (Appurtenant Structure)" means a structure, which is located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports and storage sheds are common urban accessory structures. Pole barns, hay sheds and the like qualify as accessory structures on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.

"Addition (to an existing building)" means an extension or increase in the floor area or height of a building or structure.

“Appeal” means a request for a review of the floodplain administrator's interpretation of any provision of this ordinance.

“Area of Shallow Flooding” means a designated Zone AO on a community's Flood Insurance Rate Map (FIRM) with base flood depths determined to be from one (1) to three (3) feet. These areas are located where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

“Area of Special Flood Hazard” see “Special Flood Hazard Area (SFHA)”

“Basement” means any area of the building having its floor subgrade (below ground level) on all sides.

“Base Flood” means the flood having a one (1) percent chance of being equaled or exceeded in any given year.

“Base Flood Elevation (BFE)” means a determination as published in the Flood Insurance Study of the water surface elevations of the base flood. This elevation, when combined with the “Freeboard”, establishes the “Regulatory Flood Protection Elevation”.

“Breakaway Wall” means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

“Building” see “Structure”

“CAMA” – North Carolina's Coastal Area Management Act. This act, along with the Dredge and Fill Law and the federal Coastal Zone Management Act, is managed through North Carolina Department of Environment and Natural Resources' (NCDENR's) Division of Coastal Management (DCM).

“CBRS” means Coastal Barrier Resources System.

“Chemical Storage Facility” means a building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

“Coastal Barrier Resources System (CBRS)” consists of undeveloped portions of coastal and adjoining areas established by the Coastal Barrier Resources Act (CoBRA) of 1982, the Coastal Barrier Improvement Act (CBIA) of 1990, and subsequent revisions, and includes areas owned by federal or state governments or private conservation organizations identified as Otherwise Protected Areas (OPA).

“Coastal High Hazard Area” means a Special Flood Hazard Area extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on a FIRM, or other adopted flood map as determined in Article 3, Section B of this ordinance, as Zones VE or V1-30.

“Development” means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

“Disposal” defined as in NCGS 130A-290(a)(6).

“Elevated Building” means a non-basement building which has its reference level raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

“Encroachment” means the advance or infringement of uses, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

“Existing Manufactured Home Park or Manufactured Home Subdivision” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before the original effective date of the floodplain management regulations adopted by the community.

“Flood” or “Flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (0) the overflow of inland or tidal waters; and/or
- (0) the unusual and rapid accumulation of runoff of surface waters from any source.

“Flood Boundary and Floodway Map (FBFM)” means an official map of a community, issued by the Federal Emergency Management Agency, on which the Special Flood Hazard Areas and the floodways are delineated. This official map is a supplement to and shall be used in conjunction with the Flood Insurance Rate Map (FIRM).

“Flood Hazard Boundary Map (FHBM)” means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the Special Flood Hazard Areas have been defined as Zone A.

“Flood Insurance” means the insurance coverage provided under the National Flood Insurance Program.

“Flood Insurance Rate Map (FIRM)” means an official map of a community, issued by the Federal Emergency Management Agency, on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.

“Flood Insurance Study (FIS)” means an examination, evaluation, and determination of flood hazard areas, corresponding water surface elevations (if appropriate), flood insurance 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” or “Flood Prone Area” means any land area susceptible to being inundated by water from any source.

“Floodplain Administrator” is the individual appointed to administer and enforce the floodplain management regulations.

“Floodplain Development Permit” means any type of permit that is required in conformance with the provisions of this ordinance, prior to the commencement of any development activity.

“Floodplain Management” means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including, but not limited to, emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

“Floodplain Regulations” means this ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power which control development in flood-prone areas. This term describes federal, state or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

“Floodproofing” means any combination of structural and nonstructural additions, changes, or adjustments to structures, which reduce or eliminate risk of flood damage to real estate or improved real property, water and sanitation facilities, or structures with their contents.

“Floodway” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

“Flood Zone” means a geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

“Freeboard” means the height added to the Base Flood Elevation (BFE) to account for watershed development as well as limitations of the engineering methodologies for the determination of flood elevations. The freeboard plus the Base Flood Elevation establishes the “Regulatory Flood Protection Elevation”.

“Functionally Dependent Facility” means a facility which cannot be used for its intended purpose unless it is located in close proximity to water, 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 Management Facility” means a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste as defined in NCGS Article 9 of Chapter 130A.

“Highest Adjacent Grade (HAG)” means the highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the structure.

“Historic Structure” means any structure that is:

- () 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;
- () 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;
- () individually listed on a local inventory of historic landmarks in communities with a “Certified Local Government (CLG) Program”; or
- () certified as contributing to the historical significance of a historic district designated by a community with a “Certified Local Government (CLG) Program”

Certified Local Government (CLG) Programs are approved by the US Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.

“Lowest Adjacent Grade (LAG)” means the elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building. For Zones A and AO, use the natural grade elevation prior to construction.

“Lowest Floor” means the subfloor, top of slab or grade of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or limited storage in an area other than a basement area is not considered a building's lowest floor, provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

“Manufactured Home” means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term “manufactured home” does not include a “recreational vehicle”.

"Manufactured Home Park or Subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"Market Value" means the building value, excluding the land value and that of any accessory structures or other improvements on the lot, established by independent certified appraisal, replacement cost depreciated by age of building and quality of construction (Actual Cash Value), or adjusted tax assessed values.

"Mean Sea Level" means, for purposes of the NFIP, the National Geodetic Vertical Datum (NGVD) as corrected in 1929, the North American Vertical Datum (NAVD) as corrected in 1988, or other vertical control datum used as a reference for establishing varying elevations within the floodplain, to which Base Flood Elevations (BFEs) shown on a FIRM are referenced. Refer to each FIRM panel to determine datum used.

"New Construction" means structures for which the "start of construction" commenced on or after the effective date of the original version of this ordinance and includes any subsequent improvements to such structures.

"Nonconforming Building or Development" means any legally existing building or development which fails to comply with the current provisions of this ordinance.

"Non-Encroachment Area" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot as designated in the Flood Insurance Study report.

"OPA" means an Otherwise Protected Area.

"Post-FIRM" means construction or other development which started on or after the effective date of the initial Flood Insurance Rate Map for the area.

"Pre-FIRM" means construction or other development which started before the effective date of the initial Flood Insurance Rate Map for the area.

"Primary Frontal Dune" means a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and over-topping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively steep slope to a relatively mild slope.

"Public Safety" and/or "Nuisance" means anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

"Recreational Vehicle (RV)" means a vehicle, which is:

- () built on a single chassis;
- () 400 square feet or less when measured at the largest horizontal projection;
- () designed to be self-propelled or permanently towable by a light duty truck; and
- () not designed for use as a permanent primary dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.

"Reference Level" is the portion of a structure or other development that must be compared to the regulatory flood protection elevation to determine regulatory compliance. For structures within all Special Flood Hazard Areas, the reference level is the bottom of the lowest horizontal structural member or bottom of lowest attendant utility including ductwork, whichever is lower.

"Regulatory Flood Protection Elevation" means the elevation, in relation to mean sea level, to which the reference level of all structures and other development located within Special Flood Hazard Areas must be protected. Where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE plus at least two (2) feet above the highest adjacent grade.

"Remedy a Violation" means to bring the structure or other development into compliance with State and Community floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development.

"Repetitive Loss" means flood-related damages sustained by a structure on two (2) separate occasions during any 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds twenty-five percent (25%) of the market value of the structure before the damage occurred.

"Riverine" means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

"Salvage Yard" means any non-residential property used for the storage, collection, and/or recycling of any type of equipment, and including but not limited to vehicles, appliances and related machinery.

"Solid Waste Disposal Facility" means any facility involved in the disposal of solid waste, as defined in NCGS 130A-290(a)(35).

"Solid Waste Disposal Site" defined as in NCGS 130A-290(a)(36).

"Special Flood Hazard Area (SFHA)" means the land in the floodplain subject to a one (1%) percent or greater chance of being flooded in any given year as determined in Article 3, Section B of this ordinance.

"Start of Construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure (including a manufactured home) 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" means a walled and roofed building, a manufactured home, or a gas or liquid storage tank that is principally above ground. For floodplain management purposes, principally above ground means that at least 51% of the actual cash value of the structure is above ground.

"Substantial Damage" means damage of any origin sustained by a structure during any one year period whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. See definition of "substantial improvement."

"Substantial Improvement" means any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one year period for which the cost equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

- () any correction of existing violations of State or Community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or,
- () any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

"Variance" is a grant of relief from the requirements of this ordinance.

"Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Articles 4 and 5 is presumed to be in violation until such time as that documentation is provided.

"Water Surface Elevation (WSE)" means the height, in relation to mean sea level (existing grade in case of Zone AO), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

"Watercourse" means a lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

ARTICLE 2. GENERAL PROVISIONS.

SECTION . LANDS TO WHICH THIS ORDINANCE APPLIES.

This ordinance shall apply to all Special Flood Hazard Areas within the jurisdiction, including Extra-Territorial Jurisdictions (ETJ) if applicable, of Duplin County and within the jurisdiction of any other community whose governing body agrees, by resolution, to such applicability.

SECTION . BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS.

The Special Flood Hazard Areas are those identified by the Federal Emergency Management Agency (FEMA) or produced under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its Flood Hazard Boundary Map (FHBM) or Flood Insurance Study (FIS) and its accompanying flood maps such as the Flood Insurance Rate Map(s) (FIRM) and/or the Flood Boundary Floodway Map(s) (FBFM), for Duplin County provided by FEMA dated March 16, 2005 (Preliminary) or later, which, with accompanying supporting data, and any revision thereto, including Letters of Map Amendment or Revision, are adopted by reference and declared to be a part of this ordinance. The Special Flood Hazard Areas also include those defined through standard engineering analysis for private developments or by governmental agencies, but which have not yet been incorporated in the FIRM. This includes, but is not limited to:

- (0) detailed flood data generated as a requirement of Article 4, Section C(11 & 12) of this Ordinance;
- (0) preliminary FIRMs where more stringent than the effective FIRM; or
- (0) post-disaster Flood Recovery Maps.

SECTION . ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT.

A Floodplain Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities within Special Flood Hazard Areas as determined in Article 3, Section B.

SECTION . COMPLIANCE.

No structure or land shall hereafter be located, extended, converted, altered, or developed in any way without full compliance with the terms of this ordinance and other applicable regulations.

SECTION . ABROGATION AND GREATER RESTRICTIONS.

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

SECTION . INTERPRETATION.

In the interpretation and application of this ordinance, all provisions shall be:

- () considered as minimum requirements;
- () liberally construed in favor of the governing body; and
- () deemed neither to limit nor repeal any other powers granted under State statutes.

SECTION . WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur. Actual flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the Special Flood Hazard Areas or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of Duplin County or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

SECTION . PENALTIES FOR VIOLATION.

Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$50,00 or imprisoned for not more than thirty (30) days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent Duplin County or its municipalities from taking such other lawful action as is necessary to prevent or remedy any violation.

ARTICLE 2. ADMINISTRATION.**SECTION . DESIGNATION OF FLOODPLAIN ADMINISTRATOR.**

The Duplin County Chief Building Inspector or his/her designee, hereinafter referred to as the "Floodplain Administrator", is hereby appointed to administer and implement the provisions of this ordinance and any County Municipal Interlocal Agreements.

SECTION . FLOODPLAIN DEVELOPMENT APPLICATION, PERMIT AND CERTIFICATION REQUIREMENTS.

- (0) **Application Requirements.** Application for a Floodplain Development Permit shall be made to the floodplain administrator prior to any development activities located within Special Flood Hazard Areas. The following items shall be presented to the floodplain administrator to apply for a floodplain development permit:
- () A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:
 -) the nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;
 -) the boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in Article 3, Section B, or a statement that the entire lot is within the Special Flood Hazard Area;
 -) flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in Article 3, Section B;
 -) the boundary of the floodway(s) or non-encroachment area(s) as determined in Article 3, Section B;
 -) the Base Flood Elevation (BFE) where provided as set forth in Article 3, Section B; Article 4, Section C(11 & 12); or Article 5, Section D;
 -) the old and new location of any watercourse that will be altered or relocated as a result of proposed development;
 -) certification of the plot plan by a registered land surveyor or professional engineer.
 - () Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to:

-) Elevation in relation to mean sea level of the proposed reference level (including basement) of all structures;
 -) Elevation in relation to mean sea level to which any non-residential structure in Zone AE, A or AO will be flood-proofed;
 -) Elevation in relation to mean sea level to which any proposed utility systems will be elevated or floodproofed;
- () If floodproofing, a Floodproofing Certificate (FEMA Form 81-65) along with detailed back-up computations and operational plans that specify the location on a FIRM panel of floodproofing measures, the entity responsible for transportation and installation according to the design within the warning time available, and maintenance of floodproofing measures assuring their effectiveness when installed. Floodproofing certificate and back-up computations and operational plans shall be certified by a registered professional engineer or architect to ensure that the non-residential floodproofed development will meet the floodproofing criteria in Article 5, Section B(2).
- () A Foundation Plan drawn to scale which shall include details of the proposed foundation system to ensure all provisions of this ordinance are met. These details include but are not limited to:
-) The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls);
 -) Openings to facilitate equalization of hydrostatic flood forces on walls in accordance with Article 5, Section B(4), when solid foundation perimeter walls are used in Zones A, AO, AE, and A1-30;
- () Usage details of any enclosed areas below the regulatory flood protection elevation.
- () 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;
- () Copies of all other Local, State and Federal permits required prior to floodplain development permit issuance (Wetlands, Endangered Species, Erosion and Sedimentation Control, CAMA, Riparian Buffers, Mining, etc.)
- () Documentation for placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure Article 5, Sections B(6 & 7) of this ordinance are met.
- () 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.
- (0) **Permit Requirements.** The Floodplain Development Permit shall include, but not be limited to:
- () A description of the development to be permitted under the floodplain development permit.
 - () The Special Flood Hazard Area determination for the proposed development per available data specified in Article 3, Section B.
 - () The regulatory flood protection elevation required for the reference level and all attendant utilities.
 - () The regulatory flood protection elevation required for the protection of all public utilities.
 - () All certification submittal requirements with timelines.
 - () A statement that no fill material shall encroach into the floodway or non-encroachment area of any watercourse, as applicable.
 - () The minimum opening requirements, if in Zone A, AO, AE or A1-30.
 - () Limitations of below BFE enclosure uses (if applicable). (i.e., Parking, Building Access and Limited Storage only).
- (0) **Certification Requirements.**
- () Elevation Certificates:
 -) An Elevation Certificate (FEMA Form 81-31) is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the floodplain administrator a certification of the elevation of the reference level, in relation to mean sea level. Elevation certification shall be prepared by, or under direct supervision of, a registered land surveyor or professional engineer and certified by same. The floodplain administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit.
 -) An Elevation Certificate (FEMA Form 81-31) or Floodproofing Certificate (FEMA Form 81-65) is required after the reference level is established. Within seven (7) calendar days of establishment of the reference level elevation, it shall be the duty of the permit holder to submit to the floodplain administrator a certification of the elevation of the reference level, in relation to mean sea level. Elevation certification shall be prepared by, or under the direct supervision of, a registered land surveyor or professional engineer and certified by same.

Any work done within the seven (7) day calendar period and prior to submission of the certification shall be at the permit holder's risk. The floodplain administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop-work order for the project.

-) A Final As-Built Elevation Certificate (FEMA Form 81-31) is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit to the floodplain administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. Elevation certification shall be prepared by, or under the direct supervision of, a registered land surveyor or professional engineer and certified by same. The floodplain administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Compliance/Occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.
- () If non-residential floodproofing is used to meet the regulatory flood protection elevation requirements, a Floodproofing Certificate (FEMA Form 81-65) is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the floodplain administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to mean sea level. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The floodplain administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.
- () 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 Article 5, Section B(3).
- () If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; 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 showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.
- () 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 items (a) and (b) above:
 -) Recreational Vehicles meeting requirements of Article 5, Section B(6)(a);
 -) Temporary Structures meeting requirements of Article 5, Section B(7); and
 -) Accessory Structures less than 150 square feet meeting requirements of Article 5, Section B(8).

SECTION . DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR.

The floodplain administrator shall perform, but not be limited to, the following duties:

- (0) Review all floodplain development applications and issue permits for all proposed development within Special Flood Hazard Areas to assure that the requirements of this ordinance have been satisfied.
- (0) Advise permittee that additional Federal or State permits (Wetlands, Endangered Species, Erosion and Sedimentation Control, CAMA, Riparian Buffers, Mining, etc.) may be required, and require that copies of such permits be provided and maintained on file with the floodplain development permit.
- (0) Notify adjacent communities and the North Carolina Department of Crime Control and Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).
- (0) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
- (0) Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of Article 5, Section E are met.
- (0) Obtain actual elevation (in relation to mean sea level) of the reference level (including basement) and all attendant utilities of all new or substantially improved structures, in accordance with Article 4, Section B(3).
- (0) Obtain the actual elevation (in relation to mean sea level) to which the new or substantially improved structures and all utilities have been floodproofed, in accordance with Article 4, Section B(3).
- (0) Obtain actual elevation (in relation to mean sea level) of all public utilities in accordance with Article 4, Section B(3).

- (0) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with Article 4, Section B(3) and Article 5, Section B(2).
- (0) Where interpretation is needed as to the exact location of boundaries of the Special Flood Hazard Areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.
- (0) When Base Flood Elevation (BFE) data has not been provided in accordance with Article 3, Section B, obtain, review, and reasonably utilize any Base Flood Elevation (BFE) data, along with floodway data or non-encroachment area data available from a Federal, State, or other source, including data developed pursuant to Article 5, Section D(2)(b), in order to administer the provisions of this ordinance.
- (0) When Base Flood Elevation (BFE) data is provided but no floodway nor non-encroachment area data has been provided in accordance with Article 3, Section B, obtain, review, and reasonably utilize any floodway data or non-encroachment area data available from a Federal, State, or other source in order to administer the provisions of this ordinance.
- (0) When the exact location of boundaries of the Special Flood Hazard Areas conflict with the current, natural topography information at the site, the property owner may apply and be approved for a Letter of Map Amendment (LOMA) by FEMA. Maintain a copy of the Letter of Map Amendment (LOMA) issued by FEMA in the floodplain development permit file.
- (0) Permanently maintain all records that pertain to the administration of this ordinance and make these records available for public inspection.
- (0) Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the floodplain administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the floodplain administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.
- (0) Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this ordinance, the floodplain administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing 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.
- (0) 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.
- (0) Make periodic inspections throughout all special flood hazard areas within the jurisdiction of the community. The floodplain administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.
- (0) Follow through with corrective procedures of Article 4, Section D.
- (0) Maintain a current map repository to include, but not limited to, the FIS Report, FIRM and/or other official flood maps /studies adopted under Article 3, Section B of this ordinance, including any revisions thereto including Letters of Map Change), issued by State and/or FEMA. Notify State and FEMA of mapping needs.

SECTION . CORRECTIVE PROCEDURES.

- (0) Violations to be Corrected: When the floodplain administrator finds violations of applicable State and local laws, it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law pertaining to their property.
- (0) Actions in Event of Failure to Take Corrective Action: If the owner of a building or property shall fail to take prompt corrective action, the floodplain administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating
 - () that the building or property is in violation of the Flood Damage Prevention Ordinance;
 - () that a hearing will be held before the floodplain administrator at a designated place and time, not later than ten (10) days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and,
 - () that following the hearing, the floodplain administrator may issue an order to alter, vacate, or demolish the building; or to remove fill as appears appropriate.
- (0) Order to Take Corrective Action: If, upon a hearing held pursuant to the notice prescribed above, the floodplain administrator shall find that the building or development is in violation of the Flood Damage Prevention Ordinance, he or she shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time

period, not less than sixty (60) days, nor more than (90) days. Where the floodplain administrator finds that there is imminent danger to life or other property, he or she may order that corrective action be taken in such lesser period as may be feasible.

- (0) Appeal: Any owner who has received an order to take corrective action may appeal the order to the local elected governing body by giving notice of appeal in writing to the floodplain administrator and the clerk within ten (10) days following issuance of the final order. In the absence of an appeal, the order of the floodplain administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.
- (0) Failure to Comply with Order: If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body following an appeal, he or she shall be guilty of a misdemeanor and shall be punished at the discretion of the court.

SECTION . VARIANCE PROCEDURES.

- (0) The Duplin County Planning Board as established by Duplin County Board of Commissioners, hereinafter referred to as the "appeal board", shall hear and decide requests for variances from the requirements of this ordinance in areas not governed by municipalities. The Municipality Board of Commissioners/Council or their designees will be the first appeal authority for those applicants within County municipalities or their ETJ's (extra-territorial jurisdictions).
- (0) Any person aggrieved by the decision of the appeal board may appeal such decision to the Court, as provided in Chapter 7A of the North Carolina General Statutes.
- (0) Variances may be issued for:
 - () 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.
 - () functionally dependant facilities if determined to meet the definition as stated in Article 2 of this ordinance.
 - () any other type of development, provided it meets the requirements stated in this section.
- (0) In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:
 - () the danger that materials may be swept onto other lands to the injury of others;
 - () the danger to life and property due to flooding or erosion damage;
 - () the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - () the importance of the services provided by the proposed facility to the community;
 - () the necessity to the facility of a waterfront location as defined under Article 2 of this ordinance as a functionally dependant facility, where applicable;
 - () the availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 - () the compatibility of the proposed use with existing and anticipated development;
 - () the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - () the safety of access to the property in times of flood for ordinary and emergency vehicles;
 - () the expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
 - () the costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.
- (0) A written report addressing each of the above factors shall be submitted with the application for a variance.
- (0) Upon consideration of the factors listed above and the purposes of this ordinance, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.
- (0) Variances shall not be issued within any designated floodway or non-encroachment area if any increase in flood levels during the base flood discharge would result.
- (0) Conditions for Variances:
 - () Variances shall not be issued when the variance will make the structure in violation of other Federal, State, or local laws, regulations, or ordinances.

- () Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- () Variances shall only be issued upon:
 -) a showing of good and sufficient cause;
 -) a determination that failure to grant the variance would result in exceptional hardship; and
 -) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- () 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 a written statement that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced reference level elevation. Such notification shall be maintained with a record of all variance actions.
- () The floodplain administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the State of North Carolina upon request.

ARTICLE 2. PROVISIONS FOR FLOOD HAZARD REDUCTION.

SECTION . GENERAL STANDARDS.

In all Special Flood Hazard Areas the following provisions are required:

- (0) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
- (0) All new construction and substantial improvements below the regulatory flood protection elevation shall be constructed with materials and utility equipment resistant to flood damage.
- (0) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damages.
- (0) 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.
- (0) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (0) 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.
- (0) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- (0) Any alteration, repair, reconstruction, or improvements to a structure, which is in compliance with the provisions of this ordinance, shall meet the requirements of "new construction" as contained in this ordinance.
- (0) Nothing in this ordinance shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this ordinance and located totally or partially within the floodway, non-encroachment area, or stream setback, provided that the bulk of the building or structure below the regulatory flood protection elevation in the floodway, non-encroachment area, or stream setback is not increased and provided that such repair, reconstruction, or replacement meets all of the other requirements of this ordinance.
- (10) A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated or floodproofed to at least the regulatory flood protection elevation and certified according to Article 4, Section B(3) of this ordinance.
- (0) The establishment of new solid waste disposal facilities, hazardous waste management facilities, salvage yards, and chemical storage facilities is not subject to the variance procedures of this ordinance.
- (0) All development proposals shall be consistent with the need to minimize flood damage.
- (0) All development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- (0) All development proposals shall have adequate drainage provided to reduce exposure to flood hazards.

SECTION . SPECIFIC STANDARDS.

In all Special Flood Hazard Areas where Base Flood Elevation (BFE) data has been provided, as set forth in Article 3, Section B, or Article 4, Section C(11 & 12), the following provisions, in addition to Article 5, Section A, are required:

- (0) Residential Construction. New construction or substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in Article 2 of this ordinance.
- (0) Non-Residential Construction. New construction or substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in Article 2 of this ordinance. Structures located in A, AO, AE and A1-30 Zones may be floodproofed to the regulatory flood protection elevation in lieu of elevation provided that all areas of the structure below the required flood protection elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in Article 4, Section B(3), along with the operational and maintenance plans.
- (0) Manufactured Homes.
- () New or replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the regulatory flood protection elevation, as defined in Article 2 of this ordinance.
 - () Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement in accordance with the State of North Carolina Regulations for Manufactured/Mobile Homes, 1995 Edition, and any revision thereto adopted by the Commissioner of Insurance pursuant to NCGS §143-143.15 or a certified engineered foundation. Additionally, when the elevation would be met by an elevation of the chassis thirty-six (36) inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above thirty-six (36) inches in height, an engineering certification is required.
 - () All foundation enclosures or skirting shall be in accordance with Article 5, Section B(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.
- (0) Elevated Buildings. Enclosed areas, of new construction or substantially improved structures, which are below the regulatory flood protection elevation:
- () Shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be partitioned or finished into separate rooms, except to enclose storage areas;
 - () Shall be constructed entirely of flood resistant materials below the regulatory flood protection elevation;
 - () Shall include, in Zones A, AO, AE, and A1-30, measures 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 the following minimum design criteria:
 -) Provide a minimum of two openings on different sides of each enclosed area subject to flooding;
 -) The total net area of all openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding;
 -) If a building has more than one enclosed area, each area must have openings to allow floodwaters to automatically enter and exit;
 -) The bottom of all required openings shall be no higher than one (1) foot above the adjacent grade;
 -) Openings may be equipped with screens, louvers, or other opening coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and
 -) Foundation enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires openings as outlined above,
 - () Shall allow, in Coastal High Hazard Areas (Zones VE and V1-30), breakaway walls, latticework or insect screening below the regulatory flood protection elevation, provided it is not part of the structural support of the building and is designed so as to breakaway, under abnormally high tides or wave action, without causing damage to the structural integrity of the building on which they are to be used, provided the following design specifications are met:

-) Material shall consist of open wood latticework or insect screening; or
 -) Breakaway walls shall meet the following design specifications:
 - 0) Design safe loading resistance of each wall shall be not less than 10 nor more than 20 pounds per square foot; or
 - 0) Breakaway walls that exceed a design safe loading resistance of more than 20 pounds per square foot (either by design or when so required by State or local codes) shall be certified by a registered professional engineer or architect certifying that the designed wall will collapse from a water load less than that which would occur during the base flood event, and the elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and non-structural). The water loading values used shall be those associated with the base flood. The wind loading values used shall be those required by the North Carolina State Building Code.
- (0) Additions/Improvements.
- () Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
 -) not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure.
 -) a substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
 - () 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.
 - () Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
 -) not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction.
 -) a substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
 - () Where a fire wall or independent perimeter load-bearing wall is provided between the addition and the existing building, the addition(s) shall be considered a separate building and only the addition must comply with the standards for new construction.
- (0) Recreational Vehicles. Recreational vehicles placed on sites within a Special Flood Hazard Area shall either:
- () be on site for fewer than 180 consecutive days and be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions); or
 - () meet all the requirements for new construction, including anchoring and elevation requirements of Article 4, Section B and Article 5, Sections A and B(3).
- (0) Temporary Non-Residential Structures. Prior to the issuance of a floodplain development permit for a temporary structure, applicants must submit to the floodplain administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning notification. The following information shall be submitted in writing to the floodplain administrator for review and written approval:
- () a specified time period for which the temporary use will be permitted. Time specified should be minimal with total time on site not to exceed one year;
 - () the name, address, and phone number of the individual responsible for the removal of the temporary structure;
 - () the time frame prior to the event at which a structure will be removed (i.e., minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);
 - () a copy of the contract or other suitable instrument with a trucking company to ensure the availability of removal equipment when needed; and
 - () designation, accompanied by documentation of a location outside the Special Flood Hazard Area, to which the temporary structure will be moved.

- (0) Accessory Structures. When accessory structures (sheds, detached garages, etc.) are to be placed within a Special Flood Hazard Area, the following criteria shall be met:
- () Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);
 - () Accessory structures shall not be temperature-controlled;
 - () Accessory structures shall be designed to have low flood damage potential;
 - () Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
 - () Accessory structures shall be firmly anchored in accordance with Article 5, Section A(1);
 - () All service facilities such as electrical shall be installed in accordance with Article 5, Section A(4); and
 - () Openings to relieve hydrostatic pressure during a flood shall be provided below regulatory flood protection elevation in conformance with Article 5, Section B(4)(a).
 - () An accessory structure with a footprint less than 150 square feet that satisfies the criteria outlined above does not require an elevation or floodproofing certificate. Elevation or floodproofing certifications are required for all other accessory structures in accordance with Article 4, Section B(3).

SECTION . RESERVED.

SECTION . STANDARDS FOR FLOODPLAINS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS.

Within the Special Flood Hazard Areas established in Article 3, Section B, where no Base Flood Elevation (BFE) data has been provided by FEMA, the following provisions, in addition to Article 5, Section A, shall apply:

- (0) No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of twenty (20) feet each side from top of bank or five times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- (0) The BFE used in determining the regulatory flood protection elevation shall be determined based on one of the following criteria set in priority order:
 - () If Base Flood Elevation (BFE) data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this ordinance and shall be elevated or floodproofed in accordance with standards in Article 4, Section C(11 & 12).
 - () All subdivision, manufactured home park and other development proposals located within Special Flood Hazard Areas shall provide Base Flood Elevation (BFE) data if development is greater than five (5) acres or has more than fifty (50) lots/manufactured home sites. Such Base Flood Elevation (BFE) data shall be adopted by reference per Article 3, Section B to be utilized in implementing this ordinance.
 - () When Base Flood Elevation (BFE) data is not available from a Federal, State, or other source as outlined above, the reference level shall be elevated at least to highest above highest adjacent grade as stated in the regulatory flood protection elevation definition.

SECTION . STANDARDS FOR RIVERINE 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 Special Flood Hazard Area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:

- (0) Standards outlined in Article 5, Sections A and B; and
- (2) no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

SECTION . FLOODWAYS AND NON-ENCROACHMENT AREAS.

Areas designated as floodways or non-encroachment areas are located within the Special Flood Hazard Areas established in Article 3, Section B. The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in Article 5, Sections A and B, shall apply to all development within such areas:

- (0) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with

standard engineering practice that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood. Such certification and technical data shall be presented to the floodplain administrator prior to issuance of floodplain development permit.

- (0) If Article 5, Section F(1) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this ordinance.
- (0) No manufactured homes shall be permitted, except replacement manufactured homes in an existing manufactured home park or subdivision, provided the following provisions are met:
- () the anchoring and the elevation standards of Article 5, Section B(3); and
 - () the no encroachment standard of Article 5, Section F(1) are met.

ARTICLE 2. LEGAL STATUS PROVISIONS.

SECTION . EFFECT ON RIGHTS AND LIABILITIES UNDER THE EXISTING FLOOD DAMAGE PREVENTION ORDINANCE.

This ordinance in part comes forward by re-enactment of some of the provisions of the flood damage prevention ordinance enacted September 16, 1988 as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this ordinance shall not affect any action, suit or proceeding instituted or pending. All provisions of the flood damage prevention ordinance of Duplin County enacted on September 16, 1988, as amended, which are not reenacted herein are repealed.

SECTION . EFFECT UPON OUTSTANDING FLOODPLAIN DEVELOPMENT PERMITS.

Nothing herein contained shall require any change in the plans, construction, size, or designated use of any development or any part thereof for which a floodplain development permit has been granted by the floodplain administrator or his or her authorized agents before the time of passage of this ordinance; provided, however, that when construction is not begun under such outstanding permit within a period of six (6) months subsequent to the date of issuance of the outstanding permit, construction or use shall be in conformity with the provisions of this ordinance.

SECTION . EFFECTIVE DATE.

This ordinance shall become effective July 1, 2005.

SECTION . ADOPTION CERTIFICATION.

I hereby certify that this is a true and correct copy of the flood damage prevention ordinance as adopted by the Board of Commissioners of Duplin County, North Carolina, on the 2nd day of May, 2005.

WITNESS my hand and the official seal of Duplin County, North Carolina, this the 2nd day of May, 2005.

Reginald A. Wells/s
Reginald A. Wells, Chairman
Duplin County Board of Commissioners

ATTEST: Judy C. Brown/s
Clerk

BUILDING INSPECTION

Permit Fees

RESIDENTIAL NEW CONSTRUCTION**A. BUILDING PERMITS**

1. New dwelling (single family) – square feet includes all area under roof heated or unheated

| | |
|---------------------------|------------------------------------|
| Up to 1400 square feet | \$150 minimum* |
| From 1401 to 1800 sq. ft. | Add \$.25 per sq. ft. (over 1400)* |
| From 1801 to 2200 sq. ft. | Add \$.26 per sq. ft. (over 1400)* |
| From 2201 to 2600 sq. ft. | Add \$.27 per sq. ft. (over 1400)* |
| From 2601 to 3000 sq. ft. | Add \$.28 per sq. ft. (over 1400)* |
| From 3001 to 3600 sq. ft. | Add \$.29 per sq. ft. (over 1400)* |
| From 3601 to 4000 sq. ft. | Add \$.30 per sq. ft. (over 1400)* |
| 4000 sq. ft. & up | Add \$.31 per sq. ft. (over 1400)* |

*Square Fee Includes All Area Under Roof Heated or Unheated

*Plus Inspection Fees

2. Dwelling additions/renovations (single family) – square feet includes all area under roof heated or unheated

| | |
|---------------------------|------------------------------------|
| Up to 1400 square feet | \$150 minimum* |
| From 1401 to 1800 sq. ft. | Add \$.25 per sq. ft. (over 1400)* |
| From 1801 to 2200 sq. ft. | Add \$.26 per sq. ft. (over 1400)* |
| From 2201 to 2600 sq. ft. | Add \$.27 per sq. ft. (over 1400)* |
| From 2601 to 3000 sq. ft. | Add \$.28 per sq. ft. (over 1400)* |
| From 3001 to 3600 sq. ft. | Add \$.29 per sq. ft. (over 1400)* |
| From 3601 to 4000 sq. ft. | Add \$.30 per sq. ft. (over 1400)* |
| 4000 sq. ft. & up | Add \$.31 per sq. ft. (over 1400)* |

*Square Fee Includes All Area Under Roof Heated or Unheated

*Plus Inspection Fees

3. Multi-family dwellings

| | |
|-----------------------|---------------|
| a. 2 to 4 units | \$150.00 |
| b. Next 5 to 10 units | \$ 50.00 each |
| c. All over 10 units | \$ 40.00 each |

4. SET UP AND TIE DOWN PERMIT

- | | |
|--------------------------------|--|
| a. Mobile homes | \$75.00 + \$35 electrical permit + inspection fee |
| b. Modular and relocated homes | \$75.00 + applicable trade permit fees + applicable inspection fee(s) |

5. Nonresidential Construction

- | | |
|--------------------------|--|
| a. Up to \$2500 | \$20.00 minimum |
| b. \$2501 to \$50,000 | \$20.00 + \$1.50 per \$1,000 over \$1,000 or fraction thereof |
| c. \$50,001 to \$75,000 | \$95.00 + \$1.25 per \$1,000 over \$50,000 or fraction thereof |
| d. \$75,001 to \$100,000 | \$125.00 + \$1.00 per \$1,000 over \$75,000 or fraction thereof |
| e. Over \$100,000 | \$200.00 plus \$1.50 per \$1,000 over \$100,000 |

*Not involving changes in load bearing structure.

B. INSULATION PERMIT

\$35.00 + inspection fee

C. ELECTRICAL PERMITS

- | | |
|--|--------------------------------|
| 1. Permanent service poles and and service changes | \$35.00 + inspection fees |
| 2. Temporary service pole, service change, wire addition, signs | \$35.00 + inspection fees |
| 3. New Dwellings | \$35.00 + inspection fees |
| 4. Multi-family dwellings | \$35.00 + inspection fees |
| 5. Nonresidential | |
| a. 100 to 175 amp | \$35.00 + inspection fee |
| b. 200 to 350 amp | \$50.00 + inspection fee |
| c. 400 to 500 amp | \$60.00 + inspection fee |
| d. 600 amp and over | \$10/100 amps + inspection fee |

6. Farm Buildings

Farm building shall be based on the nonresidential fee for size of service. Bulk barns shall be \$20.00 for 1 barn, \$10.00 for the second barn and \$5.00 for each additional barn inspected at the same time and location.

D. PLUMBING

- | | |
|--------------------|---|
| 1. Residential | \$35.00 + inspection fee |
| 2. Non-residential | \$35.00 + \$3,00/fixture + inspection fee |

E. HEATING AND AIR CONDITIONING (MECHANICAL) PERMIT FEES

- | | |
|--------------------|-------------------------------|
| 1. Residential | \$35.00 + inspection fee |
| 2. Non-residential | \$35.00/unit + inspection fee |

- | | |
|-------------------|---|
| F. Inspection Fee | \$25.00 NOTE: (Max. 2 hours inspection per charge) |
|-------------------|---|

- | | |
|----------------------|------------------|
| G. Re-inspection Fee | \$35.00 per trip |
|----------------------|------------------|

- | | |
|---------------------|----------|
| H. Late Penalty Fee | \$100.00 |
|---------------------|----------|

- | | |
|--------------------------------------|---------|
| I. Condemnation Fee (municipalities) | \$50.00 |
|--------------------------------------|---------|

- | | |
|--------------------------------|---------|
| J. Facility Service Inspection | \$25.00 |
|--------------------------------|---------|

This fee schedule was adopted by the Duplin County Board of Commissioners on June 20, 2005 to become effective August 1, 2005.

FLOOD DAMAGE PREVENTION ORDINANCE**Non-Coastal Regular Phase****ARTICLE 1. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES.****SECTION A. STATUTORY AUTHORIZATION.**

County: The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Parts 3 and 4 of Article 18 of Chapter 153A; and Part 121, Article 6 of Chapter 153A of the North Carolina General Statutes, delegated to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry.

Therefore, the Board of Commissioners of Duplin County, North Carolina, does ordain as follows:

SECTION B. FINDINGS OF FACT.

- (1) The flood prone areas within the jurisdiction of Duplin County are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- (2) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities and by the occupancy in flood prone areas of uses vulnerable to floods or other hazards.

SECTION C. STATEMENT OF PURPOSE.

It is the purpose of this ordinance to promote public health, safety, and general welfare and to minimize public and private losses due to flood conditions within flood prone areas by provisions designed to:

- (1) restrict or prohibit uses that are dangerous to health, safety, and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights or velocities;
- (2) require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;
- (3) control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;
- (4) control filling, grading, dredging, and all other development that may increase erosion or flood damage; and
- (5) prevent or regulate the construction of flood barriers that will unnaturally divert floodwaters or which may increase flood hazards to other lands.

SECTION D. OBJECTIVES.

The objectives of this ordinance are:

- (1) to protect human life and health;
- (2) to minimize expenditure of public money for costly flood control projects;
- (3) to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) to minimize prolonged business losses and interruptions;
- (5) to minimize damage to public facilities and utilities (i.e. water and gas mains, electric, telephone, cable and sewer lines, streets, and bridges) that are located in flood prone areas;
- (6) to help maintain a stable tax base by providing for the sound use and development of flood prone areas; and
- (7) to ensure that potential buyers are aware that property is in a Special Flood Hazard Area.

ARTICLE 2. DEFINITIONS.

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

"Accessory Structure (Appurtenant Structure)" means a structure, located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports and storage sheds are common urban accessory structures. Pole barns, hay sheds and the like qualify as accessory structures on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.

"Addition (to an existing building)" means an extension or increase in the floor area or height of a building or structure.

"Appeal" means a request for a review of the floodplain administrator's interpretation of any provision of this ordinance.

"Area of Shallow Flooding" means a designated Zone AO on a community's Flood Insurance Rate Map (FIRM) with base flood depths determined to be from one (1) to three (3) feet. These areas are located where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

"Area of Special Flood Hazard" see "Special Flood Hazard Area (SFHA)"

"Basement" means any area of the building having its floor subgrade (below ground level) on all sides.

"Base Flood" means the flood having a one (1) percent chance of being equaled or exceeded in any given year.

"Base Flood Elevation (BFE)" means a determination of the water surface elevations of the base flood. This elevation, when combined with the "Freeboard", establishes the "Regulatory Flood Protection Elevation".

"Breakaway Wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

"Building" see "Structure"

"CAMA" – North Carolina's Coastal Area Management Act. This act, along with the Dredge and Fill Law and the federal Coastal Zone Management Act, is managed through North Carolina Department of Environment and Natural Resources' (NCDENR's) Division of Coastal Management (DCM).

"CBRS" means Coastal Barrier Resources System.

"Chemical Storage Facility" means a building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

"Coastal Barrier Resources System (CBRS)" consists of undeveloped portions of coastal and adjoining areas established by the Coastal Barrier Resources Act (CoBRA) of 1982, the Coastal Barrier Improvement Act (CBIA) of 1990, and subsequent revisions, and includes areas owned by federal or state governments or private conservation organizations identified as Otherwise Protected Areas (OPA).

"Coastal High Hazard Area" means a Special Flood Hazard Area extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The

area is designated on a FIRM, or other adopted flood map as determined in Article 3, Section B of this ordinance, as Zones VE or V1-30.

"Development" means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

"Disposal" defined in NCGS 130A-290(a) (6).

"Elevated Building" means a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

"Encroachment" means the advance or infringement of uses, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

"Existing Manufactured Home Park or Manufactured Home Subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before the original effective date of the floodplain management regulations adopted by the community.

"Flood" or "Flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) the overflow of inland or tidal waters; and/or
- (2) the unusual and rapid accumulation of runoff of surface waters from any source.

"Flood Insurance" means the insurance coverage provided under the National Flood Insurance Program.

"Flood Insurance Rate Map (FIRM)" means an official map of a community, issued by the Federal Emergency Management Agency, on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.

"Flood Insurance Study (FIS)" means an examination, evaluation, and determination of flood, corresponding water surface elevations (if appropriate), flood 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).

"Flood Prone Area" see "Floodplain"

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"Floodplain" means any land area susceptible to being inundated by water from any source.

"Floodplain Administrator" is the individual appointed to administer and enforce the floodplain management regulations.

"Floodplain Development Permit" means any type of permit that is required in conformance with the provisions of this ordinance, prior to the commencement of any development activity.

"Floodplain Management" means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including, but not limited to, emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

"Floodplain Regulations" means this ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power which control development in flood-prone areas. This term describes federal, state or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

"Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures, which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures and their contents.

"Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

"Flood Zone" means a geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

"Freeboard" means 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 Base Flood Elevation plus the freeboard establishes the "Regulatory Flood Protection Elevation".

"Functionally Dependent Facility" means a facility which cannot be used for its intended purpose unless it is located in close proximity to water, 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" means, as defined in NCGS 130, Article 9, and a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.

"Highest Adjacent Grade (HAG)" means the highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the structure.

"Historic Structure" means any structure that is:

- (a) listed individually in the National Register of Historic Places (a listing maintained by the US Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;
- (b) certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (c) individually listed on a local inventory of historic landmarks in communities with a "Certified Local Government (CLG) Program"; or
- (d) certified as contributing to the historical significance of a historic district designated by a community with a "Certified Local Government (CLG) Program"

Certified Local Government (CLG) Programs are approved by the US Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.

"Lowest Adjacent Grade (LAG)" means the elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.

"Lowest Floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or limited storage in an area other than a basement area is not considered a building's lowest floor, provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

"Manufactured Home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

"Manufactured Home Park or Subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"Market Value" means the building value, not including the land value and that of any accessory structures or other improvements on the lot. Market value may be established by independent certified appraisal, replacement cost depreciated for age of building and quality of construction (Actual Cash Value), or adjusted tax assessed values.

"Mean Sea Level" means, for purposes of this ordinance, the National Geodetic Vertical Datum (NGVD) as corrected in 1929, the North American Vertical Datum (NAVD) as corrected in 1988, or other vertical control datum used as a reference for establishing varying elevations within the floodplain, to which Base Flood Elevations (BFEs) shown on a FIRM are referenced. Refer to each FIRM panel to determine datum used.

"New Construction" means structures for which the "start of construction" commenced on or after the effective date of the original version of the community's Flood Damage Prevention Ordinance and includes any subsequent improvements to such structures.

"Non-Encroachment Area" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot as designated in the Flood Insurance Study report.

"OPA" means an Otherwise Protected Area.

"Post-FIRM" means construction or other development for which the "start of construction" occurred on or after the effective date of the initial Flood Insurance Rate Map for the area.

"Pre-FIRM" means construction or other development for which the "start of construction" occurred before the effective date of the initial Flood Insurance Rate Map for the area.

"Principally Above Ground" means that at least 51% of the actual cash value of the structure is above ground.

"Public Safety" and/or "Nuisance" means anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

"Recreational Vehicle (RV)" means a vehicle, which is:

- (a) built on a single chassis;
- (b) 400 square feet or less when measured at the largest horizontal projection;
- (c) designed to be self-propelled or permanently towable by a light duty truck; and
- (d) designed primarily not for use as a permanent primary dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.

"Reference Level" is the bottom of the lowest horizontal structural member or bottom of lowest floor, excluding the foundation system, for structures within all Special Flood Hazard Areas.

"Regulatory Flood Protection Elevation" means the "Base Flood Elevation" plus the "Freeboard". In "Special Flood Hazard Areas" where Base Flood Elevations (BFE's) have been determined, this elevation shall be the BFE plus two (2) feet of freeboard. In "Special Flood Hazard Areas" where no BFE has been established, this elevation shall be at least two (2) feet above the highest adjacent grade.

"Remedy a Violation" means to bring the structure or other development into compliance with State and community floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development.

"Riverine" means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

"Salvage Yard" means any non-residential property used for the storage, collection, and/or recycling of any type of equipment, and including but not limited to vehicles, appliances and related machinery.

"Solid Waste Disposal Facility" means, as defined in NCGS 130A-290(a) (35), any facility involved in the disposal of solid waste.

"Solid Waste Disposal Site" means, as defined as in NCGS 130A-290(a) (36), any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.

"Special Flood Hazard Area (SFHA)" means the land in the floodplain subject to a one (1%) percent or greater chance of being flooded in any given year as determined in Article 3, Section B of this ordinance.

"Start of Construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the

installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

“Structure” means a walled and roofed building, a manufactured home, or a gas, liquid, or liquefied gas storage tank that is principally above ground.

“Substantial Damage” means damage of any origin sustained by a structure during any one-year period whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. See definition of “substantial improvement”. Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

“Substantial Improvement” means any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one-year period for which the cost equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either:

- (a) any correction of existing violations of State or community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or,
- (b) any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

“Variance” is a grant of relief from the requirements of this ordinance.

“Violation” means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Articles 4 and 5 is presumed to be in violation until such time as that documentation is provided.

“Water Surface Elevation (WSE)” means the height, in relation to mean sea level of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

“Watercourse” means a lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

ARTICLE 3. GENERAL PROVISIONS.

SECTION A. LANDS TO WHICH THIS ORDINANCE APPLIES.

This ordinance shall apply to all Special Flood Hazard Areas within the jurisdiction, including Extra-Territorial Jurisdictions (ETJ) if applicable, of Duplin County and within the jurisdiction of any other community whose governing body agrees, by resolution, to such applicability.

SECTION B. BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS.

The Special Flood Hazard Areas are those identified by the Federal Emergency Management Agency (FEMA) or produced under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its Flood Hazard Boundary Map (FHBM) or Flood Insurance Study (FIS) and its accompanying flood maps such as the Flood Insurance Rate Map(s) (FIRM) and/or the Flood Boundary Floodway Map(s) (FBFM), for Duplin County provided by FEMA dated February 16, 2006, which are adopted by reference and declared to be a part of this ordinance.

SECTION C. ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT.

A Floodplain Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities within Special Flood Hazard Areas as determined in accordance with Article 3, Section B of this ordinance.

SECTION D. COMPLIANCE.

No structure or land shall hereafter be located, extended, converted, altered, or developed in any way without full compliance with the terms of this ordinance and other applicable regulations.

SECTION E. ABROGATION AND GREATER RESTRICTIONS.

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

SECTION F. INTERPRETATION.

In the interpretation and application of this ordinance, all provisions shall be:

- (a) considered as minimum requirements;
- (b) liberally construed in favor of the governing body; and
- (c) deemed neither to limit nor repeal any other powers granted under State statutes.

SECTION G. WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur. Actual flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the Special Flood Hazard Areas or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of Duplin County or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

SECTION H. PENALTIES FOR VIOLATION.

Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$50.00 or imprisoned for not more than thirty (30) days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent Duplin County or its municipalities from taking such other lawful action as is necessary to prevent or remedy any violation.

ARTICLE 4. ADMINISTRATION.

SECTION A. DESIGNATION OF FLOODPLAIN ADMINISTRATOR.

The Duplin County Chief Building Inspector or his/her designee, hereinafter referred to as the "Floodplain Administrator", is hereby appointed to administer and implement the provisions of this ordinance.

SECTION B. FLOODPLAIN DEVELOPMENT APPLICATION, PERMIT AND CERTIFICATION REQUIREMENTS.

- (1) **Application Requirements.** Application for a Floodplain Development Permit shall be made to the floodplain administrator prior to any development activities located within Special Flood Hazard Areas. The following items shall be presented to the floodplain administrator to apply for a floodplain development permit:
- (a) A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:
 - i) 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;
 - ii) the boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in Article 3, Section B, or a statement that the entire lot is within the Special Flood Hazard Area;
 - iii) flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in Article 3, Section B;
 - iv) the boundary of the floodway(s) or non-encroachment area(s) as determined in Article 3, Section B;
 - v) the Base Flood Elevation (BFE) where provided as set forth in Article 3, Section B; Article 4, Section C(11 & 12); or Article 5, Section D;
 - vi) the old and new location of any watercourse that will be altered or relocated as a result of proposed development;
 - vii) certification of the plot plan by a registered land surveyor or professional engineer.
 - (b) Proposed elevation and method thereof, of all development within a Special Flood Hazard Area including but not limited to:
 - i) Elevation in relation to mean sea level of the proposed reference level (including basement) of all structures;
 - ii) Elevation in relation to mean sea level to which any non-residential structure in Zone AE, A or AO will be flood-proofed;
 - iii) Elevation in relation to mean sea level to which any proposed utility systems will be elevated or floodproofed;
 - (c) If floodproofing, a Floodproofing Certificate (FEMA Form 81-65) with supporting data and an operational plan that includes but is not limited to installation, exercise, and maintenance of flood proofing.

- (d) A Foundation Plan drawn to scale which shall include details of the proposed foundation system to ensure all provisions of this ordinance are met. These details include but are not limited to:
- i) The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls);
 - ii) Openings to facilitate equalization of hydrostatic flood forces on walls in accordance with Article 5, Section B(4), when solid foundation perimeter walls are used in Zones A, AO, AE, and A1-30;
- (e) Usage details of any enclosed areas below the regulatory flood protection elevation.
- (f) 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;
- (g) Copies of all other Local, State and Federal permits required prior to floodplain development permit issuance (Wetlands, Endangered Species, Erosion and Sedimentation Control, CAMA, Riparian Buffers, Mining, etc.)
- (h) Documentation for placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure Article 5, Sections B(6 & 7) of this ordinance are met.
- (i) 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.
- (2) **Permit Requirements.** The Floodplain Development Permit shall include, but not be limited to:
- (a) A description of the development to be permitted under the floodplain development permit.
 - (b) The Special Flood Hazard Area determination for the proposed development per available data specified in Article 3, Section B.
 - (c) The regulatory flood protection elevation required for the reference level and all attendant utilities.
 - (d) The regulatory flood protection elevation required for the protection of all public utilities.
 - (e) All certification submittal requirements with timelines.
 - (f) A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse, as applicable.
 - (g) The flood openings requirements, if in Zones A, AO, AE or A1-30.
 - (h) Limitations of use of the enclosures below the lowest floor (if applicable). (i.e., Parking, Building Access and Limited Storage only).
- (3) **Certification Requirements.**
- (a) Elevation Certificates:
 - i) An Elevation Certificate (FEMA Form 81-31) is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the floodplain administrator a certification of the elevation of the reference level, in relation to mean sea level. The floodplain administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit.
 - ii) An Elevation Certificate (FEMA Form 81-31) or Floodproofing Certificate (FEMA Form 81-65) is required after the reference level is established. Within seven (7) calendar days of establishment of the reference level elevation, it shall be the duty of the permit holder to submit to the floodplain administrator a certification of the elevation of the reference level, in relation to mean sea level. Elevation certification shall be prepared by, or under the direct supervision of, a registered land surveyor or professional engineer and certified by same. Any work done within the seven (7) day calendar period and prior to submission of the certification shall be at the permit holder's risk. The floodplain administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop-work order for the project.
 - iii) A Final As-Built Elevation Certificate (FEMA Form 81-31) is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit to the floodplain administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. Elevation certification shall be prepared by, or under the direct supervision of, a registered land surveyor or professional engineer and certified by same. The floodplain administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Compliance/Occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or

failure to make required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.

(b) Flood proofing Certificate

If non-residential flood proofing is used to meet the regulatory flood protection elevation requirements, a Flood proofing Certificate (FEMA FORM 81-65), with supporting data and an operational plan, is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the floodplain administrator a certification of the flood proofed design elevation of the reference level and all attendant utilities, in relation to mean sea level. Flood proofing certification shall be prepared by or under the direct supervision of a professional engineer and certified by same. The floodplain administrator shall review the certificate data and plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.

- (c) 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 Article 5, Section B(3).
- (d) If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; 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 showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.
- (e) 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 items (a) and (b) above:
- i) Recreational Vehicles meeting requirements of Article 5, Section B(6)(a);
 - ii) Temporary Structures meeting requirements of Article 5, Section B(7); and
 - iii) Accessory Structures less than 150 square feet meeting requirements of Article 5, Section B(8).

SECTION C. DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR.

The Floodplain Administrator shall perform, but not be limited to, the following duties:

- (1) Review all floodplain development applications and issue permits for all proposed development within Special Flood Hazard Areas to assure that the requirements of this ordinance have been satisfied.
- (2) Advise permittee that additional Federal or State permits (Wetlands, Endangered Species, Erosion and Sedimentation Control, CAMA, Riparian Buffers, Mining, etc.) may be required, and require that copies of such permits be provided and maintained on file with the floodplain development permit.
- (3) Notify adjacent communities and the North Carolina Department of Crime Control and Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).
- (4) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
- (5) Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of Article 5, Section E are met.
- (6) Obtain actual elevation (in relation to mean sea level) of the reference level (including basement) and all attendant utilities of all new or substantially improved structures, in accordance with Article 4, Section B(3).
- (7) Obtain the actual elevation (in relation to mean sea level) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with Article 4, Section B(3).
- (8) Obtain actual elevation (in relation to mean sea level) of all public utilities in accordance with Article 4, Section B(3).
- (9) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with Article 4, Section B(3) and Article 5, Section B(2).
- (10) Where interpretation is needed as to the exact location of boundaries of the Special Flood Hazard Areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.
- (11) When Base Flood Elevation (BFE) data has not been provided in accordance with Article 3, Section B, obtain, review, and reasonably utilize any Base Flood Elevation (BFE) data, along with floodway data or non-encroachment area data available from a Federal, State, or other source, including data developed pursuant to Article 5, Section D(2)(b), in order to administer the provisions of this ordinance.

- (12) When Base Flood Elevation (BFE) data is provided but no floodway nor non-encroachment area data has been provided in accordance with Article 3, Section B, obtain, review, and reasonably utilize any floodway data or non-encroachment area data available from a Federal, State, or other source in order to administer the provisions of this ordinance.
- (13) When the lowest ground elevation of a parcel or structure in a Special Flood Hazard Area is above the Base Flood Elevation advise the property owner of the option to apply for a Letter of Map Amendment (LOMA) from FEMA. Maintain a copy of the Letter of Map Amendment (LOMA) issued by FEMA in the floodplain development permit file.
- (14) Permanently maintain all records that pertain to the administration of this ordinance and make these records available for public inspection.
- (15) Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the floodplain administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the floodplain administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.
- (16) Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this ordinance, the floodplain administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing 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.
- (17) Revoke floodplain development permits as required. The floodplain administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, 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.
- (18) Make periodic inspections throughout all special flood hazard areas within the jurisdiction of the community. The floodplain administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.
- (19) Follow through with corrective procedures of Article 4, Section D.
- (20) Review, provide input, and make recommendations for variance requests.
- (21) Maintain a current map repository to include, but not limited to, the FIS Report, FIRM and other official flood maps and studies adopted in accordance with Article 3, Section B of this ordinance, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify State and FEMA of mapping needs.
- (22) Coordinate revisions to FIS reports and FIRMs including Letters of Map Revision Based on Fill (LOMR-F) and Letters of Map Revision (LOMR).

SECTION D. CORRECTIVE PROCEDURES.

- (1) Violations to be Corrected: When the floodplain administrator finds violations of applicable State and local laws, it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.
- (2) Actions in Event of Failure to Take Corrective Action: If the owner of a building or property shall fail to take prompt corrective action, the floodplain administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating
 - (a) that the building or property is in violation of the Flood Damage Prevention Ordinance;
 - (b) that a hearing will be held before the floodplain administrator at a designated place and time, not later than ten (10) days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and,
 - (c) that following the hearing, the floodplain administrator may issue an order to alter, vacate, or demolish the building; or to remove fill as appears appropriate.
- (3) Order to Take Corrective Action: If, upon a hearing held pursuant to the notice prescribed above, the floodplain administrator shall find that the building or development is in violation of the Flood Damage Prevention Ordinance, 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 sixty (60) days, nor more than (90) calendar days. Where the floodplain administrator finds that 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.
- (4) Appeal: Any owner who has received an order to take corrective action may appeal the order to the local elected governing body by giving notice of appeal in writing to the floodplain administrator and the clerk within ten (10) days following issuance of the final order. In the absence of an appeal, the order of the floodplain administrator shall be

final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.

- (5) Failure to Comply with Order: If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a misdemeanor and shall be punished at the discretion of the court.

SECTION E. VARIANCE PROCEDURES.

- (1) The Duplin County Planning Board as established by Duplin County Board of Commissioners, hereinafter referred to as the "appeal board", shall hear and decide requests for variances from the requirements of this ordinance in areas not governed by municipalities. The Municipality Board of Commissioners/Council or their designees will be the first appeal authority for those applicants within County municipalities or their ETJ's (extra-territorial jurisdictions).
- (2) Any person aggrieved by the decision of the appeal board may appeal such decision to the Court, as provided in Chapter 7A of the North Carolina General Statutes.
- (3) Variances may be issued for:
- (a) 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.
 - (b) functionally dependant facilities if determined to meet the definition as stated in Article 2 of this ordinance provided provisions of Article 4, Section E(9)(b).(c) have been satisfied, and such facilities are protected by methods that minimize flood damages.
 - (c) any other type of development, provided it meets the requirements stated in this section.
- (4) In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:
- (a) the danger that materials may be swept onto other lands to the injury of others;
 - (b) the danger to life and property due to flooding or erosion damage;
 - (c) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (d) the importance of the services provided by the proposed facility to the community;
 - (e) the necessity to the facility of a waterfront location as defined under Article 2 of this ordinance as a functionally dependant facility, where applicable;
 - (f) the availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 - (g) the compatibility of the proposed use with existing and anticipated development;
 - (h) the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - (i) the safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (j) the expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
 - (k) the costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.
- (5) A written report addressing each of the above factors shall be submitted with the application for a variance.
- (6) Upon consideration of the factors listed above and the purposes of this ordinance, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.
- (7) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Base Flood Elevation (BFE) and the elevation to which the structure is to be built and that such construction below the Base Flood Elevation increases risks to life and property, and that the issuance of a variance to construct a structure below the Base Flood Elevation 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.
- (8) The Floodplain administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the State of North Carolina upon request.
- (9) Conditions for Variances:

- (a) Variances shall not be issued when the variance will make the structure in violation of other Federal, State, or local laws, regulations, or ordinances.
 - (b) 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.
 - (c) Variance shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - (d) Variances shall only be issued prior to development permit approval.
 - (e) Variances shall only be issued upon:
 - i) a showing of good and sufficient cause;
 - ii) a determination that failure to grant the variance would result in exceptional hardship; and
 - iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- (10) A variance may be issued for solid waste disposal facilities, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in Special Flood Hazard Areas provided that all of the following conditions are met.
- (a) The use serves a critical need in the community.
 - (b) No feasible location exists for the use outside the Special Flood Hazard Area.
 - (c) The reference level of any structure is elevated or flood proofed to at least the regulatory flood protection elevation.
 - (d) The use complies with all other applicable Federal, State and local laws.
 - (e) The Duplin County Board of Commissioners has notified the secretary of the North Carolina Department of Crime Control and Public Safety of its intention to grant a variance at least thirty (30) calendar days prior to granting the variance.

ARTICLE 5. PROVISIONS FOR FLOOD HAZARD REDUCTION.

SECTION A. GENERAL STANDARDS.

In all Special Flood Hazard Areas the following provisions are required:

- (1) All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.
- (2) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (3) All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.
- (4) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. 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.
- (5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.
- (7) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- (8) Any alteration, repair, reconstruction, or improvements to a structure, which is in compliance with the provisions of this ordinance, shall meet the requirements of "new construction" as contained in this ordinance.
- (9) Nothing in this ordinance shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this ordinance and located totally or partially within the floodway, non-encroachment area, or stream setback, provided there is no additional encroachment below the regulatory flood protection elevation in the

floodway, non-encroachment area, or stream setback and provided that such repair, reconstruction, or replacement meets all of the other requirements of this ordinance.

- (10) New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted, except by variance as specified in Article 4, Section E (10). A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated or flood proofed to at least the regulatory flood protection elevation and certified according to Article 4, Section B (3) of this ordinance.
- (11) All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.
- (12) All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- (13) All subdivision and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- (14) All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

SECTION B. SPECIFIC STANDARDS.

In all Special Flood Hazard Areas where Base Flood Elevation (BFE) data has been provided, as set forth in Article 3, Section B, or Article 4, Section C(11 & 12), the following provisions, in addition to Article 5, Section A, are required:

- (1) Residential Construction. New construction or substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in Article 2 of this ordinance.
- (2) Non-Residential Construction. New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in Article 2 of this ordinance. Structures located in A, AE and A1-30 Zones may be floodproofed to the regulatory flood protection elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the regulatory flood protection elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. For AO Zones, the flood proofing elevation shall be in accordance with Article 5, Section H (3). A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in Article 4, Section B (3), along with the operational and maintenance plans.
- (3) Manufactured Homes.
 - (a) New or replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the regulatory flood protection elevation, as defined in Article 2 of this ordinance.
 - (b) 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/Mobile Homes, adopted by the Commissioner of Insurance pursuant to NCGS §143-143.15 or a certified engineered foundation. Additionally, when the elevation would be met by an elevation of the chassis thirty-six (36) inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above thirty-six (36) inches in height, an engineering certification is required.
 - (c) All enclosures or skirting below the lowest floor shall meet the requirements of Article 5, Section B (4) (a), (b) and (c).
 - (d) 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.
- (4) Elevated Buildings. Fully enclosed areas, of new construction and substantially improved structures, which are below the lowest floor,
 - (a) shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be partitioned or finished into separate rooms, except to enclose storage areas;
 - (b) shall be constructed entirely of flood resistant materials up to the regulatory flood protection elevation;

- (c) 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 the following minimum design criteria:
- i) Provide a minimum of two openings on different sides of each enclosed area subject to flooding;
 - ii) The bottom of all flood openings must be at least one (1) foot above the adjacent grade;
 - iii) If a building has more than one enclosed area, each area must have openings to allow floodwaters to automatically enter and exit;
 - iv) The bottom of all required openings shall be no higher than one (1) foot above the adjacent grade;
 - v) Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and
 - vi) Enclosures made of flexible skirting are not considered enclosures for regulatory flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.
- (5) Additions/Improvements.
- (a) 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:
 - i) 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.
 - ii) a substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
 - (b) 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.
 - (c) 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:
 - i) not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction.
 - ii) a substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
 - (d) Where an independent perimeter load-bearing wall is provided between the addition and the existing building, the addition(s) shall be considered a separate building and only the addition must comply with the standards for new construction.
- (6) Recreational Vehicles. Recreational vehicles shall either:
- (a) be on site for fewer than 180 consecutive days and be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions); or
 - (b) meet all the requirements for new construction.
- (7) Temporary Non-Residential Structures. Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the floodplain administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning notification. The following information shall be submitted in writing to the floodplain administrator for review and written approval:
- (a) a specified time period for which the temporary use will be permitted. Time specified should not exceed three (3) months, renewable up to one (1) year;
 - (b) the name, address, and phone number of the individual responsible for the removal of the temporary structure;
 - (c) the time frame prior to the event at which a structure will be removed (i.e., minimum of seventy-two (72) hours before landfall of a hurricane or immediately upon flood warning notification);
 - (d) a copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and
 - (e) designation, accompanied by documentation of a location outside the Special Flood Hazard Area, to which the temporary structure will be moved.
- (8) Accessory Structures. When accessory structures (sheds, detached garages, etc.) are to be placed within a Special Flood Hazard Area, the following criteria shall be met:

- (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 Article 5, Section A(1);
- (f) All service facilities such as electrical shall be installed in accordance with Article 5, Section A(4); and
- (g) Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below regulatory flood protection elevation in conformance with Article 5, Section B(4)(a).

An accessory structure with a footprint less than 150 square feet that satisfies the criteria outlined above does not require an elevation or flood proofing certificate. Elevation or flood proofing certifications are required for all other accessory structures in accordance with Article 4, Section B (3).

SECTION C. RESERVED.

SECTION D. STANDARDS FOR FLOODPLAINS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS.

Within the Special Flood Hazard Areas designated as Approximate Zone A and established in Article 3, Section B, where no Base Flood Elevation (BFE) data is available, the following provisions, in addition to Article 5, Section A and B, shall apply:

- (1) No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of twenty (20) feet each side from top of bank or five times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- (2) The BFE used in determining the regulatory flood protection elevation shall be determined based on one of the following criteria set in priority order:
 - (a) If Base Flood Elevation (BFE) data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this ordinance and shall be elevated or floodproofed in accordance with standards in Article 4, Section C(11 & 12).
 - (b) All subdivision, manufactured home park and other development proposals shall provide Base Flood Elevation (BFE) data if development is greater than five (5) acres or has more than fifty (50) lots/manufactured home sites. Such Base Flood Elevation (BFE) data shall be adopted by reference per Article 3, Section B to be utilized in implementing this ordinance.
 - (c) When Base Flood Elevation (BFE) data is not available from a Federal, State, or other source as outlined above, the reference level shall be elevated to or above the regulatory flood protection elevation as defined in Article 2.

SECTION E. STANDARDS FOR RIVERINE 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 Special Flood Hazard Area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:

- (1) Standards outlined in Article 5, Sections A and B; and
- (2) Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

SECTION F. FLOODWAYS AND NON-ENCROACHMENT AREAS.

Areas designated as floodways or non-encroachment areas are located within the Special Flood Hazard Areas established in Article 3, Section B. The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in Article 5, Sections A and B, shall apply to all development within such areas:

- (1) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless:
 - (a) 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
 - (b) 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.
- (2) If Article 5, Section F (1) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this ordinance.
- (3) No manufactured homes shall be permitted, except replacement manufactured homes in an existing manufactured home park or subdivision, provided the following provisions are met:
 - (a) the anchoring and the elevation standards of Article 5, Section B(3); and
 - (b) the no encroachment standard of Article 5, Section F (1).

SECTION G. STANDARDS FOR AREAS OF SHALLOW FLOODING (ZONE AO):

Located within the Special Flood Hazard Areas established in Article 3, Section B, are areas designated as shallow flooding areas. These areas have special flood hazards associates with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to Article 5, Section A, all new construction and substantial improvements, shall meet the following requirements:

- (1) The reference level shall be elevated at least as his as the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, plus a freeboard of two (2) feet, above the highest adjacent grade, or at least two (2) feet above the highest grade plus a freeboard of two (2) feet if no depth number is specified
- (2) Non-residential structures may, in lieu of elevation, be flood proofed to the same level as required in Article 5, Section H (1) so that the structure, together with attendant utility and sanitary facilities, below that level shall be watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required as per Article 4, Section B (3) and Article 5, Section B (2).
- (3) Adequate drainage paths shall be provided around structures on slopes to guide floodwaters around and away from proposed structures.

ARTICLE 6. LEGAL STATUS PROVISIONS.

SECTION A. EFFECT ON RIGHTS AND LIABILITIES UNDER THE EXISTING FLOOD DAMAGE PREVENTION ORDINANCE.

This ordinance in part comes forward by re-enactment of some of the provisions of the flood damage prevention ordinance enacted September 16, 1988 as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this ordinance shall not affect any action, suit or proceeding instituted or pending. All provisions of the flood damage prevention ordinance of Duplin County enacted on September 16, 1988, as amended, which are not reenacted herein, are repealed.

SECTION B. EFFECT UPON OUTSTANDING FLOODPLAIN DEVELOPMENT PERMITS.

Nothing herein contained shall require any change in the plans, construction, size, or designated use of any development or any part thereof for which a floodplain development permit has been granted by the floodplain administrator or his or her authorized agents before the time of passage of this ordinance; provided, however, that when construction is not begun under such outstanding permit within a period of six (6) months subsequent to the date of issuance of the outstanding permit, construction or use shall be in conformity with the provisions of this ordinance.

SECTION C. EFFECTIVE DATE.

This ordinance shall become effective April 1, 2006.

SECTION D. ADOPTION CERTIFICATION.

I hereby certify that this is a true and correct copy of the flood damage prevention ordinance as adopted by the Board of Commissioners of Duplin County, North Carolina, on the 20th day of March, 2006.

WITNESS my hand and the official seal of Duplin County, North Carolina, this the 21st day of March , 2006.

Zettie Williams
Zettie Williams, Chairman
Duplin County Board of Commissioners

Judy C. Brown
ATTEST: Clerk

FIRE PREVENTION AND PROTECTION CODE ORDINANCE

Section 1. TITLE AND AUTHORITY

This ordinance shall be known as the Fire Prevention and Protection Code Ordinance of Duplin County, North Carolina, and may be cited as such and referred to as the "ordinance". This ordinance is adopted under the provisions of North Carolina General Statutes 143-138(e), 143-139, 153A-123 and 160A-175.

Section 2. INTENT OF ORDINANCE

It is the intent of the ordinance to prescribe regulations consistent with nationally recognized practices, for the safety of the citizens of Duplin County from the hazards of fire, and explosions, arising from the storage, manufacturing, and handling of flammable materials.

The provisions of the ordinance shall apply to the repair, equipment, use, occupancy, and maintenance of every existing building or structure, other than one or two family dwellings and town homes. The provisions of this ordinance shall apply to the installation of fire protection systems.

The ordinance shall not be construed to hold the county responsible for any damage to persons, or property by reasons of the inspection or re-inspections authorized herein, or failure to inspect or re-inspect, or the permits issued or denied as herein provided, or by reason of the approval or disapproval of any permit authorized herein.

Section 3. DEFINITIONS

- (a) The word "Fire Code Enforcement Official" shall mean Fire Marshal, Assistant Fire Marshal, and Fire Inspector and designee.
- (b) The term "qualified" shall mean a person who possesses an appropriate valid certificate issued by the North Carolina Code Officials Qualification Board.
- (c) The term "he" is interchangeable with the term "she".
- (d) Small Business – Less than 5,000 square feet
- (e) Large Business – 5,001 square feet and greater
- (f) Inspections – Visit to occupancy or business to determine if fire codes are met
- (g) Permits – An official document or certificate issued by the authority having jurisdiction authorizing performance of specified activity
- (h) Re-inspections – A re-visit to determine if correction(s) have been made to any items not passing the first inspection

- (i) Annual Inspections – Inspections that occur on an annual basis
- (j) Special Use Permits – Temporary structure, i.e. tents or events not addressed in ordinance

Section 4. POWERS OF FIRE MARSHAL - AUTHORITY

Authority. The Fire Marshal and/or their designee(s) is hereby authorized, empowered, and directed to enforce all the provisions of this ordinance and the regulatory codes herein adopted.

- (a) Right-of-Entry. The Fire Marshal shall have the right-of-entry on any premises within the jurisdiction of the regulatory codes herein adopted at reasonable hours for the purpose of inspection or enforcement of the requirements of this ordinance and the regulatory codes, upon presentation of proper credentials.
- (b) Stop Orders. Whenever any building or structure or part thereof is being demolished, constructed, reconstructed, altered, or repaired in a hazardous manner, or in violation of any provision of this ordinance in violation of any provision of any regulatory code herein adopted, or in violation of the terms of the permit (s) issued therefore, or in such manner as to endanger life or property, the Fire Marshal may order such work to be immediately stopped. Such order shall be in writing to the owner of the property or to his/her agent, or to the person doing the work, and shall state the reasons therefore and the conditions under which the work may be resumed.
- (c) Solid waste ordinance Adopted by the Duplin County Board of Commissioners the 15th day of August, 1994, illegal burning section 43, 80, and 93.3.

Section 5. ADOPTION OF TECHNICAL CODES AND STANDARDS BY REFERENCE, COPIES ON FILE

- (a) There is hereby adopted by reference and incorporated herein that certain code known as and entitled The International Fire Code, with North Carolina Amendments. Copies of the Duplin County Fire Prevention and Protection Code Ordinance and all technical codes and standards adopted by reference shall be filed and available for public inspection in the Office of the Fire Marshal.
- (b) Amendments to codes and standards adopted by reference herein which are adopted and published by the North Carolina State Building Code Council shall be effective in Duplin County at the time such amendments become a part of the North Carolina Fire Prevention Code of the North Carolina State Building Code.

Section 6. INSPECTION OF BUILDING AND PREMISES

Subject to the limitations, and conditions stated in the North Carolina State Building Code, it shall be the duty of the Fire Code Enforcement Official, to inspect or cause to be

inspected as often as deemed necessary, or appropriate all buildings, structures, and premises within his jurisdiction for the purpose of ascertaining and causing to be corrected any condition which may cause a fire, or explosion, endanger life, from fire or explosion, or any violations of the provisions of the code.

Section 7. GENERAL DUTIES OF FIRE CODE ENFORCEMENT OFFICIAL

It shall be the duty of the Fire Marshal to enforce all of the provisions of this ordinance and of the regulatory codes adopted herein, and to make all inspections necessary to determine whether or not the provisions of this ordinance and such codes are being met.

Section 8. OVERSIGHT NOT TO LEGALIZE VIOLATION

No oversight or dereliction of duty on the part of any inspector or other official or employee of the Fire Marshal's Office shall be deemed to legalize the violation of any provision of this ordinance or any provision of any regulatory code herein adopted.

Section 9. CONFLICT OF INTEREST

No officer or employee of the Fire Marshal's Office shall be financially interested in the furnishing of labor, material, or appliances for the construction, alteration, or maintenance of a building or any part thereof, or in the making of plans or specifications therefore, unless he/she is the owner of such building. No officer or employee of the Fire Marshal's Office shall engage in any work which is inconsistent with his/her duties or with the interests of the County.

Section 10. REPORTS AND RECORDS

The Fire Marshal's Office, and each inspector, shall keep complete, permanent, and accurate records in convenient form of all applications received, permits issued, inspections, and re-inspections made, and all other work and activities of the Fire Marshal's Office. Periodic reports shall be submitted to the Duplin County Board of Commissioners, and to other agencies, as required.

Section 11. TYPES OF PERMITS

There shall be three types of permits as follows:

- (a) Operational permit. An operational permit allows the applicant to conduct an operation or a business for which a permit is required for either:
 - i. A prescribed period.
 - ii. Until renewed or revoked.
- (b) Construction permit. A construction permit allows the applicant to install or modify systems and equipment for which a permit is required.
- (c) Open burning permit.
 - i. No person shall kindle or maintain any grass or field fire or woods fire or wind row fire without a permit.
 - ii. When a permit is obtained to do the burning the fire shall be constantly attended by a competent person until such fire is extinguished.
 - iii. Open burning of leaves, tree branches or yard trimmings originating on the premises of private residences is allowed when the following conditions are met:
 - (1) Burning on those premises in areas where no public pick up facilities are available.
 - (2) Shall not create a nuisance.
 - (3) These fires shall be constantly attended by a competent person until such fire is extinguished. Such person shall have a garden hose connected to the water supply, or other fire extinguishing equipment readily available for use.
 - (4) The location is not less than fifty (50) feet from any structure and is not greater than one hundred (100) feet from an occupied private residence and adequate provision is made to prevent fire from spreading within fifty (50) feet of any structure.
 - (5) For a fire contained in an approved waste burner cannot be located less than fifteen (15) feet from any structure.

Open burning which requires a permit from the Division of Forest Resources under General Statutes 113-60.24 is allowed without a permit from the county. Open burning which is exempted from the necessity of obtaining a permit from the Division of Forest Resources under General Statutes 113-60.31 is allowed by the county with a permit.

If a person does not have a permit as required by General Statutes 113-60.24 from the Division of Forest Resources, this person will be in violation of this ordinance.

Section 12. APPLICATION FOR PERMIT

Written applications shall be made for all permits required by this ordinance, and shall be made on forms provided by the Fire Marshal's Office. Such application shall be made by the owner of the building or structure affected or by his/her authorized agent or representative, and in addition to such other information as may be required by the Fire Marshal to determine whether the permit applied for should be issued, shall show the following:

- (a) Name, residence, and business address of owners;
- (b) Name, residence, and business address of authorized representative or agent, if any;
- (c) Name and address of the contractor, if any, together with evidence that he has obtained a certificate from the appropriate state licensing board for such contractors, if such be required for the work involved in the permit for which application is made.

Section 13. ACTION ON APPLICATION

The Fire Marshal shall examine or cause to be examined applications for permits and amendments thereto within a reasonable time after filing. If the application or the construction documents do not conform to the requirements of pertinent laws, the Fire Marshal shall reject such application in writing, stating the reasons therefore. If the Fire Marshal is satisfied that the proposed work or operation conforms to the requirements of this Ordinance applicable thereto, the Fire Marshal shall issue a permit therefore as soon as practicable.

Section 14. REFUSAL TO ISSUE PERMIT

If the application for a permit describes a use that does not conform to the requirements of this code and other pertinent laws and ordinances, the Fire Marshal shall not issue a permit, but shall return the application to the applicant with the refusal to issue such permit. Such refusal shall, when requested, be in writing and shall contain the reasons for the refusal.

Section 15. INSPECTION AUTHORIZED

Before a new operational permit is approved, the Fire Marshal is authorized to inspect the receptacles, vehicles, buildings, devices, premises, storage spaces or areas to be used to determine compliance with this Ordinance and any operational constraints required.

Section 16. ISSUANCE OF PERMIT

When a permit application for a permit has been made, and the Fire Marshal is satisfied that the application and the proposed work comply with the provisions of this ordinance and the appropriate regulatory codes, he shall issue such permit, upon payment of the proper fee or fees as adopted by the Duplin County Board of Commissioners.

Section 17. REVOCATION OF PERMITS

The Fire Marshal may revoke and require the return of any permit by notifying the permit holder in writing stating the reason for such revocation. Permits shall be revoked for any material departure from the approved application, plans or specifications; for refusal or failure to comply with proper orders of the Fire Marshal; for refusal or failure to comply with requirements of this ordinance and the appropriate regulatory codes; or false statements or misrepresentations made in securing such permit.

Section 18. CONDITIONS OF A PERMIT

A permit shall constitute permission to maintain, store or handle materials; or to conduct processes which produce conditions hazardous to life or property; or to install equipment utilized in connect with such activities; or to install or modify any fire protection system or equipment or any other construction, equipment installation or modification in accordance with the provisions of this ordinance where a permit is required. Such permission shall not be construed as authority to violate, cancel or set aside any of the provisions of this Ordinance or applicable regulations or laws of the jurisdiction.

Section 19. EXPIRATION OF PERMITS

An operational permit shall remain in effect until reissued, renewed, or revoked or for such a period of time as specified in the permit. Permits are not transferable and any change in occupancy, operation, tenancy or ownership shall require that a new permit be issued.

Section 20. CONDITIONAL PERMITS

Where permits are required and upon the request of a permit applicant, the Fire Marshal's authorized to issue a conditional permit to occupy the premises or portion thereof before the entire work or operations on the premises is completed, provided that such portion or portions will be occupied safely prior to full completion or installation of equipment and operations without endangering life or public welfare. The Fire Marshal shall notify the permit applicant in writing of any limitations or restrictions necessary to keep the permit area safe. The holder of a conditional permit shall proceed only to the point for which approval has been given, at the permit holder's own risk and without assurance that approval for the occupancy or the utilization of the entire premises, equipment or operations will be granted.

Section 21. POSTING THE PERMIT

Issued permits shall be kept on the premises designated therein at all times and shall be readily available for inspection by the Fire Marshal.

Section 22. COMPLIANCE WITH CODE

The issuance or granting of a permit shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this code or of any other ordinance of the jurisdiction. Permits presuming to give authority to violate or cancel the provisions of this ordinance shall not be valid. The issuance of a permit based on construction documents and other data shall not prevent the Fire Marshal from requiring the correction of errors in the construction documents and other data. Any addition to or alteration of approved construction documents shall be approved in advance by the Fire Marshal, as evidenced by the issuance of a new or amended permit.

Section 23. TIME LIMITATIONS ON VALIDITY OF PERMITS

All permits issued under this ordinance shall expire by limitation six (6) months after the date of issuance if the work authorized by the permit has not been commenced. If after commencement, the work is discontinued for a period of twelve (12) months, the permit; therefore, shall immediately expire. No work authorized by any permit that has expired shall thereafter be performed until a new permit has been secured.

Section 24. EXTENSION OF PERMITS

A permittee holding an unexpired permit shall have the right to apply for an extension of the time within which the permittee will commence work under that permit when work is unable to be commenced within the time required by this section for good and satisfactory reasons. The Fire Marshal is authorized to grant, in writing, one or more extensions of the time period of a permit for periods of not more than 90 days each. Such extensions shall be required by the permit holder in writing and justifiable cause demonstrated.

Section 25. CHANGES IN WORK

After a permit has been issued, changes or deviations from the terms of the application and permit, or changes or deviations from the plans or specifications involving any work under the jurisdiction of this ordinance or of any regulatory code adopted herein, shall not be made until specific written approval of such changes or deviations has been obtained from the Fire Marshal.

Section 26. PLANS AND SPECIFICATIONS

Where plans and specifications are deemed necessary by the Fire Marshal in order for him to determine whether the proposed work complies with the appropriate regulatory codes; plans shall be drawn to scale with sufficient clarity to indicate the nature and extent of the work proposed, and the plans and specifications together shall contain

information sufficient to indicate that the work proposed will conform to the provisions of this ordinance and the appropriate regulatory codes. Where plans and specifications are required, a copy of the same shall be kept at the work site until all authorized operations have been completed and approved by the Fire Marshal.

Section 27. FEE SCHEDULE

- (a) Fees for inspections required by this Ordinance shall be determined by resolution of the Board of County Commissioners. An inspection fee schedule shall be filed with the Clerk of the Board of County Commissioners and the Fire Marshal's Office for public inspection.
- (b) Inspection fees shall be paid at the time of inspection or permit issued.

Section 28. VIOLATIONS AND PENALTIES

- (a) Any person who shall violate any of the provisions of the Ordinance hereby adopted or who shall fail to comply with any judicial warrant, lawful order, or regulation made hereunder, or who builds in violation of any specifications, or plans shall be guilty of a misdemeanor. Each day that such violation continues shall constitute a separate offense. In the name of the County, the County Fire Code Enforcement Official, through the County Attorney, may enjoin the construction or erection of any facility, building, or structure which does not conform to the provisions of the Ordinance.
- (b) This Ordinance may be enforced by any of the remedies set forth in G. S. 153A-123, in addition to others specifically set out herein.
- (c) Any person who violates this Ordinance subjects the offender to a civil debt if the offender does not pay the penalty within the time prescribed herein after he has been cited for violation of this ordinance. The penalty for a civil violation shall be adopted by the Duplin County Board of Commissioners. Each day of violation constitutes a separate and distinct offense.
- (d) Civil penalties must be paid within seven (7) business days after a citation has been issued by the Fire Code Enforcement Official for a violation. The Fire Code Enforcement Official is authorized to issue written citation (s) in the name of the County for violations.
- (e) If any person shall violate this ordinance or chapter or any provision thereof, he/she shall be guilty of a misdemeanor and shall be imprisoned and fined not more than the maximum imposed by N. C. G. S. 14-4.

Section 29. REMOVAL OF OBSTRUCTIONS PROHIBITED PARKING

Any vehicle found obstructing, any fire hydrant, fire protection equipment, designated and marked fire lane, or fire station, may be issued: a citation removed or towed away by or under the direction of the Fire Code Enforcement Official to a storage area or garage.

The owner of such vehicle shall be deemed to have appointed the Fire Code Enforcement Official as his/her agent for the purpose of arranging for the transportation and safe storage of the vehicle. The owner of such vehicle, before obtaining possession thereof, shall pay all reasonable cost incidental to the removal and storage of the vehicle due for the violation of prohibited parking. The County assumes no liability for any damages for vehicles towed that are in violation of this section.

Section 30. INVESTIGATION OF FIRES

- (a) The County Fire Marshal's Office shall investigate the cause, origin, and circumstances of every fire occurring in the County which is of a suspicious nature or which involves loss of life or injury to person (s) or when notified by any fire department of a fire protection district or when circumstances warrant. Such investigation shall begin immediately upon notification and the investigation activities will be coordinated with the fire department having jurisdiction. Any information obtained pursuant to any such investigation shall be confidential as authorized by law.
- (b) The Sheriff's Department, upon request of the Fire Code Enforcement Official, may render such assistance as necessary in the investigation of any fire determined to be suspicious in nature.

Section 31. ADMINISTRATION AND ENFORCEMENT

The County hereby adopts the North Carolina Administration and Enforcement Volume 1-A of the North Carolina State Building Code.

It is the legislative intent of the Board of Commissioners in enacting this Article that each section and subdivision is separate and divisible from any other section, and if any provision hereof should be held or declared by a court of competent jurisdiction to be invalid for any reason, such decision or holding shall not affect the validity of any other section or provision hereof.

Adopted this the 19th day of February, 2007 to become effective the 19th day of February, 2007

David H. Fussell

Chairman

ATTEST: [Signature]
Clerk

11/3/04

- * Originally adopted 2-21-05, but never signed & recorded in Ordinance Book. David Fussell - motion Larry Howard-2nd (unanimous)
- * Re-adopted February 19th, 2007 Reginald Wells - motion L.S. Guy-2nd (unanimous)

Duplin County Emergency Services
Fire Inspections Annual Permit Fee Schedule

BUSINESS INSPECTIONS AND PERMITS:

Small businesses to include foster care, daycare, rest home, family care homes, nursing homes, and other health care facilities:

Permit and plan review, up to 5,000 sq. ft. \$50.00

Large businesses and sprinkler systems; permit, plan review, and first inspection:

5,001 to 10,000 sq. ft. \$ 75.00

10,001 to 25,000 sq. ft. \$100.00

Over 25,000 sq. ft. \$125.00

SPECIAL USER PERMITS:

Churches \$25.00

Fireworks for public display \$25.00

Tents greater than 700 square ft. and any Air Structure (30 days permit) \$25.00

Temporary kiosks or displays for merchandising \$10.00

Insecticide fogging fumigation \$25.00

Explosive materials (Blasting Permit) \$50.00

Special Assembly (gun shows, craft shows, etc) \$50.00

Any other special function requiring fire inspection or approval \$50.00

SPECIAL TEST, INSPECTIONS AND SERVICES

Sprinkler certification test \$50.00

Fire alarm testing \$50.00

Standpipe test \$50.00

Hood Systems and fixed fire suppression \$50.00

STORAGE TANKS (aboveground and underground tanks):

Removal (per tank) \$50.00

Installation (per tank) \$50.00

Pipe inspection and pressure test \$50.00

RE-INSPECTIONS:

First re-inspection \$25.00

Second and subsequent re-inspections \$50.00

PARKING CITATION FEES:

Per offence \$50.00

Duplin County
Fire Inspection Permit Procedure

Propose:

To ensure annual inspections of **All** Duplin County businesses as outlined by Duplin County Fire Prevention and Protection Code Ordinance, dated 21 February 2005, once a year for the health, safety and well-being of the residents, citizens, and visitors that may frequent said businesses by ensuring that Duplin County businesses meet all code and ordinance requirements of the State and local government.

Policy:

Each small business or large business occupying a location in Duplin County, which is open to the general public, shall be entered into the Duplin County Fire Marshal Program for tracking inspections and the outcome of said inspections. Each business that is currently operating in Duplin County shall be assigned an inspection month and year by the Duplin County Fire Marshal's Office by which an inspection must be completed, and will include a renewal month and year for the subsequent year. New businesses shall be added as they are identified and assigned an inspection month and year in which they will need to be inspected, including a renewal month and year. All businesses will be sent a renewal letter one month prior to the inspection month requesting prepayment of the inspection and permit.

If a business fails to respond within ten business days of said renewal notice, an additional renewal notice will be sent. If no response is received after two renewal notices are sent, then a third renewal notice will be sent registered mail return receipt requested. Upon receipt of either a signed returned mail receipt or an envelope stamped unclaimed the Duplin County Fire Marshal's Office shall allow said business a period of ten business days in which to respond to the renewal notice. If no response is received after the ten business days have lapsed, then a civil penalty of fifty dollars (\$50.00) per business day shall be charged to the business not in compliance for each day it remains out of compliance with this ordinance. If thirty or more business days have elapsed since receipt of either a signed returned mail receipt or an envelope stamped unclaimed has been received by the Duplin County Fire Marshall's office, then a criminal action shall be filed against said business pursuant to N.C. Gen. Stat. §14-68.

**Water Shortage Response Ordinance
Duplin County**

Ordinance No. 5975

An ordinance authorizing the declaration of water shortage; establishing procedures and measures for the essential conservation of water resources; and prescribing certain penalties.

Be it Enacted by the Commissioners of the County of Duplin.

1. Section 1. Purpose

The purpose of this ordinance is to provide for the declaration of official phases of water supply shortage situations and the implementation of voluntary, mandatory, emergency and rationing water conservation measures throughout the County of Duplin in the event a shortage is declared. A shortage may be declared when the water supply is low and declining and is inadequate to meet demand. A water shortage shall also be declared to exist when production, transmission and storage facilities are incapable of meeting all daily water demands unless water demand is substantially reduced.

2. Section 2. Definitions

- a. "County" is the County of Duplin.
- b. "Customer" means any person using water for any purpose from the County of Duplin's water distribution system.
- c. "Emergency" means that water supplies are below the level necessary to meet normal needs and that serious shortages exist.
- d. "Non-Residential Customer" means commercial, industrial, institutional, public and all other such users, with the exception of hospitals and health care facilities.
- e. "ORC" is the Operator in Responsible Charge. This is the head operator of the County of Duplin's Water System.
- f. "Rationing" shall mean procedures established to provide for the equitable distribution of critically-limited water supplies, in order to balance demand and limited available supplies and to assure that sufficient water is available to preserve public health and safety.
- g. "Residential Customer" means any customers who receive water service for a single or multi-family dwelling unit. The term residential customer does not include educational or other institutions, hotels, motels or similar commercial establishments.
- h. "Water" means water available to the County of Duplin for treatment by virtue of its water rights or withdrawal permit or any water introduced by the County of Duplin into its water distribution system.

i. "Water Use Classifications" shall be established as follows:

i. Class 1: Essential Water Uses

1) Domestic Use

Domestic uses shall include: water necessary to sustain human life and the lives of domestic pets and to maintain minimum standards of hygiene and sanitation.

2) Health Care Facilities

Health care facilities shall include: patient care and rehabilitation, including swimming pools used for patient care and rehabilitation.

3) Public Use

Public uses shall include: firefighting, including testing and drills by the fire department if performed in the interest of public safety and if approved by the Board of Commissioners; flushing of sewers and hydrants as needed to ensure public health and safety and if approved by the Board of Commissioners.

ii. Class 2: Socially or Economically Important Uses of Water

1) Domestic Use

Domestic uses shall include: all domestic uses other than those included in Classes 1 and 3; home water use including kitchen, bathroom and laundry use; minimal watering of vegetable gardens and watering of trees where necessary to preserve them.

2) Commercial, Agricultural, Industrial and Institutional Uses

Commercial, Agricultural, Industrial and Institutional uses shall include: outdoor commercial watering (public or private) using conservation measures; irrigation for commercial vegetable gardens and fruit orchards or the maintenance of livestock; watering by commercial nurseries at a minimum level necessary to maintain stock; water use by arboretums and public gardens of national, state or regional significance where necessary to preserve specimens; use of fresh water at a minimum rate necessary to establish vegetation following earth-moving, where such vegetation is required by law or regulation; watering of golf course greens; filling and operation of swimming pools that serve more than 25 dwelling units or are used by health care facilities for patient care and rehabilitation, or municipal pools; commercial car and truck washes; commercial laundromats; commercial pressure washers; restaurants and clubs; air

conditioning (refilling for start up at the beginning of the cooling season, make up of water during the cooling season and refilling specifically approved by health officials and the municipal governing body, where the system has been drained for health protection or repair purposes); schools; churches; motels/hotels and similar commercial establishments.

iii. Class 3: Non-Essential Uses of Water

1) Ornamental Purposes

Ornamental purposes shall include: fountains, reflecting pools and artificial waterfalls.

2) Outdoor Non-Commercial Watering

Outdoor non-commercial watering shall include (public or private): gardens; lawns; parks; golf courses (except greens); playing fields and other recreational areas; filling and operation of recreational swimming pools which serve fewer than 25 dwellings; non-commercial washing of motor vehicles; serving water in restaurants, clubs or eating places except by specific request; air conditioning (refilling cooling towers after draining except as specified in Class 1).

3) Public Use

Public uses shall include: fire hydrants (any purpose, including use of sprinkler caps and testing fire apparatus and for fire department drills, except as listed in Class 1); flushing of sewers and hydrants except as listed in Class 1.

3. Section 3. Conditions Deemed Emergency

- a. A state of emergency shall be deemed to exist whenever, in the opinion of the ORC, the availability and supply of water is critical so that a mechanical malfunction or failure of the water supply or a rapid draw down of the water storage would so deplete the availability of water as to threaten or cause to threaten the availability of water for human consumption, for firefighting purposes and other protection of lives and property, and the conservation of water is necessary in order to protect lives, safety and property within the County's service area. This includes, but is not limited to conditions as follows: drought, falling water levels within wells or elevated storage tanks, seasonal or otherwise high water consumption, limited capabilities of the water production and distribution system, poor outlook for precipitation and failure or incapacitation of one or more wells, one or more elevated water storage tanks or one or more water lines.
- b. The County's wells are monitored daily and withdrawals are recorded. Results of daily monitoring are submitted routinely to the North Carolina Department of Environment and

Natural Resources. The ORC will use this data to determine if a state of emergency should be declared.

4. Section 4. Issuance of Water Shortage Proclamation / Restrictions / Limitations Imposed

- a. In the event of an existing or threatening state of emergency endangering the safety, health or welfare of the people of the Duplin County service area, or threatening damage or destruction of property, arising from the shortage or threatened shortage of water, the County Manager, with the recommendation of the ORC, will advise the Commissioners of the existence of a state of emergency. The County Manager is hereby authorized and empowered to issue a public proclamation declaring the existence of such state of emergency.
- b. Such proclamation may specify the authorized uses of water and may place limitations, prohibitions and restrictions upon the usage of water for residential, business and commercial uses. Such proclamation may limit the use of water for non-crucial uses including but not limited to, the watering of lawns, washing of automobiles and similar activities and may be expanded thereafter to include other activities.
- c. The proclamation will use predetermined phases of water restrictions found in Section 7.

5. Section 5. Notice of Water Shortage to General Public

- a. In the event of a water shortage of any of the degrees of severity hereinafter set forth threatening the health and safety of the citizens, the County Manager is authorized and empowered, after communication with the Commissioners, to give notice to the general public of the existence of such state and the severity thereof. In order to protect the health and safety of the people supplied water by the County, the County Manager may place in effect the restrictive provisions hereinafter authorized. Notice shall be given by public press announcement and by signing an executive order. The order shall become effective twenty-four (24) hours following the press announcement and the signing of the order.
- b. Once a phase of water restriction is declared, the ORC shall review the status of the County's water system at least every day. A declared stage shall remain in effect for a minimum of two (2) days; provided that if conditions listed in Section 3 warrant, a more restrictive level may be enacted immediately. At the end of two (2) days and following the periodic review, the ORC shall notify the County Manager when there is no longer a shortage or threat of shortage to the County's water supply.
- c. In addition to the other powers contained in this Ordinance, the County Manager, when notified by the ORC that there is a serious and immediate threat to the County's water system because of reduced water quantity or quality, or other imminent condition, may temporarily impose restrictions on automated and manual sprinkling. Such restrictions may include, among others, limitations on methods of sprinkling, the hours and days and whether such sprinkling may occur at all. In such event the Notice provisions contained in Section 5a shall apply and the enforcement provisions of Section 9 shall be applicable.

The County Manager may terminate, by written notice, such restrictions when the threat has abated.

6. Section 6. Compliance Required in the Event of a Water Shortage

- a. In the event the County Manager issues the notice described in Section 5, it shall be unlawful for any person to use or permit the use of water from the water system of the County for any of the purposes hereinafter set forth until such time as this Article is amended or repealed, or until the County Manager has declared such provisions no longer in effect. In exercising this authority, considerations shall be given to the following criteria: the water level of the aquifers, water levels in the elevated storage tanks, capabilities of the water production and distribution system, draw down rates, outlook for precipitation, daily water use patterns, seasonal and long-term weather patterns and availability of water from other sources, including County wells and the emergency interconnection with other water systems.
- b. Hospitals, nursing homes and health care facilities shall comply with all restrictions imposed on residential and non-residential water customers as may be applicable to each individual institution to the extent compliance will not endanger the health of the patients for residents of the institution.
- c. Each hospital, nursing home or health care facility shall survey its water usage patterns and requirements and implement such additional conservation measures as may be possible without endangering the health of its patients or residents to achieve a further reduction in the institution's water usage.
- d. The following shall apply at all times to the outdoor sprinkling of lawns, shrubbery, trees, flowers, gardens and other outside irrigation systems.
 - i. It shall be unlawful to operate any sprinkler system during times of rain or to operate a sprinkler, at any time, so as to disperse water on an impervious surface.
 - ii. Any violation of Section 6 (d) (i) by a residential user shall be treated as a Mandatory Phase violation for the purpose of imposing civil penalties.

7. Section 7. Restrictions Applicable to Various Phases of Water Shortage

- a. The severity of the water shortages shall be determined primarily by the County Manager from the recommendation by the ORC.
- b. The restrictive measures in effect at each stage are as follows:
 - i. **Voluntary Conservation Phase**

Declaration of voluntary conservation measures will be enacted when the ORC of the County finds that a potential shortage of water supply is indicated using the

criteria set out in Section 3. After complying with those Notice provisions contained in Section 5a., the following voluntary water restrictions shall be requested.

- 1) Voluntary, commercial, manufacturing, institutional and residential conservation measures will be strongly encouraged and recommended including the following:
 - (a) Inspect and repair all faulty and defective parts of faucets and toilets.
 - (b) Use shower for bathing rather than bathtub and limit shower to no more than five (5) minutes.
 - (c) Do not leave faucets running while shaving, rinsing dishes or brushing teeth.
 - (d) Limit use of clothes washers and dishwashers and when used, operate fully loaded.
 - (e) Limit lawn watering to that necessary for plant survival, one inch of water per week including rainfall.
 - (f) Water shrubbery the minimum required, reusing household water when possible.
 - (g) Limit vehicle washing.
 - (h) Do not wash down outside areas such as sidewalks, patios, driveways, etc.
 - (i) Install water flow restrictions in showerheads, faucet aerators and other water saving devices.
 - (j) Use disposable and biodegradable dishes where possible.
 - (k) Limit hours of water-cooled air conditioners.
 - (l) Do not fill swimming or wading pools.
- 2) Water supply line pressure should be reduced where feasible to reduce water consumption if it will not affect the operation of fixtures, equipment, public safety or health devices.
- 3) Conservation in public buildings, institutions and similar facilities is encouraged by the installation of restricting devices.

- 4) Water conservation should be followed during all phases of construction related activities. Where appropriate, water needed should be obtained from supplemental sources.

All users shall reduce consumption to any degree feasible with a goal of a reduction of at least fifteen percent (15%) of the average usage as compared with their usage during the corresponding billing period for the most recent twelve (12) month period ending June 30, in which no stage of this ordinance was in effect: provided, this goal shall not apply to those customers who wash parts of vehicles where such washing is required by Federal, state or local laws or for health or safety reasons.

ii. **Mandatory Conservation Phase**

Declaration of mandatory conservation measures will be enacted when the previous voluntary restrictions are not sufficient to eliminate the water shortage and the ORC of the County finds that there is a potential for a water emergency situation to occur (**Potential exists if the amount of elevated storage is 150 gallons per user per day or less**). The County shall continue to encourage voluntary water conservation measures defined under the voluntary conservation declaration, and further shall impose the following restrictions. It shall be unlawful to:

- 1) Water or sprinkle any lawn, vegetable garden, grass, shrubbery, trees or flowers except by a hand held hose, container or drip irrigation system. Provided that a person regularly engaged in the sale of plants shall be permitted to use water for irrigation of their commercial stock in trade.
- 2) Operate water-cooled air conditioners or other equipment that does not recycle cooling water, except when health and safety are adversely affected.
- 3) Wash automobiles, trucks, trailers, boats, airplanes or any other type of mobile or processing equipment; except that parts of vehicles or processing equipment may be washed where required by federal, state or local laws or for health and safety reasons. Provided that any commercial or business operated car wash facility or any facility that requires water in their processing shall be permitted to use water for such necessary purposes.
- 4) Wash down outside areas such as streets, driveways, service station aprons, parking lots, office buildings, exteriors of existing or newly constructed homes or apartments, sidewalks or patios, or to use water for similar purposes; provided, hand washing of exterior surfaces of a building for the purpose of preparing them for painting shall be permitted. Provided further, licensed commercial pressure washers shall be permitted to operate.

- 5) Operate or introduce water into any ornamental fountain, pool or pond or other structure making similar use of water.
- 6) Serve drinking water in restaurants, cafeterias or other food establishments, except as requested.
- 7) Use water from any public or private fire hydrants for any purpose other than fire suppression or other public emergency or Water Resources Department needs.
- 8) Use water for dust control or compaction.
- 9) Use water for any unnecessary purpose or intentionally waste water.

All users shall reduce consumption to any degree feasible with a goal of a reduction of at least ten percent (10%) of the average usage as compared with their usage during the corresponding billing period for the most recent twelve (12) month period ending June 30, in which no stage of this ordinance was in effect; provided, this goal shall not apply to those customers who wash parts of vehicles where such washing is required by Federal, state or local laws or for health or safety reasons.

iii. Emergency Phase

Declaration of water shortage emergency measures will be enacted when the previous voluntary and mandatory restrictions are not sufficient to eliminate the water shortage and the ORC of the County finds that a water emergency situation exists (**A water shortage emergency situation exists if the amount of elevated storage is 125 gallons per user per day or less**). After complying with those Notice provisions contained in Section 5a, the following mandatory water restrictions, in addition to those imposed in the Mandatory Conservation Phase shall be imposed. It shall be unlawful to:

- 1) Water or sprinkle any lawn, grass, shrubbery, trees or flowers except from a watering can or other container not exceeding three (3) gallons in capacity with used wash water from inside a structure, except that shrubbery, trees or flowers planted within the last 120 days may be watered by hand-held hose. It is the owner's responsibility to provide a receipt for proof of planting date. Provided, however, that a person regularly engaged in the sale of plants shall be permitted to use water for irrigation of their commercial stock in trade. State and County licensed landscape contractors may continue to water plantings, under written warranty, by hand-held hose, container or drip irrigation.
- 2) Water any vegetable garden except by hand-held hose, container or drip irrigation system.

- 3) Fill or refill any single-family swimming or wading pool.
- 4) Make any nonessential use of water for commercial or public use.

All users shall reduce consumption to any degree feasible with a goal of a reduction of at least fifteen percent (15%) of their average usage as compared with their usage during the corresponding billing period for the most recent twelve (12) month period ending June 30, in which no stage of this ordinance was in effect; provided, this goal shall not apply to those customers who wash parts of vehicles where such washing is required by Federal, state or local laws or for health or safety reasons.

iv. Rationing Phase

When the governing body of the County has declared a Water Shortage Emergency and finds a need to provide for the equitable distribution of critically-limited water supplies, in order to balance demand and limited available supplies, and to assure that sufficient water is available to preserve public health and safety, it shall be empowered to provide for mandatory rationing. After complying with those provisions contained in Section 5a, the following rationing restrictions, in addition to those imposed in the mandatory and emergency conservation phase shall be imposed. **(A water shortage rationing situation exists if the amount of elevated storage is 100 gallons per user per day or less).** It shall be unlawful to:

- 1) Use water outside a structure for any use other than emergencies involving fire or as needed by the ORC to maintain the system, except that flowers, plants and shrubs may be watered from a watering can or other container not exceeding three (3) gallons in capacity with used wash water from inside a structure.
- 2) Operate an evaporative air conditioning unit that recycles water except during the operating hours of the business.
- 3) Wash any vehicle for any purpose, whether inside or outside a structure, except those parts of vehicles may be washed where required by Federal, state or local laws or for health or safety.
- 4) Exceed the following water usage mandate. All non-residential customers shall reduce their water usage by twenty percent (20%) of their average usage during the corresponding billing period for the most recent 12-month period, ending June 30, in which no phase of this Ordinance was in effect; except that water may not be used to fill or top off any swimming or wading pool. If new meter readings are recorded or otherwise available for a customer's billing period an average of similar users will be established for the customer by the ORC.

- (a) It is the primary responsibility of each non-residential customer to meet its mandated water use reduction in whatever manner possible, including limitation of operating hours or days if necessary.
 - (b) Each customer shall provide access to County personnel for the purpose of reading and monitoring of compliance with this Ordinance.
 - (c) If the mandated reduction in water usage cannot be obtained without threatening health or safety, or if there has been a significant change in the customer's circumstances, the customer may apply to the County Manager, or his designee for a variance to the mandate. Any appeal of this administrative decision shall be to the Superior Court as provided by law.
 - (d) Any water customer who exceeds the allotments established pursuant to this water rationing will be subject to the following excess-use water rates.
 - (i) "Excess-use water rates" will be collected based on the amount by which a customer's monthly use exceeds the water allotments established pursuant to the local water rationing declaration computed on the basis that all water used in excess of the allotment shall be at ten (10) times the normal rate.
 - (ii) Any monies collected through excess-use water rates shall be placed in a reserve account that is dedicated to addressing water shortage problems and water conservation initiatives.
 - (iii) Failure of the customer to remit the periodic amount billed within the allotted time may result in termination of water service to the customer pursuant to the water and sewer regulations.
- 5) Make any new service connections to the County's water system except for public and other schools satisfying the compulsory education requirements of the laws of the State of North Carolina, public facilities for sheriff, police, fire protection, hospitals and emergency medical services and facilities of public service companies regulated as public utilities under the laws of the State of North Carolina.

All users shall reduce consumption to any degree feasible with a goal of a reduction of at least twenty percent (20%) of the average usage as compared with their usage during the corresponding billing period for the most recent twelve (12)

month period ending June 30, in which no stage of this ordinance was in effect: provided, this goal shall not apply to those customers who wash parts of vehicles where such washing is required by Federal, state or local laws or for health or safety reasons.

8. Section 8. Compliance

Compliance with the provisions of this Section shall be enforced by personnel of the County, the Duplin County Sheriff's Department and other such personnel as designated by the County Manager. Failure to comply with any of the regulations of this Section shall be unlawful and a violation of the Ordinance and remedies authorized by law for noncompliance with the Ordinance, including the issuance of a civil penalty citation or action for injunctive relief, may be exercised to enforce its provisions. It shall be unlawful to fail to act in accordance therewith or to use water in any manner so as to attempt to evade or avoid such water restrictions.

9. Section 9. Enforcement and Civil Penalty

a. Residential Users

Any residential user who shall violate any provision of this Ordinance shall be subject to civil penalties. Civil penalties for a violation of Mandatory restrictions shall be as follows: a warning for the first offense; a civil penalty in the amount of \$100.00 for the second offense; a civil penalty in the amount of \$250.00 for the third and successive offenses. In the Water Shortage Emergency or Rationing phase, there shall be no warnings given for violations by residential users of the mandatory restrictions of this phase and the penalties shall be \$100.00 for the first offence, \$250.00 for the second and successive offenses.

b. Non-Residential Users

Any non-residential user who shall violate any provision of this Ordinance shall be subject to a civil penalty. Civil penalties for a violation of any Mandatory, Emergency or Rationing phase of this Ordinance shall be as follows: a civil penalty of \$250.00 for the first violation; a civil penalty of \$500.00 for the second violation; and a civil penalty of \$1,000.00 for the third and successive offenses.

10. Section 10. Severability

If any provision of this ordinance is declared unconstitutional, or the application thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the ordinance and its applicability to other person and circumstances shall not be affected thereby.

11. Section 11. Effective Date

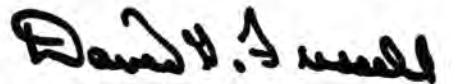
This ordinance shall take effect immediately upon adoption or passage by the County Commissioners.

12. Section 12. Effective Period

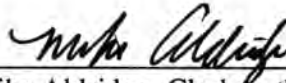
This ordinance will remain in effect until terminated by action of the County Commissioners.

This ordinance shall be in full force and effective upon its adoption.

Adopted this the 5th day of November, 2007.



David G. Fussell, Chairman
County of Duplin



Mike Aldridge, Clerk to the Board
County of Duplin

IDENTITY THEFT PREVENTION PROGRAM
COUNTY OF DUPLIN, NORTH CAROLINA

TO ESTABLISH AN IDENTIFY THEFT PREVENTION PROGRAM; TO COMPLY WITH FEDERAL REGULATIONS RELATING TO ADDRESS DISCREPANCIES; TO COMPLY WITH FEDERAL REGULATIONS RELATING TO RED FLAGS AND IDENTIFY THEFT; TO PROVIDE FOR CODIFICATION; TO PROVIDE FOR SEVERABILITY; TO PROVIDE FOR AN ADOPTION DATE; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES ALLOWED BY LAW.

WHEREAS pursuant to federal law the Federal Trade Commission adopted Identity Theft Rules requiring the creation of certain policies relating to the use of consumer reports, address discrepancy and the detection, prevention and mitigation of identity theft;

WHEREAS, the Federal Trade Commission regulations, adopted as 16 CFR § 681.2 require creditors, as defined by 15 U.S.C. § 168a(r)(5) to adopt red flag policies to prevent and mitigate identity theft with respect to covered accounts;

WHEREAS 15 U.S.C. § 1681a(r)(5) cites 15 U.S.C. § 1691a, which defines a creditor as a person that extends, renews or continues credit, and defines 'credit' in part as the right to purchase property or services and defer payment therefore;

WHEREAS the Federal Trade Commission regulations include utility companies in the definition of creditor;

WHEREAS the County of Duplin is a creditor with respect to 16 CFR § 681.2 by virtue of providing utility services or by otherwise accepting payment for municipal services in arrears;

WHEREAS the Federal Trade Commission regulations define "covered account" in part as an account that a creditor provides for personal, family or household purposes that is designed to allow multiple payments or transactions and specifies that a utility account is a covered account;

WHEREAS the Federal Trade Commission regulations require each creditor to adopt an Identity Theft Prevention Program which will use red flags to detect, prevent and mitigate identity theft related to information used in covered accounts;

WHEREAS the County provides utility accounts for Water Services for which payment is made after the product is consumed or the service has otherwise been provided which by virtue of being utility accounts are covered accounts;

WHEREAS customer accounts for non-utility county services for Emergency Medical Services, Health Services and Tax Services for which payment is made after the product is consumed or

the service has otherwise been provided are covered accounts by virtue of being for household purposes and allowing for multiple payments or transactions;

WHEREAS the Federal Trade Commission regulations, adopted as 16 CFR 681.1, require users of consumer credit reports to develop policies and procedures relating to address discrepancies between information provided by a consumer and information provided by a consumer credit company;

WHEREAS the County of Duplin uses consumer credit reports third party services to verify various customer accounts; and

WHEREAS the duly elected governing authority of the County of Duplin is the Board of County Commissioners thereof;

Now therefore be it ordained that the County of Duplin adopts the following Identity Theft Prevention Program:

Section 1

“Article 1

Identity Theft Prevention Program

Section 1-1. Short Title.

This article shall be known as the Identity Theft Prevention Program.

Section 1-2. Purpose.

Pursuant to 16 CFR § 681.1, the purpose of this Article is to establish a process by which the county will be able to form a reasonable belief that a consumer report or third party services, relates to the consumer about whom it has requested a consumer credit report or third party services when the county has received a notice of address discrepancy.

Section 1-3. Definitions.

For purposes of this Article, the following definitions apply:

- (a) ‘County’ means the County of Duplin.
- (b) ‘ Covered account’ means (i) An account that a financial institution or creditor offers or maintains, primarily for personal, family, or household purposes, that involves or is designed to permit multiple payments or transactions, such as any account that the financial institution or creditor offers or maintains for which there is a reasonably

foreseeable risk to customers or to the safety and soundness of the financial institution or creditor from identity theft, including financial, operational, compliance, reputation, or litigation risks.

- (c) 'Credit' means the right granted by a creditor to a debtor to defer payment of debt or to incur debts and defer its payment or to purchase property or services and defer payment therefore.
- (d) 'Creditor' means any person who regularly extends, renews, or continues credit; any person who regularly arranges for the extension, renewal, or continuation of credit; or any assignee of an original creditor who participates in the decision to extend, renew, or continue credit and for covered accounts.
- (e) 'Customer' means a person that has a covered account with a creditor.
- (f) 'Identity theft' means a fraud committed or attempted using identifying information of another person without authority.
- (g) 'Notice of address discrepancy' means a notice sent to a user by a consumer reporting agency pursuant to 15 U.S.C. § 1681(c)(h)(1), that informs the user of a substantial difference between the address for the consumer that the user provided to request the consumer report or third party services and the address(es) in the agency's file for the consumer.¹
- (h) 'Person' means a natural person, a corporation, government or governmental subdivision or agency, trust, estate, partnership, cooperative, or association.
- (i) 'Personal Identifying Information' means a person's credit card account information, debit card information, bank account information and drivers' license information and for a natural person includes their social security number, mother's birth name, and date of birth.
- (j) 'Red flag' means a pattern, practice, or specific activity that indicates the possible existence of identity theft.
- (k) 'Service provider' means a person that provides a service directly to the county.

Section 1-4. Findings.

In the event that the county receives a notice of address discrepancy, the county employee responsible for verifying consumer addresses for the purpose of providing the county service or

¹ See 16 CFR § 681.1(b).

account sought by the consumer shall perform one or more of the following activities, as determined to be appropriate by such employee:

- (1) The county is a creditor pursuant to 16 CFR § 681.2 due to its provision or maintenance of covered accounts for which payment is made in arrears.
- (2) Covered accounts offered to customers for the provision of county services include Emergency Medical Services, Health Department, Tax Administration and Water Department.
- (3) Compare the information in the consumer report or third party services with:
- (4) Information the county obtains and uses to verify a consumer's identity in accordance with the requirements of the Customer Information Program rules implementing 31 U.S.C. § 5318(1);
- (5) Information the county maintains in its own records, such as applications for service, change of address notices, other customer account records or tax records; or
- (6) Information the county obtains from third-party sources that are deemed reliable by the relevant county employee; or
- (7) Verify the information in the consumer report with the consumer.
- (8) The processes of opening a new covered account, restoring an existing covered account, making payments on such accounts, and closing accounts have been identified as potential processes in which identity theft could occur.
- (9) The county limits access to personal identifying information to those employees responsible for or otherwise involved in opening or restoring covered accounts or accepting payment for use of covered accounts. Information provided to such employees is entered directly into the county's computer system some of which may be stored on paper documentation in a secure area.
- (10) The county determines that there is a moderate risk of identity theft occurring in the following ways (*if any*):
 - a. Use by an applicant of another person's personal identifying information to establish a new covered account;
 - b. Use of a previous customer's personal identifying information by another person in an effort to have service restored in the previous customer's name;
 - c. Use of another person's credit card, bank account, or other method of payment by a customer to pay such customer's covered account or accounts; and
 - d. Use by a customer desiring to restore such customer's covered account of another person's credit card, bank account, or other method of payment.

Section 1-5. Furnishing Consumer's Address to Consumer Reporting Agency.

- (1) In the event that the county reasonably confirms that an address provided by a consumer to the county is accurate, the county is required to provide such address to the consumer reporting agency from which the county received a notice of address

discrepancy with respect to such consumer. This information is required to be provided to the consumer reporting agency when:

- a. The county is able to form a reasonable belief that the consumer report relates to the consumer about whom the county requested the report;
 - b. The county establishes a continuing relation with the consumer; and
 - c. The county regularly and in the ordinary course of business provides information to the consumer reporting agency from which it received the notice of address discrepancy.
- (2) Such information shall be provided to the consumer reporting agency as part of the information regularly provided by the county to such agency for the reporting period in which the city establishes a relationship with the customer.

Section 1-5. Process of Establishing a Covered Account.

- a. As a precondition to opening a covered account in the county, each applicant shall provide the county with personal identifying information of the customer when applicable by showing photographic identification. In an emergency situation personal identifying information may be obtained from third-party sources that are deemed reliable by a county employee. However, after the emergency is diverted or concluded the county shall attempt to confirm the identifying information provided by the third-party.
- (1) Any applicant shall provide a valid government issued identification card, containing a photograph of the customer or, for customers who are not natural persons, a photograph of the customer's agent opening the account. Such applicant shall also provide any information necessary for the department providing the service for which the covered account is created to access the applicant's consumer credit report. Such information shall be entered directly into the county's computer system some of which shall be stored on paper documentation in a secure area.
- (2) Each account shall be assigned an account number which shall be unique to that account.

Section 1-6. Access to Covered Account Information.

- (1) Access to customer accounts shall be password protected and shall be limited to only authorized county personnel.
- (2) Such password(s) shall be changed by computerized force password on a regular basis, shall be at least 8 characters in length and may contain letters, numbers and symbols.
- (3) Any unauthorized access to or other breach of customer accounts is to be reported immediately to the County Manager and the password changed immediately.
- (4) Personal identifying information included in customer accounts is considered confidential and any request or demand for such information shall be immediately forwarded to the County Manager and the County Attorney.

Section 1-7. Methods of confirming Consumer Addresses.

The county employee charged with confirming consumer addresses may, in his or her discretion, confirm the accuracy of an address through one or more of the following methods:

- (1) Verifying the address with the consumer;
- (2) Reviewing the county's records to verify the consumer's address;
- (3) Verifying the address through third party sources; or
- (4) Using other reasonable processes.

Section 1-7. Credit Card Payments.

- (1) In the event that credit card payments that are made over the Internet are processed through a third party service provider, such third party service provider shall certify that it has an adequate identity theft prevention program in place that is applicable to such payments.
- (2) All credit card payments made over the telephone or the county's website shall be entered directly into the customer's account information in the computer data base.
- (3) Account statements and receipts for covered accounts shall include only the last four digits of the credit or debit card or the bank account used for payment of the covered account.

Section 1-8. Sources and Types of Red Flags.

All employees responsible for or involved in the process of opening a covered account, restoring a covered account or accepting payment for a covered account shall check for red flags as indicators of possible identity theft and such red flags may include:

- (1) Alerts from consumer reporting agencies, fraud detection agencies or service providers. Examples of alerts include but are not limited to:
 - a. A fraud or active duty alert that is included with a consumer report;
 - b. A notice of credit freeze in response to a request for a consumer report;
 - c. A notice of address discrepancy provided by a consumer reporting agency;
 - d. Indications of a pattern of activity in a consumer report that is inconsistent with the history and usual pattern of activity of an applicant or customer, such as:
 - i. A recent and significant increase in the volume of inquiries;
 - ii. An unusual number of recently established credit relationships;
 - iii. A material change in the use of credit, especially with respect to recently established credit relationships; or
 - iv. An account that was closed for cause or identified for abuse of account privileges by a financial institution or creditor.
- (2) Suspicious documents. Examples of suspicious documents include:
 - a. Documents provided for identification that appear to be altered or forged;

- b. Identification on which the photograph or physical description is inconsistent with the appearance of the applicant or customer;
 - c. Identification on which the information is inconsistent with information provided by the applicant or customer;
 - d. Identification on which the information is inconsistent with readily accessible information that is on file with the financial institution or creditor, such as a signature card or a recent check; or
 - e. An application that appears to have been altered or forged, or appears to have been destroyed and reassembled.
- (3) Suspicious personal identification, such as suspicious address change. Examples of suspicious identifying information include:
- a. Personal identifying information that is inconsistent with external information sources used by the financial institution or creditor. For example:
 - i. The address does not match any address in the consumer report, third party services; or
 - ii. The Social Security Number (SSN) has not been issued, or is listed on the Social Security Administration's Death Master File.
 - b. Personal identifying information provided by the customer is not consistent with other personal identifying information provided by the customer, such as a lack of correlation between the SSN range and date of birth.
 - c. Personal identifying information or a phone number or address, is associated with known fraudulent applications or activities as indicated by internal or third-party sources used by the financial institution or creditor.
 - d. Other information provided, such as fictitious mailing address, mail drop addresses, jail addresses, invalid phone numbers, pager numbers or answering services, is associated with fraudulent activity.
 - e. The SSN provided is the same as that submitted by other applicants or customers.
 - f. The address or telephone number provided is the same as or similar to the account number or telephone number submitted by an unusually large number of applicants or customers.
 - g. The applicant or customer fails to provide all required personal identifying information on an application or in response to notification that the application is incomplete.
 - h. Personal identifying information is not consistent with personal identifying information that is on file with the financial institution or creditor.
 - i. The applicant or customer cannot provide authenticating information beyond that which generally would be available from a wallet or consumer report, except in an emergency situation.
- (4) Unusual use of or suspicious activity relating to a covered account. Examples of suspicious activity include:
- a. Shortly following the notice of a change of address for an account, county receives a request for the addition of authorized users on the account.
 - b. An account is used in a manner that is not consistent with established patterns of activity on the account. There is, for example:

- i. Nonpayment when there is no history of late or missed payments;
 - ii. A material change in purchasing or spending patterns;
 - c. An account that has been inactive for a long period of time is used (*taking into consideration the type of account, the expected pattern of usage and other relevant factors*).
 - d. Mail sent to the customer is returned repeatedly as undeliverable although transactions continue to be conducted in connection with the customer's account.
 - e. The county is notified that the customer is not receiving paper account statements.
 - f. The county is notified of unauthorized charges or transactions in connection with a customer's account.
 - g. The county is notified by a customer, law enforcement or other person that it has opened a fraudulent account for a person engaged in identity theft.
- (5) Notice from customers, law enforcement, victims or other reliable sources regarding possible identity theft or phishing relating to covered accounts

Section 1-9. Prevention and Mitigation of Identity Theft.

- (1) In the event that any county employee is responsible for or involved in restoring an existing covered account or accepting payment for a covered account becomes aware of red flags indicating possible identity theft with respect to existing covered accounts, such employee shall use his or her discretion to determine whether such red flag or combination of red flags suggests a threat of identity theft. If, in his or her discretion, such employee determines that identity theft or attempted identity theft is likely or probable, such employee shall immediately report such red flags to his or her supervisor, office manager or department head. If, in his or her discretion, such employee deems that identity theft is unlikely or that reliable information is available to reconcile red flags, the employee shall convey this information to his or her supervisor, office manager or department head, who may in his or her discretion determine that no further action is necessary. If the supervisor, office manager or department head in his or her discretion determines that further action is necessary, a county employee shall perform one or more of the following responses, as determined to be appropriate by supervisor, office manager or department head:
- a. Contact the customer;
 - b. Make the following changes to the account if, after contacting the customer, it is apparent that someone other than the customer has accessed the customer's covered account:
 - i. Change any account numbers, passwords, security codes, or other security devices that permit access to an account; or
 - ii. Close the account;
 - c. Cease attempts to collect additional charges from the customer and decline to sell the customer's account to a debt collector in the event that the customer's account has been accessed without authorization and such access has caused additional charges to accrue;

- d. Notify a debt collector within 24 hours of a discovery of likely or probably identity theft relating to a customer account that has been sold to such debt collector in the event that a customer's account has been sold to a debt collector prior to the discovery of the likelihood or probability of identity theft relating to such account;
 - e. Notify law enforcement, in the event that someone other than the customer has accessed the customer's account causing additional charges to accrue or accessing personal identifying information; or
 - f. Take other appropriate action to prevent or mitigate identity theft.
- (2) In the event that any county employee responsible for or involved in opening a new covered account becomes aware of red flags indicating possible identity theft with respect an application for a new account, such employee shall use his or her discretion to determine whether such red flag or combination of red flags suggests a threat of identity theft. If, in his or her discretion, such employee determines that identity theft or attempted identity theft is likely or probable, such employee shall immediately report such red flags to supervisor, office manager or department head. If, in his or her discretion, such employee deems that identity theft is unlikely or that reliable information is available to reconcile red flags, the employee shall convey this information to supervisor, office manager or department head, who may in his or her discretion determine that no further action is necessary. If supervisor, office manager or department head in his or her discretion determines that further action is necessary, a county employee shall perform one or more of the following responses, as determined to be appropriate by supervisor, office manager or department head :
- a. Request additional identifying information from the applicant;
 - b. Deny the application for the new account;
 - c. Notify law enforcement of possible identity theft; or
 - d. Take other appropriate action to prevent or mitigate identity theft.

Section 1-10. Updating the Program.

The BOARD OF COUNTY COMMISSIONERS shall annually review and, as deemed necessary by the BOARD OF COUNTY COMMISSIONERS, update the Identity Theft Prevention program along with any relevant red flags in order to reflect changes in risks to customers or to the safety and soundness of the city and its covered accounts from identity theft. In so doing, the BOARD OF COUNTY COMMISSIONERS shall consider the following factors and exercise its discretion in amending the program:

- (1) The county's experiences with identity theft;
- (2) Updates in methods of identity theft;
- (3) Updates in customary methods used to detect, prevent, and mitigate identity theft;
- (4) Updates in the types of accounts that the county offers or maintains;
- (5) Updates in service provider arrangements.

Section 1-11. Program Administration.

County Manager is responsible for oversight of the program and for program implementation. The County Manager is responsible for reviewing reports prepared by staff regarding compliance with red flag requirements and with recommending material changes to the program, as necessary in the opinion of the County Manager, to address changing identity theft risks and to identify new or discontinued covered types of covered accounts. Any recommended material changes to the program shall be submitted to the BOARD OF COUNTY COMMISSIONERS for consideration by the BOARD OF COUNTY COMMISSIONERS.

- (1) The County Manager will report to the County Board of Commissioners at least annually, on compliance with the red flag requirements. The report will address material matters related to the program and evaluate issues such as:
 - a. The effectiveness of the policies and procedures of county in addressing the risk of identity theft in connection with the opening of covered accounts and with respect to existing covered accounts;
 - b. Service provider arrangements;
 - c. Significant incidents involving identity theft and management's response; and
 - d. Recommendations for material changes to the Program.
- (2) The County Manager is responsible for providing training to all employees responsible for or involved in opening a new covered account, restoring an existing covered account or accepting payment for a covered account with respect to the implementation and requirements of the Identity Theft prevention Program. The County Manager shall exercise his or her discretion in determining the amount and substance of training necessary.

Section 1-12. Outside Service Providers.

In the event that the county engages a service provider to perform an activity in connection with one or more covered accounts the County Manager shall exercise his or her discretion in reviewing such arrangements in order to ensure, to the best of his or her ability, that the service provider's activities are conducted in accordance with policies and procedures, agreed upon by contract, that are designed to detect any red flags that may arise in the performance of the service provider's activities and take appropriate steps to prevent or mitigate identity theft.

Section 2

The preamble to this ordinance is hereby incorporated into this ordinance as if set out fully herein.

Section 3

All ordinances and parts of ordinances in conflict herewith are hereby expressly repealed.

Section 4

The adoption date of this ordinance is October 20, 2008.

Section 5

The effective date of this ordinance is October 20, 2008.

ORDAINED by the Board of Commissioners of the County of Duplin this
the 20th day of October, 2008.

ATTEST:

By Mike Aldridge
Clerk to the Board

Vice-Chairman R. S. G. N.
County of Duplin

DUPLIN COUNTY BACKFLOW PREVENTION ORDINANCE

*Adopted February 2, 2009
Effective March 1, 2009*

ARTICLE 1: INTRODUCTORY PROVISIONS & OBJECTIVES

SECTION 101: TITLE

This ordinance shall be known as the Duplin County Backflow Prevention Ordinance.

SECTION 102: OBJECTIVES

It is the intent of this ordinance to recognize that there are varying degrees of hazards to potable water within the public water system. It is also the intent of this ordinance to insure the degree of protection be the same as the degree of hazard.

SECTION 103: PURPOSE

The purpose of this ordinance is to:

- (1) Protect the Duplin County water supply against actual or potential cross-connections, backflow or back-siphonage by isolating, within the premises or private property, contamination or pollution that has occurred or may occur because of an undiscovered or unauthorized cross-connection on the premises or private property.
- (2) Eliminate or control cross-connections, backflow and back-siphonage or any other source of water or process water used for any purpose whatsoever which may jeopardize the safety of the public potable water supply of Duplin County.

SECTION 104: AUTHORITY

This ordinance is enacted under the Federal Safe Drinking Water Act Amendments of 1986 and under the authority of the General Statutes of North Carolina Chapter 153A, Article 18, Part 2.

ARTICLE 2: DEFINITIONS OF ORDINANCE

SECTION 201. DEFINITIONS

As used in this article, the following terms *shall* have the meanings provided in this section unless the context clearly indicates otherwise.

Air-Gap Separation. An unobstructed vertical distance through the atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture, or other device and the flood level rim of the receptacle. An approved air-gap vertical separation *shall* be at least double the diameter of the supply pipe. In no case *shall* the air-gap be less than one (1) inch.

Approved: Certified in writing by the Director as an acceptable device or methodology for the purpose of backflow prevention.

Auxiliary Intake: Any piping connection or other device whereby water *may* be secured from a source other than public water supply.

Backflow: Any flow of water into the public water supply from any other source due to a cross-connection, auxiliary intake, interconnection, back pressure, back siphonage, any combination thereof, or other cause.

Backpressure: Any pressure on any source of water other than the public water supply that may be greater than the pressure on the public water supply and *may* result in a backflow.

Backflow Prevention Device: An approved effective device method used to prevent backflow from occurring in the potable water supply. The type of device required *shall* be based on degree of hazard, existing or potential.

Back-Siphonage: Any circumstance in which the pressure on the public water supply *may* be reduced to the point that the elevation and atmospheric pressure on a source of water other than the public water supply *may* result in a pressure to be greater than the pressure on the public water supply and *may* result in a back flow.

Certified Tester: A person who has proven his/her competency to test, repair, overhaul and make reports on backflow prevention devices as evidenced by certification of successful completion of a training program approved by the Director.

Confinement Device: A backflow prevention device, as approved and required, installed within a private plumbing or distribution system to isolate a localized hazard from the remainder of said system.

Consumer: Any person, firm, or corporation responsible for any property at which water from the Duplin County public water supply is received. In the absence of other parties or the failure of other parties to accept the responsibilities herein set forth, the owner of record *shall* be ultimately responsible. A backflow prevention device as approved installed at the point of separation between the public water supply and a private service or private distribution system or at the point of metering.

Contamination: The presence of any foreign substance (organic, inorganic, radiological, or biological) in water that tends to degrade its quality as to constitute a hazard or impair the usefulness of the water.

Containment Device: A backflow prevention device, as approved and required, installed at the point of separation between the public water supply and a private service or private distribution system or at the point of metering.

Cross-connection: Any physical connection whereby the public water supply is connected with any other water supply system, whether public or private, either inside or outside of any building or buildings, in such a manner that a flow of water into the public water supply is possible either through the manipulation of valves or because of ineffective check or back-pressure valves, or because of any other arrangement.

Cross-Connection Control Coordinator: The official position established and authorized by Duplin County designated by the Director to administer, interpret this section and who *shall* be a certified tester.

Director: The Director of the Duplin County Water Department.

Double Check Valve Backflow Prevention Device: An approved assembly composed of two (2) single, spring-loaded independently operating check valves, including tightly closing shut-off valves located at each end of the assembly, and having suitable connections for testing the watertightness of each check valve.

Dual Check Valve: An approved device containing two (2) independently acting check valves in series.

Fire Line: A system of pipes and equipment used to supply water in an emergency for extinguishing fire.

Interconnection: Any system of piping or other arrangement whereby the public water supply is connected directly with a sewer, drain, conduit, pool, heat exchanger, storage reservoir, or other device which does or *may* contain sewage or other waste or substance which would be capable of imparting contamination to the public water supply.

Pressure Vacuum Breaker: An approved assembly containing an independently operating spring loaded check valve and an independently operating loaded air inlet valve located on the discharge side of the check valve. The assembly must be equipped with suitable connections for testing the proper operation of the device and tightly closing shut-off valves located at each end of the assembly.

Public Water Supply: The water and waterworks system of Duplin County and its customers outside Duplin County limits, for general use and which supply is recognized as the public water supply by the North Carolina Department of Environmental Health and Natural Resources.

Reduced Pressure Zone Principle Backflow Prevention Device (RPZ): An approved device containing within its structure, two (2) spring-loaded independently operating check valves, together with an automatically operating pressure differential relief valve located between the two check valves. The first check valve reduces the supply pressure a predetermined amount so that during normal flow and at cessation of normal flow the pressure between the checks *shall* be less than the supply pressures. In case of leakage of either check valve, the differential relief valve, by discharging to the atmosphere, *shall* operate to maintain the pressure between the check valves less than the supply pressure. This device *shall* have suitable connections for testing the proper operation of the device, including tightly closing shut-off valves located at each end of the device.

ARTICLE 3: COMPLIANCE WITH FEDERAL AND STATE LAW

SECTION 301. Safe Drinking Water Act & NC Building Ordinance

Duplin County will comply with the Federal Safe Drinking Water Act, the North Carolina Drinking Water Act, and North Carolina State Building Ordinance, which pertain to cross-connections, auxiliary intakes and interconnections, and establish an effective ongoing program to control potential sources of contamination of the public water supply.

ARTICLE 4: UNLAWFUL CONNECTIONS

SECTION 401. Violations of Ordinance

It *shall* be unlawful for any person to cause a cross-connection, auxiliary intake or inter-connection to be made; or allow one to exist for any purpose whatsoever.

SECTION 402. Enforcement by Civil & Criminal Penalty

(a) Penalty.

Violation of any provision of this article *may* subject the offender to a civil penalty to be recovered by Duplin County in a civil action in the nature of debt if the offender does not pay the penalty within thirty (30) days after the assessment has become final by exhaustion of the appeal process established by this section, or by failure to appeal the assessment.

The civil penalty for violation of any provision of this cross connection control article *shall* not exceed five hundred dollars (\$500) per day for each day of continuous violation, or a cumulative or single civil penalty of ten thousand dollars (\$10,000). The civil penalty for willful violation of any provision of this article *shall* not exceed one thousand dollars (\$1,000) per day for each day of a continuous violation, or a cumulative or single civil penalty of twenty thousand dollars (\$20,000).

(b) Assessment

Any civil penalty *shall* be assessed by the Director, and *shall* be based upon the reasonable estimated cost of correcting the cited violation, the magnitude of the potential risk posed to the public health, safety and welfare by the violation, and the cost of the public safety or other

emergency response caused by the violation. The Director *shall* serve written notice of the civil penalty assessment on the offender and set out with reasonable care the basis of the amount so assessed.

(c) Equitable Relief.

An appropriate equitable remedy, including a mandatory or prohibitory injunction, issuing from a court of competent jurisdiction may endorse the provisions of this article.

(d) Enforcement Option.

The penalties and enforcement provisions established by this article *may* be applied in addition to or instead of the penalties established by other sections of this ordinance.

(e) Criminal Sanctions.

Any violation of this ordinance shall also subject, upon conviction, to a fine and/or imprisonment pursuant to N.C. Gen. Stat. §14-4.

ARTICLE 5: INSPECTION OF PROPERTY & RIGHT OF ENTRY

Section 501. Inspection of Property.

It *shall* be the duty, upon request of the Director of the cross connection coordinator to cause inspections to be made of properties served by the public water supply where cross-connections with the public water supply are deemed possible. The frequency of inspections and reinspections *shall* be set by the Director.

Section 501. Right of Entry.

The Director or authorized representative, *shall* have the right to enter, at reasonable time, any premises served by a connection to Duplin County public water supply for the purpose of performing the duties of this article. In those cases in which the property owner chooses not to provide such access, the Director or authorized representative, *may* designate the location as a high hazard in accordance with Section 701.

ARTICLE 6: EXISTING CONDITIONS

Section 601. Existing Conditions

Any consumer *shall* be allowed ninety (90) days to correct any cross-connections, auxiliary intakes, interconnections or other hazard as defined by Section 701 of this ordinance in violation of the provisions of this ordinance. The ninety (90) days will be from the date of receipt of the notification given by the Cross Connection Coordinator.

ARTICLE 7: HAZARDOUS USES

Section 701. Hazardous Uses

- (a) The following uses *shall* be classified as hazardous uses;
1. Hazardous uses include, but are not limited to: pumps and tanks handling sewage, radioactive, lethal, or toxic substances, boiler and steam connections, sewer waste lines, low inlets to receptacles containing toxic substances, coils or jackets used as heat exchangers, flush valve toilets without vacuum breaks, bacterial and viral materials, private wells or other private water supply, irrigation systems, water systems or hose connections, with booster pumps, carbonation equipment, or similar hazard potential as determined by the cross connection coordinator.

2. Any location at which the nature or mode of operations within a premises are such that frequent alterations are made to the plumbing or at which there is a likelihood in the determination of the Cross Connection Coordinator that protective measures may be subverted, altered, or disconnected.
 3. Any facility which contains, but is not limited to, a bottling plant, cannery, building have five (5) or more stories, battery manufacturer, exterminator, greenhouse, chemical processing plant, dairy, dye works, film laboratory, car wash, hospital, commercial laboratory, laundry, metal fabricating operations, mortuary, swimming pool, morgue, x-ray equipment, medical office with laboratory, aspirator, medical washing equipment, packing house, plating plant, poultry house, power plant, nuclear reactor, those fire sprinkler systems equipped with facilities for introduction of freeze preventive chemicals or other substances other than water, dental office, any radioactive material, restaurant, shopping mall with tenant conducting any activity listed in this section and sewage pump or treatment facilities
- (b) All installations described in Section 701 of this ordinance *shall* be deemed hazardous uses, and must have a containment device in the form of a reduced pressure zone backflow prevention device provided that, if the consumer demonstrates to the satisfaction of the cross connection coordinator that sufficient internal confinement devices have been installed and tested. The cross connection coordinator may require that the consumer provide engineering drawings sealed by a professional engineer of installations within the premises, which provide complete internal protection against cross-connection as approved by the cross connection coordinator. Any such connection *shall* be considered an other connection for determining the type of containment device required. Each internal confinement device *shall* be one of the following, as approved by the Director or authorized representative: reduced pressure zone principle backflow prevention device, double check valve backflow prevention device, air gap, vacuum break-pressure type, or dual check valve. Each reduced pressure zone principal backflow prevention device serving as an internal confinement device shall have a mesh strainer immediately upstream of the inlet gate valve.
- (c) No person *shall* fill any tanks or tankers which include the following: those containing pesticides, fertilizers, other toxic chemicals or residues, flush trucks, street sweepers, and nonpotable water tankers from a public water system except with an approved air gap fill or an approved reduced pressure backflow preventor properly installed on the tank or tanker or on the public water supply fill pipeline or hose.

ARTICLE 8: OTHER TYPES OF CONNECTIONS

Section 801. Other Connections

- (a) Services to single family residential units, not otherwise required by this ordinance to have other containment devices, may have a containment device in the form of an approved dual check valve on all such services which meters are applied more than ninety (90) days following the date of adoption of this ordinance, said dual check valves or other containment devices as required *shall* be installed by the owner's representative prior to the installation of the meter by the Duplin County Water Department. On all such services for which meters have been applied prior to that date, said dual check valve shall be installed by the Duplin County Water Department, provided that Duplin County reserves the right to charge the owner or occupant of any residence for the cost of said device and its installation. Maintenance of dual check valve containment devices installed in accordance with this section *shall* be conducted by the Duplin County Water Department. Testable containment devices that are required on lawn irrigation water systems and must be tested every three (3) years by a contractor that has been approved by Duplin County.

- (b) All other connections to the public water supply of Duplin County *shall* have containment devices in the form of a double check valve backflow prevention device as set forth in Section 901 of this ordinance. This *shall* include water mains installed to Duplin County standard, and with Duplin County's supervision, but which are not maintained by Duplin County, including but not limited to manufactured home parks, apartments, group housing projects, and other private distribution systems, or similar hazard potential as determined by the Director or authorized representative. Private distribution systems *shall* be configured so as to provide looped mains, with two (2) or more containment devices on each building water service connection and at dead-end branch mains.

ARTICLE 9: CONTAINMENT DEVICES

Section 901. Installation of Containment Devices

- (a) The containment devices *shall* be located off street right-of-way on the water main side of any plumbing connections. When installed in a building, the device *shall* be located on the service line immediately after its entrance into the building. Each containment and confinement device *shall* be installed in a location that is physically accessible for inspection and testing as determined by the cross-connection coordinator. Containment devices, which have been buried in the ground, do not satisfy the provisions of this ordinance. Each reduced pressure principle zone device shall be installed such that flooding of the device is unlikely as determined by the Cross Connection Coordinator.
- (b) The Director *shall* maintain a list of approved manufacturers and models of hazard containment devices and drawings of standard installation, copies to be made available through the Duplin County Water Department and the Duplin County Building Inspection Office. All reduced pressure zone principle backflow prevention devices and double check valve backflow prevention and all vacuum breaks and dual check valve devices shall be approved by the American Society for Sanitary Engineers. All installations and materials shall conform to Duplin County standards as set by the Director.
- (c) In those cases in which containment and/or confinement devices have been previously installed by prior owners, Duplin County or other parties, the responsibility for maintenance, testing, and replacement as applicable *shall* be with the consumer.
- (d) The cost of said means of containment, and any other plumbing modifications necessary and convenient thereto, and the testing and maintenance thereof is to be paid for by the consumer.

ARTICLE 10: NEW CONSTRUCTION

Section 1001. New Construction

All buildings, proposing to connect to the public water system of Duplin County receiving building permits, on or after the effective date of this ordinance, *shall* be equipped with an approved and tested as properly functioning backflow prevention device(s), as prescribed herein, prior to the issuance of a Certificate of Ordinance Compliance for that building. If a building permit was issued for the building prior to the effective date of the Article, or a building permit was not required, the building *shall* be considered to be an existing building prior to the effective date, in accordance with Section 601 of this ordinance.

ARTICLE 11: NOTICE & CHANGE OF USE

Section 1101. Notification to Consumer

Upon identification of a hazard, or hazard potential, as defined in Sections 701 of this ordinance, the Cross Connection Coordinator, *shall* notify the consumer, of record, of the property on which the hazard exists of the following:

- (a) Location of Hazard
- (b) Nature of Hazard Observed
- (c) Date Hazard Observed
- (d) Section of Ordinance Applicable
- (e) Requirements of Ordinance

Such notification to be made by certified mail, with return receipt requested.

Section 1102. Change in Nature of Use

The Director *shall* be notified by the consumer the nature of use of the property changes so as to change the hazard classification of that property, as set forth in Sections 701 this ordinance.

ARTICLE 12: CONSUMER RESPONSIBILITIES

Section 1201. Consumer Responsibilities

- (a) The consumer *shall*, upon notification, as defined in Section 1101 of this ordinance, install the hazard containment device(s) as required within ninety (90) days from the date of notification
- (b) If, after expiration of ninety (90) days, the containment device(s) has not been installed in conformance with standards set by the Director, in a proper working condition, the Director may discontinue the public water supply service at that premises, and service shall not be restored until such devices have been installed. The Director may permit an extension of up to ninety (90) additional days if compliance efforts are underway and the existence of hardship can be demonstrated.
- (c) Duplin County *shall* bear no liability for direct or consequential damages proximately caused by the discontinuance of service pursuant to this section.
- (d) The consumer shall be responsible for the elimination of or protection against all cross-connections on consumer's property or premises.
- (e) The consumer shall maintain all backflow prevention assembly within its premises in good-working order and good operating condition. The consumer shall correct, at its own cost, any malfunction of the backflow prevention which is revealed by testing.
- (f) The consumer shall immediately notify the Duplin County Water Department if the consumer has reason to believe that backflow has occurred from the consumer's private water system to Duplin County's public water system.

Section 1202. Testing and Maintenance of Devices

- (a) The consumer at each property at which containment and/or confinement device(s) have been installed, shall have each containment and/or confinement device(s) tested on an annual basis, and perform any routine maintenance to such device as recommended by the manufacturer, and provide the cross connection coordinator with a report of that inspection and work.

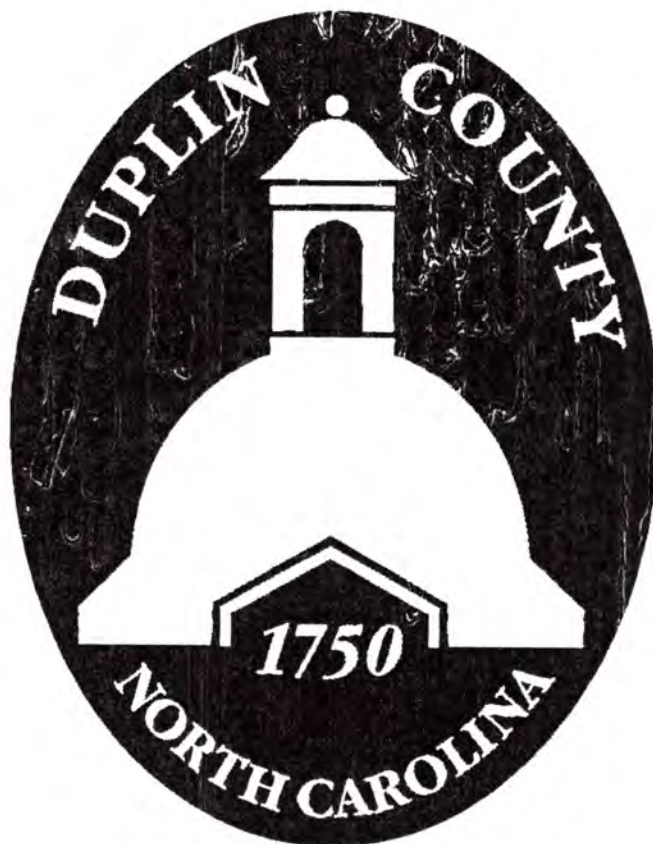
- (b) The consumer *shall* cause such maintenance, or repairs to be made, rendering the device fully operational.
- (c) Failure of the consumer to perform that testing and maintenance *shall* be cause for the premises to be deemed an immediate public health hazard. The Director *may* immediately thereafter discontinue public water supply service to that premises and service *shall* not be restored until such devices have been rendered operational. Where the use of water is critical to the continuance of normal operations or protection of life, property, or equipment, duplicated containment or confinement devices shall be provided by the property owner to avoid the necessity of discontinuing water service to test or repair the device or devices.

ARTICLE 13: LIMITATION OF LIABILITY

Section 1301. Limitation of Liability

Duplin County *shall* not be held liable, for any cause, for failure to detect any unit failing to operate adequately, or failure to identify any specific hazard, which *may* result in contamination of its public water supply, nor *shall* this ordinance diminish the responsibility of any property owner from whose property a contamination of the public water supply *may* originate.

DUPLIN COUNTY AIRPORT
AIRPORT LAND USE AND HEIGHT RESTRICTION ORDINANCE



PREPARED BY:

THE DUPLIN COUNTY PLANNING BOARD
AND
THE DUPLIN COUNTY AIRPORT COMMISSION

EFFECTIVE: MAY 1, 2009

ENACTMENT

This is an ordinance establishing Land Use Regulations for airport safety and Height Restriction Zones within the vicinity of the Duplin County Airport and providing for the administration, enforcement and amendment thereof;

PREAMBLE

WHEREAS, in the opinion of the Duplin County Board of Commissioners to further promote the health, safety, and general welfare of the residents of Duplin County, it is necessary and advisable to adopt regulations pertaining to the compatibility of land uses within the vicinity of the Duplin County Airport, and;

WHEREAS, the Duplin County Planning Board in conjunction with the Duplin County Airport Commission has developed this ordinance with due consideration and has submitted final recommendations to the Duplin County Commissioners, and;

WHEREAS, all applicable requirements of the General Statutes of North Carolina have been met,

NOW, THEREFORE BE IT ORDAINED BY THE COUNTY COMMISSIONERS OF THE COUNTY OF DUPLIN AS FOLLOWS:

ARTICLE I - AUTHORITY

SECTION 10

The provisions of this ordinance are adopted under authority granted by North Carolina General Statute 153A-121, pursuant to the authority conferred under Chapter 63 of the North Carolina General Statutes, Article 4.

ARTICLE II - JURISDICTION

SECTION 20

This ordinance shall be applicable to the area designated within Duplin County in the vicinity of the Duplin County Airport as shown on maps entitled Duplin County Airport Land Use and Height Restriction Ordinance Maps as maintained by the Duplin County Airport Commission and herein made a part of this ordinance.

ARTICLE III - TITLE

SECTION 30

This ordinance shall be known as and referred to as the Duplin County Airport Land Use and Height Restriction Ordinance of Duplin County, North Carolina.

ARTICLE IV – INTERPRETATIONS

SECTION 40

Tense and Number

- (1) The present tense includes the future tense and the future tense includes the present tense.
- (2) The singular number includes the plural number and the plural number includes the singular number.

SECTION 41

Word Interpretations

For the purposes of this Ordinance, the following words shall be interpreted as specified below:

- (1) The word “may” is permissive.
- (2) The words “shall” and “will” are mandatory.
- (3) The word “County” shall mean the County of Duplin, North Carolina.
- (4) The words “Airport Commission” shall refer to the Duplin County Airport Commission.
- (5) The words “Planning Board” shall refer to the Duplin County Planning Board.
- (6) The words “County Commissioners” shall refer to the Duplin County Board of Commissioners.
- (7) The word “person” shall include firm, organization, association, company, trust, corporation or other entity.
- (8) The words “used” or “occupied” includes intended, designed and arranged.

SECTION 42

Definitions

For the purpose of this Ordinance, the following words and phrases shall have the meanings respectively ascribed to them by this section:

- (1) Airport means the Duplin County Airport (KDPL).
- (2) Airport Elevation means the highest point of an airport’s usable landing area measured in feet (tenths) from mean sea level.
- (3) Airport Obstruction means any living or man-made structure or tree which obstructs the aerial approaches of the airport exceeding the maximum height of structures permitted in the airport operation area or is otherwise hazardous to its use for landing or taking off.
- (4) Airport Operation Area refers to all zones established in this Ordinance.

- (5) Avigation Easement means ownership of the right of imposition upon such property of overflight, excessive noise, vibration, smoke, dust, vapors, and particulates due to the operation of aircraft to and from the airport. Also includes the right to remove Airport Obstructions on said property.
- (6) Conditional Use (Special) Permit: A permit issued by the Planning Board that authorizes the recipient to make use of property in accordance with the requirements of this Ordinance as well as any additional requirements imposed by the Planning Board (refer to 'C' Conditional Use in Land Use Matrix Table).
- (7) Enforcement Officer shall mean an individual or individual of Duplin County Planning Department with authority to enforce this ordinance.
- (8) FAA means Federal Aviation Administration.
- (9) FAR means Federal Aviation Regulation.
- (10) Dimensional Nonconformity means a situation that occurs when the lot line does not conform to the regulations applicable to the zone in which the property is located.
- (11) Height means the vertical distance from the ground elevation to the highest point of a structure or tree, including any appurtenance thereon expressed as feet above mean sea level (MSL).
- (12) Height limitations means no structure or tree shall be erected, altered, allowed to grow or maintained in any airport surface zone, with a height in excess of the height established for such zone. An area located in more than one of the following zones is considered to be only in the zone with the more restrictive height limitation
- (13) Land Use Compatibility means the use of land adjacent to the Duplin County Airport that does not endanger the health, safety, or welfare of the owners' occupants, or users of the land.
- (14) Lot means a portion of a subdivision, plat or parcel with boundaries established as a separate legal entity recorded with the County Register of Deeds prior to the effective date of this Ordinance.
- (15) Nonconforming Structure means any structure or tree which does not conform to this Ordinance as of the effective date of these regulations.

- (16) Nonconforming Use means any structure or use of land which is inconsistent with the provisions of this Ordinance as of the effective date of these regulations.
- (17) Open Space means an area, land or water, generally lacking in man-made structures and reserved for enjoyment in its unaltered state.
- (18) Permitted Use means the associated land use groups are at a level of intensity or density, or location, which is not considered to present a significant risk to the safety of persons on the ground or to persons in aircraft over flying the proposed use (refer to 'Y' Conditional Use in Land Use Matrix Table).
- (19) Precision Instrument Runway means a runway end having instrument approach procedure utilizing air navigation facilities with horizontal and vertical guidance, or area type navigation equipment, for which a straight-in precision instrument approach procedure has been approved or planned.
- (20) Prohibited Use means the associated land use groups are at a level of intensity or density, or location, which presents a significant risk to the safety of persons on the ground or to persons in aircraft over flying the proposed use (refer to 'N' Conditional Use in Land Use Matrix Table).
- (21) Property Owners means those listed as owners of property on the records of the Duplin County Tax Office.
- (22) Runway End means existing physical end of the hard-surfaced asphalt runway, having a defined coordinate and elevation.
- (23) Structure means any object, constructed or installed by human labor, including, but without limitation, buildings, towers, smokestacks, and overhead transmission lines. The primary structure on a lot, or a building that houses a principal use.
- (24) Use means the principal activity or function that actually takes place or is intended to take place on a parcel.
- (25) Variance means a grant of permission by the County Planning Board that authorizes a person, owing to conditions peculiar to the property, in which a literal enforcement of the Ordinance would result in unnecessary and undue hardship.

SECTION 43

- (26) Zoning Permit means a permit issued by the Administrator that authorizes the recipient to make use of property in accordance with the requirements of the Ordinance.

Land Use and Height Restriction Zones Established

In order to carry out this Ordinance, certain zones are hereby created and established, which include land lying beneath the Airport Safety Zones as they apply to the Duplin County Airport. Such zones are shown in plan view on the Duplin County Airport Land Use Ordinance Map consisting of two sheets, prepared by Duplin County, and dated March 2009, and by Duplin County, and dated March 2009. An area located in more than one (1) of the zones described herein is considered to be only in the zone with the more restrictive limitation. There are hereby created and established the following Airport Safety Zones:

- (1) Airport Safety Zone 1 – Runway Protection Zone (RPZ): a trapezoid shaped plane symmetrically centered along the extended runway centerline, flaring outwards from a point 200' beyond each runway end. The perimeter of this zone as shown on the Duplin County Airport Land Use Ordinance Map is as follows:

| | |
|---------------------------------------|--------|
| Runway Protection Zone – Inner Width: | 1,000' |
| Runway Protection Zone – Outer Width: | 1,750' |
| Runway Protection Zone – Length: | 2,500' |

- (2) Airport Safety Zone 2 – Sideline Safety Zone: a rectangular shaped plane symmetrically centered along the runway centerline, extending to the edge of the Inner Turning Zone (Zone 4). The perimeter of this zone, as shown on the Duplin County Airport Land Use Ordinance Map, is as follows:

| | |
|-------------------------------------|--------|
| Sideline Safety Zone – Total Width: | 2,000' |
|-------------------------------------|--------|

- (3) Airport Safety Zone 3 – Inner Safety Zone: a rectangular shaped plane symmetrically centered along the extended runway centerline, extending from the outer Runway Protection Zone (Zone 1) outward to the Inner Turning Zone (Zone 4) and Outer Safety Zone (Zone 5). The perimeter of this zone, as shown on the Duplin County Airport Land Use Ordinance Map, is as follows:

| | |
|--|--------|
| Inner Safety Zone – Inner Total Width: | 1,000' |
| Inner Safety Zone – Length: | 2,500' |

- (4) Airport Safety Zone 4 – Inner Turning Zone: a triangle shaped plane forming a 60 degree sector symmetrically centered along the extended runway centerline, diverging from a point 200' beyond the runway end. The perimeter of this zone, as shown on the Duplin County Airport Land Use Ordinance Map, is as follows:

Inner Turning Zone – Radius: 5,000'
 Inner Turning Zone – Sector Angle: 60 degrees

- (5) Airport Safety Zone 5 – Outer Safety Zone: a rectangular shaped plane symmetrically centered along the extended runway centerline, extending outward from the Inner Safety Zone (Zone 3) and the outer radius of the Inner Turning Zone (Zone 4). The perimeter of this zone, as shown on the Duplin County Airport Land Use Ordinance Map, is as follows:

Outer Safety Zone – Total Width: 2,000'
 Inner Safety Zone – Length: 5,000'

SECTION 44

Regulation Limitations

Such applicable land use limitations are hereby established for each of the Airport Safety Zones in order to prevent incompatible land uses which would compromise aeronautical activity at the Duplin County Airport, to protect people and property on the ground in case of an accident, to limit population and building density in the runway approach areas, to create sufficient open space, and to restrict those uses which may be hazardous to the operational safety of aircraft operating to and from the Duplin County Airport, and minimize injury to the occupants of aircraft involved in accidents. The following land use limitations within Zones 1, 2, 3, 4 and 5 shall apply to those portions of the parcel contained within the underlying zones as indicated on the attached Duplin County Airport Land Use Ordinance Map.

| Duplin County Airport Land Use Ordinance Regulated Land Use Guidance for Zones 1, 2, 3, 4, 5 * | | | | | |
|---|-----------|-----------|-----------|------------|-----------|
| | Zone 1 | Zone 2 | Zone 3 | Zone 4 | Zone 5 |
| Agriculture, Farming & Animal Keeping | | | | | |
| Crop Production - Dry and Irrigated Farming | C 1.2 | C 1.2 | Y | Y | Y |
| Specialty Crops, Nurseries/Greenhouses, Landscape Materials | N | N | Y | Y | Y |
| Row-Crop Processing and Packaging, Wineries | N | N | Y | Y | Y |
| Animal Processing and Packaging | N | N | C 2.3 | Y | Y |
| Truck Farming, Roadside Stands, Farmers Markets | N | N | C 2.3 | C 2.4 | C 2.5 |
| Pasture and Rangeland Grazing | N | Y | Y | Y | Y |
| Animal Feed Lots (Commercial Hogs, Dairies) | N | N | Y | Y | Y |
| Animal Feed Lots (Commercial Poultry) | N | N | N | N | N |
| Game Preserves, Fish Farming | N | N | Y | Y | Y |
| Feed Lots, Stockyards, Animal Commodity Sales Yards | N | N | C2 | C2 | C2 |
| Animal Hospital, Veterinary Clinic, Kennels, Pet Boarding | N | N | C3 | C4 | C5 |
| Equestrian Facilities, Exotic Animals | N | N | C3 | C4 | C5 |
| Public Use Facilities, Institutions & Utilities | | | | | |
| Civic-Use Convention Center, Auditorium, Concert Hall | N | N | N | N | N |
| Schools, Hospitals, and Correctional Facilities | N | N | N | N | N |
| Libraries, Museums, Churches, Day-Care, Social Civic Clubs | N | N | N | N | N |
| Parks, Athletic Fields, Playgrounds, Picnic Areas | N | N | N | N | N |
| Cemeteries | N | N | Y | Y | Y |
| Public Utilities (Excludes Electric Power Plants, Lines) | N | N | C 1.2 | C 1.2 | C 1.2 |
| Electric Power Plants and Overhead Transmission, Lines | N | N | C 1.2 | C 1.2 | C 1.2 |
| Solid-Hazardous Waste, Landfills (Excludes Transfer Stations) | N | N | N | N | N |
| Recycling | N | C2 | C 2.3 | C 2.4 | C 2.5 |
| Residential | | | | | |
| Single-Family Residential | N | N | N | C 1,2,3 | Y |
| Multi-Family Residential, Mobile Home Units / Parks | N | N | N | N | N |
| Group Homes, Convalescent Facilities, Nursing / Family Care | N | N | N | N | N |
| Apartments, Duplexes, Townhomes, Condominiums | N | N | N | N | N |
| Temporary Housing | N | N | N | N | N |

| Duplin County Airport Land Use Ordinance Regulated Land Use Guidance for Zones 1, 2, 3, 4, 5 * | | | | | |
|---|-------------------|-------------------|-------------------|-------------------|-------------------|
| | Zone 1 | Zone 2 | Zone 3 | Zone 4 | Zone 5 |
| Commercial Recreational | | | | | |
| Swimming Pools, Water Park, Water Slides | N | N | N | Y | Y |
| Gyms, Health Spas, Indoor Theaters, Auditoriums | N | N | N | N | C5 |
| Bowling Alleys, Skating Rinks, Dance and Pool Halls, Arcades | N | N | N | N | C5 |
| Outdoor Theaters, Amusement Parks, Carnivals, Fairs | N | N | N | N | N |
| Golf Courses, Tennis Courts | N | N | N | Y | Y |
| Commercial Business, Retail & Services | | | | | |
| Aeronautical Businesses | N | Y | N | C 1,2 | Y |
| General Retail Stores/Complexes, Restaurants, Convenient Stores | N | N | N | C4 | Y |
| General Offices, Executive Offices, Research Facilities | N | C4 | C3 | C4 | C5 |
| Vehicle Sales, Building & Lumber Materials, Food-Beverage Sales | N | N | N | C4 | C5 |
| Appliance-Equipment Repair Facilities, Vehicle Wash | N | C4 | C3 | C4 | C5 |
| Shopping Malls, Shopping Centers, Home Improvement Centers | N | N | N | C4 | C5 |
| Banks, Financial Institutions | N | N | N | C4 | C5 |
| Gasoline Service Stations | N | N | N | N | Y |
| Modular Self-Storage Facilities, Mini Storage Units | N | C2 | C3 | C4 | C5 |
| Personal Health Clinics, Well-Being & Care Facilities | N | N | N | C4 | C5 |
| Motels, Hotels, Bed & Breakfast | N | N | N | C3 | C4 |
| RV Parks, Camping Areas | N | N | N | C3 | C4 |
| Mass Transit Facility / Depot | N | Y | N | C5 | C5 |
| Broadcast Studios | N | N | N | N | Y |
| Commercial Industrial, Manufacturing & Warehousing | | | | | |
| Manufacturing Facilities, Industrial Plants, Warehousing | N | C4 | N | N | C5 |
| Warehouse, Wholesale, Distribution | N | C4 | C3 | C4 | C5 |
| Heavy Industrial/Manufacturing | N | N | N | N | C5 |
| Light Industrial/Manufacturing | N | C4 | C3 | C4 | C5 |
| Petroleum and Chemical Product Dealers-Bulk Storage | N | N | C3 | C4 | C5 |
| Mining- Sand, Gravel, Fill Dirt | N | N | N | C 1,2 | C 1,2 |

| Table Key (Abbreviations) |
|--|
| <p>(Y) Permitted Use: The associated land use groups are at a level of intensity or density, or location, which is not considered to present a significant risk to the safety of persons on the ground or to persons in aircraft over flying the proposed use.</p> |
| <p>(C) Conditional Use: The associated land use groups are at a level of intensity or density, or location, which is not considered to present a significant risk to the safety of persons on the ground or to persons in aircraft over flying the proposed use, contingent upon attainment of conditions presented (See Conditional Uses Below).</p> <p>1 - Allowed only if use does not interfere with normal Airport operations (as defined by the FAA/NCDOA).</p> <p>2 - Prohibits uses that constitute a hazard to flight, including but not limited to tall physical objects, glare, dust, or other visual or electric interference to a pilot and aircraft, and uses that may attract hazardous wildlife.</p> <p>3 - Use intensity restricted to 5 or less persons per acre; or equivalent per household.</p> <p>4 - Use intensity restricted to 15 or less persons per acre; or equivalent per household.</p> <p>5 - Use intensity restricted to 15 or less persons per acre in structures/buildings; and 50 or less persons per acre outdoors.</p> |
| <p>(N) Prohibited Use: The associated land use groups are at a level of intensity or density, or location, which presents a significant risk to the safety of persons on the ground or to persons in aircraft over flying the proposed use.</p> |

* Note: Reference Duplin County Airport Land Use Ordinance Map for Location of Zones.

ARTICLE V – HEIGHT RESTRICTIONS

SECTION 50

Zones Established

In order to carry out this ordinance, certain zones are hereby created and established by FAR Part 77, which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surface, and conical surface as they apply to the Duplin County Airport. Such zones are shown in plan and profile view on the Duplin County Airport Height Restriction Ordinance Map consisting of one (1) sheet, prepared by Duplin County dated March 2009. An area located in more than one (1) of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

- (1) *Precision Instrument Runway Approach Zone.* The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly at a slope of 50 feet horizontally for every 1 foot vertically for a horizontal distance of 10,000 feet, then at a slope of 40 feet horizontally for every 1 foot vertically to a width of 16,000 feet for a

horizontal distance of 50,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

- (2) *Primary Zone.* The primary zone is the area beneath the primary surface. This zone extends 200 feet beyond each end of the runway, has a width of 1,000 feet, and is centered on the runway centerline.
- (3) *Transitional Zones.* The transitional zones are the areas beneath the 7 foot horizontal to 1 foot vertical transitional surface
- (4) *Horizontal Zone.* The horizontal zone is established by swinging arcs of 10,000 feet radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones. This zone contains the Horizontal Surface, which is located 150 feet above the established airport elevation.
- (5) *Conical Zone.* The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward therefrom a horizontal distance of 4,000 feet. This zone contains the Conical Surface, which contains a slope of 20 horizontally for every 1 foot vertically.

ARTICLE VI – HEIGHT LIMITATIONS

SECTION 60

Height Limitations

No structure or tree shall be erected, altered, allowed to grow or maintained in the airport zones to a height in excess of the height limit as determined by the aerial contours appearing on the Duplin County Airport Height Restriction Ordinance Map or referred to in Section 43 of this Document. The property owner of a tree, determined to be an airport hazard, shall be responsible for bringing such tree into conformance with this ordinance.

ARTICLE VII – NONCONFORMITIES

SECTION 70

Nonconforming Uses – Regulations Not Retroactive

This regulation shall not be construed to require the alteration of any lot or removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of this ordinance, or otherwise interfere with the continuance of a nonconforming use. Nothing contained herein shall require any change in the construction, or intended use

of any property or structure for which the construction or alteration was started or for which a building permit was acquired prior to the effective date of this ordinance.

Notwithstanding the preceding provision of this section, the owner of any existing nonconforming structure or tree is hereby required to allow the installations operation and maintenance thereon of such markers and lights as shall be deemed necessary by the Duplin County Airport Commission to indicate to the operators of aircraft in the vicinity of the airport the presence of such obstruction. Such markers and lights shall be installed, operated and maintained at the expense of the Duplin County Airport. Reference FAA Advisory Circular 70-7460-1 for further guidance.

SECTION 71

Existing Structures

Except as specifically provided in this section, it is not permissible for any person to engage in any activity that causes an increase in the extent of nonconformity of a nonconforming situation. Physical alteration of structures or the placement of new structures on open land is unlawful if they result in an increase in the total amount of space devoted to a nonconforming use or greater nonconformity with respect to land use limitation.

Abandoned Structures: Whenever the Duplin County Building Inspector determines that a nonconforming structure has been abandoned or more than 80 percent torn down (or damaged more than 80 percent of the current County tax value), physically deteriorated, or decayed, no permit shall be granted that would allow such structure to otherwise deviate from the zoning regulations.

Temporary Structures: Temporary structures constructed or erected incidental to a development, and solely used for the designated purpose, can only remain while needed and for a maximum of one year.

ARTICLE VIII - PERMIT REQUIREMENTS

SECTION 80

Permits Required – Existing Uses

Before any existing use or structure may be replaced or substantially altered within any area of the Airport Safety or Height Restriction Zones, a permit shall be secured authorizing such replacement, change or repair. No such permit shall be granted that would allow the establishment or creation of an airport hazard or permit a nonconforming use when the application for a permit is made. Except as indicated, all applications for a permit for replacement change or repair of an existing, structure shall be granted.

SECTION 81

Permits Required - Future Uses

No change shall be made in the use of land or increasing or establishing a structure or tree unless a permit therefore shall have been applied for and granted by the County Planning Department. Each application shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use or structure would conform to the regulations prescribed in this article.

No permit for a use inconsistent with the provisions of this ordinance shall be granted unless a variance has been approved in accordance with SECTION 94.

The Duplin County Building Inspector shall not issue a building permit for the construction of any new structure within the Airport Safety or Height Restriction Zones established in SECTION 43, and as depicted on the Duplin County Airport Land Use or Height Restriction Ordinance Map unless approved by the Duplin County Airport Commission and the enforcement officer.

No permit of any type shall be issued for any development, building permit or activity subject to parcel areas underlying Airport Safety Zones Zone #1 and Zone #2 herein defined, until the Duplin County Airport has an opportunity to be awarded an aviation easement by the property owner(s) in a form prescribed by the Airport Commissioners, and as recorded in a form acceptable to the Duplin County Planning Board

SECTION 82

Permit Applications

A permit application, as required per SECTION 80, shall accompany a preliminary plat to contain the information as indicated by the table in Section 309 of the Duplin County Subdivision Regulation. A non-refundable application fee of \$100 shall be submitted with the permit application.

SECTION 83

Review by Airport Commission

No permit regulated by this ordinance shall be issued by the Enforcement Officer unless approved by the Duplin County Airport Commission, or its designee.

SECTION 84

Violations

Permits shall be valid until revoked. The Enforcement Officer may periodically inspect the structure(s), trees and land use to determine continued compliance with this ordinance. If the land use or obstruction is in violation, the Enforcement Officer shall advise the owner in writing of the violations and of action necessary to bring the obstruction or land use into compliance. Failure by the owner to correct violations within 120 days of

notification shall constitute grounds for revocation of the permit. Further, violators of this ordinance shall be subject, upon conviction, to fine and/or imprisonment as provided by G.S. 14-4.

SECTION 85

Revocation of Permit

Valid permits may be revoked by the Enforcement Officer for any of the following reasons:

- (1) Incorrect or misrepresented information on the permit application.
- (2) Failure to construct structure in accordance with application and permit.
- (3) Any other violation of this ordinance.

In the event the permit is revoked, the Enforcement Officer shall advise the owner in writing of the status of the permit, the action necessary to correct the violation and of the enforcement techniques available to the County to remedy continued violation. When the Enforcement Officer determines that the structure or land use has been brought back into compliance with this ordinance, the Enforcement Officer shall reinstate the permit.

ARTICLE IX - LEGAL PROVISIONS

SECTION 90

Enforcement

The ordinance may be enforced by any one or more of the remedies authorized by G.S. 153A-123.

SECTION 91

Complaints

Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a written complaint with the Enforcement Officer stating the cause and basis for the complaint. The Enforcement Officer shall record the complaint, investigate and take such action as may be necessary to enforce this ordinance.

SECTION 92

Severability

Should any section or provision of this ordinance be declared by the courts to be invalid for any reason, such declaration shall not affect the ordinance as a whole, or any part thereof other than the part so declared to be invalid.

SECTION 93

Amendment

Petitions for amendment may be filed with the Duplin County Planning Department by any citizen of the County, any county department or agency, the Duplin County Planning Board or Board of Commissioners.

SECTION 93.1

County Commissioners Review

The provisions and requirements of this ordinance may be amended by the County Commissioners according to the procedure set forth:

- (1) County Planning Board Review - No amendment shall become effective unless it shall have been proposed by or shall have been reviewed by the Planning Board. The Planning Board shall have 45 days in which to review the proposed amendment and to make recommendation to the County Commissioners. If the Planning Board, or designee, fails to report to the Commissioners within 45 days, it shall be deemed to have approved the proposed amendment.
- (2) Airport Commission Review - No amendment shall become effective unless it shall have been proposed by or shall have been reviewed and recommended for approval by the Airport Commission.
- (3) Commissioners Review - No amendment shall become effective until after being adopted by the County Commissioners.

SECTION 94

Variance and Exception

Upon advisement of the Enforcement Office and Airport Commission, the County Planning Board may issue variances and exceptions from the requirements of this ordinance such that would not be contrary to the public interest, or the spirit and intent of this ordinance, and where due to special conditions, a literal enforcement of the provisions of this ordinance would result in an unnecessary hardship. In granting a variance, the Planning Board may prescribe appropriate conditions and safeguards as it deems necessary to preserve the intent of this ordinance. In granting a variance or exception to this ordinance, the Planning Board must determine the following:

- (1) Special conditions and circumstances exist which are peculiar to the land or buildings involved and which are not applicable to other land or buildings.
- (2) The literal interpretations of the provision of this ordinance would deprive the applicant of rights commonly enjoyed by other properties.
- (3) Special conditions and circumstances do not result from the actions of the applicant.
- (4) Granting the variance required will not confer on the applicant any special privilege that is denied by this ordinance to other- lands or- buildings.

- (5) Any request for a variance to the Height Restrictive portion of this Ordinance shall be accompanied by a finding from the Federal Aviation Administration as to the impact the variance may have on the safe, efficient use of the airport and its airspace.

Issuance of a variance shall not set precedence and each case shall be reviewed independently of others.

SECTION 95

Appeal

The Airport Commission shall hear and decide appeals and review any orders, requirements, decisions or determinations made by the enforcement officer responsible for administration or enforcement of this ordinance. The Airport Commission decision is subject to review by the Duplin County Board of Commissioners.

SECTION 96

Effective Date

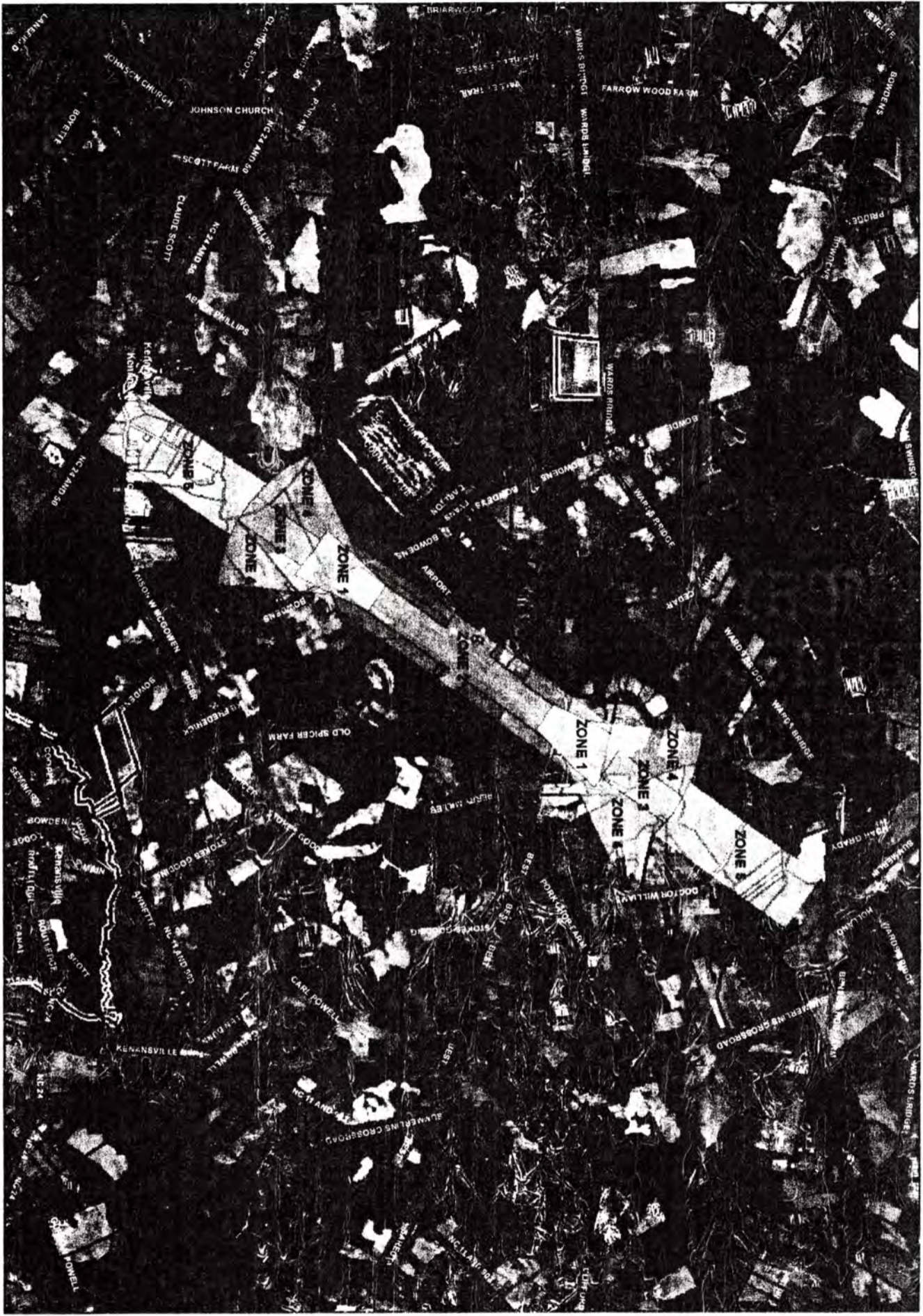
This ordinance shall become effective and be in full force from and after the 1st day of MAY, 2009. Adopted by the Duplin County Board of County Commissioners on 6th day of April, 2009.

Cary Turner

Chairman, Duplin County Board of Commissioners

ATTEST: Clerk

Wade Aldridge

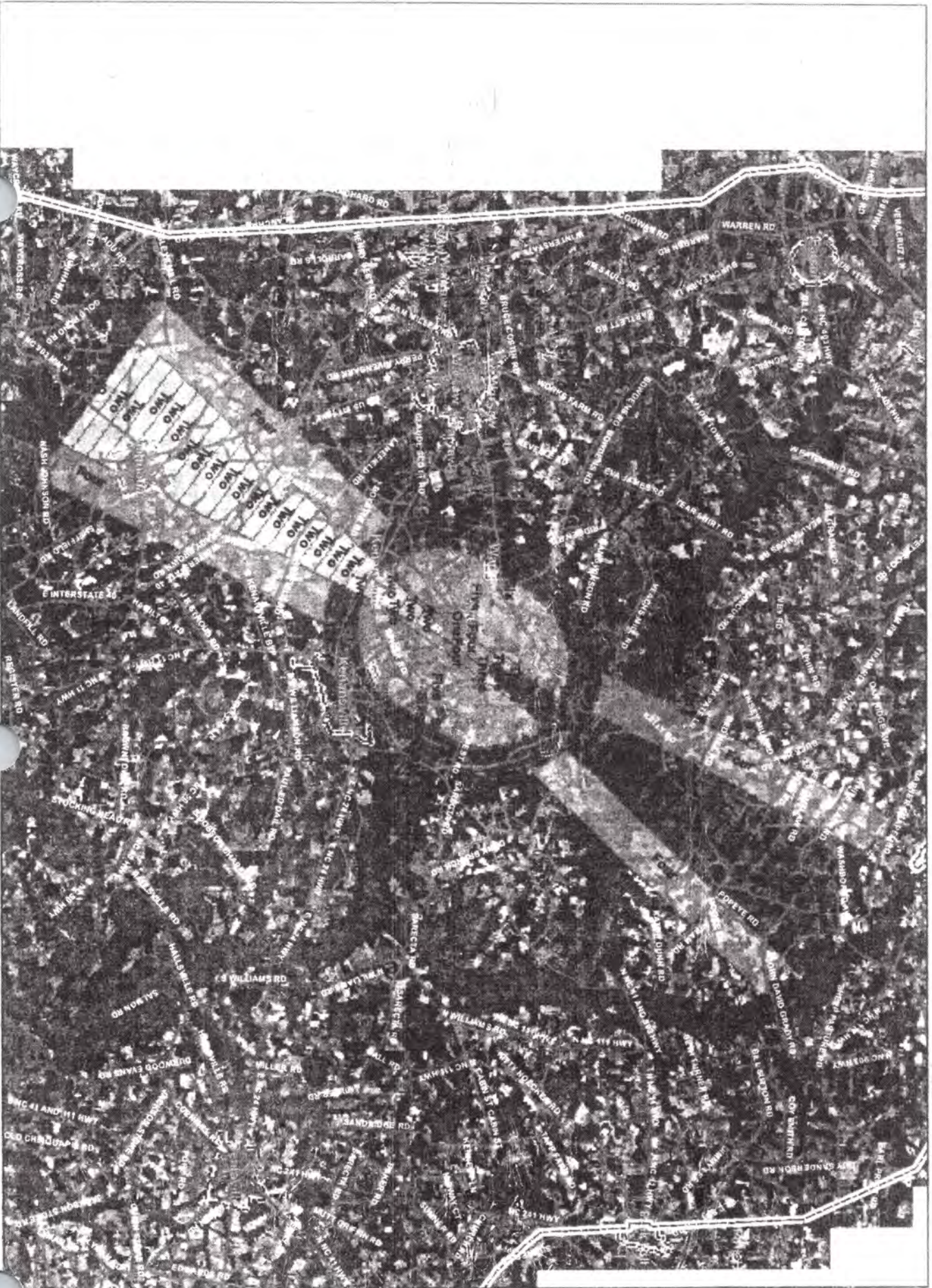


DUPLIN COUNTY REPORT
LAND USE ORDINANCE MAP MARCH 2009

1 inch equals 4,000 feet



DUPLIN COUNTY AIRPORT
LAND USE ORDINANCE MAP MARCH 2009



1 inch = 15,000 feet



**DUPLIN COUNTY
MINIMUM HOUSING STANDARDS**

Proposed:

March 10, 2009

Adopted: April 20, 2009 Effective: May 18, 2009

Prepared by the Duplin County Planning Board
and
Duplin County Inspections Department

Randall G. Tyndall, Planning Director

Atlas F. Thigpen, Chief Building Inspector

Any complaint, petition, orders, appeals or enforcement actions that have been filed or in effect on or before the effective date of this ordinance shall continue to be valid and enforceable under the terms of the previous minimum housing code adopted on or about July 1, 1989 by the Duplin County Board of Commissioners.

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ARTICLE A Minimum Housing Standards – Stick Built Homes

Section 1.

Finding: Purpose

(a) Pursuant to G.S. 160A-441, it is hereby found and declared that there exist in the County of Duplin dwellings which are unfit for human habitation due to dilapidation, defects increasing the hazards of fire, accidents and other calamities, lack of ventilation, light and sanitary facilities, and due to other conditions rendering such dwellings unsafe or unsanitary, and dangerous and detrimental to the health, safety and morals, and otherwise detrimental to the welfare of the residents of the County.

(b) In order to protect the health, safety and welfare of the residents of the County as authorized by part 6 of article 19, chapter 160A of the General Statutes, it is the purpose of this article to establish minimum standards of fitness for the initial and continued occupancy of all buildings used for human habitation, as expressly authorized by G.S. 160A-444.

Section 2. Definitions.

The following definitions shall apply in the interpretation and enforcement of this article:

(1) *Basement* shall mean a portion of a building which is located partly underground, having direct access to light and air from windows located above the level of the adjoining ground.

(2) *Cellar* shall mean a portion of a building located partly or wholly underground having inadequate access to light and air from windows located partly or wholly below the level of the adjoining ground.

(3) *Deteriorated* shall mean that a dwelling is unfit for human habitation and can be repaired, altered, or improved to comply with all of the minimum standards established by this article, at a cost not in excess of fifty percent (50%) of its value, as determined by finding of the inspector.

(4) *Dilapidated* shall mean that a dwelling is unfit for human habitation and cannot be repaired, altered or improved to comply with all of the minimum standards established by this article at a cost not in excess of fifty percent (50%) of its value, as determined by finding of the inspector.

(5) *Dwelling* shall mean any building, structure, manufactured home or mobile home, or part thereof, used and occupied for human habitation or is intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith, except that it does not include any manufactured home or mobile home which is used solely for a seasonal vacation purpose as defined in GS 160A-442.

(6) *Dwelling unit* shall mean any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating.

(7) *Extermination* shall mean the control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, trapping or by any other recognized and legal pest elimination methods approved by the inspector.

(8) *Garbage* shall mean the animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

(9) *Habitable room* shall mean a room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, water closet compartments, laundries, heater rooms, foyers, or communicating corridors, closets and storage spaces.

(10) *Infestation* shall mean the presence within or around a dwelling, of any insects, rodents or other pests in such number as to constitute a menace to the health, safety or welfare of the occupants or the public.

(11) *Inspector* shall mean a building inspector of the County or any agent of the inspector who is authorized by the inspector.

(12) *Manufactured Home* shall be: A residential dwelling unit, designed for transportation after fabrication on its own wheels or on flatbeds, or other trailers, and arriving at the site where it is to be occupied as a dwelling unit complete and ready for occupancy except for minor incidental unpacking and assembly operations including, but not limited to, location on jacks or other temporary or permanent foundation, and connection to utilities. Travel trailers, campers and recreational vehicles shall not be considered mobile homes unless in a park for more than thirty days. For the purposes of this ordinance, the term "mobile home" shall be inclusive of the term "manufactured home" as the term manufactured home is defined by the North Carolina General Statutes.

(13) *Multiple dwelling* shall mean any dwelling containing more than two (2) dwelling units.

(14) *Occupant* shall mean any person over one (1) year of age, living, sleeping, cooking or eating in, or having actual possession of a dwelling unit or rooming unit.

(15) *Operator* shall mean any person who has charge, care or control of a building or part thereof, in which dwellings units or rooming units are let.

(16) *Owner* shall mean any person who alone, or jointly, or severally with others:

a. Shall have title to any dwelling or dwelling unit, with or without accompanying actual possession thereof; or

b. Shall have charge, care or control of any dwelling or dwelling unit, as owner or agent of the owner, or as executor executrix, administrator, administrator, trustee or guardian of the estate of the owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this article, and of rules and regulations adapted pursuant thereto, to the same extent as if he were the owner.

(17) *Plumbing* shall mean and include all of the following supplied facilities and equipment gas pipes, gas burning equipment, water pipes, mechanical garbage disposal units (mechanical sink grinder), waste pipes, water closets, sinks; installed dish- washers, lavatories, bathtubs, shower baths, installed clothes washing machines, catch basin, drains, vents and any other similar supplied fixtures, together with all connections to water, sewer or gas lines.

(18) *Public authority* shall mean the County of Duplin Housing Authority or any officer who is in charge of any department or branch of the government of Duplin , County or the State of North Carolina relating to government of Duplin County or the State of North Carolina relating to health, fire building regulations, or other activities concerning dwellings in the County.

(19) *Recreation vehicle* shall mean a vehicular, portable structure built on a chassis, with permanent wheels, designed to be used as a temporary dwelling for travel, recreational and vacation used towed or driven and having a width not in excess of eight feet.

(20) *Rooming unit* shall mean any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

(21) *Rooming house* shall mean any dwelling, or that part of any dwelling containing one or more rooming units, in which space is let by the owner or operator to three (3) or more persons who are not husband and wife, son or daughter, mother or father or sister or brother of the owner or operator.

(22) *Rubbish* shall mean combustible and noncombustible waste materials except garbage and ashes, and the term shall include paper, rags, cartons, boxes, wood,

excelsior, rubber, leather, tree branches, yard trimming, tin cans, metals, minerals matter, glass crockery, and dust.

(23) *Stick Built home* shall be defined as: A home that is "stick-built" is constructed on the building site, piece by piece. Manufactured and modular homes are not classified as stick-built because they are made mostly in the factory and then transported to the site. A custom home and a home made according to stock building plans may both be stick-built, provided that they are constructed on the land where they will remain.

(24) *Supplies* shall mean paid for, furnished or provided by, or under the control of, the owner or operator.

(25) *Temporary housing* shall mean temporary labor camps and migrant labor housing.

(26) *Transportable housing* shall mean any tent, trailer or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure, or to any utilities system on the same premises for more than thirty (30) consecutive days.

(27) *Unfit for human habitation* shall mean that conditions exist in a dwelling which violate or do not comply with one (1) or more of the minimum standards of fitness or one or more of the requirements established by this article.

(28) *Meaning of certain words.* Whenever the words "dwelling, dwelling unit, rooming house, rooming unit, premises" are used in this article they shall be construed as though they were followed by the words "or any part thereof."

Section 3. Minimum standards of fitness for dwellings and dwelling units.

Every dwelling and dwelling unit used as a human habitation except transportable and temporary housing (excluding inmobile homes) or held out for use as a human habitation, shall comply with all of the minimum standards of fitness for human habitation and all of the requirements of Sections 4 to 8 of this chapter. No person shall occupy as owner-occupant, or let to another for occupancy or use as a human habitation, any dwelling or dwelling unit which does not comply with all of the minimum standards of fitness for human habitation and all of the requirements of Sections 4 to 8.

Section 4. Minimum standards for structural condition

(a) Walls, floors and roofs shall not have rotted, deteriorated, or damaged supporting members to a point where the structural integrity would not be reasonably safe for the purpose used.

(b) Foundations, foundation walls, piers or other foundation supports shall not be deteriorated or damaged to a point where the supporting strength would not be safe for the purpose used.

(c) Stairs, porches, and appurtenances. Every outside and inside stair, porch, and any appurtenance thereto shall be safe to use and capable of supporting the load that normal use may cause to be placed thereon.

(d) Egress. Every dwelling unit shall be provided with adequate means of egress as required by the State Residential Building Code (Volume 1-B of the State Building Code).

(e) The roof, flashings, exterior walls, basement walls, floors and all doors and windows exposed to the weather shall be constructed and maintained so as to be reasonably weather and watertight.

(f) There shall be no chimneys or parts thereof which are defective, deteriorated or in danger of falling, or in such condition or location as to constitute a fire hazard.

(g) There shall be no use of the ground for floors, or wood floors on the ground.

Section 5. Minimum standards for basic equipment and facilities.

(a) Plumbing system.

(1) Each dwelling unit shall be connected to a potable water supply and to the public sewer or other approved sewage disposal system.

(2) Each dwelling unit shall contain the, following as required by the State Plumbing Codes: a kitchen sink, lavatory, tub or shower, water closet, and adequate supply of both cold water and hot water. All water shall be supplied through an approved pipe distribution system connected to a potable water' supply.

(3) All plumbing fixtures shall meet the standards of the State Plumbing Code and shall be maintained in an operable condition.

(4) All required plumbing fixtures shall be located within the dwelling unit and be accessible to the occupants of same. The water closet and tub or shower shall be located in a room or rooms affording privacy to the user.

(b) Heating system. Every dwelling unit shall have facilities for providing heat in accordance with either (1) or (2) below.

(1) Central and electric heating systems. Every dwelling unit should have facilities provided to heat the dwelling to a temperature of 70° Fahrenheit at 3 feet above floor level during ordinary winter conditions.

(2) Other heating facilities. Where a central or electric heating is not provided, each dwelling and dwelling unit shall be provided with sufficient fire-places, chimneys, flues or gas vents whereby heating appliances may be connected so as to heat all habitable rooms with a minimum temperature of seventy (70) degrees Fahrenheit measured three (3) feet above the floor during ordinary winter conditions.

(c) Electrical system.

(1) Every dwelling and dwelling unit shall be wired for electric lights and convenience receptacles. Every habitable room shall contain at least two (2) floor or wall-type electric convenience receptacles, connected in such manner as determined by the National Electrical Code. There shall be installed in every bathroom, water closet room and laundry room, at least one supplied ceiling, or wall-type electric light fixture. In the event wall or ceiling light fixtures are not provided in any habitable room, then each such habitable room shall contain at least (3) floor or wall-type electric convenience receptacles.

(2) Every public hall and stairway in every multiple dwelling shall be adequately lighted by electric lights at all times when natural daylight is not sufficient.

(3) All fixtures, receptacles, equipment and wiring shall be maintained in a state of good repair and safe. All repairs, replacements and additions shall be installed in accordance with the National Electrical Code.

Section 6. Minimum standards for ventilation

(a) General. Except when provided with mechanical ventilation, every habitable room shall have an operable window, the size of which shall be not less than ten percent (10%) of the floor area of such room.

(b) Bathroom and water closet rooms. Every bathroom and water closet compartment shall comply with the light and ventilation requirements for habitable rooms except that no window or skylight shall be required in adequately ventilated bathrooms and water closet rooms equipped with an approved ventilation system.

Section 7. Minimum standards for space, use, and location

(a) Room sizes. Every dwelling unit shall contain at least the minimum room size in each habitable room as required by the State Residential Building Code (Volume I-B of the State Building Code) and stated below:

(1) Every dwelling unit shall contain at least one hundred and fifty (150) square feet of habitable floor area for the first occupant, at least one hundred (100) square feet of additional habitable area for each of the next three (3) occupants, and at least seventy-five (75) square feet of additional habitable floor area for each additional occupant.

(2) In every dwelling unit and in every rooming unit, every room occupied for sleeping purposes by one (1) occupant shall contain at least seventy (70) square feet of floor area, and every room occupied for sleeping purposes by more than one (1) occupant shall contain at least fifty (50) square feet of floor area for each occupant twelve (12) years of age and over and at least thirty-five (35) square feet of floor area for each occupant under twelve (12) years of age.

(b) Ceiling height. At least one-half (1/2) of the floor area of every habitable room shall have a ceiling height of not less than seven (7) feet and six (6) inches.

(c) Floor area calculation shall be as required by the State Residential Building Code (Volume I-B) and as stated below. Floor area shall be calculated on the basis of habitable room area. However, closet area and wall area within the dwelling unit may count for not more than ten percent (10%) of the required habitable floor area. The floor area of any part of any room where the ceiling height is less than four and one-half (4 1/2) feet shall not be considered as part of the floor area computing the total area of the room to determine maximum permissible occupancy.

Section 8. Minimum standards for control of insects, rodents, and infestations

(a) Screens. In every dwelling unit, for protection against mosquitoes, flies, and other insects, every door opening directly from a dwelling unit to outdoor space shall have supplied and installed screens and a self-closing device; and every window or other device with openings to outdoor space, used or intended to be used for ventilation, shall likewise be supplied with screens installed. If central heating and air conditioning is provided then no screens are required.

(b) Infestation. Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents, or other pests therein or on the premises; and every occupancy of a dwelling unit in a dwelling containing more than one (1) dwelling unit shall be responsible for such extermination whenever his dwelling unit is the only one infested. Whenever infestation is caused by failure of the owner to maintain a dwelling in a reasonably rodent and insect proof condition,

extermination shall be the responsibility of the owner. Whenever infestation exists in two (2) or more dwelling units in any dwelling or in the shared or public parts of any dwelling or in the shared or public parts of any dwelling containing two (2) or more dwelling units, extermination shall be the responsibility of the owner.

(c) Garbage storage and disposal. Every dwelling unit in a multiple unit facility shall be supplied with an approved garbage disposal facility.

ARTICLE B – Minimum Housing Standards – Manufactured Homes

Section 1. Purpose: No manufactured home set up in Duplin County's jurisdiction after the effective date of this Ordinance shall have electricity hooked up to it without meeting the following requirements:

(a) Exterior siding must be either painted or stained wood such as board and batten or board-on-board, Masonite, simulated stucco, residential grade metal, or vinyl lap siding. All siding shall be in good condition, complete, not damaged or loose.

(b) All repairs made to the exterior of manufactured homes shall be made consistent with the original intent or integrity of the manufactured home. (For example, if repairs are made to the siding, material as close to or consistent with the original siding shall be used.)

(c) Each manufactured home shall either have a brick curtain wall, ABS plastic color skirting with interlocking edges (key locked) or PVC painted metal approved skirting installed around the perimeter of the manufactured home. The skirting shall be attractive and in good condition, not pierced and shall be laid-up in an attractive, workmanlike manner. Any curtain wall or skirting shall have at least one door to enable access to the space below the manufactured home. All skirting shall have a frame sufficient to hold it in place.

(d) All windows and doors shall be intact and in working condition.

(e) Permanent steps for the manufactured home shall meet the North Carolina Building Code and shall be installed.

(f) All minimum lot size requirements and set back requirements from property lines, road rights of way and other homes must be met.

(g) The Duplin County Inspections Department shall provide a certificate that the used manufactured home meets the minimum housing standards of the Duplin County Inspections Department.

Section 2. Mobile Home Tax Permits

No manufactured home set up in Duplin County's jurisdiction after the effective date of this Ordinance shall have electricity hooked up to it without having a mobile home tax permit as required by NCGS 105-316.1 through 105-316.5. Such mobile home tax permits shall be obtained from the tax collector of the County from which the mobile home was moved.

ARTICLE C – Responsibilities of Owners and Occupants

Section 1. Purpose to define the responsibilities of owners and occupants

(a) Public areas. Every owner of a dwelling containing two (2) or more dwellings units shall be responsible for maintaining in a clean and sanitary condition the shared or public areas of the dwelling and premises thereof.

(b) Care of facilities, equipment and structure. No occupant shall willfully destroy, deface, or impair any of the facilities or equipment, or any part of the structure of a dwelling or dwelling unit.

ARTICLE D -- Responsibilities of the County

Section 1. Purpose to define the duties of building inspector and/or County representative

The building inspector is hereby designated as the officer to enforce the provisions of this article and to exercise the duties and powers herein prescribed.

(1) Upon the request of an elected official of the County, County Manager, the head of household, by a public officer of a public authority or a written request of five residents, the building inspector shall investigate the dwelling and the dwelling conditions in order to determine if the dwelling unit is unfit for human habitation.

(2) To take such action, together with other appropriate departments and agencies, public and private, as may be necessary to effect rehabilitation of housing which is deteriorated:

(3) To keep a record of the results of inspections made under this article and an inventory of those dwellings that do not meet the minimum standards of fitness herein prescribed and;

(4) To perform such other duties as may be herein prescribed.

Section 2. Powers of building inspector

The building inspector is authorized to exercise such powers as provided by N.C. General Statutes.

Section 3. Inspection; duty of owners and occupants

For the purpose of making inspections, the inspector is hereby authorized to enter, examine, and survey at all reasonable times all dwellings, dwelling units, rooming units and premises. The owner or Occupant of every dwelling, dwelling unit, or rooming unit, or the person in charge thereof, shall give the inspector free access to such dwelling, dwelling unit, or rooming unit, and its premises at all reasonable times for the purposes of such inspection, examination and survey. Every occupant of a dwelling or dwelling unit shall give the owner thereof, or his agent or employee, access to any part of such

dwelling or dwelling unit, and its premises, at all reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this article or with any lawful order issued pursuant to the provisions of this article.

Section 4. Procedure for enforcement.

(a) Preliminary investigation; notice, hearing. Whenever a petition is filed with the inspector by a public officer of a public authority or by at least five (5) residents of the County charging that any dwelling or dwelling unit is unfit for human habitation, or whenever it appears to the inspector, upon inspection that any dwelling or dwelling unit is unfit for human habitation, he shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served, upon the owner of and parties interest in such dwelling or dwelling unit a complaint stating the charges and containing a notice that a hearing will be held before the inspector at a place therein fixed, not less than ten (10) days nor more than thirty (30) days after the serving of the complaint. The owner or any party in interest shall have the right to file an answer to the complaint and to appear in person or otherwise, and give testimony at the place and time fixed in the complaint. Notice of such hearing shall also be given to at least one of the persons signing a petition relating to such dwelling. Any person desiring to do so may attend such hearing and give evidence relevant to the matter being heard. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the inspector.

(b) Procedure after hearing. After such notice and hearing, the inspector shall state in writing his determination whether such dwelling unit is unfit for human habitation, and if so, whether it is deteriorated or dilapidated.

(1) If the inspector determines that the dwelling or dwelling unit is deteriorated, he shall state in writing his findings of fact in support of such determination, and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to repair, alter and improve such dwelling or dwelling unit to comply with the minimum standards of fitness established by this article within a specified period of time, not to exceed ninety (90) days. Such order may also direct and require the owner to vacate and close such dwelling or dwelling unit until such repairs, alterations, and improvements have been made.

(2) If the inspector determines that the dwelling is dilapidated, he shall state in writing his findings of fact to support such determination, and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to either repair, alter and improve such dwelling or dwelling unit to comply with the minimum standards of fitness established by this article or else vacate and remove or demolish the same within a specified period of time not to exceed ninety (90) days.

(c) Failure to comply with order.

(1) In person remedy. If the owner of any deteriorated dwelling or dwelling unit shall fail to comply with an order of the inspector to repair, alter, or improve the same within the time specified therein, or if the owner of a dilapidated dwelling shall fail to comply with an order of the inspector to vacate and close, and remove or demolish the same within the time specified therein, the inspector shall submit to the governing body at its next regular meeting a resolution directing the County Attorney to petition the superior court for an order directing such owner to comply with the order of the inspector as authorized by G.S. 160A-443(7) and/or G.S. 160A-446(g).

(2) In rem remedy. After failure of an owner of a deteriorated dwelling or dwelling unit, or of a dilapidated dwelling, to comply with an order of the inspector within the time specified therein, if injunctive relief has not been sought

or has not been granted as provided in the preceding paragraph (1) the inspector shall submit to the governing body an ordinance ordering the inspector to cause such dwelling or dwelling unit to be repaired, altered, improved, or vacated and closed and removed or demolished, as provided in the original order of the inspector, and pending such removal or demolition to placard such dwelling as provided by G.S. 160A-443 and Article D section 6 of this ordinance.

(d) Appeals from orders of inspector. An appeal from any decision or order of the inspector may be taken by any person aggrieved there- by. Any appeal from the inspector shall be taken within ten (10) days from the rendering of the decision or service of the order, and shall be taken by filing with the inspector and with the Housing Appeals Board a notice of appeal which shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the inspector shall forthwith transmit to the Board all the papers constituting the record upon which the decision appealed from was made. When appeal is from a decision of the inspector refusing to allow the person aggrieved thereby to do any act, his decision shall remain in force until modified or reversed. When any appeal is from a decision of the inspector requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing by the Board, unless the inspector certifies to the Board, after the notice of appeal is filed with him, that by reason of the facts stated in the certificate (a copy of which shall be furnished the appellant), a suspension of his requirement would cause imminent peril to life or property, in which case the requirement shall not be suspended except by a restraining order, which may be granted for due cause shown upon not less than one (1) day's written notice to the inspector, by the Board, or by a court of record upon petition made pursuant to G.S. 160A-446(f) and subsection (e) of this section.

(1) The Board shall fix a reasonable time for the hearing of all appeals, shall give due notice to all the parties, and shall render its decision within a reasonable time. Any party may appear in person or by agent or attorney. The Board may reverse or affirm, wholly or partly, or may modify the decision or order the appealed from, and may make such decision and order as in its opinion ought to be made in the matter, and to that end it shall have all the powers of the inspector, but the concurring vote of four (4) members of the Board shall be necessary to reverse or modify any decision or order of the inspector. The Board shall have power also in passing upon appeals, in any case where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the ordinance, to adapt the application of the ordinance to the necessities of the case to the end that the spirit of the ordinance shall be observed public safety and welfare secured, and substantial justice done.

(2) Every decision of the Board shall be subject to review by proceedings in the nature of certiorari instituted within fifteen (15) days of the decision of the Board, but not otherwise.

(e) Petition to Superior Court by owner. Any person aggrieved by an order issued by the inspector or a decision rendered by the Board shall have the right, within thirty (30) days after issuance of the order or rendering of the decision to petition the Superior Court for a temporary injunction restraining the inspector pending a final disposition of the cause, as provided by G.S. 160A-446(f).

Section 5. Methods of service of complaints and orders.

Complaints or orders issued by the inspector shall be served upon persons either personally or by registered or certified mail, but if the whereabouts of such persons are unknown and the same cannot be ascertained by the inspector in the exercise of reasonable diligence, the inspector shall make an affidavit to that effect, and the serving of such complaint or order upon such person may be made by publishing the same once each week for two (2) successive weeks in a newspaper, circulating in the County. Where service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected by the complaint or order.

Section 6. In rem action by inspector; placarding.

(a) After failure of an owner of a dwelling or dwelling unit to comply with an order of the inspector issued pursuant to the provisions of this article, and upon adoption by the governing body of an ordinance authorizing and directing him to do so, as provided by G.S. 160A-443(5) and Article D section 4:c of this article, the inspector shall proceed to cause such dwelling or dwelling unit to be repaired, altered, or improved to comply with the minimum standards of fitness established by this article or to be vacated and closed and remodeled or demolished, as directed by the ordinance of the governing body and shall cause to be posted on the main entrance of such dwelling or dwelling unit a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful." Occupation of a building so posted shall constitute a misdemeanor.

(b) Each such ordinance shall be recorded in the office of the Register of Deeds in the county wherein the property is located, and shall be indexed in the name of the property owner in the grantor index as provided by G.S. 160A-443 (5)

Section 7. Costs, a lien on premises

As provided by G.S. 160A-446(6), the amount of the cost of any repairs, alterations, or improvements, or vacating and closing, or removal or demolition, caused to be made or done by the inspector pursuant to Article D section 6 shall be a lien against the real property upon which such cost was incurred. Such lien shall be filed, have the same priority, and be enforced and the costs collected as provided by article 10, chapter 160A of the General Statutes.

Section 8. Alternative remedies

Neither this article nor any of its provisions shall be construed to impair or limit in any way the power of the County to define and declare nuisances and to cause their abatement by summary action or otherwise, or to enforce this ordinance by criminal process as authorized by G.S. 14-4 and Article D section 8, and the endorsement of any remedy provided herein shall not prevent the enforcement of any other remedy or remedies provided herein or in other ordinances or laws..

Section 9. Housing Appeals Board.

There is hereby created a Housing Appeals Board to which appeals may be taken from decisions or orders of the inspector, as provided by Article D section 4 (d). The Board shall consist of the Duplin County Board of Commissioners. The Board shall have the power to elect its own officers, to fix the times and places of its meetings, to adopt necessary rules or procedure and to adopt other rules and regulations for the proper discharge of its duties. The Board shall perform the duties prescribed by Article D section 4 (d) and shall keep an accurate record of all its proceedings.

Section 10. Conflict with other provisions.

In the event any provision, standard, or requirement of this article is found to be in conflict with any provision of any other "ordinance or code of the County, the provision which establishes the" higher standard or more stringent requirement for the promotion and protection of the health and safety of the residents of the County shall prevail.

Section 11. Violations: penalty.

(a) It shall be unlawful for the owner of any dwelling or dwelling unit to fail, neglect, or refuse to repair, alter, or improve the same, or to vacate and close and remove or demolish the same, upon order of the inspector duly made and served as herein provided, within the time specified in such order, and each day that any such failure, neglect, or refusal to comply with such order continues shall constitute a separate and distinct offense. It shall be unlawful for the owner of any dwelling or dwelling unit, with respect to which an order has been issued pursuant to Article D section 4, to occupy or permit the occupancy of the same after the time prescribed in such order for its repair, alteration or improvement or its vacation and closing, and each day that such occupancy continues after such prescribed time shall constitute a separate and distinct offense.

(b) The violation of any provision of this article shall constitute a misdemeanor as provided by G.S. 14-4.

Section 12. Effective Date.

This ordinance shall become effective and be in full force from and after the 18th day of May, 2009 as adopted by the Duplin County Board of Commissioners. This ordinance is adopted this the 20th day of April, 2009. Any complaint, petition, orders, appeals or enforcement actions that have been filed or in effect on or before the effective date of this ordinance shall continue to be valid and enforceable under the terms of the previous minimum housing code adopted on or about July 1, 1989 by the Duplin County Board of Commissioners. The previous ordinance dated July 1, 1989 shall be revoked on the effective date of the new minimum housing ordinance of May 18th, 2009.

Cary Turner

Chairman
Duplin County Board of Commissioners

ATTEST:

Mike Aldridge

Mike Aldridge
Clerk to the Board

*Adopted © August 17, 2009 bd. mtg.
Original in Ordinance Book*

Adopted © Aug. 17, 2009 mtg

Duplin County Airport



Manual of Airport Rules and Regulations

for the

Duplin County Airport

Kenansville, North Carolina



Rules and Regulations Ordinance

September 1, 2009

000573

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**DUPLIN COUNTY AIRPORT
RULES AND REGULATIONS ORDINANCE**

September 1, 2009

ENACTMENT: This is an ordinance establishing the rules and regulations for the management, governing and effective use of the Duplin County Airport.

WHEREAS, in the opinion of the Duplin County Board of Commissioners to protect the health, safety and general welfare of the residents of Duplin County, it is necessary and advisable to adopt rules and regulations pertaining to the management and governing of the Duplin County Airport, and

WHEREAS, the Duplin County Board of Commissioners and administration have developed this ordinance with due consideration, and

WHEREAS, the Duplin County Board of Commissioners have given due notice of public hearing and have conducted such public hearing, and

WHEREAS, all applicable requirements of the General Statutes of North Carolina have been met;

NOW, THEREFORE BE IT ORDAINED BY THE COUNTY COMMISSIONERS OF THE COUNTY OF DUPLIN AS FOLLOWS:

Article I - Authority

The provisions of this ordinance are adopted under authority granted by North Carolina General Statute §153A-121.

Article II - Applicability

This ordinance shall be applicable to the area designated within Duplin County known collectively as "the Duplin County Airport."

Article III - General Provisions

Definitions for the purposes of this ordinance the following terms shall be defined as specified below. Unless specifically defined, words or phrases used in this ordinance shall be interpreted to give them the meaning they have in common usage and to give this ordinance the most reasonable application.

1. **Aeronautical Activity** means any activity commonly conducted at airports which involves, makes possible, or is required for, the operation of aircraft, or which contributes to or is required for the safety of such operations. These activities include, but are not limited to, air taxi and charter operations, pilot training, aircraft renting, sightseeing, aerial photography, crop dusting, aerial advertising, aerial surveying, air carrier operations, skydiving, ultra light operations, aircraft sales and services, sale of aviation petroleum products, repair and maintenance of aircraft, or sale of aircraft parts and aircraft storage.
2. **Aeronautical Service** means any service which involves, makes possible, or is required for, the operation of aircraft, or which contributes to or is required for the safety of aircraft operations commonly conducted on the Airport by a person who has a lease from Duplin County (hereinafter referred to as the County) to provide such service.
3. **Aircraft** means a device which is used, or intended to be used, for flight in air. Examples of aircraft include, but are not limited to, airplane, sailplane, glider, rotorcraft (e.g., helicopter, gyrocopter or autogyro), balloon, and blimp.
4. **Airport** means the Duplin County Airport and all of the area, buildings, facilities and improvements within the boundaries of said Airport as it presently exists or as it may exist when it is hereafter modified.
5. **ALP** means the current Airport Layout Plan for the Duplin County Airport which has been approved by the Federal Aviation Administration (FAA).
6. **Air Operations Area or AOA** means the area of the Airport used, or intended to be used, for landing and takeoff or surface maneuvering of aircraft, including the associated hangars and navigation and communication facilities.
7. **Airport Director** means the person designated by Duplin County to manage the Airport.
8. **Commission** means the Duplin County Airport Commission established and appointed by the Duplin County Board of Commissioners.
9. **FAA** means the Federal Aviation Administration and its successors.
10. **FAR** means the Federal Aviation Regulations as published and amended from time to time.
11. **Fixed-Base Operator or FBO** means an individual, firm or corporation leasing space and operating at the airport and providing more than one general aircraft service to the public, such as fueling, maintenance, storage, ground and flight instructions, etc.

Regulations, may require an accommodation by other users of the Airport. Special Events includes, but is not limited to, fly-ins, skydiving exhibitions, balloon operations or similar events or activities.

26. SWPPP means Storm Water Pollution Prevention Plan.
27. Tenant means a lessee of space at the Airport.
28. Unicom means a nongovernmental communication facility which may provide airport information at certain airports. Locations and frequencies are shown on aeronautical charts and publications.
29. VFR means Visual Flight Rules, which govern procedures for conducting flight under visual meteorological conditions as described in FAR Part 91, General Operating and Flight Rules.

Article IV - Airport Operations

The Airport will be open to all aircraft 24 hours a day, every day of the year, except that the Airport may be closed when either the County or the Airport Director determines that an unsafe condition exists. The Airport may remain closed until the unsafe condition has been corrected or no longer exists. The Airport runway shall be closed to all student pilots when the surface winds create a direct crosswind component of 15 nautical miles per hour or 30 nautical miles per hour total wind velocity. Meteorological conditions at the Airport shall be determined by the official weather as reported by the FSS, FBOs or SASOs are not required to be open at all times the Airport is open.

Article V - Airport Director

The Airport Director is responsible for the overall management and operation of the Airport. The Airport Director is authorized to take all reasonable actions necessary to protect and safeguard both the County property and the public at the Airport and to oversee all Airport operations for compliance with these Rules and Regulations. The Airport Director will use reasonable efforts to coordinate tenant activities to avoid conflicts.

Article VI - Insurance

1. Each FBO or SASO shall maintain the types and amounts of insurance described in paragraph 5 below. The County shall be named as additional insured on all policies.

12. Fixed-Base Operator Lease means any (a) lease agreement between the County and the FBO or SASO leasing property at the Airport, or (b) sub-lease agreement approved by the County between any FBO or SASO and Person sub-leasing property at the Airport for the purpose of providing aeronautical services to the public at the Airport.

13. FSDO means Flight Standards District Office (FAA).
14. IFR means Instrument Flight Rules, which govern the procedures for conducting flight under Instrument Meteorological Conditions (IMC).
15. Landside means all buildings and surfaces used by surface vehicular and pedestrian traffic at the Airport.
16. Minimum Standards means the standards which are established by the Airport Commission, amended from time to time, and which are the minimum requirements to be met by an FBO or SASO or proposed FBO or SASO as a condition for the privilege to provide aeronautical services to the public at the Airport.
17. NAVAIDS means Navigational Aid System and such devices utilized for navigation.
18. NFPA means National Fire Protection Association.
19. NOTAM means a Notice to Airmen published by the FAA (e.g., a method of notifying the flying public of conditions at the Airport that may affect flight).
20. NTSB means the National Transportation Safety Board and its successors.
21. Person means an individual, firm, partnership, corporation, company, association or other entity.
22. Pilot means an individual who operates an aircraft at the Airport, either based or transient.
23. Specialized Aviation Service Operation or SASO means an Individual, firm or corporation leasing space and operating at the airport and providing only one general aircraft service to the public.
24. Shall means that the word "shall" is always mandatory and not merely directory.
25. Special Event means an Aeronautical Activity which does not comply with these Rules and Regulations or which, although it may comply with these Rules and

2. The FBO or SASO shall only use responsible insurance companies of recognized standing which are authorized to do business within the State of North Carolina. The insurance companies shall have a Best's rating of at least "B+" and a financial size of "Class VII" or better in the latest edition of Best's Insurance Reports.
3. Each FBO or SASO shall, at the request of the County, deliver to the Airport Director copies of all certificates of insurance for required insurance, any policy amendments and policy renewals, and any additional information related to required insurance. Each policy shall require the insurer to provide at least 30 days prior written notice of termination or cancellation to the County.
4. Each FBO or SASO shall submit to the appropriate insurer timely notices and claims of all losses insured under any required insurance policy, pursue such claims diligently and comply with all terms and conditions of required insurance policies. Each FBO or SASO shall promptly give the Airport Director copies of all notices and claims of loss and any documentation or correspondence related to such losses.
5. Each FBO or SASO shall maintain the following insurance policies as required insurance under these Rules and Regulations:
 - a. Workers Compensation and Employers Liability Insurance. This insurance will pay the FBO or SASO's obligation under Workers Compensation Law of North Carolina. Employer's liability (Statutory Limits).
 - b. General Liability Insurance. This insurance must be written on an "occurrence" basis, responding to claims arising out of any occurrences which may take place during the policy period. The general liability form shall provide limits of at least the following, with no deductible: \$1,000,000 each occurrence for bodily injury & property damage; \$1,000,000 each incident for personal and advertising injury; \$1,000,000 product-completed operation aggregate; and \$1,000,000 general aggregate. The contractual liability coverage shall include protection for the FBO or SASO from claims arising out of the liability assumed under the indemnification provision of these Rules and Regulations. The insurance policy shall provide for contingent liability of the County on any claim or loss, and the County shall be named as an additional insured under FBO's or SASO's policy of insurance. The FBO or SASO shall instruct the insurer to notify the County in writing by certified mail at least 30 days prior to cancellation or refusal to renew any policy. The FBO or SASO shall file certificates of all insurance required with the County.
- Insurance against fire, windstorm or other casualty, including all standard extended coverage available, upon all of the FBO's or SASO's personal property, together with such medical payments coverage as the FBO or SASO may desire. In connection therewith, the FBO or SASO holds the County harmless against loss or damage to the FBO's or SASO's person or property by reason of any casualty other than the sole negligence or fault of the County.
- c. Business Automobile Liability Coverage. Business automobile liability insurance shall apply to any automobile, including all owned, hired and non-owned vehicles, to a combined single limit of at least \$300,000 each accident. Any statutorily required "No-Fault" benefits and uninsured/underinsured motorist coverage shall be included.
- d. Aircraft Liability Insurance. This insurance shall provide aircraft liability, including temporary substitute aircraft and non-owned aircraft liability, to a combined single limit of at least \$500,000 limited to \$100,000 each passenger per occurrence. Coverage shall apply to bodily injury or death and mental anguish, including passenger injuries and property damage.
- e. Hangarkeepers Liability Insurance. Hangarkeeper's legal liability coverage shall include protection for those who lease an operating a hangar storage or aircraft maintenance/repair service to a limit of at least \$300,000 each occurrence.

The County is to be included as additional insured.

The contractual liability coverage shall include protection for the FBO or SASO from claims arising out of the liability assumed under the indemnification provisions of these Rules and Regulations.
6. Any Person providing an aeronautical service to the public at the Airport under the supervision of, or pursuant to, an arrangement with an FBO or SASO shall not be required to obtain the insurance described above if the insurance policy or policies of the FBO or SASO covers that Person to the same extent, and in the same amount, as the applicable insurance policy described above for the FBO or SASO.
7. Each FBO or SASO agrees to indemnify and hold the County and each of its officers, representatives, agents, employees, successors or assigns harmless from all claims and liabilities (including, without limitation, legal fees) arising out of the use of the Airport.

Article VII - Reporting Requirements

1. In order to promote and maintain safety at the Airport any pilot or tenant or FBO or SASO is encouraged to promptly report to the Airport Director any bodily injury requiring medical attention, or any damage to property at the Airport, or any other accident, incident, occurrence or unsafe practice relating to any aircraft which any one of the above owns, leases, flies, or any Aeronautical Activity in which any are involved. A form is attached (see Exhibit "E") for utilization in those instances. If the accident or incident report is required under NTSB, Part 830, a copy of that information may be submitted to the Airport Director in lieu of the form in Exhibit "E."
2. The following are examples of accidents, incidents, unsafe practices or occurrences that shall be reported promptly to the Airport Director:
 - a. Aircraft landing off the runway without prior permission of the Airport Director.
 - b. Aircraft breaking runway or taxiway lights, airfield signs, or NAVAIDS.
3. The report shall include the following information:
 - a. Location, date and time of incident and the identity of each Person and Aircraft involved;
 - b. Nature of any injuries suffered by any Person as a result of the incident and the name and address of any Person injured;
 - c. Nature and extent of any property damage occurring as a result of the incident and the name and address of the owner of the damaged property; and
 - d. A narrative explaining circumstances of the incident occurred.

Article VIII - Ground Vehicular Traffic and Parking

1. Unless otherwise indicated, traffic laws of the State of North Carolina shall apply to the streets, roads, and designated vehicular parking areas at the Airport. Designated parking areas are on the paved lots adjacent to the terminal building and the grassy areas by the hangars, as designated by the Airport Director. Nothing in this article shall be construed to prohibit the FBO or SASO from using

vehicles to transport supplies to hangars, but the vehicles shall not remain on the AOA after the supplies have been delivered to the hangar.

2. Individual tenants on the Airport may drive to their aircraft or hangar, as approved and directed by the Airport Director and, at their own risk, may park private vehicles in their hangars when the aircraft is not in the hangar. To obtain approval from the Airport Director to operate a private vehicle on the AOA, the tenant shall show proof that they have, in force, automobile liability insurance in the minimum amount of \$300,000.00.

Article IX - Pedestrians, Passengers and Sightseers

All pedestrians, air carrier passengers, and sightseers at the Airport shall remain behind the fence of the AOA, or in designated areas, and shall be escorted onto the AOA by the Airport Director or FBO or SASO personnel or tenants or pilots. FBO's or SASO's or tenants or pilots are responsible for safety enforcement on their demised areas.

Article X - Advertising Signs

No signs or other advertising, other than those existing on the date these rules are adopted by the County shall be placed or constructed upon the Airport, Airport entrance roads, or on any building or structure or improvement thereon, without prior written approval of the County. All signs or advertising media shall be kept in good repair and neat in appearance.

Article XI - Aircraft Owner Maintenance

1. Nothing contained herein shall prevent any Person operating aircraft on the Airport from performing any services it may wish to perform on its own aircraft, with its own employees (including, but not limited to maintenance, repair and fueling), subject to these Rules and Regulations. For the purpose of these Rules and Regulations, an employee is an individual on the normal payroll of the employer (aircraft owner) hired to perform a specific function for that employer. Any aircraft owner utilizing an employee to perform aircraft maintenance shall, at the request of the Airport Director, provide evidence of employment in a form acceptable to the County.
2. All repairs to aircraft or engines, other than specified in FAR 43, Preventive Maintenance paragraph A43.c, made by the aircraft owner or FBO or SASO, shall be made in the spaces or areas designated for such purpose by the Airport Director or County or in the leased area of the Operator and shall not be made on any part of the landing area, taxiways, ramps or fueling or service areas. Reservations for

the maintenance spaces can be made with the Airport Director. See Exhibit "A" for designated space location.

Self-fueling of aircraft, see Articles XII and XXI.

3. Area (s) on the airport may be designated where self-maintenance is to be performed. If such an area is designated, all self-maintenance shall be performed in that (those) areas only. See Exhibit "A".

4. All maintenance activities must comply with the current SWPPP.

Article XII - Permits

1. No Person may provide an Aeronautical Service at the Airport unless:

a. The Person has an Aeronautical Operator's Lease executed by the County to provide an Aeronautical Service on the Airport, or

b. A Permit has been issued to the Person by the Airport Director authorizing the Person to provide the Aeronautical Service at the Airport. The requirement for a permit does not apply to any FAA designated examiner acting as such.

c. See Exhibit "D" for self-fueling permit procedures.

2. The Minimum Standards, together with application and leasing requirements of the County, apply to any FBO or SASO lease.

3. Permits shall be issued by the Airport Director to any Person who satisfies the conditions for the Aeronautical Activities listed below:

a. Any Person providing flight instruction as a part-time business under FAR Part 61 and having no more than three students at any one time shall provide the Airport Director with the following to his satisfaction:

(1) Proof of proper and current instructor's license, approved by the FAA with appropriate ratings to cover the types of instruction being offered and current medical certificate.

(2) Proof of County business license, if applicable.

(3) Proof of aircraft bodily injury and property damage liability insurance in the amount of \$500,000 (limited to \$100,000 each passenger), with no deductible amount and naming the County as additional insured. Coverage shall apply to bodily injury or death, passenger injuries, including mental anguish, and property damage.

(4) Current list of names and addresses of the students receiving flight instruction.

b. Any Person providing aircraft repair and/or inspection services, other than owner-preventive maintenance as defined in FAR Part 43, shall provide the Airport Director with the aircraft registration number and the following to his satisfaction:

(1) Proof of proper and current licenses approved by the FAA, with appropriate ratings to cover the types of repairs or inspection work being offered.

(2) Proof of County business license, if applicable.

(3) Proof of General Liability Insurance. This insurance must be written on an "occurrence" basis, responding to claims arising out of any occurrences which may take place during the policy period. The general liability form shall provide limits of at least the following with no deductible:

\$1,000,000 each occurrence for bodily injury & property damage.

\$1,000,000 each incident for personal and advertising injury.

\$1,000,000 product-completed operation aggregate.

\$1,000,000 general aggregate.

The County is to be included as additional insured.

The contractual liability coverage shall include protection for the Permit Holder from claims arising out of the liability assumed under the

indemnification provision of these Rules and Regulations.

Business automobile liability insurance shall apply to any automobile, including all owned, hired and non-owned vehicles, to a combined single limit of at least \$300,000.00 each accident. Any statutorily required "No-Fault" benefits and uninsured/underinsured motorist coverage shall be included.

c. Any Person based outside of the boundaries of the Airport and providing warranty service to a customer who's Aircraft is located on the Airport shall provide the Airport Director with the following to his satisfaction:

- (1) Proof of proper and current licenses approved by the FAA with appropriate ratings to cover the types of repairs or inspection work being offered.
- (2) Proof of County business license, if applicable.
- (3) Proof of General Liability Insurance. This insurance must be written on an "occurrence" basis, responding to claims arising out of any occurrences which may take place during the policy period. The general liability form shall provide limits of at least the following with no deductible:
 \$1,000,000 each occurrence for bodily injury & property damage.
 \$1,000,000 each incident for personal and advertising injury.
 \$1,000,000 product-completed operation aggregate.
 \$1,000,000 general aggregate.

The County is to be included as additional insured.

The contractual liability coverage shall include protection for the Permit Holder from claims arising out of the liability assumed under the

indemnification provision of these Rules and Regulations.

Business automobile liability insurance shall apply to any automobile, including all owned, hired and non-owned vehicles, to a combined single limit of at least \$300,000.00 each accident. Any statutorily required "No-Fault" benefits and uninsured/underinsured motorist coverage shall be included.

d. Other aeronautical activities that any person may wish to operate on the Airport requiring approval of the County prior to operating on the Airport.

4. Each Permit shall be issued for a designated time and date or for a period not to exceed one (1) year; based on the contemplated activity, impact on the safety of airport operations, past experience with the requester, current circumstances and the civil aviation needs of the public.

5. The County may establish and revise fees for issuance of Permits.

Article XIII - Special Events

Any Person wishing to sponsor a Special Event shall obtain the prior written approval of the County. The County shall require such safeguards as deemed necessary to protect the Airport, aircraft using the Airport and the general public. These requirements may include, but are not limited to, bonds, insurance policies, additional security personnel, facilities and a waiver/authorization to the FARs issued by the FAA. The County is prohibited by the FAA from closing the Airport for any activity which is not an Aeronautical Activity. The County may establish and charge reasonable fees for Special Events.

Article XIV - Construction on the Airport

1. Construction contractor's equipment and personnel vehicles shall be marked following the guidelines established in the current addition of FAA Advisory Circular 150/5370-2, Operational Safety on Airports During Construction, Section VIII - Vehicles on Airports.

2. During periods of construction activity within 125 feet of the runway edge, the Airport Director requires that a radio operator be on the construction site with a two-way radio. The operator's function is to control and direct the movement of the construction equipment via information from the Unicom operator.

Article XVIII - Removal of Damaged Aircraft

In the event any aircraft is damaged, to the extent that it cannot be moved under its own power, the pilot shall immediately notify the Airport Director, the aircraft owner and the FBO or SASO. The pilot is also responsible for the reporting under FAR 830. Subject to governmental investigation and inspection of the damaged aircraft, the owner or pilot of the damaged aircraft, or the owner's agent or legal representative shall, as soon as reasonably possible, obtain the necessary permission for removal of said aircraft from all landing area, taxiway, ramp, tie-down areas and all other traffic areas, and park or store said aircraft in an area designated by the Airport Director. If, for any reason, the owner of the aircraft fails to remove the wrecked or damaged aircraft from the AOA or Airport as requested by the Airport Director, the County or the FBO or SASO may cause the removal and storage or disposal of the wrecked or damaged aircraft at the sole expense of the aircraft owner and without liability for further damage as a result of the removal.

Article XIX - Aircraft Parking

No Person shall park, store, tie down or leave any aircraft on any area of the Airport other than that which is prescribed by the Airport Director and is not prohibited by these Rules and Regulations.

1. Aircraft pilots, owners or agents shall properly secure their aircraft while parked or stored. Aircraft pilots, owners or agents are solely responsible for parking and tying down their aircraft, and for any special security measures required by weather or other conditions at the Airport. Aircraft pilots, owners or agents shall also be responsible for securing aircraft in a manner necessary to avoid damage to other aircraft or buildings at the Airport in the event of wind or other severe weather. Owners, pilots or agents of all aircraft shall be held solely responsible for any damage or loss resulting from the failure of such owner, pilot or agents of such aircraft to comply with these Rules and Regulations.
2. Each tie-down space being rented on a monthly basis shall be assigned to a specific aircraft. Tie-down spaces shall be designated and assigned by the Airport Director. A person shall not knowingly take or use any aircraft tie-down facility when such facilities are already in actual use by, or rented to, another person. Tie-down space renters shall not sublease their space.
3. All cargo shall be loaded and unloaded in the leased areas of those FBOs or SASOs who provide that aeronautical activity.

Article XV - Responsibilities

1. Operation of all aircraft at the Airport shall be done in a safe and responsible manner and in compliance with these Rules and Regulations, the FARs, FAA Advisory Circulars and the requirements of other appropriate governmental agencies. One copy of each applicable document will be maintained in the pilot briefing room in the Terminal Building and at each FBO or SASO office. Each Person operating an aircraft is responsible for the safety of its operation and for the safety of others exposed to such operation.
2. Based aircraft shall be registered and insured in accordance with all applicable Federal and State statutes. All aircraft that remain in an unflyable condition (out of annual), in the absence of full coverage, must carry coverage known as "Ground, not in motion" insurance in an amount of not less than \$50,000. The aircraft owner's certificate of insurance shall be made available to the Airport Director upon request. The Airport Director will be solely responsible for determining when an unflyable aircraft is to be moved from the Airport.
3. All aeronautical activities and services for aircraft using the Airport landing facilities will be performed on the Airport. No aircraft will be allowed to taxi or be towed off the Airport for storage, service or to pick up or deliver cargo.

Article XVI - Communications

The Airport is served by a Unicom radio which is periodically manned by airport personnel. All pilots of aircraft having radio equipment permitting two-way communications should, as recommended by the FAA, contact the Airport Unicom to obtain Airport advisory information and announce their intentions when operating within 10 miles of the Airport. The pilots are also encouraged to maintain a listening watch on the Unicom frequency 123.000 at the Airport when operating within a 10-mile radius of the Airport. All departing aircraft should, as recommended by the FAA, announce on the Unicom their intentions and the runway to be used for takeoff and landing.

Article XVII - Unsafe Airport Conditions

In the event the County or the Airport Director determines that conditions at the Airport are unsafe for landings or takeoffs, a NOTAM shall be initiated to close or limit the operations at the Airport, or any portion thereof, for a reasonable period of time (i.e., until those unsafe conditions can be corrected or no longer exist).

Article XX - Traffic Patterns

1. All aircraft operating into and out of the Airport shall follow the approved Airport traffic pattern which has been established. See EXHIBIT "B".
 - a. Traffic pattern altitude for the Airport is 800 feet AGL for single-engine and multi-engine piston aircraft, and 1500 feet AGL for turbine Aircraft.
 - b. Traffic pattern is standard left hand for all runways.
2. Helicopter traffic pattern altitude is 500 feet AGL with standard right hand pattern. Air taxiing is permitted only over the runway, ramp and taxiway. Helicopter operators shall operate so as to minimize rotor down wash on the ramp or they may be required to be towed to the taxiway before starting the engine.
3. All takeoffs or landings by powered Aircraft shall only be on the paved runway unless otherwise directed by the Airport Director.

Article XXI - Fire Prevention

The authority for all fire prevention at the Airport shall be the State and local fire code and the current edition of NFPA 407, including all NFPA Standards referenced in 407.

1. No aircraft shall be fueled or defueled while its engine is running or while in a hangar or other enclosed place. Fueling or defueling shall be done in such a manner and with such equipment that adequate connections for electrical bonding shall be continuously maintained.
2. The cleaning of engines or other parts of Aircraft shall not be accomplished in any hangar except with nonflammable substances. If flammable liquids are used for this purpose, the operation shall be conducted outside in the open air in designated spaces. Flammable liquids shall be stored in Underwriters Laboratory (U.L.) approved containers. All aircraft painting shall be done in accordance with safety procedures approved in writing by the County.
3. All hangar and shop floors shall be kept clean and free of oil, gas, and other flammable substances. No volatile, flammable solvent shall be used for cleaning floors. No rags soiled with flammable substances shall be kept or stored in any building on the Airport in such manner as to create any fire hazard.
4. No person shall smoke or produce any open flame anywhere within a hangar, building or structure in which any aircraft may be stored, or in which any gas, oil

or flammable substance is stored, or within 50 feet of any aircraft or any fueling facility, except in designated smoking area. When heaters and open flames (e.g., acetylene torches for heating components, welding or soldering) and arc welding equipment are being used in the maintenance hangars, the FBO or SASO must adhere to State and local fire codes.

5. Any Person using the Airport area or the facilities of the Airport in any way shall exercise the utmost care to guard against fire and injury to persons or property.
6. Fuel services shall be administered by the County, which has retained the "Proprietary Exclusive Right" to sell all aviation petroleum products to the public on the Airport. Individuals or FBOs or SASOs refueling their own Aircraft from their own containers shall conduct such operations only in designated areas (see EXHIBIT "C") using the approved equipment and procedures.
7. Any aircraft owner may self-fuel his own Aircraft after obtaining a self-fueling permit from the Airport Director. Procedures for obtaining a self-fueling permit are contained in EXHIBIT "D." Those Aircraft owners who have obtained a self-fueling permit will adhere to the following rules governing self-fueling:
 - a. All Aircraft shall be fueled in the area designated by the County for self-fueling. This area will be maintained by the County, who will provide and maintain fire extinguishers and bonding cables.
 - b. Both the approved fueling equipment and the fuel shall be brought to the designated self-fueling area only when fueling is to be accomplished. A current self-fueling permit must be available for inspection, upon request, by the Airport Director.
 - c. All self-fueling tanks, trucks and equipment shall be removed from the Airport at the end of each day. NO tanks, trucks or equipment shall remain on the Airport over night.

8. The following general rules shall be followed in connection with the fueling of any aircraft:

- a. Portable fire extinguisher shall be in the vicinity of the fueling operation.
- b. All self-fueling shall be performed in the designated area for fueling and not on the ramps or outside parking areas.
- c. Fueling in hangars is prohibited.
- d. Applicable aircraft bonding requirements shall be followed

- e. All funnels and fueling apparatus shall be metal and shall be bonded to the Aircraft. Caution must be used in fueling aircraft.
- f. Fueling personnel shall not carry lighters or matches on their person while engaged in fuel servicing operations.
- g. Where applicable, all electrical equipment used in the fueling operation shall be U.L. approved, and all equipment shall be approved by the State Fire Marshall's local office.
- h. Comply with requirements of the State and local fire code and the current edition of NFPA 407, including all NFPA Standards referenced in 407.

Article XXII - Flying Clubs

All flying clubs desiring to base their aircraft and operate on the Airport must comply with the applicable provisions of these Rules and Regulations. However, they shall be exempt from regular FBO or SASO requirements upon satisfactory fulfillment of the conditions contained herein.

1. The club shall be a non-profit entity (i.e., corporation, association or partnership) organized for the purpose of providing its members with aircraft for their personal use and enjoyment only. The ownership of aircraft must be vested in the name of the flying club (or owned ratably by all of its members). The property rights of the members of the club shall be equal and no part of the net earnings of the club will inure to the benefit of any member in any form (e.g., salaries, bonuses). The club may not derive greater revenue from the use of its aircraft than the amount necessary for the operation, maintenance, and replacement of its aircraft.
2. Flying clubs may not offer or conduct charter, air taxi, or rental of aircraft operations. Except for regular members, they may not conduct aircraft flight instruction and only members of the flying club may operate the aircraft. No flying club shall permit its aircraft to be utilized for giving flight instruction to any person, including members of the club owning the aircraft, when such person pays or becomes obligated to pay for such instructions, except when instruction is given by an FBO or SASO based on the Airport who provides flight training. Any qualified mechanic who is a registered member and part owner of the aircraft owned and operated by a flying club shall not be restricted from performing maintenance work on aircraft owned by the club, and the club does not become obligated to pay for such maintenance work except that such mechanic and instructors may be compensated by credit against payment of dues or flight time.

3. All flying clubs and their members are prohibited from leasing or selling any goods or services to any person or firm other than a member of such club at the Airport, except that said flying club may sell or exchange its capital equipment.
4. With its initial application, the flying club shall furnish the County a copy of its charter and by-laws, articles of association, partnership agreement or other documentation supporting its existence; a roster, or list of members, including names of officers and directors, to be revised on a semi-annual basis; evidence of insurance, in the form of a certificate of insurance with a limit of One Hundred Thousand Dollars (\$100,000.00) per person for personal injury and property damage and a total limit of One-Half Million Dollars (\$500,000.00), with the County as an additional named insured; number and type of aircraft; evidence that aircraft are properly certificated; evidence that ownership is vested in the club; and the operating rules of the club. The books and other records of the club shall be available for review at any reasonable time by Airport management or other representatives of the County. The flying club shall make annual certifications to the County that its insurance is in force, and the County may require certificates at other times to confirm that adequate insurance is in force.
5. A flying club must abide by, and comply with, all Federal, State and local laws, ordinances, regulations, and the Rules and Regulations.
6. A flying club which violates any of the foregoing, or permits one or more members to do so, will be required to terminate all operations on Airport property.

Article XXIII - Ultralight Vehicles

1. All ultralight vehicles using the Airport should either be equipped with a radio capable of sending and receiving the UNICOM frequency of 123.000 or notify airport personnel of time of arrival or departure. If the ultralight vehicle is staying in the Airport traffic pattern or using the Airport for practice landings and take-off, it will be required to have a radio on board capable of sending and receiving the UNICOM frequency.
2. Before operating from the Airport, the ultralight pilot shall be briefed on airport policy, traffic pattern procedures and populated areas to be avoided.
3. Ultralight vehicle operators shall maintain a minimum \$100,000 combined single limit insurance policy. Operators shall provide proof of insurance to the County upon request of the Airport Director.

Article XXIV - Aerial Advertising - Banner Towing

Any Person wishing to use the Airport to pick up or drop off an aerial advertising banner shall obtain the prior written approval of the County. The County shall require such safeguards as it deems necessary to protect the Airport, aircraft using the Airport and the general public. These requirements may include, but are not limited to, bonds, insurance policies, additional security personnel, facilities and waivers/ authorizations to the FARs issued by the FAA. The County may establish and charge reasonable fees for this activity.

Article XXV - Parachute Jumping

Persons wishing to use the Airport for a parachute drop area shall obtain the prior written approval of the County as required by FAR 105.17. The County shall require such safeguards as it deems necessary to protect the Airport, aircraft using the Airport and the general public. These requirements may include, but are not limited to, bonds, insurance policies, additional security personnel, facilities and waivers/ authorizations to the FARs issued by the FAA. The County may establish and charge reasonable fees for this activity.

Article XXVI - Glider/Sailplane Operations

Any Person wishing to use the Airport to launch and recover gliders or sailplanes shall obtain written permission from the County in advance of the operations. This will require advance coordination due to the need for additional personnel and equipment on the Airport to launch and recover the gliders and/or sailplanes. The County shall require such safeguards as it deems necessary to protect the Airport, aircraft using the Airport and the general public. These requirements may include, but are not limited to, bonds, insurance policies and additional security personnel. The County may establish and charge reasonable fees for this activity.

Article XXVII - Hot Air Balloon Operations

Any Person wishing to use the Airport to launch and recover hot air balloons shall obtain written permission from the County in advance of the operations. This will require advance coordination due to the need for additional personnel and equipment on the Airport to launch and recover the hot air balloons. The County shall require such safeguards as it deems necessary to protect the Airport, aircraft using the Airport and the general public. These requirements may include, but are not limited to, bonds, insurance policies and additional security personnel. The County may establish and charge reasonable fees for this activity.

Article XXVIII - Crop Spraying, Dusting and Seeding

Any Person wishing to use the Airport as a base to load chemicals, fertilizer or seeds onto aircraft for the purpose of crop spraying, dusting or seeding, shall obtain written permission from the County in advance of the operations. The County at the time of approval shall designate a specific area at the Airport to be used for this operation. The County shall require such safeguards as it deems necessary. Insurance requirements are outlined in Article VI.

Article XXIX - Assigned Areas

No person authorized to operate on or conduct business activities at the Airport shall conduct any of its business activities, or park any aircraft, on any areas except those specified in the lease or written agreement. No FBO or SASO shall occupy any common-use areas except as authorized by these Rules and Regulations or by the County.

Article XXX - Compliance with Safety and Environmental Rules and Regulations

All users of the Airport shall comply with all existing and future safety and environmental Rules and Regulations adopted by the County. A copy of such Rules and Regulations as currently in force shall always be available at the office of the Airport Director.

Article XXXI - Infractions and Enforcement

Infraction means any of the following:

1. A violation of these Rules and Regulations.
2. In the case of an FBO or SASO, a violation of the FBO or SASO lease or giving false or inaccurate information to the County or the Airport Director in connection with the FBO or SASO lease.

Article XXXII - Effect of Infraction

Any Infraction by any Person, FBO, SASO, or tenant may result in termination of the contract, agreement or permit under which such person is operating. Upon termination, such Person shall not be eligible for a new contract or agreement for a minimum period of six (6) months.

Article XXXIII - Notice of Infraction and Termination

The County, acting through the Airport Director or another whom it may from time to time designate, shall give notice of termination by sending a certified letter to the Person at the address listed upon the relevant permit, contract or agreement or, at the option of the County, at the person's last known address.

Article XXXIV - Hearing

Any Person whose contract or agreement shall hereafter terminate may request a hearing thereon before the County, provided such request is made in writing and received by the Airport Director within 15 calendar days of the date of the County's notice of termination to such Person. The County shall mail notice of the date, time and location of such hearing to the Person requesting same and such notice shall be mailed at least 15 days in advance of such hearing date. At the hearing, the Party requesting the hearing may appear, may be represented by counsel, and may present evidence. Upon completion of the hearing, the County shall affirm, revoke or modify the termination and shall give prompt written notice of its action to the Person requesting the hearing. Any adverse determination of the County to the Person requesting the hearing shall be subject to appeal in accordance with the applicable laws of the State of North Carolina.

Article XXXV - Severability

In the event that any provision of these Rules and Regulations shall for any reason be determined to be invalid, illegal or unenforceable in any respect, the other provisions of these Rules and Regulations shall remain in full force and effect.

Article XXXVI - Effective Date

These Rules and Regulations shall be effective thirty days following the date of their approval by the County.

Article XXXVII - Revisions

The County shall reserve the right to modify, alter, change or add to these Airport Rules & Regulations as needed.

Article XXXVIII - Liability

The County provides the Airport as a public service. However, neither the County nor its employees shall be liable for any damages to neither personal property nor personal injury resulting from the use of these facilities.

Article XXXIX - Appeal

The County Commissioners shall hear and decide appeals and review any orders, requirements, decisions, or determinations made as a result of the administration or enforcement of this ordinance.

Article XL - Effective Date

This ordinance shall become effective and be in full force from and after the 1st day of September, 2009. Adopted by the Duplin County Board of Commissioners this the 17th day of August, 2009.


Cary Turner
Chairman
Duplin County Board of Commissioners

ATTEST: 
Anita Aldridge
Clerk to the Board

EXHIBIT B

Traffic Pattern Pictorial.

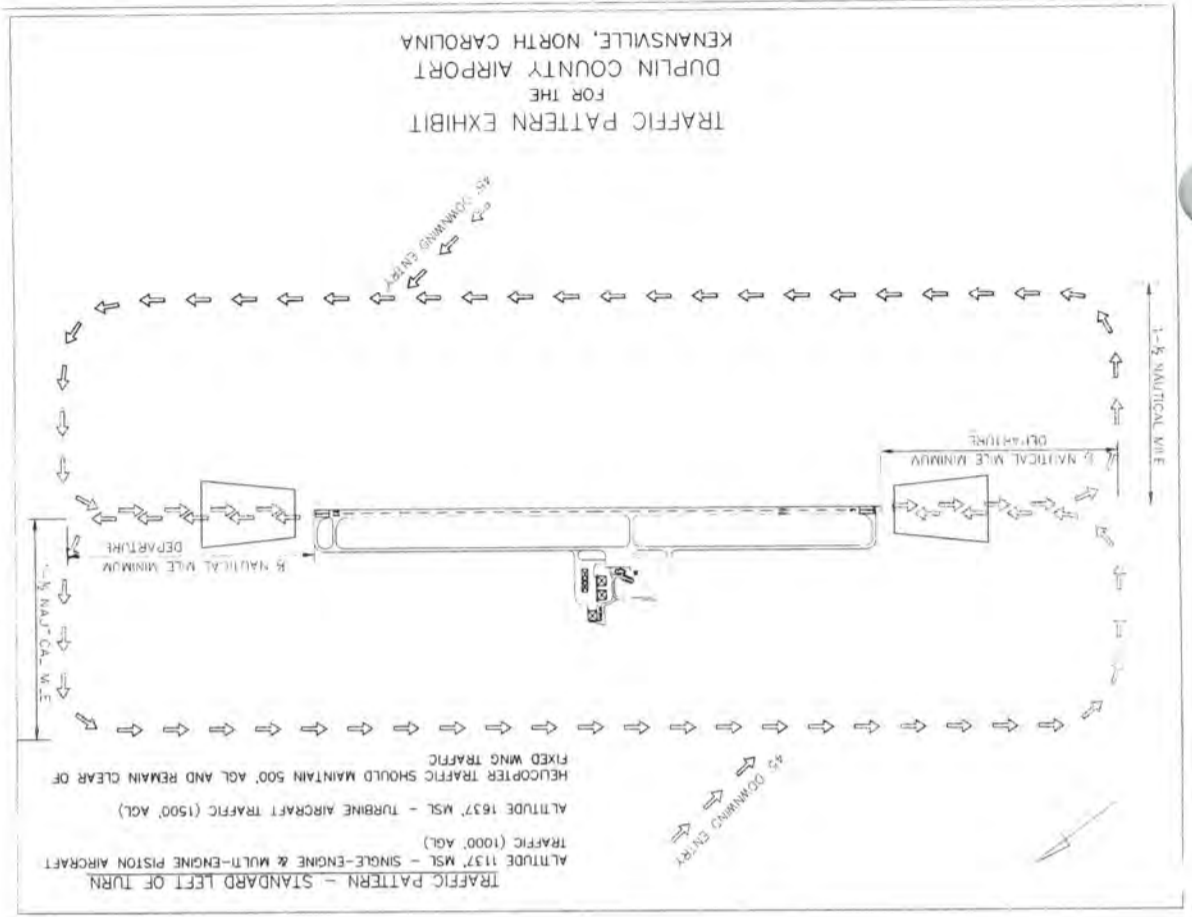


EXHIBIT A

Location of Designated Areas for Self-Maintenance.

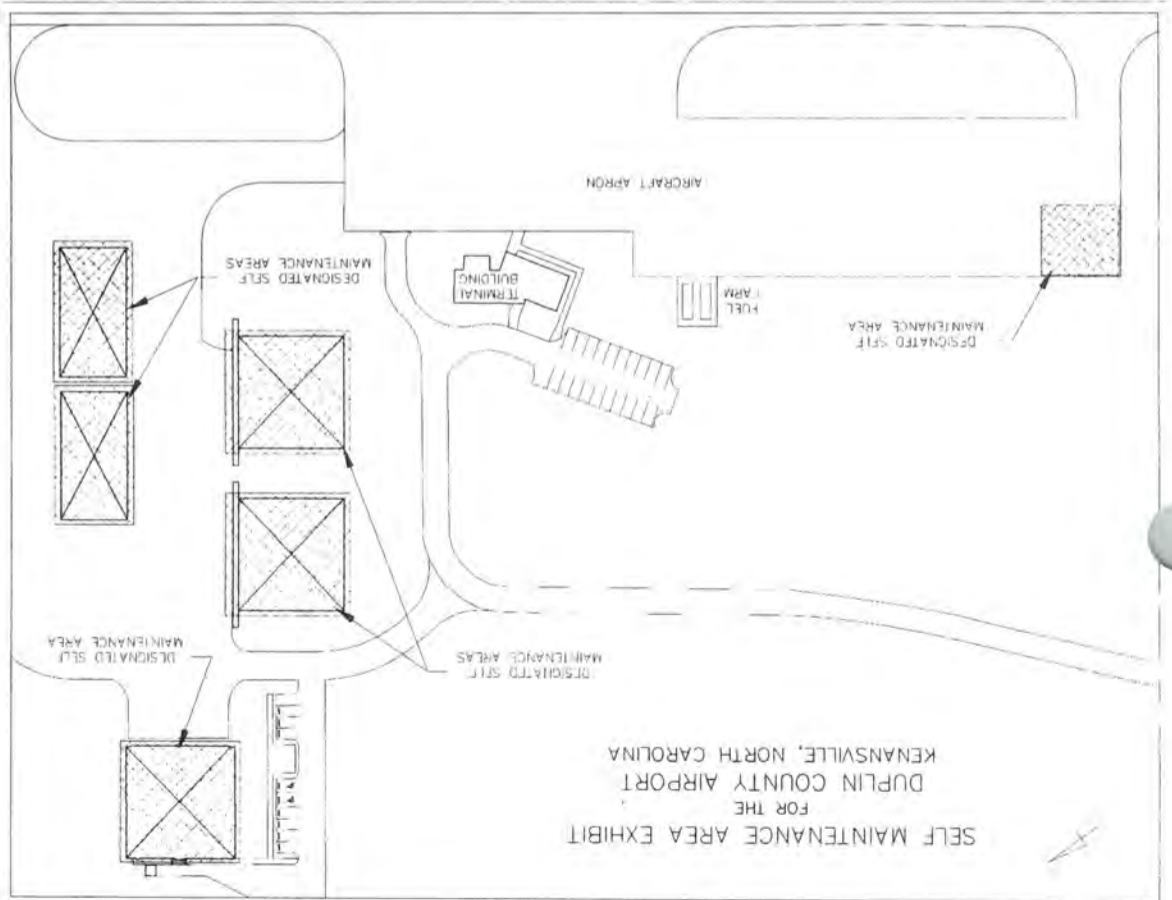


EXHIBIT D

Procedure for Obtaining A Self-Fueling Permit

Any Person wishing to supply and dispense fuel into its own aircraft at the Airport must do so using their own employees and their own equipment, and they must also obtain a self-fueling permit from the County. Applications for self-fueling permits are available at the Airport Director's office. The procedure for obtaining a self-fueling permit is as follows:

- a. Submit a completed self-fueling application to the Airport Director with the required approvals shown below in paragraphs b. & c. together with a check for the fee.
- b. Complete the approved self-fueling training course conducted by the Fire Marshall or the Airport Director.
- c. Obtain approval from the Fire Marshall for equipment to be used in the self-fueling operation.
- d. Obtain any general liability insurance coverage on the fueling equipment to be used that the County reserves the right to require.
- e. Pay the annual permit fee of \$50.00 and a flowage fee for all gallons over 500 pumped per year.

EXHIBIT C

Location of Self-Fueling Area

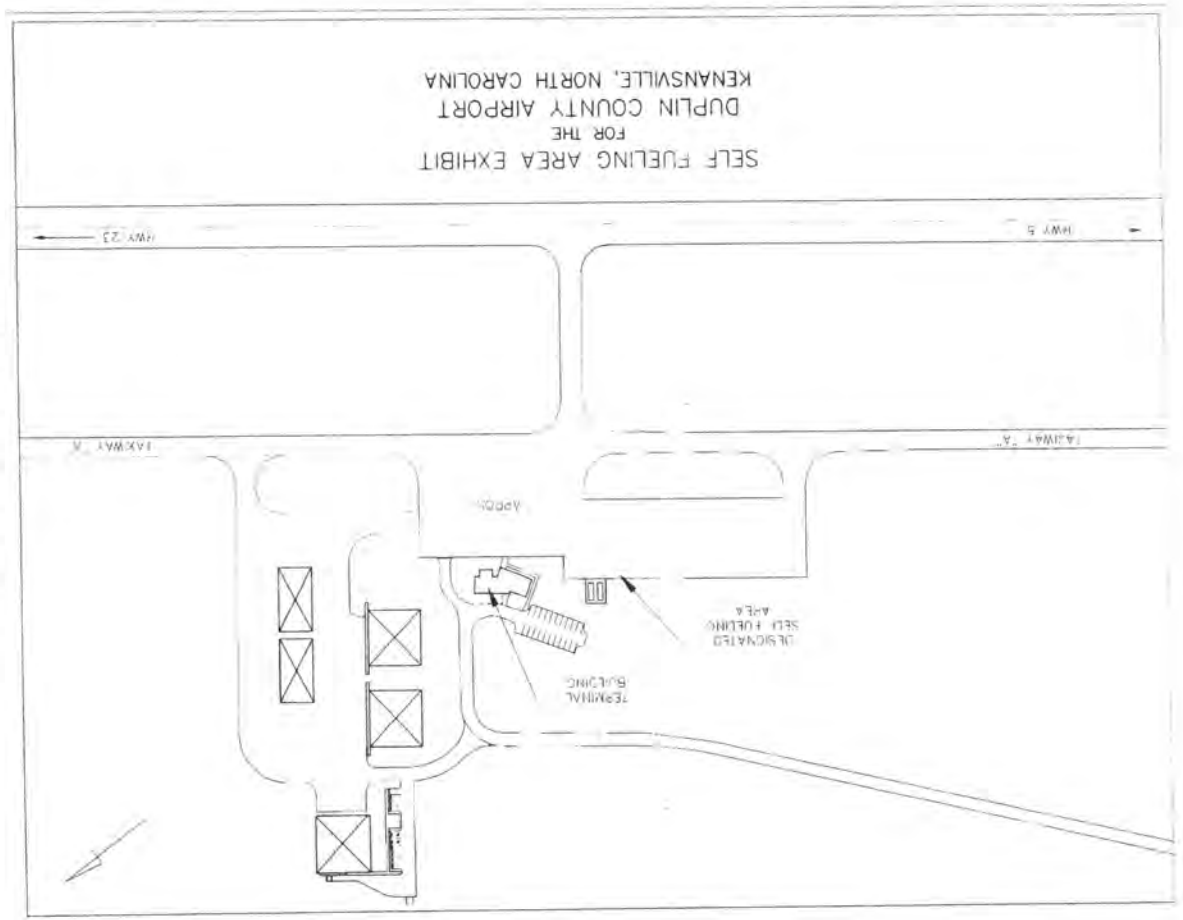


EXHIBIT E

**Accident Reporting Form
Duplin County Airport**

In accordance with the accident reporting provisions of the Rules and Regulations governing the operation of the Duplin County Airport, it is mandatory to report any damage to public property and any injury requiring medical attention. Damage to privately owned property located within the confines of the Airport is to be reported to the owner. The Airport Director will help you with contacting the owner.

This form is for local Airport usage and does not replace the reporting requirements of NTSB-830 with regard to aircraft accidents and incidents. A copy of a Federal accident report may be submitted in lieu of this form.

1. Name of person _____

_____ Age _____

Address _____

Phone (H) _____ (W) _____

Date and time of occurrence _____

2. Nature and extent of injuries _____

Description of accident/injury _____

Name of doctor or hospital _____

3. Kind of property and extent of damage (use reverse for vehicles and aircraft)

Name of owner _____

Address _____

Phone (H) _____ (W) _____

Reported to police _____

Report number _____

Name of police department _____

Weather condition(s) _____

5. Vehicle/Aircraft identification (number 1)

Name of owner _____
 Address _____

 Phone (H) _____ (W) _____
 N Number (or TAG & state) _____ Year & Make _____
 Model _____ Serial number _____
 (VIN) _____

6. Vehicle/Aircraft identification (number 2)

Name of owner _____
 Address _____

 Phone (H) _____ (W) _____
 N Number (or TAG & state) _____ Year & Make _____
 Model _____ Serial number _____
 (VIN) _____

7. Name of Witness

Address _____

 Phone (H) _____ (W) _____

8. Name of Witness

Address _____

Phone (H) _____ (W) _____

9. Remarks or additional information

10. Signature _____ Date _____

ANIMALS

ARTICLE I. GENERAL

Article I. In General

Sec. 1-1 Definitions

- Sec 1-1 Definitions
- Sec 1-2 Territorial application
- Sec 1-3 Duties of Animal Control Officer & Animal Cruelty Investigator
- Sec 1-4 Animal Shelter
- Sec 1-5 Interference or concealment
- Sec 1-6 Duty of owner to control animals
- Sec 1-7 Running at large
- Sec 1-8 Public nuisances
- Sec 1-9 Mistreatment of animals
- Sec 1-10 Cruel treatment
- Sec 1-11 Destruction of animals that cannot be seized by reasonable means.
- Sec 1-12 Setting humane animal traps
- Sec 1-13 Impoundment
- Sec 1-14 Humane euthanasia of wounded or diseased animals.
- Sec 1-15 Handling of stray animals by the public.
- Sec 1-16 Relation to hunting laws
- Sec 1-17 Wild animals
- Sec 1-18 Equine
- Sec 1-19 Reserved

In the construction of this article, the following definitions shall be observed:

Animal: Living creature, domestic or non-domestic, does not include humans or invertebrates not including wild animals as defined herein.

Animal Control Officers: An enforcement officer employed by Duplin County in regard to animal control.

Animal Cruelty Investigator: An enforcement officer sworn by the Duplin County Board of Commissioners pursuant to N.C. Gen. Stat. §19A-41.

Animal Control Supervisor: The officer or employee placed in supervision of the Animal Control Department.

Animal Shelter: The animal shelter operated and maintained by Duplin County for the purpose of impounding animals under the authority of the chapter or the General Statutes of North Carolina for the care, confinement, return to owner, adoption, or humane euthanasia.

Cat: A domestic or feral feline of either sex.

Commercial Farms: Large scale producer of crops, livestock or poultry for widespread distribution, not including equine.

Dog: A domestic canine of either sex.

Equine: Horse, mule, donkey, and pony.

Equine Activity: Any activity involving an equine.

Equine Activity Sponsor: Means any individual, group, club, partnership, or corporation, whether the sponsor is operating for profit or nonprofit, which sponsor, organizes or provides the facilities for an equine activity. The term includes operators and promoters of equine facilities.

Enclosure: Pen, paddock, stall, stable, or pasture with properly hung and marked fence

Harboring of Animal: An animal shall be deemed to be harbored if it is fed or sheltered seven (7) days or more, unless the animal is being boarded for a fee.

Hazard: Any object above or below ground natural or artificial that could cause harm or injury to the animal.

Article II. Rabies Control

- Sec 2-1 Compliance with state rabies laws supplemental to state rabies laws.
- Sec 2-2 Vaccination of dogs, cats, and other animals,
- Sec 2-3 Wearing of collar, tags.
- Sec 2-4 Reserved.

Article III. Enforcement and Penalties

- Sec 3-1 Enforcement
- Sec 3-2 Penalties
- Sec 3-3 Articles Cumulative

Article IV. Spay and Neuter Program

- Sec 4-1 Duplin County Commissioners Findings & Purpose
- Sec 4-2 County sponsored Spay/Neuter Program
- Sec 4-3 Agreement with Private Organizations and/or Veterinarians

Article V. Effective Date

- Sec 5-1 Effective Date of Ordinance
- Sec 5-2 Amendments/Modifications

Humanely Clean Conditions: Minimum standards of sanitation wherein an animal would not need to lie in his own waste.

Immediate Control: An animal is under the immediate control of the owner in that the owner can direct the animal through voice commands, hand controls or the like.

Impounded: Any animal which is received into custody by the Duplin County Animal Shelter.

Incorporated Area: This term shall apply to the area within the corporate limits of any town or municipality within Duplin County if the governing body of such town or municipality adopts a resolution indicating that it is to be treated as an incorporated area under this chapter.

Neutered Male: Any male dog or cat which has been rendered sterile by a surgical procedure

Owner: Any person, group of persons, firm, partnership, corporation, organization, or association owning, keeping, having charge of, sheltering, feeding, harboring, or boarding any animal for a fee. The owner is responsible for the care, actions and behavior of his animal(s).

Keeper: Any person, acting in the capacity of the owner, or at the owner's request, who is responsible for the care, welfare, and maintenance of the animal.

Spayed Female: A female dog or cat which has been rendered sterile by a surgical procedure

Stray: Any domestic animal that is not under restraint or is not on the property of its owner and is wandering at large, or is lost, or does not have an owner or does not bear evidence of the identification of any owner.

Vaccination: The administration of rabies vaccine as required by State Law.

Wild Animal: Any animal which can normally be found in the wild state, particularly those feral, exotic, dangerous or non-domestic animals which generally do not live in or about the habitation of humans, including, but not limited to, deer, lions, monkeys, raccoons, skunks, squirrels, tigers and snakes.

Sec. 1-2. Territorial Application

This chapter shall be effective within the un-incorporated areas of Duplin County.

Sec. 1-3. Duties of Animal Control Officer/ Animal Cruelty Investigator

(a) The animal control officer shall be responsible for the enforcement within

respective jurisdictions of all state and local laws pertaining to the ownership and control of animals and shall cooperate with all other law enforcement officers operating within their jurisdiction in fulfilling this responsibility.

(b) The animal control officer shall also serve as Rabies Control Officer. He will implement and enforce the provisions of the state rabies law, including but not limited to the following activities:

- (1) Collect and impound stray animals,
- (2) Canvass area of the county for vaccination of dog/cats,
- (3) Assist practicing veterinarians in the county in conducting rabies clinics,
- (4) Maintain the animal shelter including records of impounded destroyed, reclaimed and adopted animals,
- (5) Provide at the end of each day, upon request, a list containing complete description of all animals impounded,
- (6) Investigate reports of animal bites to determine, whether based on the findings, confinement or isolation of the animal is required for the minimum of ten (10) days of observation.

(c) The Animal Cruelty Investigator shall investigate reports of animal cruelty or abuse. Any Animal Control Officer who has attended and satisfactorily completed an Animal Cruelty Investigator course shall be appointed as an animal cruelty investigator by the County on a yearly basis as required by statute.

Animal Shelter

Sec. 1-4.

(a) The Duplin County Animal Control Department shall maintain the Duplin County Animal Shelter for the purpose of impounding lost, strayed, abandoned or unwanted animals within the county. These animals are to be held a minimum of five (5) days unless for specific health reasons the Duplin County Health Director determines it should be reduced to three (3) days which is the minimum allowed by State Law. The Animal Control office will use every reasonable effort to locate and inform the owners of these animals.

(b) The Animal Shelter may be used for the confinement of an animal following a biting incident or when it becomes vicious or a menace to the public health and the owner does not have a secure place, as defined by the Health Director. The animal will be quarantined for the appropriate time of observation.

Interference or Concealment

Sec. 1-5.

(a) Interference. It shall be unlawful to interfere with, hinder, molest, resist, or obstruct employees of animal control or its agents or veterinarians in the performance of any duty authorized by law or ordinance, including removing animals from traps, cages, or other enclosures, except as specifically provided or authorized by Animal Control.

(b) Concealment of animal. It shall be unlawful for any person to conceal, for the purpose of evading the licensing requirement or rabies vaccination requirement of the law or any applicable ordinance, any unlicensed animal from any employee of Animal Control.

Sec. 1-6 Duty of Owner to Control Animals

(a) All animals within the county shall remain under the immediate control of their owner or keeper. For the purpose this section immediate control by owner or keeper shall be construed to mean:

(1) Restrained upon the property of the owner or keeper of the animal either by being tied, chained, within the confines of a fence designed to restrain the animal; or in electronically operated fence sufficient to restrain the animal upon the property; or in the presence of the owner or keeper.

(2) While being walked or exercised off the premises or property of the owner or keeper, the animal must be restrained by a leash connected to a collar or harness, sufficient to restrain the animal from breaking loose. Cats shall be exempt from this provision of Section 1-6 (a) (2).

(3) A hunting dog while training, during a hunt, or returning from a hunt or training, whose owner has a valid North Carolina Hunter's License, shall be exempt from Section 1-6(a)(1) & (2).

Sec. 1-7.

Running at large

Animals shall not be allowed to run at large by their owners or keepers.

(a) For the purpose of this section running at large shall mean any animal that roams, runs, or self-hunts off the property of its owner or keeper and that is not under the immediate control of its owner or keeper.

(b) A hunting dog while training, during a hunt, or returning from a hunt or training, whose owner has a valid North Carolina Hunter's License, shall be exempt from Section 1-7.

Sec. 1-8

Public nuisance

(a) The actions of an animal constitute a public nuisance when an animal disturbs the rights of, threatens the safety of or damages a member of the general public, or interferes with the ordinary use and enjoyment of another person's property.

(b) It shall be unlawful for any person to own, keep, possess or maintain an animal in such a manner as to constitute a public nuisance. By way of example and not limited to, the following acts or actions by an owner or possessor of an animal are hereby declared to be a public nuisance and are therefore unlawful:

- (1) Having an animal that disturbs the rights of, threatens the safety of, or damages a member of the general public, or interferes with ordinary use and enjoyment of another person's property.
- (2) Allowing or permitting an animal to damage the property of anyone other than its owner, possessor, including but not limited to, turning over garbage containers, or damaging gardens, flowers, or vegetables or defecating upon the property of another. Owners shall remove any fecal waste deposited by their animals on public property or the property of others.
- (3) Maintaining the animals in an unsanitary environment, which results in offensive odors or is dangerous to the animal or the public health, safety or welfare, or a failure to maintain a condition of good order and cleanliness which reduces the probability of transmission of disease.
- (4) Maintaining property in a manner that is offensive, annoying or dangerous to the public health, safety or welfare of the community because of the number, type variety, density, or location of the animals on the property.
- (5) Maintaining an animal that is diseased and dangerous to the public health and not obtaining appropriate medical treatment for the animal.
- (6) Maintaining an animal that habitually or repeatedly chases, snaps at or attacks, pedestrians, joggers, animals walked on a leash by owners, bicycles, or other vehicles.
- (7) Failing to confine a female dog or cat while in heat in a building or secure enclosure in such a manner that she will not be in contact with another dog or cat or attract other animals; provided, this section shall not be construed to prohibit the intentional breeding of animals within an enclosed area.
- (c) Upon filing a written Complaint in regard to an above-referenced nuisance, an animal control officer shall endeavor to investigate the complaint within 24 hours. If through investigation the complaint is substantiated, the animal control officer shall request that the nuisance be corrected within a twenty-four (24) hour period after notifying the owner/keeper. The animal control officer will make a return visit to determine whether the initial cause for complaint has been corrected and may then institute proper legal procedures if the nuisance has not been abated. In the event that the owner/keeper cannot be located within a twenty-four (24) hour period of time, the animal control officer may file a civil or criminal action against the owner and obtain a court order to seize the animal(s).
- (d) Commercial farms are exempt from Section 1-8.

In addition to any other enforcement remedies available under this chapter. If the animal control officer declares an animal to be a nuisance under this section, then the animal control officer has the authority to order the owner to confine the animal in accordance with the Animal Control Officer's instruction. It shall be unlawful for the owner to fail to comply with such an order or with the instructions in the order.

Sec. 1-9

Mistreatment of Animals Prohibited

It shall be unlawful for any person to subject or cause to be subjected any animal to cruel treatment or to deprive or cause to be deprived any animal of adequate food and water, necessary medical attention, proper shelter protection from the weather or humanely clean conditions.

- (a) Adequate food and water. No person owning or responsible for any animal may fail to supply the animal with sufficient supply of food and water as prescribed in this section.

(1) Adequate food. The provision of suitable intervals, not to exceed 24 hours of a quantity of wholesome foodstuff suitable for the species and age, sufficient to maintain a reasonable level of nutrients for each animal. Such foodstuff shall be served in a receptacle, dish, or container that is physically clean.

(2) Adequate water. A constant access to a supply of clean, fresh water provided in a sanitary manner.

(b) Reasonable medical attention. No person owning or responsible for any animal shall fail to provide the animal with reasonable medical attention when the animal is or has been suffering from illness, injury, disease, excessive parasitism, or malformed or overgrown hoof.

(c) Proper shelter, protection from the weather and humanely clean conditions. No person owning or responsible for any animal shall fail to provide the animal with proper shelter, protection from the weather or humanely clean conditions.

(d) Humanely clean conditions. Minimum standards of sanitation necessary to provide humanely clean conditions for outdoor or indoor enclosures shall include periodic cleaning to remove excretions and other waste materials, dirt and trash to minimize health hazards. Commercial farms shall meet the requirements of any federal and state regulations as to minimum standards.

(1) Properly fitted collars required. An owner or keeper of any animal shall not permit injury to or infliction of pain upon such animal from an

improperly fitting or embedded collar, harness, or halter.

Sec. 1-10

Cruel treatment prohibited

(a) Molestation, torture, etc. prohibited. It shall be unlawful for any person to molest, torture, torment, deprive of necessary sustenance, cruelly beat or treat, needlessly mutilate or kill, wound, injure, poison, abandon or subject to conditions detrimental to its health or general welfare any animal or to cause or procure such action. The words "torture" and "torment" and the term "cruelly beat or treat" shall be held to include every act, omission or neglect whereby unjustifiable physical pain, suffering or death is caused or permitted; but such terms shall not be construed to prohibit an Animal Control Officer, Animal Cruelty Investigator, his agents or veterinarians from euthanizing dangerous, unwanted, or injured animals in a humane manner.

(b) Luring, enticing, seizing, molesting, or teasing an animal. It shall be unlawful for any person to entice or lure any animal out of an enclosure or off the property of its owner or keeper, or to seize, molest, or tease any animal while the animal is held or controlled by its owner or keeper or while the animal is on the property of its owner or keeper for the purpose of causing harm to the animal; but such actions of luring, enticing and seizing shall not be construed to prohibit lawful taking of animals under the jurisdiction and regulations of this chapter by duly authorized Animal Control Officers or Animal Cruelty Investigator.

(c) Abandonment. It shall be unlawful for any owner or person responsible for any animal to drop or leave such animal on a street, road, highway, or in a public place or on private property with intent to abandon without provision for its continuous care, sustenance and shelter. No owner of an animal shall abandon such animal except to relinquish the animal to the Animal Shelter. If the Animal Control Department finds that an animal has been abandoned, the animal may be impounded. When it has been suspected the animal has been abandoned in a house or within a fenced area, the Animal Control Office must make a reasonable effort to locate the owner or manager of the property. The property will be posted for seventy-two (72) hours at which time the animal will be removed from the property. If the owner contacts the Animal Control Office to reclaim the animal, an explanation for the animal's abandonment must be provided to the satisfaction of the Animal Control Supervisor before the animal is reclaimed by the owner. Owner shall reimburse Animal Control for costs incurred in keeping the animal.

(d) Confinement of animals in the interior of a motor vehicle. No person may place or confine an animal or allow an animal to be placed or confined in a motor vehicle for such a period of time as to endanger the health or well-being of such animal due to temperature, lack of food, lack of adequate ventilation or water, and such other conditions as may reasonably be expected to cause suffering, disability or death. Interior of a motor vehicle includes but is not limited to the passenger area, trunks, camper shells and truck cabs.

which indicate: date of impoundment, reason for impoundment, sex, color, general description, breed, method of acquisition, identification marks, and note the presence of tattoos.

(b) Any animal impounded which can be traced to its legal owner; the owner will be notified that the animal is in custody of Animal Control. Upon notice to the Owner, the Owner has seventy-two (72) hours to pick up the animal. If an animal is picked up by its owner within seventy-two (72) hours, then the animal can be released to the Owner without any fees. Said fees shall be waived for an Owner a maximum of one (1) time total. In the event an Owner's animal is impounded two (2) times or more, or held for more than seventy-two (72) hours, then the Owner shall pay the current impoundment fee and maintenance fees, including boarding, transportation, and veterinarian fees, before the animal shall be returned to its owner. In the event the owner does not want the animal returned the owner shall so state in writing and the animal can then be put for adoption. However, the payment or waiver of such impoundment fees shall not bar the imposition of any fine, which may be imposed for the violations of this chapter:

(c) Animal Control Officers are hereby authorized to enter upon any unfenced/fenced lot, tract, or parcel of land for the purpose of seizing and impounding any animal found thereon in violation of this Ordinance once obtaining a valid Search Warrant;

(d) Any animal which cannot be traced to its legal owner may, after a minimum detainment of five (5) days, be placed in an adoptive status. No live animal may be released from the shelter either for sale or for donation, to research laboratories or related facilities, as breeding stock for puppy mills or wholesales for further resale for use in any illegal entrapment or fighting, or for human consumption. A permanent record describing the final disposition of an animal, date, names, and addresses where applicable, and subsequent fees paid shall be kept at all times for a period of three (3) years from the date of adoption. Monies received from fines, fees, or adoptive placement will be turned over to Duplin County in accordance with County Finance policies.

(e) If the owner of any animal impounded under this article shall fail to redeem his/her animal within the time allowed for redemption, any other person may, upon complying with all provisions of this article adopt the animal from the shelter and be the lawful owner of the animal thereafter.

(f) The impoundment fees of this section are hereby waived for hunting dogs that are claimed by their owners who have a valid North Carolina Hunting License.

(g) Adoption Status - after seventy-two hours (72) of impoundment

(1) After making a reasonable effort to find the driver of a vehicle in which an animal is confined, an Animal Control Officer shall obtain a search warrant to enter the vehicle to obtain the animal if reasonable cause exists that the animal is suffering and/or a violation of this Ordinance has occurred. In the event the vehicle is locked, the Animal Control Officer shall contact local law enforcement. The law enforcement officer shall endeavor to open the vehicle for the Animal Control Officer.

(2) The Animal Control Officer removing the animal shall then impound the animal and leave in a prominent place on the motor vehicle a written notice of the animal's impoundment, a brief description of the animal, and where and when the animal may be reclaimed. The officer may also issue a warning citation for violation of this subsection.

(e) Intentionally striking animals with motor vehicle. It shall be unlawful for any person to intentionally strike an animal with an automobile or other vehicle causing injury or death.

(f) Authority to use force against animals. Nothing in this section shall prohibit use of force against an animal which is in the act of causing severe injury on a human being or a domestic animal.

Sec. 1-11. Destruction of animals that cannot be seized by reasonable means

Notwithstanding any other provision of this chapter, an animal that cannot be seized by reasonable and normal means, retrieved by an Animal Control Officer, trapped in a humane, live-capture animal trap of a nuisance animal, or tranquilized by animal control, may be humanely destroyed in the field upon the authorization of the animal control supervisor.

Sec. 1-12. Setting humane animal traps and authority to receive trapped animals

Animal Control is authorized to place, upon request, live animal traps on private or public property to trap and remove stray, at large, unwanted, or nuisance animals, including cats. It is unlawful for any person other than an Animal Control Officer to remove any animal from the trap, or to damage, destroy, move or tamper with the trap. Animal Control is authorized to receive and impound animals that are trapped by other agencies or persons within Duplin County.

Sec. 1-13. Impoundment & Adoption

It shall be the duty of Animal Control to seize and impound, subject to the provisions of this chapter, all animals, whether domesticated or non-domesticated, found in violation of the provisions of this chapter whether such animal shall be in the immediate custody of its owner or otherwise:

(a) Each animal impounded shall be identified by permanent records

(a) Equine Activity Warning Notice – every Equine professional and every Equine activity sponsor shall post and maintain signs with the following warning notice in a clear visible location on or near stables, corrals and trailers:

WARNING

Under North Carolina law, an equine activity sponsor or equine professional is not liable for an injury to or the death of a participant in equine activities resulting exclusively from the inherent risks of equine activities. Chapter 99E of the North Carolina General Statutes.

(b) Coggins test – a negative Coggins test is required within the past twelve (12) months on all equine over six (6) months of age when being sold or ownership transferred. A negative Coggins test (within the past 12 months) is also required for all equine brought to or kept at any public stable or other public place for exhibition, recreation or assembly. Upon request by Animal Control and/or Animal Cruelty Investigator, an equine owner shall provide proof of Coggins test.

(c) All articles of this Ordinance shall apply to equine.

Sec. 1-19 Reserved.

ARTICLE II. RABIES CONTROL

Sec. 2-1 Compliance with state rabies laws: chapter supplemental to state rabies laws

(a) It shall be unlawful for any animal owner or other person to fail to comply with the state laws relating to the control of rabies.

(b) It is the purpose of this chapter to supplement the state law by providing procedure for the enforcement of state laws relating to rabies control, in addition to the criminal penalties provided by state law.

Sec. 2-2 Vaccination of dogs, cats and other pets

(a) It shall be unlawful for any person to keep, harbor or have in his custody or control for longer than fourteen (14) days a dog/cat four (4) months old or older unless such dog/cat has been vaccinated with rabies vaccine, approved by the United States Department of Agriculture. A certificate must be signed by a licensed veterinarian specifying the vaccine used, the rabies tag number, the sex and breed of the dog/cat and name of owner.

(b) Should it be deemed necessary by the County Health Director or the County Board of Health that other animals be vaccinated in order to prevent a threatened epidemic or to

an animal may be placed for adoption by Animal Control. A person applying to adopt an animal shall fill out any and all appropriate documentation required by Animal Control in addition to paying the County's adoption fee currently in effect. Animal Control hereby reserves the right to reject any and all applications for adoption. Upon adopting an impounded animal Section 4 – Spay/Neutering shall apply.

Sec. 1-14. Humane euthanasia of injured or diseased animals

Notwithstanding any other provision of this chapter, any animal impounded which is badly injured/wounded or diseased (not rabies suspect) and has no identification shall be destroyed immediately in a humane manner. If the animal has identification, the animal shelter shall attempt expeditiously to notify the owner or keeper before euthanizing such animal, but if the owner cannot be reached readily and the animal is suffering, the Animal Control Supervisor or his designee may cause the animal to be euthanized at his/her discretion in a humane manner. The Animal Shelter and Animal Control section shall have no liability for euthanizing injured/wounded or diseased animals.

Sec. 1-15. Handling of stray animals by the Public

It shall be unlawful for any person, without the consent of the owner or keeper, knowingly and intentionally to harbor, keep in possession by confinement or otherwise any animal that does not belong to him/her. Any person in possession of a stray animal shall contact the Animal Control section within seventy-two (72) hours to arrange for impoundment or provide notification of the stray animal's description and location. It shall be unlawful for any person, other than the owner or keeper of an animal, to remove the collar, license tag or rabies tag from around the neck of the animal.

Sec. 1-16. Relation to hunting laws

Nothing in this chapter is intended to be in conflict with the laws of the State of North Carolina regulating, restricting, authorizing, or otherwise affecting hunting dogs while training, during a hunt, or returning from a hunt or training, provided the owner has a valid North Carolina Hunter's License. This chapter should be read and enforced consistent with any such law.

Sec. 1-17. Wild animals

No person shall keep or permit to be kept on his premises any dangerous wild animal. This section shall not be construed to apply to zoological parks, performing animal exhibitions, or circuses.

Sec. 1-18. Equine

control an existing epidemic, it shall be unlawful for any owner or keeper to fail to provide current vaccination against rabies for the dog/cat and for the animal designated.

(c) All rabies vaccines shall be administered by a licensed veterinarian or a certified rabies vaccinator who may be appointed by the County Health Director.

(d) The owner of a dog or cat not having an attached current rabies vaccination tag must produce a valid and current rabies vaccination tag or form within seventy-two (72) hours of demand by any animal control officer or law enforcement officer. Failure to produce the tag or form under this subparagraph is a separate offense for each animal owned by such owner.

Sec. 2-3

Wearing of collar and tags

(a) It shall be unlawful for any dog owner or keeper to fail to provide the dog with a collar or harness to which a current rabies tag issued under this section is securely attached. The collar or harness, with attached tag, must be worn at all times, except during the time the dogs are performing at show, obedience trials, tracking test, field trials, training school or hunting or other event sanctioned and supervised by a recognized organization.

(b) In addition to all other penalties as prescribed by law, a dog or cat is subject to impoundment in accordance with the provision of this chapter if the dog or cat is not wearing a current rabies tag or if the owner of the animal cannot produce sufficient written evidence of current rabies vaccination.

(c) It shall be unlawful for any person to use for any animal a rabies vaccination tag issued to another animal.

Sec. 3-1

Enforcement

(a) Enforcement of this article shall rest with Duplin County Animal Control Department, its officers, employees and those governmental agencies and personnel authorized to exercise police powers by North Carolina statutes to include, without limitation, the Duplin County Sheriff's Department.

(b) Animal Control Officers and/or Animal Cruelty Investigators are authorized to investigate suspected violations of this chapter and are empowered to issue citations, warning citations, or letters of warning when any of the provisions of this chapter have been violated. Citations shall be delivered by Animal Control Officers and/or Animal Cruelty Investigators or by law enforcement to the alleged violator by personal delivery or by registered mail return receipt requested to the person so charged.

(c) Where enforcement personnel determine that a violation is a first offense for

the person charged, a written warning letter or citation may be issued at the discretion of the Animal Control Officers and/or Animal Cruelty Investigator.

Sec. 3-2

Penalties

Any person violating the provisions of this chapter shall be subject to the following criminal or civil penalties and actions. No penalty shall be assessed without notice of the violation.

(a) Civil Penalty: The County may assess a civil penalty of \$50.00 for a first offense, \$100.00 for a second offense, and \$250.00 for all subsequent offenses, which amount(s) may be recovered by the county in a civil and/or criminal action. Each day a violation occurs shall be a separate violation. The county may, at its discretion, additionally seek restitution for the actual cost of maintaining, transporting, boarding, or providing veterinarian services for any animal impounded under this chapter.

(b) Injunction and order of abatement: The provisions of this article may be additionally enforced by injunction and order of abatement.

(c) Criminal Penalties: Any person who violates the provisions of this Chapter shall be guilty of a Class 3 misdemeanor and shall be subject to a fine of \$50.00 for a first offense, \$100.00 for a second offense, and \$250.00 for all subsequent offenses, or imprisonment. Each day a violation occurs shall be a separate offense.

Sec. 3-3

Articles Cumulative

Procedures set forth in this Article shall be in addition to any other remedies that may exist under law or ordinance.

Sec. 4-1

ARTICLE IV. SPAY AND NEUTER PROGRAM

Duplin County Board of Commissioners Findings & Purpose

Duplin County Board of Commissioners hereby finds that the uncontrolled breeding of cats and dogs in the County has led to unacceptable numbers of unwanted dogs, puppies, cats and kittens. These unwanted animals become strays and constitute a public nuisance and a public health hazard. It is hereby the Policy of the Duplin County Board of Commissioners to recommend and require that any dogs or cats adopted from the Duplin County Animal Shelter be spayed or neutered.

Sec. 4-2

Duplin County Sponsored Spay/Neuter Program

Any dog or cat adopted from the Duplin County Animal Shelter shall be spayed or neutered within thirty (30) days of said adoption. Any person wishing to adopt a cat

or dog from the Duplin County Animal Shelter shall pay the adoption fee and a spay/neuter fee to the Duplin County Animal Shelter. All fees are non-refundable.

Upon adopting a cat or dog from the Duplin County Animal Shelter, a person shall:

1. Receive a voucher to a local veterinarian who participates with Duplin County in the Duplin County Spay/Neuter Program,
2. Arrange for and transport that dog or cat to and from the veterinarian's office at his/her own expense,
3. Supply the voucher to the veterinarian's office and arrange for an appointment for the appropriate procedure,
4. In the event, the pet owner requests additional services from the veterinarian then the pet owner shall be solely responsible for any and all costs associated for those services.

Upon performing the procedure, the veterinarian's office shall bill Duplin County at the contracted rate. In the event the pet owner fails to get the dog or cat spayed or neutered within ninety (90) days of adoption the pet owner forfeits the spay/neuter fee and is no longer authorized to adopt an animal from the County's shelter. It shall be under the discretion of the Duplin County Animal Control Director whether said person shall be charged with a violation under this Ordinance.

Exception: In the event a veterinarian licensed by the State of North Carolina determines that a dog or cat placed for adoption by the Duplin County Animal Control should not be spayed/neutered for a medical reason then the spay/neuter fee shall be waived and Section 4-2 shall not apply.

Sec. 4-3 Agreement with Private Organizations and/or Veterinarians

In the event that an individual or private organization has a contract with a Veterinarian to spay or neuter its dog(s) and/or cat(s) then upon providing proof of said contract to Animal Control the spay/neuter fee shall be waived.

ARTICLE V. EFFECTIVE DATE & AMENDMENTS

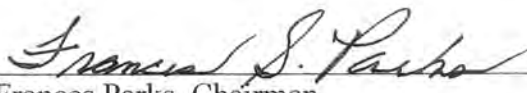
Sec. 5-1 Effective Date

This Ordinance shall become effective November 1, 2011

Sec. 5-2 Amendments or Revisions

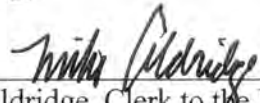
Any revisions or modifications to this ordinance must be put to the Animal Control Committee prior to going to the Duplin County Board of Commissioners. Said Animal Control Committee shall consist of at least one (1) member of the following: Pet Friends of Duplin County, Duplin-Onslow Hunter's Association, and a North Carolina licensed veterinarian practicing in Duplin County.

DUPLIN COUNTY
BOARD OF COMMISSIONERS



Frances Parks, Chairman

ATTEST:



Mike Aldridge, Clerk to the Board

TOWN OF MAGNOLIA
FOG (Fats, Oils, and Grease)
Control Ordinance

A. Scope and Purpose

To aid in the prevention of sanitary sewer blockages and obstructions from contribution and accumulation of fats, oils, and greases into such sewer system from industrial or commercial establishments, particularly food preparation and serving facilities.

B. Definitions

1. **Fats, Oils, and Greases.** Organic polar compounds derived from animal and/or plant sources that contain multiple carbon chain triglyceride molecules. These substances are detectable and measurable using analytical test procedures established in 40 CFR 136, as may be amended from time to time. All are sometimes referred to herein as "Grease" or "Greases".
2. **Grease Trap or Interceptor.** A device for separating and retaining waterborne Greases and Grease complexes prior to the wastewater exiting the trap and entering the sanitary sewer collection and treatment system. These devices also serve to collect settleable solids, generated by and from food preparation activities, prior to the water exiting the trap and entering the sanitary sewer collection and treatment system. Grease traps and Interceptors are sometimes referred to here in as "Grease Interceptors".
3. **Cooking Establishments.** Those establishments primarily engaged in activities of preparing, serving, or otherwise making available for consumption foodstuffs and that use one of more of the following preparation activities: Cooking by frying (all methods), baking (all methods), grilling, sauteing, rotisserie cooking, broiling (all methods), boiling, blanching, roasting, toasting, or poaching. Also included are infrared heating, searing, barbecuing, and any other food preparation activity that produces a hot, non-drinkable food product in or on a receptacle that requires washing.
4. **Non-Cooking Establishments.** Those establishments primarily engaged in the preparation of precooked foodstuffs that do not include any form of cooking. These include but not limited to cold dairy and frozen foodstuffs preparation and serving establishments.
5. **Minimum Design Capability.** The design features of a Grease Interceptor and its ability or volume required to effectively intercept and retain Greases from grease-laden wastewaters discharged to the public sanitary sewer.
6. **User.** Any person(s), individual, firm, company, association, society, corporation, organization, public corporation or group upon whose property the building or structure containing the food service establishment is located. Owner(s) shall also include the owner(s) of a food service establishment who may lease the building, structure, or a portion thereof.

containing the food service establishment. This includes anyone located outside of the Town's jurisdictional limits that contributes causes or permits the contribution or discharge of wastewater into the POTW, including persons who contribute such wastewater from mobile sources, such as those who discharge hauled wastewater.

7. POWT Staff. (POWT Staff) Public Owned Wastewater Treatment staff shall consist of Town of Magnolia employees authorized by the Town of Magnolia.

8. Hydraulic Load. At a minimum shall consist of all one, two, three and four compartment wash sinks filled to seventy-five percent (75%) capacity and being drained simultaneously, pre-rinse sink operating at maximum flow, plus any dish or glass was machine or other drainage fixture unit being operated at maximum rated performance levels.

C. Food Service Establishment Permit Requirement

1. Grease Interceptor Requirements: All permitted food service establishments are required to install, operate, and maintain an approved type and adequately sized grease interceptor necessary to maintain compliance with the objectives of this Ordinance. All grease interceptors must meet the requirements of the Town of Magnolia, Duplin County and/or State of North Carolina plumbing Code.

2. Implementation: All new food service establishment facilities are subject to grease interceptor requirements. All such facilities must obtain prior approval from the Public Works Director for grease interceptor sizing prior to submitting plans for building permit. All grease interceptors shall be readily and easily accessible for cleaning and inspection. Existing facilities with planned modification in plumbing improvements will be subject to comply with the grease interceptor requirements. These facilities must obtain approval from the Public Works Director for grease interceptor sizing prior to submitting plans for a building permit.

(All existing food service establishments, determined by the Public Works Director to have a reasonable potential to adversely impact the Town's sewer system will be notified of their obligation to install a grease interceptor within the specified period set forth in the notification letter.)

3. Variance from Grease Interceptor Requirements: Grease interceptors required under this Ordinance shall be installed unless the Public Works Director authorizes the installation of an indoor grease trap or other alternative pretreatment technology and determines that the installation of a grease interceptor would not be feasible. The food service establishment bears the burden of demonstrating that the installation of a grease interceptor is not feasible. The Public Works Director may authorize the installation of an indoor grease trap where the installation of a grease interceptor is not feasible due to space constraints or other considerations. If an establishment believes the installation of a grease interceptor is infeasible, because of documented space constraints, the request of an alternate grease removal device shall contain the following information:

- a. Location of sewer main and easement in relation to available exterior space outside building.

- b. Existing plumbing at or in a site that uses common plumbing for all services at that site.

(Alternative pretreatment technology includes, but is not limited to, devices that are used to trap, separate and hold grease from wastewater and prevent it from being discharged into the sanitary sewer collection system. All alternative pretreatment technology must be appropriately sized and approved by the Public Works Director.)

- 4. Fee simple.
 - a. Permit to install must be obtained from Magnolia Public Works prior to installation of any grease interceptor device. All interceptors must be in compliance with the Town's FOG Control Ordinance Section 2.0.
 - b. Permit to operate grease interceptor device will be issued once approval is given by Wallace Public Works Director and Duplin County Health Department.

D. Discharge Limitations

No User shall allow wastewater discharge concentration from subject grease interceptor, grease trap or alternative pretreatment technology to exceed that in accordance with the Town's Sewer Use Ordinance Section 2.3 and Town's Fog Control Ordinance Section E.

E. Grease Interceptor Requirements:

1. Grease interceptor sizing and installation shall conform to this Ordinance.
2. Grease interceptors shall be constructed in accordance with design approved by the Public Works Director and shall have a minimum of two compartments with fittings designed for grease retention.
3. Grease interceptor shall be installed at a location where it shall be easily accessible for inspections, cleaning, and removal of intercepted grease. The grease interceptor may not be installed in any part of the building where food is handled. Location of the grease interceptor must meet the approval of the Public Works Director.
4. All such grease interceptor shall be serviced and emptied of accumulated waste content as required in order to maintain Minimum Design Capability or effective volume. These devices should be inspected at least monthly by user. Users who are required to maintain a grease interceptor shall:
 - a. Provide for a minimum hydraulic retention time in accordance with the Uniform Plumbing Code (or other applicable plumbing code used by local agency).
4. Grease traps shall be maintained in efficient operating conditions by periodic removal of the accumulated grease. No such collected grease shall be introduced into any drainage piping, or public or private sewer.
5. No food waste disposal unit or dishwasher shall be connected to or discharge into any grease trap.

6. Wastewater in excess of one hundred-forty (140) degree Fahrenheit / (60) degree Cellulous shall not be discharged into a grease trap.

7. Except as provided herein, for a period of one (1) year following adoption of this ordinance, although installation of grease traps will be required to be installed, no enforcement actions will be taken under this Ordinance for failure to achieve limits on grease discharges from grease interceptors. If, during this one year period an obstruction of a sewer main(s) occurs that causes a sewer overflow to the extent that an impact on the environment is realized and that said overflow or failure of the sanitary sewer collection system to convey sewage can be attributed in part or in whole to an accumulation of grease in the sewer main(s), the Town of Magnolia will take appropriate enforcement actions, as stipulated in the Sewer Use Ordinance, Section 8 (Enforcement), against the generator or contributor of such grease.

F. Grease Interceptor Maintenance, Record Keeping, and Grease Removal

1. Users shall install grease Interceptors as required by the Town of Magnolia . Grease Interceptors shall be installed at the User's expense, when such User operates a Cooking Establishment. Grease Interceptors may also be required in non-cooking or cold dairy and frozen food service establishments and other industrial or commercial establishments when they are deemed necessary by the Magnolia Public Works Director for the proper handling of liquid wastes containing Grease. No User shall allow wastewater discharge concentration from subject Grease Interceptor to exceed 100 milligrams per liter. All Grease Interceptors shall be of a type, design, and capacity approved by the Town of Magnolia and shall be readily and easily accessible for User cleaning and Town inspection. All such Grease Interceptors shall be serviced and emptied of accumulated waste content as required in order to maintain Minimum Design Capability or effective volume of the Grease Interceptor, but not less often than every thirty (30) days. Users who are required to pass water through a Grease Interceptor shall:
 - a. All oil and grease, water and solids separators (grease traps) required in this section shall have a capacity and design in compliance with the following equations:
 - 1) Restaurants:

$$(S) \times (20) \times (HR/12) \times (LF) = \text{capacity in gallons}$$

S = number of seats in dining area
 HR = number of hours open
 LF = loading factor:
 - b. Remove any accumulated grease cap and sludge pocket as required. Grease interceptors shall be kept free of inorganic solid materials such as grit, rocks, gravel, sand, eating utensils, cigarettes, shells, towels, rags, etc., which could settle into this picket and thereby reduce the effective volume of the device.

5. The user shall maintain a written record of inspection and maintenance for three (3) years. All such records will be made available for on-site inspection by representative of the Town of Magnolia during all operating hours of user.

6. Sanitary wastes are not allowed to be connected to sewer lines intended for grease interceptor service.

7. Except as provided herein, for a period of one (1) year following adoption of this ordinance, although installation of grease interceptors will be required to be installed, no enforcement actions will be taken under this Ordinance for failure to achieve limits on grease discharges from grease interceptors. If, during this one year period an obstruction of a sewer main(s) occurs that causes a sewer overflow to the extent that an impact on the environment is realized and that said overflow or failure of the sanitary sewer collection system to convey sewage can be attributed in part or in whole to an accumulation of grease in the sewer main(s), the Town of Magnolia will take appropriate enforcement actions, as stipulated in the Town's Sewer Use Ordinance, Section 8 (Enforcement), against the generator or contributor of such grease.

8. Access manholes, with a minimum diameter of 24 inches, shall be provided over each grease interceptor chamber and sanitary tee. The access manholes shall extend at least to finished grade and be designed and maintained to prevent water inflow or infiltration. The manholes shall also have readily removable covers to facilitate inspection, grease removal, and wastewater sampling activities. Manhole covers must be traffic rated if placed within any parking areas. Manhole covers are to be of a weight class of less than 100 pounds.

G. Grease Trap Requirements

1. Upon approval by the Public Works Director, a grease trap complying with the provisions of this section must be installed in the waste line leading from sinks, drains, and other fixtures or equipment in food service establishments where grease may be introduced into the drainage or sewage system in quantities that can effect line stoppage or hinder sewage treatment or private sewage disposal.

2. Grease Traps sizing and installation shall conform to the Uniform Plumbing Code or other applicable plumbing code used by local agency.

3. No grease trap shall be installed which has a stated rate flow of more than fifty-five (55) gallons per minute, nor less than twenty (20) gallons per minute, except when specifically approved by the Public Works Director.

1.27 Recreational areas 0.8 Main highways 0.7 Other
highways

2) Hospitals, nursing homes, other types of kitchens with varied seating capacity:

$M \times (5) \times (LF) = \text{capacity in gallons}$ M = meals per day

LF = loading factor

1.0 With dishwasher 0.5 Without dishwasher

Except that no grease trap shall be smaller than 750 gallons, no single separator shall be larger than 3,000 gallons and where requirements exceed 3,000 gallons multiple units shall be used. In cases of certain fast food restaurants or establishments with potential to discharge large quantities of grease and oil, capacity requirements greater than 25 gallons per seat may be required. Prepackaged or

manufactured grease traps may be approved by the Town with proper engineering and application review.

- b. Remove any accumulated Grease cap and sludge pocket as required, but at intervals of not longer than thirty (30) days at the Users expense. Grease Interceptors shall be kept free of inorganic solid materials such as grit, rocks, gravel, sand, eating utensils, cigarettes, shells, towels, rags, etc., which could settle into this pocket and thereby reduce the effective volume of the Grease Interceptor.
- c. Operate the Grease Interceptor in a manner so as to maintain said device such that attainment of the grease limit is consistently achieved. "Consistent" shall mean any wastewater sample taken from said Grease Interceptor shall be subject to terms of numerical limit attainment described in (G) (1). If a previously established business desires, because of documented space constraints, an alternative to an out-of-building Grease Interceptor, the request for an alternative location shall contain the following information:
 1. Location of Town sewer main and easement in relation to available exterior space outside building.
 2. Existing plumbing at or in a site that uses common plumbing for all services at that site.
- d. Understand and agree that: The use of biological additives as a Grease degradation agent is not permissible.
- e. Understand and agree that: The use of automatic Grease removal systems is conditionally permissible, upon prior written approval by the Director, the Lead Plumbing Inspector of the Town of Magnolia, and the Duplin County Department of Health. Any establishment using this equipment shall operate the system in such a manner that attainment of the Grease wastewater discharge limit, as measured from the unit's outlet, is consistently achieved.
- f. Understand and agree that: The Director reserves the right to make determinations of Grease Interceptor adequacy and need, based on review of all relevant information regarding Grease Interceptor performance, facility site and building plan review and to require repairs to, or modification or replacement of such traps.
 2. The User shall maintain a written record of trap maintenance for three (3) years. All such records will be available for inspection by the Town at all times.
 3. No non-grease-laden sources are allowed to be connected to sewer lines intended for Grease Interceptor service.

Access manholes, with a minimum diameter of 24 inches, shall be provided over each chamber and sanitary tee. The access manholes shall extend at least to finished grade and be designed and maintained to prevent water inflow or infiltration. The manholes shall also have readily removable covers to facilitate inspection, Grease removal, and wastewater sampling activities. Manhole covers must be traffic rated if place within any parking areas. Manhole covers are to be of a weight class of less than 100 pounds.

H. FOG Variance

1. The Town of Magnolia Public Works developed a variance study to allow

food preparation and service establishments an avenue to provide substantial evidence so as to reduce maintenance of the grease interceptor as required by the Town of Wallace FOG Ordinance.

2. A food preparation/service establishment can apply for a variance to the scheduled service requirements of the Town of Magnolia FOG Control Ordinance. A food preparation/service establishment that believes the service schedule of once every thirty days is excessive, and feels that the grease interceptor service frequency can be extended, without violating the FOG Ordinance can apply. Food preparation/service establishments who wish to use biological or chemical additives for the removal of fats, oils, and grease from a grease separation device or a plumbing system may also apply for a variance to the service schedule.

- a. A copy of the **Town of Magnolia Grease Interceptor Service Schedule Variance Request Form** can be obtained from the Town of Magnolia and completed. The request form must be signed by the food preparation/service owner(s).
- b. Read, understand, and agree with the **Town of Magnolia Grease Interceptor Service Schedule Variance** (See Appendix A), and the **Town of Magnolia Grease Interceptor Service Schedule Variance Request Form**, (See Appendix B).
- c. Mail a completed **Town of Magnolia Grease Interceptor Service Schedule Variance Request Form** to:

Town of Magnolia
Public Works Department Pretreatment
Section
P.O. Box 459
Magnolia, N C 28453
- d. The Town of Magnolia will review all variance request forms and contact the food preparation/service establishment accepting or rejecting the variance request. The food preparation/service establishment once authorized by the Town of Magnolia to begin the variance study procedure may contact a grease interceptor service provider to schedule a grease interceptor cleaning.
- e. The food preparation/service establishment must contact the Town of Magnolia Public Work Department two (2) working days prior to the grease interceptors schedule cleaning.
- f. Additional monitoring events or pollutants may be required if deemed necessary by the Town of Magnolia Public Work Department. Variance studies shall not exceed a period of ninety (90) days.
- g. After a minimum of three (3) site samples are collected and all sampling results are obtained, the Town of Magnolia Public Works Department will analyze all data. After all data is reviewed by the Town, the Town will submit in writing the results of the variance study only to the facility requesting said study.

This ordinance shall be in full force and effect

On the 19th day of June, 2012

FIRST READING: _____, 2012
SECOND READING: _____, 2012
PASSED this 19 day of June, 2012
AYES: 4
NAYS: 0
ABSENT: Com Luther Kisser III
NOT VOTING: NA
APPROVED this 19 day of June, 2012

Dwight D. Vass MAYOR, of the Town of Magnolia

ATTEST: *Latina Miller* (Seal) Town Clerk

Published the 19 day of June, 2012



APPENDIX A

Town of Magnolia
Grease Interceptor Service Schedule Variance

A variance to the scheduled service requirement of the Town of Magnolia Fats, Oils, and Grease Control Ordinance _____ is to provide specific changes to the scheduling of grease interceptor maintenance and servicing. Said variance is intended to give food preparation/service establishments an avenue to provide substantial evidence so as to reduce maintenance of the grease interceptor. Said variance only applies to the scheduling of grease interceptor servicing. All other requirements of the Town of Magnolia Sewer Use Ordinance, FOG Control Ordinance, and any other requirements remain in effect.

Fees

Food preparation/service establishments shall complete a Town of Magnolia Grease Interceptor Service Schedule Variance Request Form and provide a written explanation for the need to vary from the FOG Control Ordinance. All establishments requesting a variance shall agree to conform to the variance study procedures, the Town of Wallace has the right to discontinue the variance study at any time the grease interceptor discharge adversely affects the sanitary sewer collection system and treatment works.

Upon evaluation of pertinent conditions relative to grease interceptor service schedule variance issues; Fees associated with the request for a variance study will include an initial variance request fee of \$320.00, which includes estimated reimbursement costs associated with Town of Magnolia personnel and travel expenses. Wastewater analysis fees will be associated with each sample collected during the variance study. All samples analyzed by contract laboratories will include the cost of analysis and a 20% administrative fee. The food preparation/service establishment will be billed by the Town of Magnolia at the end of the variance study. The Town of will not grant a grease interceptor service schedule variance until the Town receives payment in full for the initial variance request fee, all wastewater analysis costs, administrative fees and any costs incurred by the Town of Magnolia as a result of said study. All fees associated with said variance are non-refundable.

Pretreatment staff** will log all study findings on the Town of Magnolia Grease Interceptor Variance Study Sheet and submit a copy to the food preparation/service establishment after each grease interceptor inspection.

Discontinuation of Variance Study

At any time after a variance is granted and the following occurs, the food preparation/service establishment shall revert back to requirements set forth by the Town of Magnolia FOG Control Ordinance.

• Grease interceptor FOG concentrations exceeding limits set by Town of Magnolia FOG Control Ordinance

Grease interceptor discharge adversely affects the sewer collection system and treatment works.

**Town of Magnolia
Grease Interceptor Service Schedule Variance**

- Solids accumulation is greater than 20 percent (20%) of the total water depth from grease interceptor's interior floor to the static or working water level, at any point within the grease interceptor.
- FOG accumulation is greater than or equal to three (3) inches at any point within the grease interceptor

Facility significantly increases food service production, seating capacity, or menu selection.

Facility that employs the use of a garbage disposal or food pulper that is connected to the grease interceptor

Causes or contributes to a sanitary sewer blockage or overflow.

Change in ownership. Variance is non-transferable and only applies to the facility stated on the variance approval letter granting a grease interceptor service extension.

Conditions and Schedules

All food services establishments requesting variance to the FOG Ordinance shall conform to the following conditions and schedules.

- Food preparation/service establishment owner(s) shall complete a Town of Magnolia Grease Interceptor Service Schedule Variance Request Form and provide the Town of Magnolia, written explanation as to the need of service schedule variance.
- Food preparation/service establishment owner(s) agree that any request for variance is considered and implemented under the discretion of the Town of Magnolia and can be denied for any reason.
- Food preparation/service establishment shall conform to the pumping schedule set by the Town of Magnolia during the variance study. Failure to follow pumping requirements will result in variance study discontinuation.
- Food preparation/service establishment agrees to the pumping schedule after the variance study is completed, even in the event, the Town of Magnolia requires a service schedule greater than once every thirty (30) days.
- Food preparation/service establishment shall contract and arrange with a grease interceptor service provider a pumping schedule that will meet the conditions of said variance.
- Food preparation/service establishment shall contact the Town of Magnolia Public Works, Pretreatment, two (2) working days prior to the scheduled interceptor cleaning.

- Food preparation/service establishments that desire the use of biological or chemical treatment shall provide the Town Of Magnolia all information supplied by the manufacturer of type ; solution makeup, dosing schedule, and service agreements. All Food preparation/service Establishments using biological or chemical treatment shall be required to maintain an Interceptor service set by the Town Of Magnolia FOG Ordinance or Town Of Magnolia Variance Study.
- During the variance study, all limits and conditions of the FOG Ordinance apply. All violations of the FOG Ordinance will be addressed during and after the variance study.
- Food preparation/service establishment agrees to pay the initial variance request fee, wastewater analysis costs, administrative fees, and any costs incurred by the Town Of Magnolia as a result of conducting the variance study.

The Town Of Magnolia will not be responsible for any FOG discharges, odor or blockages during or after the variance study.

** Pretreatment Staff shall consist of Town Of Magnolia employees or individuals authorized by the Town Of Magnolia.

^Owner(s) Any person(s), individual, firm, company, association, society, corporation, public Corporation or group upon whose property the building or structure containing the food service establishment is located. Owner(s) shall also include the owner(s) of a food service establishment who may lease the building, structure, or a portion thereof, containing the food service establishment. This includes anyone located outside of the Town's jurisdictional limits that contributes causes or permits the contribution or discharge of wastewater into POTW, including persons who contribute such wastewater from mobile sources, such as those who discharge hauled wastewater

The following Fats, Oils and Grease Control Ordinance for the Town of Magnolia was adopted by the Duplin County Board of Commissioners following a public hearing held on September 17, 2012 as required by an interlocal agreement between the Town of Magnolia and Duplin County adopted August 20, 2012. The interlocal agreement specifies the terms of operation of a proposed sewer system serving Brinson Rd and the I-40 Exit 373 Interchange.

Adopted this the 17th day of September 2012 to become effective immediately.


Attest: Clerk to the Board


Chair, Zettie Williams

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APPENDIX B

Town of Magnolia

Grease Interceptor Service Schedule Variance Request Form

Food preparation/service establishment who requests a grease interceptor service schedule variance must complete this form and submit to the Town of Magnolia Public Works Department - Pretreatment Section P.O. Box 459 Magnolia, NC 28453. If there are any questions concerning this form, please feel free to contact the Pretreatment Section at (910) 39-3205 or (910) 284-6557.

Company Name _____
Facility Name: _____
Corporate Name: _____

Facility Address: Street:
City: _____ State: __ Zip: _____

Business Mailing Address: Street:
City: _____ State: __ Zip: _____

Facility Contact: Name: __ Phone: __ Fax: _____
E-mail: _____
Corporate Contact Name: _____ Phone: _____ Fax: _____ E-mail: _____

Written explanation for the need to vary from the Town of Wallace Fats, Oils, and Grease Control Ordinance. (Attach Separate letter)

Food preparation/service establishment hours of operation:

A) Months of operation: _____

B) Days of operation: _____

C) Hours of operation:

Mon: _____ Tues: _____ Wed: _____ Thurs: _____
Fri: _____ Sat: _____ Sun: _____

Total number of employees at food preparation/service establishment:

Shift #1: _____ Shift #2: _____ Shift #3: _____

Provide information on Grease Separation Device(s): (Attach additional sheet if necessary)

Location: _____
Size (capacity): _____
Manufacturer: _____
Model #: _____

Town Of Magnolia Grease Interceptor Service Schedule Variance Request Form

Location: _____
Size (capacity): _____
Manufacturer: _____
Model #: _____
=====

10. Biological/Chemical Treatment used in plumbing system:
YES NO

If YES, attach all information supplied by the manufacturer of type, solution make up, dosing schedule, and service agreements.

11. Provide Maintenance/Service Information:

Frequency of service: _____

Who conducts service: _____

Briefly describe how maintenance is conducted:

12. Grease interceptor service company information (pumper, renderer, biological, etc.):

Company Name: _____

Contact Name: _____

Phone: _____

13. Name as it appears on Water/Sewer Bill: _____ Service Address:

City: _____ State: _____ Zip: _____

14. Billing Address (if different):

City: _____ State: _____ Zip: _____

15. List all major equipment used for food preparation, (ie: grills, fryers, woks, etc.) include sizes and capacities if applicable:

Town of Magnolia Grease Interceptor Service Schedule Variance Request Form

16. List kitchen fixture locations, intended use, number of compartments, size, (ie: pre-rinse, 1-2-3-4 compartment wash sinks, can wash, prep sinks, dishwasher, garbage disposal, etc.)

| Item No. | Location | Intended Use (ex. wash, prep ...) | Compartments (ex. 1,2,3,4) | Size (ex. 24x24x12, 10 gpm) |
|----------|----------|---|-------------------------------|-----------------------------------|
| 1 | | | | |
| 2 | | | | |
| 3 | | | | |
| 4 | | | | |
| 5 | | | | |
| 6 | | | | |
| 7 | | | | |
| 8 | | | | |
| 9 | | | | |
| 10 | | | | |
| 11 | | | | |

17. Does your facility contain grill and/or fryer exhaust hoods?

YES NO

If YES, how often do you have cleaned: _____

If YES, briefly describe how the hood system is cleaned and how the wastewater is disposed: _____

18. Total seating capacity: _____

19. Does your facility ever utilize catering or off-site food preparation companies to provide meals? YES NO

If YES, are any of the kitchen sink fixtures utilized for the washing of soiled dish/cook ware? YES NO

20. Are there any other companies permitted to use your kitchen facilities? YES

NO

If YES, please list company/person(s) name: _____

21. Submit a copy of the breakfast, lunch, and/or dinner menu along with this variance request form.

22. Provide an up to date copy of the indoor and outdoor plumbing plans, these plans should include facility sewer connections, floor drains, grease removal equipment, sinks, restrooms, etc. Blue prints are acceptable; a "to scale" hand drawn copy may be acceptable in some cases.

Town of Magnolia Grease Interceptor Service Schedule Variance Request Form

AUTHORIZED REPRESENTATIVE STATEMENT

In completing this survey, I (Print) _____, understand and hereby agree to the terms and conditions of the Town of Magnolia Grease Interceptor Service Schedule Variance and the Town of Magnolia Grease Interceptor Grease Interceptor Service Schedule Variance Study Procedure.

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based upon my inquiry of the persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine/or imprisonment for knowing violations.

Signature of Authorized Representative

4 of 4

Printed Name of Authorized Representative

Date

Method 1. Evaluation Based upon 20-25 Minute Hydraulic Retention

Grease Separation Device Sizing Table

Maximum, worst-case hydraulic loading conditions typified below for new construction projects. Grease interceptor type not specified in this table. Size of device is listed as wetted holding volume (gallons).

| <i>Kitchen Drainage Fixtures -></i> | <i>using 1-1/2" drain pipe gallons</i> | <i>2" drain pipe gallons</i> |
|---|--|----------------------------------|
| One prerinse sink and dishwasher | 300 | 500 |
| One 2- or 3-compartment pot sink | 300 | 500 |
| One 2- or 3-compartment pot sink (and) one 1-compartment prep sink | 500 | 750 |
| One 3-compartment pot sink (and) one 2-compartment prep sink | 750 | 1,000 |
| One 3-compartment pot sink (and) one 2-compartment prep sink (and) one prerinse sink | 1,000 | 1,500 |
| One 3-compartment pot sink (and) one 2-compartment prep sink (and) one prerinse sink (and) dishwasher (and) one utility sink | 2,000 | 3,000 |
| One 3-compartment pot sinks (and) one 3-compartment prep sinks (and) one prerinse sink (and) dishwasher (and) one utility sink | 2,000 | 3,000 |
| One or more 3-compartment pot sinks (and) one or more 3-compartment prep sinks (and) one or more prerinse sinks (and) dishwasher(s) (and) one or more utility sinks | 3,000 | 4,000 |

Method 6. Uniform Plumbing Code Procedure

Table H-1
Sizing of Grease Separation Devices

| | | | | | | | |
|-----------------------------------|---|---------------------|---|--------------------|---|--------------------|---|
| Number of meals per peak hour (1) | X | Waste flow rate (2) | X | Retention time (3) | X | Storage factor (4) | Grease separation device size (liquid capacity) |
|-----------------------------------|---|---------------------|---|--------------------|---|--------------------|---|

1. Meals Served at Peak Hour

2. Waste Flow Rate

- With dishwashing machine 6 gallon (22.7 L) flow
- Without dishwashing machine 5 gallon (18.9 L) flow
- Single service kitchen 2 gallon (7.6 L) flow
- Food waste disposer 1 gallon (3.8 L) flow

3. Retention Times

- Commercial kitchen waste
- Dishwasher 2.5 hours
- Single service kitchen
- Single serving 1.5 hours

4. Storage Factors

- Fully equipped commercial kitchen 8 hour operation: 1
- 16 hour operation: 2
- 24 hour operation: 3
- Single Service Kitchen 1.5

Ref. Uniform Plumbing Code Appendix H. Recommended Procedures for Design, Construction and Installation of Commercial Kitchen Grease separation devices, Pg.227.

8.15 '00
11/22/00

Example: For a restaurant with a 50-seat dining area, an 8-hour per day operation, with 5 gallons of wastewater per meal, a storage capacity factor of 2.0, and a loading factor of 1.0, the size of the grease trap is calculated as follows:

$$(50) \times (5) \times (2.0) \times (1.0) \times (8/2) = 2,000 \text{ gallons}$$

Based on precast tank manufacturing in North Carolina, thousand gallon increments are typical; therefore, a minimum 2,000-gallon tank size would be recommended.

EPA-2 Procedure for Hospitals, Nursing Homes and other type commercial kitchens with varied seating

Minimum of 750 gallons

$$(\# \text{ of meals served a day}) \times (\text{gallons}) \times (\text{storage factor}) \times (\text{loading factor}) = \text{grease separation device volume (gallons)}$$

| | | |
|----------------------------------|---------------------------|--|
| loading Factor | <i>W/O</i> Food | Minimum = 1.7 Maximum = 2.5 |
| Food Grinder & Dishwasher = 1.25 | Grinder & Dishwasher = .5 | Gallons |
| <i>W/O</i> Food Grinder = 1.0 | | Wastewater gallons per meal, usually 4.5 gal |
| <i>W/O</i> Dishwasher = .75 | Storage Factor | |

Example: 100-person rest home
 $(330 [100 \text{ patients} + 10 \text{ staff} \times 3 \text{ meals/day}]) \times (4.5) \times (1.25 [w/ \text{ food grinder \& dish washer}]) \times (2.0 [\text{typical storage factor}]) = 3,712 \text{ gallons}$

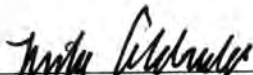
Based on precast tank manufacturing in North Carolina, thousand gallon increments are typical; therefore, a minimum 3,000-gallon tank size would be recommended.

Method 4. Evaluation Based upon NCDEH Standards

| Facility | Grease tank size |
|--|---|
| salad only or subs | 500 gallon |
| Take-out grilled foods | 1,000 to 1,500 gallon depending on size of facility |
| take-out deep fried foods | 1,500 to 2,000 gallon depending on size of facility |
| pasta and pizza facilities | 1,500 to 2,000 gallon depending on size of facility |
| sit-down full menu restaurants < 100 seats | 1,500 to 2,000 gallon depending on size of facility |
| sit-down full menu restaurants > 100 seats | 2,000 to 3,000 gallon depending on size of facility |

The following Sewer Use ordinance for the Town of Magnolia was adopted by the Duplin County Board of Commissioners following a public hearing held on September 17, 2012 as required by an interlocal agreement between the Town of Magnolia and Duplin County adopted August 20, 2012. The interlocal agreement specifies the terms of operation of a proposed sewer system serving Brinson Rd and the I-40 Exit 373 Interchange.

Adopted this the 17th day of September 2012 to become effective immediately.



Attest: Clerk to the Board


Chair, Zettie Williams

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Town of Magnolia
Sewer Use Ordinance

(SUO)

SUO
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Section-1 - GENERAL PROVISIONS

1.1 Purpose and Policy

This ordinance sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the Town of Magnolia hereafter referred to as the Town, and enables the Town to comply with 21 applicable State and Federal laws, including the Clean Water Act (33 United States Code § 1251 *et seq.*) and the General Pretreatment Regulations (40 CFR, Part 403)

The objectives of this ordinance are:

- (a) To prevent the introduction of pollutants into the municipal wastewater system which will interfere with the operation of the system or contaminate the resulting sludge;
- (b) To prevent the introduction of pollutants into the municipal wastewater system which will pass through the system, inadequately treated, into any waters of the State or otherwise be incompatible with the system;
- (c) To promote reuse and recycling of industrial wastewater and sludges from the municipal system;
- (d) To protect both municipal personnel who may be affected by sewage, sludge, and effluent in the course of their employment as well as protecting the general public;
- (e) To provide for equitable distribution of the cost of operation, maintenance and improvement of the municipal wastewater system; and
- (f) To ensure that the municipality complies with its NPDES or Non-discharge Permit conditions, sludge use and disposal requirements and any other Federal or State laws to which the municipal wastewater system is subject.

This ordinance provides for the regulation of direct and indirect contributors to the municipal wastewater system, through the issuance of permits to certain non-domestic users and through enforcement of general requirements for the other users, authorizes monitoring and enforcement activities, requires user reporting and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

This ordinance shall apply to all users of the municipal wastewater system, as authorized by N.C.G.S. 160A-312 and/or 153A-275). The Town shall designate an administrator of the POTW and pretreatment program hereafter referred to as the POTW Director. Except as otherwise provided herein, the POTW Director shall administer, implement, and enforce the provisions of this ordinance. Any powers granted to or imposed upon the POTW Director may be delegated by the POTW Director to other Town personnel. By discharging wastewater into the municipal wastewater system, industrial users located outside the Town limits agree to comply with the terms and conditions established in this Ordinance, as well as any permits, enforcement actions, or orders issued hereunder.

1.2 Definitions And Abbreviations

- (a) The context specifically indicates otherwise, the following terms and phrases, as used in this ordinance, shall have the meanings hereinafter designated:
 - (1) Act or "the Act". The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. § 1251, et seq.
 - (2) Approval Authority. The Director of the Division Of Water Quality of the North Carolina Department of Environment and Natural Resources or his designee.
 - (3) Authorized Representative of the Industrial User.
 - (i) If the industrial user is a corporation, authorized representative shall mean:
 - A) the president, secretary, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions for the corporation, or
 - B) the manager of one or more manufacturing, production, or operation facilities employing more than two hundred fifty (250) persons or having gross annual sales or expenditures exceeding twenty-five (25) million dollars (in second-quarter 1980)

dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

- (ii) If the industrial user is a partnership or sole proprietorship, an authorized representative shall mean a general partner or the proprietor, respectively.
 - (iii) If the industrial user is a Federal, State or local government facility, an authorized representative shall mean a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
 - (iv) The individuals described in paragraphs (iii) above may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the Town.
- (4) Biochemical Oxygen Demand (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20° centigrade, usually expressed as a concentration (e.g. mg/l).
 - (5) Building Sewer. A sewer conveying wastewater from the premises of a user to the POTW.
 - (6) Bypass. The intentional diversion of waste streams from any portion of a user's treatment facility.
 - (7) Categorical Standards. National Categorical Pretreatment Standards or Pretreatment Standard.
 - (8) Director. The person designated by the Town to supervise the operation of the publicly owned treatment works and who is charged with certain duties and responsibilities by this ordinance, or his duly authorized representative.
 - (9) Environmental Protection Agency, or EPA. The U.S. Environmental Protection Agency, or where appropriate the term may also be used as a designation for the Administrator or other duly authorized official of said agency.
 - (10) Grab Sample. A sample which is taken from a waste stream on a one-time basis without regard to the flow in the waste stream and over a period of time not to exceed 15 minutes.
 - (11) Holding Tank Waste. Any waste from holding tanks, including but not limited to such holding tanks as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.
 - (12) Indirect Discharge or Discharge. The discharge or the introduction from any nondomestic source regulated under section 307(b), (c), or (d) of the Act, (33 U.S.C. 1317), into the POTW (including holding tank waste discharged into the system).
 - (13) Industrial User or User. Any person which is a source of indirect discharge.
 - (14) Interference. The inhibition, or disruption of the POTW treatment processes, operations, or its sludge process, use, or disposal, which causes or contributes to a violation of any requirement of the POTW's NPDES or Non-discharge Permit or prevents sewage sludge use or disposal in compliance with specified applicable State and Federal statutes, regulations, or permits. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with section 405 of the Act, (33 U.S.C. 1345) or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA)(42 U.S.C. §6901, *et seq.*), the Clean Air Act, the Toxic Substances Control Act, the Marine Protection Research and Sanctuary Act (MPRSA) or more stringent state criteria (including those contained in any State sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the POTW.
 - (15) Local Pre-treat Programs: In accordance with 15A NCAC 02H.0990.

- (16) Medical Waste. Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.
- (17) National Categorical Pretreatment Standard or Categorical Standard. Any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act (33 U.S.C. §1317) which applies to a specific category of industrial users, and which appears in 40 CFR Chapter 1, Subchapter N, Parts 405-471.
- (18) National Prohibitive Discharge Standard or Prohibitive Discharge Standard. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in section 2.1 of this ordinance and are developed under the authority of 307(b) of the Act and 40 CFR, section 403.5.
- (19) New Source.
- (i) Any building, structure, facility, or installation from which there may be a discharge of pollutants, the construction of which commenced after the publication of proposed categorical pretreatment standards under section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with section 307(c), provided that:
- (A) the building, structure, facility, or installation is constructed at a site at which no other source is located; or
- (B) the building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
- (C) the production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.
- (ii) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of section (i)(B) or (C) above but otherwise alters, replaces, or adds to existing process or production equipment.
- (iii) For purposes of this definition, construction of a new source has commenced if the owner or operator has:
- (A) Begun, or caused to begin, as part of a continuous on-site construction program:
1. Any placement, assembly, or installation of facilities or equipment; or
 2. Significant site preparation work including clearing, excavation, or removal of existing buildings, structures or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
- (B) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this definition.
- (20) Noncontact Cooling Water. Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.
- (21) National Pollution Discharge Elimination System, or NPDES, Permit. A permit issued pursuant to section 402 of the Act (33 U.S.C. §1342), or pursuant to N.C.G.S. 143-215.1 by the State under delegation from EPA.
- (22) Non-discharge Permit. A disposal system permit issued by the State pursuant to N.C.G.S. 143-215.1.
- (23) Pass Through. A discharge which exits the POTW into waters of the State in quantities or concentrations which, alone or with discharges from other sources, causes a violation,

- including an increase in the magnitude or duration of a violation, of the POTW's NPDES or Non-discharge Permit, or a downstream water quality standard.
- (24) **Person.** Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. This definition includes all Federal, State, and local government entities.
- (25) **pH.** A measure of the acidity or alkalinity of a substance, expressed as standard units, and calculated as the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.
- (26) **Pollutant.** Any "waste" as defined in N.C.G.S. 143-213(18) and dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).
- (27) **POTW Director.** The Town administrator designated with the responsibility for the pretreatment program and enforcement of this Sewer Use Ordinance.
- (28) **POTW Treatment Plant.** That portion of the POTW designed to provide treatment to wastewater.
- (29) **Pretreatment or Treatment.** The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollution into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes or other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.
- (30) **Pretreatment Program.** The program for the control of pollutants introduced into the POTW from non-domestic sources which was developed by the Town in compliance with 40 CFR 403.8 and approved by the approval authority as authorized by N.C.G.S. 143-215.3(a)(14) in accordance with 40 CFR 403.11.
- (31) **Pretreatment Requirements.** Any substantive or procedural requirement related to pretreatment, other than a pretreatment standard.
- (32) **Pretreatment Standards Prohibited discharge standards, categorical standards, and local limits.**
- (33) **Publicly Owned Treatment Works (POTW) or Municipal Wastewater System.** A treatment works as defined by section 212 of the Act, (33 U.S.C. §1292) which is owned in this instance by the Town. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances only if they convey wastewater to the POTW treatment plant. For the purposes of this ordinance, "POTW" shall also include any sewers that convey wastewaters to the POTW from persons outside the Town who are, by contract or agreement with the Town, or in any other way, users of the POTW of the Town.
- (34) **Severe Property Damage.** Substantial physical damage to property, damage to the user's treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- (35) **Significant Industrial User.** Any industrial user of the wastewater disposal system who
- (i) has an average daily process wastewater flow of 25,000 gallons or more, or
 - (ii) contributes more than 5% of any design or treatment capacity (i.e., allowable pollutant load) of the wastewater treatment plant receiving the indirect discharge, or
 - (iii) is required to meet a National categorical pretreatment standard, or
 - (iv) is found by the Town, the Division Of Water Quality or the U.S. Environmental Protection Agency (EPA) to have the potential for impact, either singly or in combination

with other contributing industrial users, on the wastewater treatment system, the quality of sludge, the system's effluent quality, or compliance with any pretreatment standards or requirements.

- (36) Significant Noncompliance or Reportable Noncompliance. A status of noncompliance defined as follows:
- (i) Violations of wastewater discharge limits.
 - A. Chronic Violations. Sixty-six percent or more of the measurements exceed (by any magnitude) the same daily maximum limit or the same average limit in a six-month period.
 - B. Technical Review Criteria (TRC) violations. Thirty-three percent or more of the measurements equal or exceed the TRC times the limit (maximum or average) in a six-month period. There are two groups of TRCs:
 - For the conventional pollutants: BOD, TSS, fats, oil and grease TRC = 1.4
 - For all other pollutants TRC = 1.2
 - C. Any other violation(s) of an effluent limit (average or daily maximum) that the control authority believes has caused, alone or in combination with other discharges, interference or pass-through, or endangered the health of the sewage treatment plant personnel or the public.
 - D. Any discharge of a pollutant that has caused imminent endangerment to human health/welfare or to the environment or has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge.
 - (ii) Violations of compliance schedule milestones, contained in a pretreatment permit or enforcement order, for starting construction, completing construction, and attaining final compliance by 90 days or more after the schedule date.
 - (iii) Failure to provide reports for compliance schedule, self-monitoring data, baseline monitoring reports, 90-day compliance reports, and periodic compliance reports within 30 days from the due date.
 - (iv) Failure to accurately report noncompliance.
 - (v) Any other violation or group of violations that the control authority considers to be significant.
- (37) Slug Load. Any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in section 2.1 of this ordinance.
- (38) Standard Industrial Classification (SIC). A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1987.
- (39) Storm Water. Any flow occurring during or following any form of natural precipitation and resulting therefrom.
- (40) Suspended Solids. The total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering.
- (41) Upset. An exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- (42) Wastewater. The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, mobile sources, treatment facilities and institutions, together with any groundwater, surface water, and storm water that may be present, whether treated or untreated, which are contributed into or permitted to enter the POTW.
- (43) Wastewater Permit. As set forth in section 4.2 of this ordinance.
- (44) Waters of the State. All streams, lakes, ponds, marshes, watercourse, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or

accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the State or any portion thereof.

- (b) This ordinance is gender neutral and the masculine gender shall include the feminine and vice-versa.
- (c) Shall is mandatory, may is permissive or discretionary.
- (d) The use of the singular shall be construed to include the plural and the plural shall include the singular as indicated by the context of its use.
- (e) The following abbreviations when used in this ordinance, shall have the designated meanings:

| | | |
|------|----------|---|
| (1) | BOD | Biochemical Oxygen Demand |
| (2) | CFR | Code of Federal Regulations |
| (3) | COD | Chemical Oxygen Demand |
| (4) | EPA | Environmental Protection Agency |
| (5) | gpd | Gallons per day |
| (6) | l | Liter |
| (7) | mg | Milligrams |
| (8) | mg/l | Milligrams per liter |
| (9) | N.C.G.S. | North Carolina General Statutes |
| (10) | NPDES | National Pollution Discharge Elimination System |
| (11) | O & M | Operation and Maintenance |
| (12) | POTW | Publicly Owned Treatment Works |
| (13) | RCRA | Resource Conservation and Recovery Act |
| (14) | SIC | Standard Industrial Classification |
| (15) | SWDA | Solid Waste Disposal Act |
| (16) | TSS | Total Suspended Solids |
| (17) | TKN | Total Kjeldahl Nitrogen |
| (18) | U.S.C | United States Code. |

SECTION 2 - GENERAL SEWER USE REQUIREMENTS

2.1 Prohibited Discharge Standards

- (a) General Prohibitions. No user shall contribute or cause to be contributed into the POTW, directly or indirectly, any pollutant or wastewater which causes interference or pass through. These general prohibitions apply to all users of a POTW whether or not the user is a significant industrial user or subject to any National, State, or local pretreatment standards or requirements.
- (b) Specific Prohibitions. No user shall contribute or cause to be contributed into the POTW the following pollutants, substances, or wastewater
 - (1) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, waste streams with a closed cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 CFR 261.21.
 - (2) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference but in no case solids greater than 3" in any dimension.
 - (3) Petroleum oil, nonbiodegradable cutting oil unless equipped with grinder pump, or products of mineral oil origin, in amounts that will cause interference or pass through.
 - (4) Any wastewater having a pH less than 5.0 or more than 9.0 or wastewater having any other corrosive property capable of causing damage to the POTW or equipment.
 - (5) Any wastewater containing pollutants, including oxygen-demanding pollutants, (BOD, etc) in sufficient quantity, (flow or concentration) either singly or by interaction with other pollutants, to cause interference with the POTW.
 - (6) Any wastewater having a temperature greater than 150° F (66° C), or which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104° F (40° C).

- (7) Any pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems.
- (8) Any trucked or hauled pollutants, except at discharge points designated by the POTW Director in accordance with section 2.9 of this ordinance.
- (9) Any noxious or malodorous liquids, gases, or solids or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.
- (10) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal regulations or permits issued under section 405 of the Act, the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or State criteria applicable to the sludge management method being used.
- (11) Any wastewater which imparts color which cannot be removed by the treatment process, including, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts sufficient color to the treatment plant's effluent to render the waters injurious to public health or secondary recreation or to aquatic life and wildlife or to adversely affect the palatability of fish or aesthetic quality or impair the receiving waters for any designated uses.
- (12) Any wastewater containing any radioactive wastes or isotopes except as specifically approved by the POTW Director in compliance with applicable State or Federal regulations.
- (13) Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water and unpolluted industrial wastewater, unless specifically authorized by the POTW Director.
- (14) Fats, oils, or greases of animal or vegetable origin in concentrations greater than one hundred (100) mg/l.
- (15) Any sludges, screenings or other residues from the pretreatment of industrial wastes.
- (16) Any medical wastes, except as specifically authorized by the POTW Director in a wastewater discharge permit.
- (17) Any material containing ammonia, ammonia salts, or other chelating agents which will produce metallic complexes that interfere with the municipal wastewater system.
- (18) Any material that would be identified as hazardous waste according to 40 CFR Part 261 if not disposed of in a sewer except as may be specifically authorized by the POTW Director.
- (19) Any wastewater causing the treatment plant effluent to violate State Water Quality Standards for toxic substances as described in 15A NCAC 2B 0200.
- (20) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test.
- (21) Recognizable portions of the human or animal anatomy.
- (22) Any wastes containing detergents, surface active agents, or other substances which may cause excessive foaming in the municipal wastewater system.
- (23) At no time, shall two successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than five percent (5%) nor any single reading over ten percent (10%) of the lower explosive limit (LEL) of the meter.

Pollutants, substances, wastewater, or other wastes prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the municipal wastewater system. All floor drains located in process or materials storage areas must discharge to the industrial user's pretreatment facility before connecting with the system.

When the POTW Director determines that a user(s) is contributing to the POTW, any of the above enumerated substances in such amounts which may cause or contribute to interference of POTW operation or pass through, the POTW Director shall:

- 1) advise the user(s) of the potential impact of the contribution on the POTW in accordance with section 8.1; and

- 2) take appropriate actions in accordance with section 4 for such user to protect the POTW from interference or pass through.

2.2 National Categorical Pretreatment Standards

Users subject to categorical pretreatment standards are required to comply with applicable standards as set out in 40 CFR Chapter 1, Subchapter N, Parts 405-471 and incorporated herein.

- (a) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the POTW Director may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).
- (b) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the POTW Director shall impose an alternate limit using the combined wastestream formula in 40 CFR 403.6(e).
- (c) A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.
- (d) A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.

2.3 Local Limits

An industrial waste survey is required prior to a User discharging wastewater containing in excess of the following average discharge limits.

| | | | |
|-----------------|--------|------|------------------|
| FOG | 100 | mg/l | |
| BOD | 250 | mg/l | |
| TSS | 250 | mg/l | |
| NH ₃ | 25 | mg/l | |
| Arsenic | 0.003 | mg/l | |
| Cadmium | 0.003 | mg/l | |
| Chromium | 0.05 | mg/l | (total chromium) |
| Copper | 0.061 | mg/l | |
| Cyanide | 0.015 | mg/l | |
| Lead | 0.049 | mg/l | |
| Mercury | 0.0003 | mg/l | |
| Nickel | 0.021 | mg/l | |
| Silver | 0.005 | mg/l | |
| Zinc | 0.175 | mg/l | |

Industrial Waste Survey information will be used to develop user-specific local limits when necessary to ensure that the POTW's maximum allowable headworks loading are not exceeded for particular pollutants of concern. User-specific local limits for appropriate pollutants of concern shall be included in wastewater permits. The POTW Director may impose mass based limits in addition to, or in place of concentration based limits.

2.4 State Requirements

State requirements and limitations on discharges shall apply in any case where they are more stringent than Federal requirements and limitations or those in this ordinance.

2.5 Right of Revision

The Town reserves the right to establish limitations and requirements which are more stringent than those required by either State or Federal regulation if deemed necessary to comply with the objectives presented in section 1.1 of this ordinance or the general and specific prohibitions in section 2.1 of this ordinance, as is allowed by 40 CFR 403.4.

2.6 Dilution

No user shall ever increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the National categorical pretreatment standards, unless expressly authorized by an applicable pretreatment standard, or in any other pollutant-specific limitation developed by the Town or State.

2.7 Pretreatment of Wastewater

(a) Pretreatment Facilities

Users shall provide wastewater treatment as necessary to comply with this ordinance and wastewater permits issued under section 4.2 of this ordinance and shall achieve compliance with all National categorical pretreatment standards, local limits, and the prohibitions set out in section 2.1 of this ordinance within the time limitations as specified by EPA, the State, or the POTW Director, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the Town for review, and shall be approved by the POTW Director before construction of the facility. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the Town under the provisions of this ordinance. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be approved by the POTW Director prior to the user's initiation of the changes.

(b) Additional Pretreatment Measures

1. Whenever deemed necessary, the POTW Director may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this ordinance.
2. The POTW Director may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.
3. Grease, oil, and sand interceptors shall be provided in accordance with FOG ordinance, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand, except that such interceptors shall not be required for residential users. All interception units shall be of type and capacity approved by the POTW Director and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as directed by FOG ordinance, by the user at their expense.
4. Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

2.8 Accidental Discharge/Slug Control Plans

At least once every two (2) years, the POTW Director shall evaluate whether each significant industrial user needs an accidental discharge/ slug control plan. The POTW Director may require any user to develop, submit for approval, and implement such a plan. Alternatively, the POTW Director may develop such a plan for any user. An accidental discharge/slug control plan shall address, at a minimum, the following:

- (a) Description of discharge practices, including nonroutine batch discharges;
- (b) Description of stored chemicals;
- (c) Procedures for immediately notifying the POTW Director of any accidental or slug discharge, as required by section 5.6 of this ordinance; and
- (d) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

2.9 Hauled Wastewater

- (a) Septic tank waste may be introduced into the POTW unless permitted by the POTW Director, and at such times as are established by the POTW Director. Such waste shall not violate section 21 of this ordinance or any other requirements established by the Town. The POTW Director may require septic tank waste haulers to obtain wastewater discharge permits.
- (b) The POTW Director shall require haulers of industrial waste to obtain wastewater discharge permits. The POTW Director may require generators of hauled industrial waste to obtain wastewater discharge permits. The POTW Director also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this ordinance.
- (c) The industrial waste hauler must provide a waste analysis of any load prior to discharge.
- (d) Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

SECTION 3 - FEES

3.1 Purpose

It is the purpose of this chapter to provide for the recovery of costs from users of the wastewater disposal system of the Town for the implementation of the program established herein. The applicable charges or fees shall be set forth in a schedule of sewer use charges and fees by the POTW Director and approved by the Town Board. A copy of these charges and fees will be made available from the Clerk.

3.2 User Charges

A user charge shall be levied on all users including, but not limited to, persons, firms, corporations or governmental entities that discharge, cause or permit the discharge of sewage into the POTW.

- (a) The user charge shall reflect, at least, the cost of debt service, operation and maintenance (including replacement) of the POTW.
- (b) Each user shall pay its proportionate cost based on volume of flow.
- (c) The Town Administrator of the Town shall review annually the sewage contributions of users, the total costs of debt service, operation and maintenance of the POTW and will make recommendations to the Board serving the Town for adjustments in the schedule of charges and fees as necessary.
- (d) Charges for flow to the POTW not directly attributable to the users shall be distributed among all users of the POTW based upon the volume of flow of the users.

3.3 Surcharges: The amount of the surcharges will be based upon the volume of flow and the character and concentration of the constituents of the wastewater:

- (a) The volume of flow used in determining the total discharge of wastewater for payment of user charges and surcharges shall be based on the following:
 - (1) Metered water consumption as shown in the records of meter readings maintained by the Town; or
 - (2) If required by the Town or at the individual dischargers option, other flow monitoring devices which measure the actual volume of wastewater discharged to the sewer. Such devices shall be accessible and safely located, and the measuring system shall be installed in accordance with plans approved by the Town. The metering system shall be installed and maintained at the users expense according to arrangements that may be made with the Town.
 - (3) Where any user procures all or part of his water supply from sources other than the Town, the user shall install and maintain at his own expense a flow measuring device of a type approved by the Town.
- (b) The character and concentration of the constituents of the wastewater used in determining surcharges shall be determined by samples collected and analyzed by the Town. Samples shall be

collected in such a manner as to be representative of the actual discharge and shall be analyzed using procedures set forth in 40 CFR Part 136.

- (c) The determination of the character and concentration of the constituents of the wastewater discharge by the POTW Director or his duly appointed representatives shall be binding as a basis for charges.

3.4 Pretreatment Program Administration Charges

The schedule of charges and fees adopted by the Town may include charges and fees for:

- (a) reimbursement of costs of setting up and operating the Pretreatment Program,
- (b) monitoring, inspections and surveillance procedures;
- (c) reviewing slug control plans, including accidental and/or slug load discharge procedures and construction plans and specifications;
- (d) permitting,
- (e) other fees as the Town may deem necessary to carry out the requirements of the Pretreatment Program.

SECTION 4

WASTEWATER DISCHARGE PERMIT APPLICATION AND ISSUANCE

4.1 Wastewater Dischargers

It shall be unlawful for any person to connect or discharge to the POTW without first obtaining the permission of the Town. When requested by the POTW Director, a user must submit information on the nature and characteristics of its wastewater within thirty (30) days of the request. The POTW Director is authorized to prepare a form for this purpose and may periodically require users to update this information.

4.2 Wastewater Permits

All significant industrial users shall obtain a significant industrial user permit prior to the commencement of discharge to the POTW. Existing industrial users who are determined by the POTW Director to be significant industrial users shall obtain a significant industrial user permit within 180 days of receiving notification of the POTW Director's determination. Industrial users who do not fit the significant industrial user criteria may at the discretion of the POTW Director be required to obtain a wastewater discharge permit for non-significant industrial users.

- (a) **Significant Industrial User Determination**
All persons proposing to discharge non-domestic wastewater, or proposing to change the volume or characteristics of an existing discharge of non-domestic wastewater shall request from the POTW Director a significant industrial user determination. If the POTW Director determines or suspects that the proposed discharge fits the significant industrial user criteria he will require that a significant industrial user permit application be filed.
- (b) **Significant Industrial User Permit Application**
Users required to obtain a significant industrial user permit shall complete and file with the Town, an application in the form prescribed by the POTW Director, and accompanied by an application fee in the amount prescribed in the schedule of charges and fees. Significant industrial users shall apply for a significant industrial user permit within 90 days after notification of the POTW Director's determination in 4.2(a) above. In support of the application, the user shall submit, in units and terms appropriate for evaluation, the following information:
 - (1) Name, address, and location, (if different from the address);
 - (2) Standard Industrial Classification (SIC) codes for pretreatment, the industry as a whole, and any processes for which categorical pretreatment standards have been promulgated;
 - (3) Analytical data on wastewater constituents and characteristics including but not limited to those mentioned in section 2 of this ordinance, any of the priority pollutants (section 307(a) of

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the Act) which the applicant knows or suspects are present in the discharge as determined by a reliable analytical laboratory, and any other pollutant of concern to the POTW, sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to section 304(g) of the Act and contained in 40 CFR, Part 136, as amended:

- (4) Time and duration of the indirect discharge;
- (5) Average daily and 30 minute peak wastewater flow rates, including daily, monthly and seasonal variations if any;
- (6) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, floor drains, sewer connections, direction of flow and appurtenances by the size, location and elevation;
- (7) Description of activities, facilities and plant processes on the premises including all materials which are or could be accidentally or intentionally discharged;
- (8) Where known, the nature and concentration of any pollutants in the discharge which are limited by any Town, State, or Federal Pretreatment Standards, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the user to meet applicable pretreatment standards;
- (9) If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be longer than the compliance date established for the applicable pretreatment standard. The following conditions apply to this schedule:
 - (i) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards. No increment in the schedule shall exceed nine (9) months.
 - (ii) No later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the POTW Director including, at a minimum, whether or not it complied with the increment of progress, the reason for any delay, and if appropriate, the steps being taken by the user to return to the established schedule. In no event shall more than nine (9) months elapse between such progress reports to the POTW Director.
- (10) Each product produced by type, amount, process or processes and rate of production;
- (11) Type and amount of raw materials processed (average and maximum per day);
- (12) Number and type of employees, and hours of operation of plant and proposed or actual hours of operation of pretreatment system;
- (13) If subject to a categorical standard, a baseline monitoring report in accordance with 40 CFR 403.12(b) and 15A NCAC 2H .0908(a), as outlined in section 5.1 of this ordinance.
- (14) Any other information as may be deemed by the POTW Director to be necessary to evaluate the permit application.

(c) Application Signatories and Certification

All wastewater discharge permit applications and user reports must be signed by an authorized representative of the user and contain the following certification statement:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

(d) Application Review And Evaluation

- The POTW Director will evaluate the data furnished by the user and may require additional information.
- (1) The POTW Director is authorized to accept applications for the Town and shall review all applications and evaluation.
 - (2) Within 45 days of receipt the POTW Director shall acknowledge and accept the complete application; or if not complete, shall return the application to the applicant with a statement of what additional information is required.
 - (c) Tentative Determination and Draft Permit
 - (1) The POTW representative shall conduct a review of the application and an on-site inspection of the significant industrial user, including any pretreatment facilities, and shall prepare a written evaluation and tentative determination to issue or deny the significant industrial user permit.
 - (2) If the tentative determination in Paragraph (1) above is to issue the permit, the following additional determinations shall be made in writing
 - (i) proposed discharge limitations for those pollutants proposed to be limited;
 - (ii) a proposed schedule of compliance, including interim dates and requirements, for meeting the proposed limitations; and
 - (iii) a brief description of any other proposed special conditions which will have significant impact upon the discharge described in the application.
 - (3) The staff shall organize the determinations made pursuant to Paragraphs (1) and (2) above and the general permit conditions of the Town into a significant industrial user permit.
 - (f) Permit Synopsis

A fact sheet providing a brief synopsis of the application shall be prepared by the POTW representative for submission to the applicant and the approval authority and shall be made available to the public upon request. The contents of such fact sheets shall include at least the following information:

 - (1) a sketch and detailed description of the industrial facilities and pretreatment facilities including the location of all points of discharge to the POTW and all established compliance monitoring points.
 - (2) a quantitative description of the discharge described in the application which includes at least the following
 - (i) the rate or frequency of the proposed discharge; if the discharge is continuous, the average daily flow;
 - (ii) the actual average daily discharge in pounds per day of any limited pollutant and any pollutant identified in the application as known or suspected present; and,
 - (iii) the basis for the pretreatment limitations including the documentation of any calculations in applying categorical pretreatment standards.
 - (g) Final Action On Significant Industrial User Permit Applications
 - (1) The POTW Director shall take final action on all applications not later than 90 days following receipt of a complete application.
 - (2) The POTW Director is authorized to:
 - (i) industrial user permit containing such conditions as are necessary to effectuate the purposes of this ordinance and 1,CG S.143-215.1;
 - (ii) issue a significant industrial user permit containing time schedules for achieving compliance with applicable pretreatment standards and requirements;
 - (iii) modify any permit upon not less than 60 days notice and pursuant to section 4.2(i) of this ordinance;
 - (iv) revoke any permit pursuant to section 8.1 of this ordinance;
 - (v) suspend a permit pursuant to section 8.1 of this Ordinance.

- (vi) deny a permit application when in the opinion of the POTW Director such discharge may cause or contribute to pass-through or interference of the wastewater treatment plant or where necessary to effectuate the purposes of G.S. 143-215.1.
- (h) Hearings: The local government may conduct hearings in accordance with its regular hearing procedure.
- (1) Initial Adjudicatory Hearing. An applicant whose permit is denied, or is granted subject to conditions he deems unacceptable, a permittee/user assessed a civil penalty under section 8.2, or one issued an administrative order under section 8.1 shall have the right to an adjudicatory hearing before a hearing officer designated by the POTW Director upon making written demand, identifying the specific issues to be contested, to the POTW Director within 30 days following receipt of the significant industrial user permit, civil penalty assessment, or administrative order. Unless such written demand is made within the time specified herein, the action shall be final and binding. The hearing officer shall make a final decision on the contested permit, penalty, or order within 45 days of the receipt of the written demand for a hearing. The POTW Director shall transmit a copy of the hearing officer's decision by registered or certified mail.
- (i) New Permits. Upon appeal, including judicial review in the General Courts of Justice, of the terms or conditions of a newly issued permit, the terms and conditions of the entire permit are stayed and the permit is not in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.
- (ii) Renewed Permits. Upon appeal, including judicial review in the General Courts of Justice, of the terms or conditions of a renewed permit, the terms and conditions of the existing permit remain in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.
- (2) Final Appeal Hearing. Any decision of a hearing officer made as a result of an adjudicatory hearing held under section 4.2(h)(1) above may be appealed, to the Board serving the Town upon filing a written demand within 10 days of receipt of notice of the decision. Hearings held under this Subdivision shall be conducted in accordance with Local hearing procedures. Local ordinance # Failure to make written demand within the time specified herein shall bar further appeal. The Board serving the Town shall make a final decision on the appeal within 90 days of the date the appeal was filed. It shall transmit a written copy of its decision by registered or certified mail.

Official record. When a final decision is issued under section 4.2(h)(2) above, the Board serving the Town shall prepare an official record of the case that includes:

All notices, motions, and other like pleadings. A copy of all documentary evidence introduced;

A certified transcript of all testimony taken, if testimony is transcribed. If testimony is taken and not transcribed, then a narrative summary of any testimony taken.

A copy of the final decision of the Board serving the Town.

Judicial Review. Any person against whom a final order or decision of the Board serving the Town is entered, pursuant to the hearing conducted under section 4.2(h)(2) above, may seek judicial review of the order or decision by filing a written petition within 30 days after receipt of notice by registered or certified mail of the order or decision, but not thereafter, with the Superior Court of New Hanover County along with a copy to the Town. Within 30 days after receipt of the copy of the petition of judicial review, the Board serving the Town shall transmit to the reviewing court the original or a certified copy of the official record.

(k) Permit Modification

- (1) Modifications of permits shall be subject to the same procedural requirements as the issuance of permits except as listed below. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.
 - (i) changes in the ownership of the discharge when no other change in the permit is indicated,
 - (ii) a single modification of any compliance schedule not in excess of four months,
 - (iii) modification of compliance schedules (construction schedules) in permits for new sources where the new source will not begin to discharge until control facilities are operational.
- (2) Within 9 months of the promulgation of a National categorical pretreatment standard, the wastewater discharge permit of users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. Where a user, subject to a National categorical pretreatment standard, has not previously submitted an application for a wastewater discharge permit as required by section 4.2(b), the user shall apply for a wastewater discharge permit within 180 days after the promulgation of the applicable National categorical pretreatment standard.
- (3) A request for a modification by the permittee shall constitute a waiver of the 60-day notice required by G.S. 143-215.1(b) for modifications.

(l) Permit Conditions

- (1) The POTW Director shall have the authority to grant a permit with such conditions attached as believes necessary to achieve the purpose of this ordinance and N.C.G.S. 143-215.1. Wastewater permits shall contain, but are not limited to, the following:
 - (i) a statement of duration (in no case more than five years);
 - (ii) a statement of non-transferability;
 - (iii) applicable effluent limits based on categorical standards or local limits or both;
 - (iv) applicable monitoring, sampling, reporting, notification, and record keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on Federal, State and local law;
 - (v) notification requirements for slug loads; and,
 - (vi) a statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements and any applicable compliance schedule.
- (2) In addition, permits may contain, but are not limited to, the following:
 - (i) Limits on the average and/or maximum rate of discharge, and/or requirements for flow regulation and equalization.
 - (ii) Limits on the instantaneous, daily and monthly average and/or maximum concentration, mass, or other measure of identified wastewater pollutants or properties.
 - (iii) Requirements for the installation of pretreatment technology or construction of appropriate containment devices, etc., designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works.
 - (iv) Development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges.
 - (v) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the municipal wastewater system.
 - (vi) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the system.
 - (vii) Requirements for installation and maintenance of inspection and sampling facilities and equipment.
 - (viii) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for tests, and reporting schedules.

- (ix) Requirements for immediate reporting of any instance of noncompliance and for automatic resampling and reporting within thirty (30) days where self-monitoring indicates a violation(s).
 - (x) Compliance schedules for meeting pretreatment standards and requirements.
 - (xi) Requirements for submission of periodic self-monitoring or special notification reports.
 - (xii) Requirements for maintaining and retaining plans and records relating to wastewater discharges as specified in section 5.13 and affording the POTW Director, or his representatives, access thereto.
 - (xiii) Requirements for prior notification and approval by the POTW Director of any new introduction of wastewater pollutants or of any change in the volume or character of the wastewater prior to introduction in the system.
 - (xiv) Requirements for the prior notification and approval by the POTW Director of any change in the manufacturing and/or pretreatment process used by the permittee.
 - (xv) Requirements for immediate notification of excessive, accidental, or slug discharges, or any discharge which could cause any problems to the system.
 - (xvi) A statement that compliance with the permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State pretreatment standards, including those which become effective during the terms of the permit.
 - (xvii) Other conditions as deemed appropriate by the POTW Director to ensure compliance with this ordinance, and State and Federal laws, rules, and regulations.
- (k) **Permit Duration**
Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date.
- (l) **Permit Transfer**
Wastewater permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation.
- (m) **Permit Reissuance**
A significant industrial user shall apply for permit reissuance by submitting a complete permit application in accordance with section 4.2 a minimum of 180 days prior to the expiration of the existing permit.

SECTION 5 - REPORTING REQUIREMENTS

5.1 Baseline Monitoring Reports

- (a) Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the POTW Director a report which contains the information listed in paragraph (b), below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the POTW Director a report which contains the information listed in paragraph (b), below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.
- (b) Users described above shall submit the information set forth below
 - (1) **Identifying Information.** The name and address of the facility, including the name of the operator and owner.
 - (2) **Environmental Permits.** A list of any environmental control permits held by or for the facility.
 - (3) **Description of Operations.** A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.

- (4) **Flow Measurement.** Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined waste stream formula set out in 40 CFR 403.6(e).
- (5) **Measurement of Pollutants.**
- (i) The categorical pretreatment standards applicable to each regulated process.
 - (ii) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the POTW Director, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in section 5.10 of this ordinance.
 - (iii) Sampling must be performed in accordance with procedures set out in section 5.11 of this ordinance.
- (6) **Certification.** A statement reviewed by the user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.
- (7) **Compliance Schedule.** If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in section 5.2 of this ordinance.
- (8) **Signature and Certification.** All baseline monitoring reports must be signed and certified in accordance with section 4.2(c) of this ordinance.

5.2 Compliance Schedule Progress Reports

The following conditions shall apply to the compliance schedule required by section 5.1(b)(7) of this ordinance:

- (a) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);
- (b) No increment referred to above shall exceed nine (9) months;
- (c) The user shall submit a progress report to the POTW Director no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and
- (d) In no event shall more than nine (9) months elapse between such progress reports to the POTW Director.

5.3 Reports on Compliance with Categorical Pretreatment Standard, Deadline

Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the POTW Director a report containing the information described in section 5.1(b)(4-6) of this ordinance. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with section 4.2(c) of this ordinance.

5.4 Periodic Compliance Reports

Municipalities may sample and analyze user discharges in lieu of requiring the users to conduct sampling and analysis.

- (a) All significant industrial users shall, at a frequency determined by the POTW Director but in no case less than twice per year (in June and December), submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with section 4.2(c) of this ordinance.
- (b) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.
- (c) If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the POTW Director, using the procedures prescribed in section 5.10 of this ordinance, the results of this monitoring shall be included in the report.

5.5 Reports of Changed Conditions

Each user must notify the POTW Director as prescribed in section 4.2(j)(2)(xiii) of any planned significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least [thirty (30)] days before the change.

- (a) The POTW Director may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under section 4.2 of this ordinance.
- (b) The POTW Director may issue a wastewater discharge permit under section 4.2 of this ordinance or modify an existing wastewater discharge permit under section 4.2 of this ordinance in response to changed conditions or anticipated changed conditions.

5.6 Reports of Potential Problems

- (a) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, or a slug load, that may cause potential problems for the POTW, the user shall immediately telephone and notify the POTW Director of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.
- (b) Within five (5) days following such discharge, the user shall, unless waived by the POTW Director, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this ordinance.
- (c) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in paragraph (a), above. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.

5.7 Reports from Unpermitted Users

All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the POTW Director as the POTW Director may require.

5.8 Notice of Violation/Repeat Sampling and Reporting

If sampling performed by a user indicates a violation, the user must notify the POTW Director within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the POTW Director within thirty (30) days after becoming aware of the violation. The user is not required to resample if the POTW Director monitors at the user's facility at least once a month, or if the POTW Director samples between the user's initial sampling and when the user receives the results of this sampling.

5.9 Notification of the Discharge of Hazardous Waste

The Town prohibits the discharge of any hazardous wastes without notification and approval of the POTW Director.

- (a) Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and State hazardous waste authorities, in writing of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharge during the calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred and eighty (180) days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharge. However, notifications of changed conditions must be submitted under section 5.5 of this ordinance. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of sections 5.1, 5.3, and 5.4 of this ordinance.
- (b) Dischargers are exempt from the requirements of paragraph (a), above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specific in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.
- (c) In the case of any new regulation under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the POTW Director, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.
- (d) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.
- (e) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this ordinance, a permit issued thereunder, or any applicable Federal or State law.

5.10 Analytical Requirements

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA.

5.11 Sample Collection

- (a) Except as indicated in section (b), below, the user must collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is

infeasible, the POTW Director may authorize the use of time proportional sampling or a minimum of four (4) grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.

- (b) Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

5.12 Timing

Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

5.13 Record Keeping

Users subject to the reporting requirements of this ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this ordinance and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or the Town, or where the user has been specifically notified of a longer retention period by the POTW Director.

SECTION 6 - COMPLIANCE MONITORING

6.1 Monitoring Facilities

The Town requires the user to provide and operate at the user's own expense, monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer and/or internal drainage systems. The monitoring facility should normally be situated on the user's premises, but the Town may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.

There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the requirements of the Town and all applicable local construction standards and specifications. Construction shall be completed within 90 days following written notification by the Town.

6.2 Inspection and Sampling

The Town will inspect the facilities of any user to ascertain whether the purpose of this ordinance is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the Town, approval authority and EPA or their representative ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination and copying or in the performance of any of their duties. The Town, approval authority and EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the Town, approval authority and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities. Denial of the POTW Director's approval authority's, or EPA's access to the user's premises shall be a violation of this ordinance.

6.3 Search Warrants

If the POTW Director, approval authority, or EPA has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a

violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the Town designed to verify compliance with this ordinance or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the POTW Director, approval authority, or EPA may seek issuance of a search warrant from the court having jurisdiction within the Town.

SECTION 7 - CONFIDENTIAL INFORMATION

Information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the POTW Director that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user. Any such request must be asserted at the time of submission of the information or data.

When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available upon written request to governmental agencies for uses related to this ordinance, the National Pollutant Discharge Elimination System (NPDES) Permit, Non-discharge permit and/or the pretreatment programs; provided, however, that such portions of a report shall be available for use by the State or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

All records relating to compliance with Pretreatment Standards shall be made available to officials of the approval authority and EPA upon request.

SECTION 8 - ENFORCEMENT

8.1 Administrative Remedies

(a) Notification Of Violation

Whenever the POTW Director finds that any user has violated or is violating this Ordinance, wastewater permit, or any prohibition, limitation or requirements contained therein or any other pretreatment requirement the POTW Director may serve upon such a person a written notice stating the nature of the violation. Within 30 days from the date of this notice, an explanation for the violation and a plan for the satisfactory correction thereof shall be submitted to the Town by the user. Submission of this plan does not relieve the discharger of liability for any violations occurring before or after receipt of the notice of violation.

(b) Consent Orders

The POTW Director is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. Such orders will include specific action to be taken by the discharger to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as an administrative order issued pursuant to section 8.1(d), below.

(c) Show Cause Hearing

The POTW Director may order any user who causes or is responsible for an unauthorized discharge, has violated this ordinance or is in noncompliance with a wastewater discharge permit to show cause why a proposed enforcement action should not be taken. In the event the POTW Director determines that a show cause order should be issued, a notice shall be served on the user specifying the time and place for the hearing, the proposed enforcement action, the reasons for such action, and a request that the user show cause why this proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail.

(return receipt requested) at least ten (10) days before the hearing. Service may be made on any agent or officer of a corporation.

The POTW Director shall review the evidence presented at the hearing and determine whether the proposed enforcement action is appropriate.

A show cause hearing under this section is not a prerequisite to the assessment of a civil penalty under section 8.2 nor is any action or inaction taken by the POTW Director under this section subject to an administrative appeal under section 4.2(h).

(d) Administrative Orders

When the POTW Director finds that user has violated or continues to violate this ordinance, permits or orders issued hereunder, or any other pretreatment requirement the POTW Director may issue an order to cease and desist all such violations and direct those persons in noncompliance to do any of the following:

- (1) Immediately comply with all requirements;
- (2) Comply in accordance with a compliance time schedule set forth in the order;
- (3) Take appropriate remedial or preventive action in the event of a continuing or threatened violation;
- (4) Disconnect unless adequate treatment facilities, devices or other related appurtenances are installed and properly operated within a specified time period.

(e) Emergency Suspensions

The POTW Director may suspend the wastewater treatment service and/or wastewater permit when such suspension is necessary in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons or the environment, interferes with the POTW or causes the POTW to violate any condition of its NPDES or Non-discharge permit.

Any user notified of a suspension of the wastewater treatment service and/or the wastewater permit shall immediately stop or eliminate the contribution. A hearing will be held within 15 days of the notice of suspension to determine whether the suspension may be lifted or the user's waste discharge permit terminated. In the event of a failure to comply voluntarily with the suspension order, the POTW Director shall take such steps as deemed necessary including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. The POTW Director shall reinstate the wastewater permit and the wastewater treatment service upon proof of the elimination of the noncompliant discharge. The industrial user shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the POTW Director prior to the date of the above-described hearing.

(f) Termination Of Permit

Any user who violates the following conditions of this ordinance, or applicable State and Federal regulations, is subject to having its permit terminated:

- (1) Failure to accurately report the wastewater constituents and characteristics of his discharge;
- (2) Failure to report significant changes in operations, or wastewater constituents and characteristics;
- (3) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring; or,
- (4) Violation of conditions of the permit.

Noncompliant users will be notified of the proposed termination of their wastewater permit and will be offered an opportunity to show cause under section 8.1 of this ordinance why the proposed action should not be taken.

8.2 Civil Penalties

- (a) Any user who is found to have failed to comply with any provision of this ordinance, or the orders, rules, regulations and permits issued hereunder, may be fined up to twenty-five thousand dollars (\$25,000) per day per violation.
- a. Penalties between \$10,000 and \$25,000 per day per violation may be assessed against a violator only if:
- i. For any class of violation, only if a civil penalty has been imposed against the violator within the five years preceding the violation, or
 - ii. In the case of failure to file, submit, or make available, as the case may be, any documents, data, or reports required by this ordinance, or the orders, rules, regulations and permits issued hereunder, only if the POTW Director determines that the violation was intentional and a civil penalty has been imposed against the violator within the five years preceding the violation.
- (b) In determining the amount of the civil penalty, the POTW Director shall consider the following:
- (i) The degree and extent of the harm to the natural resources, to the public health, or to public or private property resulting from the violation;
 - (ii) The duration and gravity of the violation;
 - (iii) The effect on ground or surface water quantity or quality or on air quality;
 - (iv) The cost of rectifying the damage;
 - (v) The amount of money saved by noncompliance;
 - (vi) Whether the violation was committed willfully or intentionally;
 - (vii) The prior record of the violator in complying or failing to comply with the pretreatment program;
 - (viii) The costs of enforcement to the Town.
- (c) Appeals of civil penalties assessed in accordance with this section shall be as provided in section 4.2(h).

8.3 Other Available Remedies

Remedies, in addition to those previously mentioned in this ordinance, are available to the POTW Director who may use any single one or combination against a noncompliant user. Additional available remedies include, but are not limited to:

- (a) Criminal Violations.

The District Attorney for the applicable Judicial District may, at the request of the Town, prosecute noncompliant users who violate the provisions of N.C.G.S. 143-215.6B. [Note: Under North Carolina law, it is a crime to negligently violate any term, condition, or requirement of a pretreatment permit, or negligently fail to apply for a pretreatment permit, issued by local governments (G.S. 143-215.6B(f)), to knowingly and willfully violate any term, condition, or requirement of a pretreatment permit, or knowingly and willfully fail to apply for a pretreatment permit, issued by local governments (G.S. 143-215.6B(g)), to knowingly violate any term, condition, or requirement of a pretreatment permit issued by local governments, or knowingly fail to apply for a pretreatment permit, knowing at the time that a person is placed in imminent danger of death or serious bodily injury, (G.S. 143-215.6B(h)), and to falsify information required under Article 21 of Chapter 143 of the General Statutes (G.S. 143-215.6B(i)).]

(b) Injunctive Relief

Whenever a user is in violation of the provisions of this ordinance or an order or permit issued hereunder, the POTW Director, through the Town Attorney, may petition the Superior Court of Justice for the issuance of a restraining order or a preliminary and permanent injunction which restrains or compels the activities in question

(c) Water Supply Severance

Whenever an user is in violation of the provisions of this ordinance or an order or permit issued hereunder, water service to the user may be severed and service will only recommence, at the user's expense, after it has satisfactorily demonstrated ability to comply.

(d) Public Nuisances

Any violation of the prohibitions or effluent limitations of this ordinance or of a permit or order issued hereunder, is hereby declared a public nuisance and shall be corrected or abated as directed by the POTW Director. Any person(s) creating a public nuisance shall be subject to the provisions of the appropriate ordinances of the Town governing such nuisances, including reimbursing the POTW for any costs incurred in removing, abating or remedying said nuisance.

8.4 Remedies Nonexclusive

The remedies provided for in this ordinance are not exclusive. The POTW Director may take any, all or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the Town's enforcement response plan. However, the POTW Director may take other action against any user when the circumstances warrant. Further, the POTW Director is empowered to take more than one enforcement action against any noncompliant user.

SECTION 9 - ANNUAL PUBLICATION OF SIGNIFICANT NONCOMPLIANCE

At least annually, the POTW Director shall publish in the largest daily newspaper circulated in the service area, a list of those industrial users which were found to be in significant noncompliance, also referred to as reportable noncompliance in 15A NCAC 2H .0903(b)(10), with applicable pretreatment standards and requirements, during the previous 12 months.

SECTION 10 - AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

10.1 Upset

- (a) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of paragraph (b), below, are met.
- (b) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - (1) An upset occurred and the user can identify the cause(s) of the upset;
 - (2) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
 - (3) The user has submitted the following information to the POTW Director within twenty-four (24) hours of becoming aware of the upset [if this information is provided orally, a written submission must be provided within five (5) days]:
 - (i) A description of the indirect discharge and cause of noncompliance;
 - (ii) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and

- (iii) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
- (c) In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.
- (d) Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.
- (e) Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

10.2 Prohibited Discharge Standards Defense

A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in section 2.1 (a) of this ordinance or the specific prohibitions in sections 2.1(b)(2), (3), and (5 - 7) of this ordinance if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

- (a) A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or
- (b) No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when [the City] was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

10.3 Bypass

- (a)
 - (1) If a user knows in advance of the need for a bypass, it shall submit prior notice to the POTW Director, at least ten (10) days before the date of the bypass, if possible.
 - (2) A user shall submit oral notice to the POTW Director of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of this time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times; and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The POTW Director may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.
- (b)
 - (1) Bypass is prohibited, and the POTW Director may take an enforcement action against a user for a bypass, unless
 - (i) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (ii) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - (iii) The user submitted notices as required under paragraph (b) of this section.
 - (2) The POTW Director may approve an anticipated bypass, after considering its adverse effects, if the POTW Director determines that it will meet the three conditions listed in paragraph (b)(1) of this section.

SECTION 11 - SEVERABILITY

If any provision, paragraph, word, section or article of this ordinance is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections, and chapters shall not be affected and shall continue in full force and effect.

SECTION 12 - CONFLICT

All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this ordinance are hereby repealed to the extent of such inconsistency or conflict.

SECTION 13 - EFFECTIVE DATE

This ordinance shall be in full force and effect

On the 19 day of June, 2012

FIRST READING: _____ 2012

SECOND READING: _____ 2012

PASSED this day of _____ 2012

NAYS: 0

AYES: 4

ABSENT: Com. Luther Kissner III

NOT VOTING: NA

APPROVED this 19 day of June 2012



Gwendolyn B. Vance
MAYOR, of the Town of Magnolia

Katrina Miller

Published this day of June 2012.

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**DUPLIN COUNTY
AN ORDINANCE REGULATING THE
SITING, OPERATION AND MAINTENANCE OF SOLAR ENERGY
GENERATING FACILITIES**

Purpose

The purpose of this ordinance is to facilitate the siting, construction, installation and operation of solar energy generations facilities in Duplin County in a manner that promotes economic development and ensures the protection of the health, safety and general welfare of the citizens while also avoiding adverse impacts to adjacent land uses and property owners.

Upon the recommendation of the Duplin County Planning Board, the Duplin County Board of Commissioners desires to enact this ordinance regulating the siting, operation and maintenance of solar energy generating facilities in the unincorporated areas of Duplin County,

SECTION I - TITLE

This ordinance may be known and may be cited as "Ordinance Regulating the Siting, Operation and Maintenance of Solar Energy Facilities in Duplin County".

SECTION II - DEFINITIONS

For the purpose of this ordinance, certain terms and words are hereby defined; words used in the present tense shall include the future; words used in the singular number shall include the plural number; and the plural the singular; and the word "shall" is mandatory and not discretionary.

Building: Any structure having a roof supported by columns or walls, and designated or intended for the shelter, support, enclosure or protection of persons, animals or chattels.

Fence/Barrier: A continuous barrier extending from the surface of the ground to a uniform height of not less than six (6) feet from the ground at any given point, constructed of soil, wood, stone, steel, or other metal, or any substance of a similar nature and strength.

Gate: A door or other device attached to a fence which, when opened, provides a means of ingress and egress of persons and things for which it was intended, and which, when closed, forms a continuous barrier as a part of the fence to which it is attached.

Improved Area: Area containing perimeter fencing, solar panels, electrical inverters, storage buildings and access roads.

Opaque Fence: A continuous opaque, unperforated barrier extending from the surface of the ground to a uniform height of not less than six (6) feet from the ground at any given point, constructed of soil, wood, stone, steel, or other metal, or any substance of a similar nature and strength which will conceal the solar energy facility from view.

Operator: The person(s), entity or company that engages in or runs a solar energy facility.

Owner: The person(s), entity or company having legal title to the subject property wherein the solar energy facility is located.

Public Road: Any road or highway which is now or hereafter maintained by the North Carolina Department of Transportation as part of the State Highway System. Setbacks for improved areas shall be measured from the road right of way.

Residence: A building used as a dwelling for one or more families or persons.

Residential Area: Any area within one tenth mile of a solar energy facility having twenty five or more dwellings.

Solar Energy Facility: An energy generating facility or area principally used to convert solar energy to electricity, which includes, but is not limited to, the use of one or more solar energy systems and related appurtenances. This definition shall only include those facilities whose primary purpose is to sell electricity to be used off site.

SECTION III - PROHIBITIONS

It shall be unlawful after the effective date of this Ordinance for any person, firm, or corporation, or other legal entity to construct, establish modify or expand a solar energy generating facility within the jurisdiction of Duplin County until a site plan for such has been approved by the Duplin County Planning Board.

SECTION IV - LOCATION

- A. All solar energy facilities proposed to be located in areas covered by the 2009 Duplin County Airport Land Use and Height Restriction Ordinance adopted May 1, 2009, or subsequent amendments to said ordinance, must be permitted by the Duplin County Planning Department in accordance with Article VIII of said Ordinance.
- B. All improved areas, including disposal areas, shall be at least 60 feet from a public road and 25 feet from a fence line. In the event that an opaque fence is installed the setback may be reduced to 20 feet.
- C. Improved areas shall be at least 300 feet from any residence or church, measured from the principal building. In the event there is no residence or church within 300 feet from the improved areas, then the improved area shall be at least 50 feet from the property line.
- D. All access roads and storage areas shall be established on a 30 feet minimum easement to a public right of way.
- E. All solar energy facilities shall have a minimum landscape buffer of 25 feet along the perimeter of the improved area. The buffer shall contain evergreen trees or bushes planted no

more than 8 feet apart and at least 4' tall at time of planting. The buffer shall obtain a height of 7 feet within 3 growing seasons. The trees or bushes may be trimmed but no lower than a height of 7 feet. Facility operators shall utilize good husbandry techniques with respect to maintaining the landscape buffer, including but not limited to, proper pruning, proper fertilizer, and proper mulching, so that the vegetation will reach maturity as soon as practical and will have maximum density in foliage. Dead or diseased vegetation shall be removed and must be replanted at the next appropriate planting time. Plants or grasses not part of landscaping shall be maintained by the facility operator not to exceed twelve inches in height. A buffer area will not be required between a solar energy facility and adjacent industrial, agriculture, timber or commercial land uses. A planted buffer will not be required if an opaque fence is installed.

- F. All solar energy facilities shall have a fence or continuous barrier extending from the surface of the ground to a uniform height of not less than six (6) feet from the ground at any given point, constructed of soil, wood, stone, steel, or other metal, or any substance of a similar nature and strength.

SECTION V - SECURITY

Solar energy facilities shall be fenced completely as defined in Section Two above. The perimeter fence shall be designed to restrict unauthorized access.

SECTION VI - SUPPLEMENTAL REGULATIONS

- A. The manufacturers or installer's identification and appropriate warning sign shall be posted on or near the panels in a clearly visible manner.
- B. On site power lines between solar panels and inverters shall be placed underground.
- C. The design of solar energy facilities buffers shall use materials, colors, textures, screening and landscaping, that will blend the facility into the natural setting and existing environment.
- D. If the solar energy facility consists of batteries or storage of batteries, adequate design must be provided to ensure all local, state and federal requirements regulating outdoor battery storage have been met.
- E. The applicant must obtain from NC Department of Transportation a driveway permit.
- F. A copy of the Purchase Power Application with the utility company that will be purchasing electricity from the proposed site shall be provided to the County Planning Department prior to the Duplin County Building Inspections issuing a permit.
- G. An affidavit or evidence of an agreement or property lease between the property owner and the facility's owner or operator confirming the owner or operator has permission of the

property owner to apply for the necessary permits for construction and operation of the solar energy facility.

- H. Any other relevant studies, reports, certificates and approval as may be reasonably required by the county.
- I. A description of the proposed technology to include type of solar panel and system, fixed mounted verses solar tracking, number of panels, and angles of orientation.
- J. An information sign shall be posted and maintained at the entrance(s) which lists the name and phone number of the operator.
- K. It is the responsibility of the parcel owner to remove all obsolete or unused systems within 12 months of cessation of operations. Reusable components are to be recycled whenever possible. Notification shall be sent to the County Planning Department prior to cessation of operations

SECTION VII - SITE PLAN / ELECTRICAL & STRUCTURAL DRAWINGS REQUIRED

- A. Owners or operators of solar energy facilities established after the effective date of this Ordinance shall present three copies of a site plan which conform to the standards of this Ordinance to the Duplin County Planning Department. The site plan shall depict and include improved areas, setbacks, panel sizes, location of property lines, buildings and road right of ways etc... in sufficient detail to illustrate the design and situation of the improvements on the property.
- B. The Planning Board shall review the site plan to insure conformity with the requirements of this Ordinance. No new solar energy facility shall be operated until the site plan has been approved by the Duplin County Planning Board; provided, however, that if the Planning Board has not taken action within ninety (90) days after the first Planning Board meeting after the submission of the site plan, said site plan will be deemed to be approved.
- C. The Planning Board may grant a variance to these requirements based upon good cause shown. Applications for such variance shall be made to the Duplin County Planning Department.
- D. Appeals of a Planning Board decision shall be to the Duplin County Board of Commissioners.
- E. Upon approval from the Duplin County Planning Board, as well as any other Federal, or State Agency the person, firm, or corporation shall be required to submit two (2) copies of the approved site plans, two (2) copies of the engineered electrical and structural plans to the Duplin County Building Inspections Department. Application for Electrical and Building Permits in accordance with applicable provisions of the General Statutes shall be due at the time of plan submittal to the Duplin County Building Inspections Department. After approval

of the Electrical and Structural drawings a permit may be issued for work to begin. Inspections will be made accordingly to the advancement of construction to assure compliance in accordance with applicable provisions of the General Statutes. After all inspections are completed, a certificate of compliance will be issued for the site.

SECTION VIII - VIOLATIONS

Any act constituting a violation of the provisions of this Ordinance or a failure to comply with any of its requirements shall subject the offender to a civil penalty of \$500.00. If the offender fails to remedy the violation and pay any civil penalty within ten (10) days after being cited for said violation (or within the time prescribed by a citation if it provides for a longer period of time than ten days), the civil penalty may be recovered in a civil action in the nature of a debt. Civil penalties begin to accrue from the date of the first notice of violation.

This Ordinance may also be enforced by any appropriate equitable action authorized by law, including injunctive relief, whether or not there is an adequate remedy at law.

- (a) Each day that any violation continues, regardless of the date of notice, shall be considered a separate offense for purposes of the penalties and remedies specified in this section.
- (b) In such an event, civil penalties begin to accrue from the date of the first notice of violation. For continuing violations, the initial citation and requirement that the civil penalty be paid within the time prescribed therein shall be the only notice required to be given; and shall be deemed to be an on-going citation and notice for continuing violations after the date of the citation.
- (c) Any one, all, or any combination of the foregoing penalties and remedies may be used to enforce this Ordinance.

Violations of the provisions of this Ordinance or failure to comply with any of its requirements shall not constitute a misdemeanor as provided in N.C. Gen. Stat. § 14-4, unless any specific penalty set forth elsewhere provides to the contrary.

Alternatives for Enforcement. In addition to the provisions of this section, any provision of this Ordinance or other ordinance of the County may be enforced by any one or more of the remedies authorized by N.C. Gen. Stat. §153A-123, excluding misdemeanor charges as provided in N.C. Gen. Stat. § 14-4, unless any specific penalty set forth elsewhere provides to the contrary.

SECTION IX - ENFORCEMENT

- A. The enforcement officer shall be the Duplin County Planner or designee. The enforcement officer shall review site plans for compliance with this ordinance and may also visit the facilities occasionally to determine ongoing compliance with the ordinance. The

enforcement officer shall notify the Operator in writing of any deficiencies and the necessary steps that must be taken to bring the facility into compliance. If the Operator fails to bring the facility into compliance with this Ordinance, the enforcement officer, after consultation with the County Manager, shall institute the necessary steps to enforce this ordinance in accordance with the provisions of subsection B of this Section.

- B. This Ordinance may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction. It may be enforced by injunction and order of abatement. The County may apply for a mandatory or prohibitory injunction and order of abatement commanding the violator to correct any unlawful condition upon or cease the unlawful use of property. The County may request an order of abatement as part of a judgment in the cause any may request the court to close, demolish or remove buildings or other structures or take any other action that is necessary to bring the solar energy facility into compliance with this Ordinance.

This Ordinance may be enforced by any one or more of the remedies authorized herein.

SECTION X - SEVERABILITY

If any section or part of this Ordinance should be held invalid for any reason, such determination shall not affect the remaining sections or parts, and to that end the provisions of this Ordinance are severable.

SECTION XI - EFFECTIVE DATE

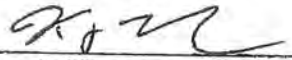
This Ordinance shall become effective upon adoption.

SECTION XII - GRANDFATHER CLAUSE


Any outstanding building permit for a solar farm in Duplin County valid at the time of adoption shall remain in force, and nothing in this Ordinance shall require a change of plans, construction, or designated use of any structure for which such permit has been issued.

Adopted this the 20th day of April, 2015

Duplin County Board of Commissioners

By: 
Kennedy Thompson, Chairman

Attest:


Mike Aldridge, Clerk to the Board

**DUPLIN COUNTY
VOLUNTARY AGRICULTURAL DISTRICTS
ORDINANCE**

000654

**ARTICLE I
TITLE**

This program, adopted by the Board of Commissioners of Duplin County, North Carolina, shall be known as the **Duplin County Voluntary Agricultural Districts Ordinance**.

**ARTICLE II
AUTHORITY**

The articles and sections of this program ordinance are adopted pursuant to the authority conferred by N. C. General Statutes §106-735 through 106-743.

**ARTICLE III
PURPOSE**

The purpose of this program ordinance is to promote the health, safety, rural agricultural values, and general welfare of the County, and more specifically, increase identity and pride in the agricultural community and its way of life, encourage the economic and financial health of agriculture; increase protection from non-farm development; and increase the protection of farms from suits and other negative impacts on properly managed farms.

**ARTICLE IV
JURISDICTION**

The Duplin County Voluntary Agricultural Districts will follow the lines/boundaries of the existing six county commissioner's districts within the County and will cover all unincorporated areas within those to include the extra territorial jurisdictions (ETJ) of each town.

**ARTICLE V
DEFINITIONS**

Agricultural board: The Duplin County Agricultural Board is a committee of representatives from each Commissioner district, the Director of the Duplin County Cooperative Extension Service, the Duplin County Planner, the Register of Deeds, the District Conservationist of the Duplin County Natural Resources Conservation Service (NRCS), the President or alternate Council member of the Duplin County Agribusiness Council, the President or alternate member from the Duplin County Farm Bureau, and performs duties outlined in this Voluntary Agriculture District (VAD) Ordinance.

Board of Commissioners: The Board of Commissioners of Duplin County, North Carolina.

Chairman: Chairman of the Duplin County Agricultural Board.

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District: A voluntary agricultural district (VAD) established under the terms and conditions of this program by the Board of Commissioners.

ARTICLE VI
QUALIFICATIONS AND CERTIFICATION OF FARMLAND

Section 600, Requirements

In order for farmland to qualify for participation under the terms of this program, it shall meet the following requirements:

- (1) The farmland shall be real property;
- (2) The farm property shall be participating in the farm present-use-value taxation program established by G. S. § 105-277.2 through 105.277.7, or is otherwise determined by the County to meet all the qualifications of this program set forth in G. S. § 105.277.3;
- (3) The property shall be certified by the Natural Resources Conservation Service of the United States Department of Agriculture, in consultation with the Cooperative Extension Service and the Farm Service Agency, as being a farm on which at least two-thirds of the land is composed of soils that;
 - (a) are best suited for providing food, seed, fiber, forage, timber, and horticultural crops, including Christmas trees and ornamentals;
 - (b) have good soil qualities;
 - (c) are favorable for all major crops common to the county where the land is located;
 - (d) have a favorable growing season; and
 - (e) receive the available moisture needed to produce high yields for an average of eight out of ten years; or
 - (f) soils on which at least two-thirds of the land has been actively used in agricultural, horticultural, or forestry operations as defined in G. S. § 105-277.2.
- (4) The property, if highly erodible land exists on the farm, is managed in accordance with the Natural Resources Conservation Service defined erosion control practices that are addressed to said highly erodible land; and
- (5) The property is the subject of a conservation agreement, as defined in G. S. § 121-35, between the County and the owner of such land that prohibits non-farm use of development of such land for a period of at least ten years, except for the creation of not more than three lots that meet applicable County watershed and subdivision regulations, or the regulations of any municipality which apply to the farm property.

The property owner may voluntarily revoke this conservation agreement by submitting a written request to the Board in accordance with Article VIII.

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Section 601. Certification

The owner of the farm seeking to qualify his property for participation in the farmland preservation program ordinance shall submit written evidence that the property conforms to the requirements of Section 600 of this program. This written information shall be submitted to the Chairman of the Agricultural Board or the designated staff person on forms provided by the Board. The certification may be submitted at the time the owner applies for inclusion in a district.

ARTICLE VII
APPLICATION, APPROVAL AND APPEAL PROCEDURES
FOR VOLUNTARY AGRICULTURAL DISTRICTS

Section 700. Creation of Voluntary Agricultural Districts

In order to implement the purposes stated in Article III, this program provides for the creation of voluntary agricultural districts which shall meet the following standards:

- (1) The district, when initially established, shall either:
 - (a.) contain a minimum of ten (10) contiguous acres of qualified farmland, OR
 - (b.) contain two (2) or more qualified farms which at least one (1) farm contains a minimum of ten (10) acres and are located within one (1) mile of each other,
OR
 - (c.) contain the minimum amount of acreage of qualified farmland required under N. C. General Statute § 105-277.3 as determined by the County.
- (2) The landowner(s) requesting inclusion in the district shall execute an agreement with the County to sustain agriculture in the district in accordance with Section 600 (5) of this program. Said agreement shall be in a form which is reviewed and approved by the Agricultural Board; and
- (3) For each district created under the terms of this program, one of the existing Agricultural Board members shall be assigned to represent the district.

Section 701. Application to Participate

A landowner may apply to participate in the program by making application to the chairman of the Agricultural Board or to a designated staff person. The application shall be on forms provided by the Agricultural Board. The application to participate in a district may be filed with the certification of qualifying farmland.

Section 702. Approval Process

Upon review by the staff of the written certification and application submitted by the property owner, the Board shall meet within 30 days, if possible, to approve or disapprove the application. The chairman shall notify the applicants by first class mail of said approval or disapproval of participation in the district.

Upon receipt of an application, the chairman of the Agricultural Board may forward a copy of the application to the County Manager, the County Tax Assessor, and the County Planning Board which may be asked to provide comments, if any, to the Agricultural Board prior to the vote on the application.

Section 703. Appeal

If an application is denied by the Agricultural Board, the petitioner has 30 days from the date of the letter to appeal the decision to the Duplin County Board of Commissioners. Such appeal shall be presented in writing. The decision of the Board of Commissioners is final.

ARTICLE VIII
REVOCATION OF CONSERVATION AGREEMENTS

By written notice to the board, a landowner of qualifying farmland may revoke the preservation agreement formulated pursuant to Section 600 (5) of this program, or the board may revoke same preservation agreement based on noncompliance by the landowner. Such revocation shall result in loss of qualifying farm status, and consequently, loss of eligibility to participate in a voluntary agricultural district and the benefits thereof. Revocation by a landowner of a preservation agreement and the resulting loss of qualifying farmland status for the purpose of participation in a voluntary agricultural district shall in no way affect the eligibility of the land to be taxed at its present use value as provided in N. C. G. S. § 105-277.2 through N. C. G. S. § 105-277.6. If a portion of a district is removed for any reason after being established by this program, the remaining qualified farms may remain in the program, provided they meet all other requirements except the minimum area requirements of Section 700 (1).

ARTICLE IX
AGRICULTURAL BOARD

Section 900. Creation

In accordance with N. C. G. S. § 106.739, the Board of Commissioners hereby establishes an Agricultural Board to implement the provisions of this program ordinance.

Section 901. Appointments and Memberships

The Agricultural Board shall consist of twelve members appointed by the Duplin County Board of Commissioners.

Requirements: Each Board Member shall be a County resident or landowner of Duplin County.

(1) Membership:

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- (a) The Agricultural Board shall consist of no less than twelve members. One member that is actively engaged in farming shall be appointed from each of the six districts **upon recommendation of the Agricultural Board**, plus the Director of the Duplin County Cooperative Extension Service, the Duplin County Planner, the Register of Deeds, the District Conservationist of the Duplin County Natural Resources Conservation Service (NRCS). In addition, the President or alternate council member of the Duplin County Agribusiness Council and the President or alternate board member of the Duplin County Farm Bureau shall be appointed.
 - (b) The six members actively engaged in farming representing the Commissioner Districts shall be **recommended for appointment by the Agricultural Board** and approved by the Board of Commissioners. The Director of the Duplin County Cooperative Extension Service, the Duplin County Planner, the Register of Deeds and the District Conservationist of the Duplin County Natural Resources Conservation District (NRCS) will be requested to participate on this board.
 - (c) A quorum shall be 6 or more committee members and all appointed members will be eligible to vote.
- (2) Tenure: The initial Agricultural Board shall consist of two members appointed for a term of one year, two members appointed for a term of two years, and two members appointed for a term of three years. Thereafter, all appointments to the Agricultural Board will be for a period of three years with reappointment permitted. The terms for the appointment of the initial Agricultural Board will be determined by lottery.
- (3) Vacancies: Any vacancy on the Agricultural Board is to be filled by the Board of Commissioners for the remainder of the unexpired term following the same procedure as for the initial appointment upon recommendations from the Agribusiness Council or by employee replacement.
- (4) Removal for Cause: Any member of the Agricultural Board may be removed for cause, (the inability or unwillingness to serve), by the Board of Commissioners upon written notice and recommendation of the Agricultural Board, Duplin County Farm Bureau or Duplin County Agribusiness Council.
- (5) Funding: Appropriations for Performance of Duties. Funds shall be appropriated by the Board of Commissioners to the Agricultural Board to perform its duties. A budget request will be presented to the County Commissioners annually.

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Section 902. Procedures

The Board shall adopt rules of procedure which are consistent with the enabling legislation and other applicable statutes.

- (1) Chairperson: The Board shall elect a chairperson and vice-chairperson each year at its first meeting of the fiscal year. The chairperson shall preside over all regular or special meetings of the Board. In the absence or disability of the chairperson, the vice-chairperson shall preside and shall have and exercise all the powers of the chairperson so absent or disabled. Additional officers may be elected as needed.
- (2) Supplementary Rules: The jurisdiction and procedures of the Board are set out in this article, except that the Board may adopt supplementary rules of procedure not inconsistent with this article or with other provisions of law.
- (3) Board Year: The Board shall use the County fiscal year as its meeting year.
- (4) Meetings: Meetings of the Board, following such notice as required by this article, shall be held at the call of the Chairperson and at such other times as the Board in its rules of procedure may specify. A regular meeting shall be held at least quarterly. The normal schedule of these meetings will be the 4th Tuesday evenings of the months of January, April, July, and October unless delayed by call of the Chairperson. A quorum shall consist of six of the members of the Board.
- (5) Voting: The concurring vote of a majority of the members of the Board shall be necessary to reverse any order, requirement, decision, or determination of any administrative official or agency to decide in favor of an applicant or to pass upon any other matter on which it is required to act under this article.
- (6) Records: The Board shall keep minutes of the proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions all of which shall be immediately filed in the office of the Board (Cooperative Extension) and shall be a public record.
- (7) Administrative Services: The Cooperative Extension Service Office shall serve the Agricultural Board for record keeping, correspondence, and application procedures under this article together with such other services the Board needs to complete its duties.

Section 903. Duties:

The Agricultural Board shall:

- (1) Review and approve applications for qualified farmland and voluntary agricultural districts.
- (2) Advise the Board of Commissioners on projects, programs, or issues affecting the agricultural economy or activities within the County and that will affect agricultural districts.
- (3) Perform other related tasks or duties assigned by the Board of Commissioners.
- (4) Review and make recommendations concerning proposed amendments to this ordinance.
- (5) Make recommendations to the Duplin County Board of Commissioners on the implementation of the Duplin County Agricultural Protection Plan adopted as the county wide strategic agriculture plan on December 20, 2010 in support of the Duplin County agricultural needs, and as defined in N. C. G. S. § 106-744 (C)(1) ; and
- (6) Study additional methods of farmland preservation and make recommendations to the Board of Commissioners.

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ARTICLE X
LAND USE INCENTIVES TO VOLUNTARY
AGRICULTURAL DISTRICT INFORMATION

Section 1000. Purpose

- (1) Upon certification of qualifying farmland and designation of real property as an agricultural district, the title to that qualifying farmland and real property, which is contained in the Duplin County Land Records System, shall be changed to include a notice reasonably calculated to alert any person researching the title of a particular tract and such tract is located within one-half (1/2) aerial mile of a Voluntary Agricultural District.
- (2) The Agricultural Board, in cooperation with the County, shall take measures as set forth below to provide notification to property owners, residents, and other interested persons in and adjacent to any designated agricultural district with a goal of informing all current and potential residents and property owners in and adjacent to an agricultural district that farming and agricultural activities may take place in this district any time during the day or night.
 - (a) Signs identifying approved agricultural districts shall be placed along the rights-of-way of major roads leading into the County. Members of the Agricultural District will place signs on their individual farms denoting their agricultural district membership in a way calculated to reasonably notify the public and adjoining of the presence of the farm property.

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- (b) Information identifying approved districts shall be provided to the Register of Deeds Office, the Duplin Soil and Water Conservation District, the Cooperative Extension Service Office, the Farm Service Agency, the Duplin County Planning Department, and the Duplin County Tax Department.
- (c) The following notice shall be displayed in a prominent position in the Office of the Register of Deeds and the public access area in the Duplin County Tax Department.

NOTICE TO REAL ESTATE PURCHASERS IN DUPLIN COUNTY
DUPLIN COUNTY AGRICULTURAL DISTRICTS

Duplin County has established agricultural districts to protect and preserve agricultural lands and activities. These districts have been developed and mapped to inform all purchasers of real property that certain agricultural activities, including but not limited to, pesticide spraying, manure spreading, machinery and truck operations, livestock operations, sawing, and similar activities may take place in these districts any time during the day or night. Maps and/or information on the location and establishment of these districts can be obtained from the Cooperative Extension Service Office, the County Planning Department, the Register of Deeds, the Natural Resources Conservation Service, the Farm Service Agency Office, and the County Tax Department.

- (3) Limit of Liability – In no event shall the County or any of its officers, employees, or agents be held liable in damages for any misfeasance, malfeasance, or nonfeasance occurring in good faith in connection with the duties or obligations imposed by this ordinance.
- (4) No Cause of Action – In no event shall any cause of action arise out of the failure of any person, including a person researching the title of a particular tract, to report to any person the proximity of the tract to a qualifying farm or voluntary agricultural district as defined in this ordinance.

Section 1002. Expenditure of County Funds for Non-Farm Uses

Prior to expending any monies which would convert land in a voluntary agricultural district to non-farm uses, the County or any other local unit of government shall submit to the Agricultural Board detailed information showing that said governmental unit has considered alternatives.

ARTICLE XI
SUBDIVISION ORDINANCE AND ZONING ORDINANCE REVIEW

Developers of major subdivisions or planned unit developments shall designate on preliminary development plans, the existence of the agricultural districts within one-half (1/2) aerial mile of the proposed development.

ARTICLE XII
NORTH CAROLINA AGENCY NOTIFICATION

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Section 1200. Consultation with N. C. Department of Agriculture and Consumer Services and Other Agencies

The Board may consult with the Cooperative Extension Service Office, the Natural Resources Conservation Service Office, the Farm Service Agency Office, the N. C. Department of Agriculture and Consumer Services, and any other such agency the Board deems necessary to properly conduct its business.

Section 1201. Recording the Program Ordinance

An official copy of this program ordinance shall be recorded with the North Carolina Commissioner of Agriculture's Office after adoption. At least once a year, the Voluntary Agricultural Board shall submit a written report to the Commissioner of Agriculture and County Commissioners, including the status, progress and activities of the Duplin County Agricultural Protection Plan and voluntary agricultural districting information regarding:

- (1) Number of landowners enrolled;
- (2) Number of acres applied;
- (3) Number of acres certified;
- (4) Number of acres denied; and
- (5) Date certified.

ARTICLE XIII
LEGAL PROVISIONS

Section 1300. Severability, Conflict with Other Ordinances and Statutes, and Amendments

- (1) Severability: If any article, section, subsection, clause, phrase or portion of this ordinance is for any reason invalid or unconstitutional as determined by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.
- (2) Conflict with other ordinances and statutes: Whenever the provisions of any federal or state statute require more restrictive provisions than are required by this ordinance, the provisions of such statute shall govern.
- (3) Amendments: This ordinance may be amended from time to time after a public hearing, notice of which shall be sent to program participants by first class mail 30 days prior to the hearing, and in consultation with the Agricultural Board to the Board of Commissioners.

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ARTICLE XIV
ENACTMENT

The Duplin County Board of Commissioners hereby adopts and enacts the preceding articles and sections of this ordinance as amended.

Adopted this the 16TH day of MAY, 2016.

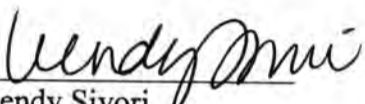


Chairman
Board of Duplin County Commissioners

ATTEST:


Clerk to the Board

APPROVED as to form:


Wendy Sivori
County Attorney

**AN ORDINANCE TO ESTABLISH
A PLANNING BOARD FOR DUPLIN COUNTY**

WHEREAS the General Statutes of North Carolina, Chapter 153A, Article 18, provides for the establishment and operation of County Planning Boards; and

WHEREAS it appears to be advantageous to the welfare of the County of Duplin that a comprehensive and continuous planning program be undertaken; and

WHEREAS the Board of County Commissioners needs the active assistance and constant cooperation of many civic-minded, far-seeing citizens in their efforts to serve the best interests of the people and to direct the county's physical growth along good civic lines; therefore,

BE IT RESOLVED, that the Board of County Commissioners hereby establish

THE DUPLIN COUNTY PLANNING BOARD

hereinafter referred to as the "Planning Board," and ordain that it be governed by the following provisions:

ARTICLE I: MEMBERSHIPS AND VACANCIES

The Planning Board shall consist of five (5) members. All members will serve two-year terms. The Duplin County Board of Commissioners may appoint ex-officio members as they determine needed.

ARTICLE II: ORGANIZATION, RULES, MEETINGS, AND RECORDS

The Planning Board shall elect a chairman and create and fill offices as it may determine. The term of the chairman and other officers shall be one year, with eligibility for reelection. The Board shall adopt rules for transaction of its business and discussions, findings, and recommendations, which record shall be a public record. The Board shall schedule one meeting monthly, and all of its meeting shall be open to the public. There shall be a quorum of three (3) members for the purpose of taking any official action required by this ordinance.

ARTICLE III: GENERAL POWERS AND DUTIES

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

- (1) To acquire and maintain in current form such basic information and materials as are necessary to an understanding of past trends, present conditions, and forces at work to cause changes in these conditions;
- (2) To prepare and from time to time amend and revise a comprehensive and coordinated plan for the physical development of the area;

- (3) To establish principles and policies for guiding action in the development of the area;
- (4) To prepare and recommend to the Board of County Commissioners ordinances promoting orderly development along the lines indicated in the comprehensive plan;
- (5) To determine whether specific proposed developments conform to the principles and requirements of the comprehensive plan for the growth and improvement of the area;
- (6) To keep the Board of County Commissioners and the general public informed and advised as to these matters;
- (7) To perform any other duties which may lawfully be assigned to it.

ARTICLE IV: BASIC STUDIES

As background for its comprehensive plan and any ordinances it may prepare, the Planning Board may gather maps and aerial photographs of man-made and natural physical features of the area, statistics on past trends and present conditions with respect to population, property values, the economic base of the area, land use, and such other information as is important or likely to be important in determining the amount, direction, and kind of development to be expected in the area and its various parts.

In addition, the Planning Board may make, cause to be made, or obtain special studies on the location, condition, and adequacy of specific facilities, which may include but are not limited to studies of housing; commercial and industrial facilities; parks, playgrounds, and recreational facilities; public and private utilities; and traffic, transportation, and parking facilities.

All county officials shall, upon request, furnish to the Planning Board such available records or information as it may require in its work. The Board or its agents may, in the performance of its official duties, enter upon lands and make examinations or surveys and maintain necessary monuments thereon.

ARTICLE V: COMPREHENSIVE PLAN

The comprehensive plan, with the accompanying maps, plats, charts, and descriptive matter, shall be and show the Planning Board's recommendations to the Board of County Commissioners for the development of said territory, including, among other things, the general location, character, and extent of streets, bridges, boulevards, parkways, playgrounds, squares, parks, aviation fields, and other public ways, grounds, and open spaces; the general location and extent of public utilities and terminals, whether publicly or privately owned or operated, for water, light, sanitation, transportation, communication, power, and other purposes; the removal, relocation, widening, narrowing, vacating, abandonment, change of use, or extension of any of the foregoing ways, buildings, grounds, open spaces, property, utilities, or terminals; the most desirable pattern of land use within the area including areas for residential uses, for farming and forestry, for manufacturing

and industrial uses, for commercial uses, for recreational uses, for open spaces, and for mixed uses.

The plan and any ordinance or other measures to effectuate it shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted, and harmonious development of the county which will, in accordance with present and future needs, best promote health, safety, morals, and the general welfare, as well as efficiency and economy in the process of development; including, among other things, adequate provision for traffic, the promotion of safety from fire and other dangers, adequate provision for light and air, the promotion of the healthful and convenient distribution of population, the promotion of good civic design and arrangement, wise and efficient expenditure of public funds, and the adequate provision of public utilities, services, and other public requirements.

ARTICLE VI: ZONING ORDINANCE

The Planning Board may prepare and submit to the Board of County Commissioners for its consideration and possible adopting a zoning ordinance for the control of the height, area, bulk, location and use of buildings and premises in the area, in accordance with the provisions of Article 19 of Chapter 160A of the General Statutes of North Carolina, as amended.

The Planning Board may initiate, from time to time, proposals for amendment of the zoning ordinance, based upon its studies and comprehensive plan. In addition, it shall review and make recommendations to the Board of County Commissioners concerning all proposed amendments to the zoning ordinance.

ARTICLE VII: SUBDIVISION REGULATIONS

The Planning Board shall review, from time to time, the need for regulations for the control of land subdivision in the area and submit to the Board of County Commissioners its recommendations, if any, for adoption or revision of said regulations.

The Planning Board shall review and make recommendations to the Board of County Commissioners concerning all proposed plats of land subdivision.

ARTICLE VIII: PUBLIC FACILITIES

The Planning Board shall review with the county officials and report as recommendations to the Board of County Commissioners upon the extent, location and design of all public structures and facilities, and on the acquisition and disposal of public properties. However, in the absence of a recommendation from the Planning Board, the Board of County Commissioners may if it deems wise, after the expiration of thirty (30) days from the date on which the question has been submitted in writing to the Planning Board for review and recommendation, take final action.

ARTICLE IX: MISCELLANEOUS POWERS AND DUTIES

The Planning Board may conduct such public hearings as may be required to gather information necessary for the drafting, establishment, and maintenance of the comprehensive plan. Before

adopting any such plan, it shall hold at least one public hearing thereon.

The Planning Board shall have power to promote public interest in and an understanding of its recommendations, and to that end it may publish and distribute copies of its recommendations and may employ such other means of publicity and education as it may determine.

Members or employees of the Planning Board, when duly authorized by the Planning Board, may attend planning conferences or meetings of planning institutes or hearings upon pending planning legislation.

ARTICLE X: ANNUAL REPORT OF ACTIVITIES AND ANALYSIS OF EXPENDITURES AND BUDGET REQUEST FOR ENSUING FISCAL YEAR

The Planning Board shall, in May of each year, submit in writing to the Board of County Commissioners a written report of its activities, an analysis of the expenditures to date for the current fiscal year, and, for review and approval, its requested budget of funds needed for operation during the ensuing fiscal year.

The Planning Board is authorized to receive contributions from private agencies and organizations or from individuals, in addition to any sums which may be appropriated for its use by the Board of County Commissioners. It may accept and disburse such contributions for special purposes or projects, subject to any specific conditions which it deems acceptable, whether or not such projects are included in the approved budget.

The Planning Board is authorized to appoint such committees and employees, and to authorize such expenditures, as it may see fit, subject to limitations of funds provided for the Planning Board by the Board of County Commissioners in the County's annual budget.

ARTICLE XI: ADVISORY COUNCIL AND SPECIAL COMMITTEES

The Planning Board may seek the establishment of an unofficial Advisory Council and may cooperate with this Council to the end that its investigations and plans may receive fullest consideration, but the Board may not delegate to such advisory council any of its official prerogatives.

The Planning Board may set up special committees to assist it in the study of specific questions and problems.

ARTICLE XII: REPEAL AND DATE OF EFFECT

Any ordinances or parts of ordinances in conflict with this resolution and ordinance are hereby repealed, and this resolution and ordinance shall be in full force and effect as an ordinance of Duplin County from and after the date of its adoption by the Board of County Commissioners.

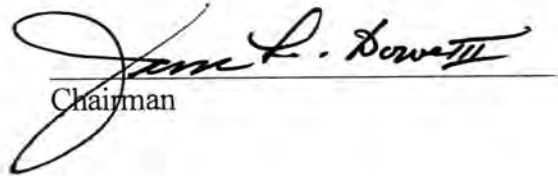
ARTICLE XIII: VALIDITY

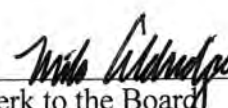
Should any article, paragraph, sentence, clause, or phrase of this resolution and ordinance be declared unconstitutional or invalid for any reason, the remainder of the resolution and ordinance shall not be affected thereby.

ARTICLE XIV: EFFECTIVE DATE

This ordinance shall become effective on and after January 3, 2017.

Duplin County Board of Commissioners


Chairman

ATTEST: 
Clerk to the Board

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DUPLIN COUNTY
AN ORDINANCE REGULATING AMBULANCE SERVICE AND GRANTING
OF FRANCHISES TO AMBULANCE OPERATORS

An ordinance governing the granting of franchises for ambulance services and other pre-hospital emergency medical services. The County of Duplin Board of Commissioners does ordain the following:

SECTION I. DEFINITIONS

Unless the context otherwise requires, the following definitions shall apply in the interpretation and enforcement of this ordinance:

1.1 **AMBULANCE**

The term "Ambulance" means any privately or publicly owned motor vehicle, aircraft, or vessel that is specially designed, constructed, or modified and equipped and is intended to be used for and is maintained or operated for the transportation on the streets or highways, waterways or airways of this State of persons who are sick, injured, wounded, or otherwise incapacitated and helpless.

1.2 **AMBULANCE ATTENDANT**

The term "Ambulance Attendant" means an individual who has completed a training program in emergency medical care and first aid approved by the North Carolina Department of Human Resources and has been certified as an ambulance attendant by the Department of Human Resources, Office of Emergency Medical Services.

1.3 **EMERGENCY MEDICAL TECHNICIAN**

The term "Emergency Medical Technician" means an individual who has completed a training program in emergency medical care at least equal to the National Standard Training Program for Emergency Medical Technicians as defined by the United States Department of Transportation and has been certified as an Emergency Medical Technician by the Department.

1.4 **AMBULANCE PROVIDER**

The term "Ambulance Provider" means an individual, firm, corporation or association who engages or professes to engage in the business or service of transporting patients in an ambulance.

1.5 **APPROVED**

The term "Approved" shall mean approved by the North Carolina Medical Care Commission pursuant to the latter's rules and regulations promulgated under N. C. General Statutes 143B-165.

1.6 SECONDARY AMBULANCE PROVIDER

The term "Secondary Ambulance Provider" shall mean the system of personnel and equipment meeting the same criteria as a primary ambulance provider, but not normally dispatched on first call response.

1.7 COUNTY

The term "county" shall mean the County of Duplin Board of Commissioners or their designated representative.

1.8 DISPATCHER

The term "Dispatcher" shall mean a person who is available at all times to receive requests for emergency services, to dispatch emergency services, and to advise local law enforcement agencies and emergency medical facilities of any existing or threatened emergency.

1.9 EMERGENCY

The terms "Emergency" and "Emergency Transportation Service" shall mean the use of an ambulance, its equipment and personnel to provide medical care and transportation of a patient who is in need of immediate medical treatment in order to prevent loss of life or further aggravation or physiological or psychological illness or injury.

1.10 FIRST RESPONDER

The term "First Responder" shall mean an organization with personnel trained in emergency medical care that is dispatched to the scene of a medical emergency for the primary purpose of providing emergency medical assistance to a patient until the ambulance and additional medical aid arrives.

1.11 FRANCHISE

The term "Franchise" shall mean a permit issued by the County to a person for the operation of an ambulance service.

1.12 FRANCHISEE

The term "franchisee" shall mean any person having been issued a franchise by the

County for the operation of an ambulance service.

1.13 LICENSE

The term "License" shall mean any driver's license or permit to operate a motor vehicle issued under or granted by the laws of the State of North Carolina.

1.14 NON-EMERGENCY TRANSPORTATION SERVICES

The term "Non-Emergency Transportation Service" shall mean the operation of an ambulance for any purpose other than transporting emergency patients.

1.15 OPERATOR

The term "Operator" shall mean a person in actual physical control of an ambulance which is in motion or which has the engine running.

1.16 OWNER

The term "Owner" shall mean a person or entity who owns an ambulance.

1.17 PATIENT

The term "Patient" means an individual who is sick, injured, wounded, or otherwise incapacitated or helpless such that the need for some medical assistance might be anticipated while being transported to or from a medical facility.

1.18 PERSON

The term "Person" shall mean any individual, firm, partnership, association, corporation, company, group of individuals acting together for a common purpose, or organization of any kind, including, any governmental agency other than the United States.

1.19 RESCUE

The term "Rescue" shall mean situations where the victim cannot escape an area through the normal exit or under his own power.

SECTION II. FRANCHISE REQUIRED

2.1

No person either as owner, agent or otherwise, shall furnish, operate, conduct, maintain, advertise, or otherwise be engaged in or profess to be engaged in the business or service of emergency and /or non-emergency transportation of patients

within the County of Duplin unless the person holds a valid permit for each ambulance used in such business or service issued by the North Carolina Department of Human Resources, Office of Emergency Medical Services, and has been granted a franchise for the operation of such business or service by the County pursuant to this Ordinance.

- 2.2 No person shall drive an ambulance, attend a patient in one, or permit one to be operated when transporting a patient within the County of Duplin unless he or she holds a currently valid certificate as an Medical Responder, Emergency Medical Technician, Emergency Medical Technician-Intermediate, or Emergency Medical Technician-Paramedic issued by the North Carolina Department of Human Resources, Office of Emergency Medical Service.

2.3 **NO FRANCHISE SHALL BE REQUIRED FOR:**

- (A) Any entity rendering assistance to a franchised ambulance service in the case of a major catastrophe, mutual aid or emergency with which the services franchised by the County of Duplin are insufficient or unable to cope; or,
- (b) Any entity operated from a location or headquartered outside of the County of Duplin in order to transport patients who are picked up beyond the limits of the County of Duplin, to facilities located within the County of Duplin, or to pick up patients within the County of Duplin for transporting to locations outside the County of Duplin; or,
- (c) Ambulances owned and operated by an agency of the United States Government.
- (d) Ambulance transportation by a specialty care transport program operated by a hospital or Skilled Nursing facility that is physically located within the geographic limits of Duplin County.

SECTION III. APPLICATION FOR AMBULANCE FRANCHISE

- 3.1 Application for a franchise to operate ambulances in the County of Duplin shall be made by the ambulance provider upon such forms as may be prepared or prescribed by the County and shall contain:

- (a) The name and address of the ambulance provider and the owner of the ambulances(s);
- (b) The trade or other fictitious names, if any, under which the applicant does business, along with a certified copy of an assumed name certificate stating such name or articles of incorporation stating such name;

- (c) A resume of the training and experience of the applicant in the transportation and care of patients;
- (d) A full description of the type and level of service to be provided including the location of the place or places from which it is intended to operate, the manner in which the public will be able to obtain assistance and how the vehicles will be dispatched. An audited financial statement of the applicant as the same pertains to the operations in the County of Duplin, said financial statement to be in such form and such detail as may be required by the County;
- (e) A description of the applicant's capability to provide twenty-four (24) hour coverage, seven (7) days per week for the district covered by the franchise applied for, and an accurate estimate of the minimum and maximum times for a response to calls within such district; and
- (f) Any information the county shall deem reasonable necessary for a fair determination of the capability of the applicant to provide ambulance services in the County of Duplin in accordance with the requirements of State Laws and the provisions of these regulations.

SECTION IV. GRANTING OF FRANCHISE

- 4.1 Prior to accepting applications for the operation of an ambulance service, the Board of Commissioners may designate specific service areas as franchise districts. Said districts will be established using criteria that includes: geographic size, road access, the location of existing medical transportation services, population, and response time. The county shall have the authority to redistrict or rearrange existing districts at any time at their discretion.
- 4.2 An applicant may apply for a franchise to operate either emergency transportation service or non-emergency transportation service or both. If both types of service are to be provided, separate applications must be filed for each type.
- 4.3 Upon receipt of an application for a franchise, the County shall schedule a time and place for hearing the applicant. Within thirty (30) days after hearing, the County shall cause such investigation as it may deem necessary to be made of the applicant and his proposed operations.
- 4.4 A franchise may be granted if the County finds that:
 - (a) The applicant shows a reasonable effort to meet state standards and standards outlined in the franchise ordinance.
 - (b) The proposed service will fit within the existing service so as not to adversely affect the level of services or operations of other franchises to

render service.

- (c) A need exists for the proposed service in order to improve the level of ambulance services available to residents of the county and that this is a reasonable and cost effective manner of meeting the need.

- 4.5 The county may limit the number of ambulance franchises awarded consistent with the needs of the community. The county expressly reserves the right to amend, suspend, or revoke a franchise for any reason.

SECTION V. TERM OF FRANCHISE

- 5.1 The County may issue a franchise hereunder to an ambulance provider, to be valid for a term to be determined by the county, provided that either party as its option, may terminate the franchise upon sixty (60) days prior written notice to the other party. After a notice of service termination is given, the ambulance provider may reapply for a franchise if continued service is desired.
- 5.2 Upon suspension, revocation, or termination of a franchise granted hereunder, such franchised ambulance service immediately shall cease operations. Upon suspension, revocation or termination of a driver's license or Medical Responder's certificate, or Emergency Medical Technician certificate, such persons shall cease to drive an ambulance or provide medical care in conjunction with an ambulance service, or attend an ambulance. The franchise shall not permit such an individual to drive an ambulance or provide medical care in conjunction with the ambulance service.
- 5.3 Each franchised ambulance service shall comply at all times with the requirements of this ordinance, the franchise granted hereunder, and all applicable state and local laws relating to health, sanitation, safety, equipment, and ambulance design and all other laws and ordinances.
- 5.4 Prior approval of the County shall be required where ownership or control of more than ten (10%) percent or more of such right of control, singularly or collectively, at the date of the franchise. By its acceptance of the franchise, the franchisee specifically agrees that any such acquisition occurring without prior approval of the County shall constitute a violation of the franchise by the franchisee and shall be cause for termination at the option of the County.
- 5.5 Any change of ownership of a franchised ambulance service without the approval of the County shall terminate the franchise and shall require a new application and a new franchise and conformance with all the requirements of this Ordinance as upon original franchising.
- 5.6 No franchise may be sold, assigned, mortgaged, or otherwise transferred without the approval of the County; and a finding of conformance with all requirements of this ordinance as upon original franchising. Each franchised ambulance service, its

equipment and the premises designated in the application and all records relating to its maintenance and operation, as such, shall be open to inspection by the State, the county, or their designated representatives.

- 5.7 A franchise may not be defaced, removed, or obliterated.

SECTION VI. STANDARDS FOR DRIVERS AND ATTENDANTS

- 6.1 Standards for drivers and attendants as developed by the North Carolina Medical Care Commission as requirements for certification of ambulance attendants and emergency medical technician pursuant to Article 26, Chapter 130-233, and Article 67, Chapter 143, of the General Statutes of North Carolina, and shall be applied and the same are incorporated herein by reference.

SECTION VII. STANDARDS FOR VEHICLES AND EQUIPMENT

- 7.1 Vehicle and equipped standards as developed by the North Carolina Medical Care Commission pursuant to Article 26, Chapter 130, and Article 56, Chapter 143, of the General Statutes of North Carolina, and shall be applied and the same are incorporated herein by reference.

SECTION VIII. STANDARDS FOR COMMUNICATIONS

- 8.1 Each ambulance vehicle shall be equipped with an operational two-way radio capable of establishing good quality voice communications from within the geographic confines of the County to each hospital(s) emergency department in the County in which the ambulance is based. Each ambulance vehicle shall be equipped with two-way radio capable of establishing good quality voice communications from within the geographic confines of the county in which the ambulance dispatching agency within the County.
- 8.2 Each ambulance provider shall maintain current authorizations of Federal Communication Commission licenses for all frequencies and radio transmitters operated by that provider. Copies of all authorizations and licenses shall be on display and available for inspection per Federal Communication Commission's Rules and Regulations.
- 8.3 Each base of operations must have at least one open telephone line. Telephone numbers must be registered with each law enforcement agency and communication center in the County of Duplin.

SECTION IX. INSURANCE

- 9.1 No ambulance franchise shall be issued under this Ordinance, nor shall such

franchise be valid after issuance, nor shall any ambulance be operated in the County of Duplin unless the franchisee has at all times in force and effect insurance coverage, issued by an insurance company licensed to do business in the State of North Carolina, for each and every ambulance owned and or operated by or for the ambulance service providing for the payment of damages:

- (a) In the sum of \$1,000,000.00 for injury to or death of individuals in accidents resulting from any cause for which the owner of said vehicle would be liable on account of liability imposed on him by law, regardless of whether the ambulance was being driven by the owner or his agency; and,
- (b) In the sum of \$500,000.00 for the loss of or damage to the property of another, including personal property, under like circumstances, in sums as may be required by the State or as approved by the County of Duplin.
- (c) Each ambulance provider shall have Workers' Compensation Insurance at all times as required by the State of North Carolina.

SECTION X. RECORDS

10.1 Each franchisee shall maintain the following records:

- (a) Record of Dispatch - shall show time call was received, time ambulance dispatched, time arrived on scene, time arrived at destination, time in service, and time returned to base.
- (b) Trip Record - shall state all information required in Section (a) in addition to information on a form approved by the County. The trip record shall be so designed as to provide the patient with a copy thereof containing all required information. A copy of the trip record may serve as a receipt for any charges paid.

SECTION XI. RATES AND CHARGES

11.1 Each franchisee shall submit a schedule of rates to the county for approval and shall not charge more nor less than the approved rates without specific approval by the County.

11.2 No ambulance service shall attempt to collect rates on emergency calls until the patient has reached the point of destination, has received medical attention and is in a condition deemed by the physician fit to consult with the ambulance service, but such service may attempt to collect rates with family or guardian of the patient once the patient is in the process of receiving medical attention.

11.3 On non-emergency calls, or calls where a person requires transportation to a non-emergency facility, attempts to collect payment can be made before the ambulance

begins its trip.

SECTION XII. ENFORCEMENT & VIOLATIONS OF ORDINANCE

12.1

Enforcement. The Duplin County Emergency Medical Services Department (hereinafter the "Department") shall be the enforcing agency for the regulation contained in this Ordinance. Such office will:

- (a) Receive all franchise proposals from potential Providers;
- (b) Study each proposal for conformance to this Ordinance;
- (c) Present any and franchise proposals from potential Providers to the Duplin County Board of County Commissioners with any recommendations from said Department;
- (d) Award the franchises(s) to any and all approved Providers;
- (e) Inspect the premises, vehicles, equipment, and personnel of franchisees to assure compliance to this Ordinance and perform any other inspections that may be required;
- (f) Recommend to the Board of Commissioners the temporary or permanent suspension of a franchise in the event of noncompliance with the franchise terms of this Ordinance;
- (g) Recommend the imposition of civil penalties as provided therein;
- (h) Insure by cooperative agreement with other ambulance services the continued service in a district where an ambulance service franchise has been suspended;
- (i) Receive monthly reports from ambulance services and consolidate the same into a quarterly summary for review by the Department and the County;
- (j) Receive and review complaints from the public, other enforcing agencies, and ambulance services regarding franchise infractions.
- (k) Obtain corrective action for any violations of the franchise;
- (l) Recommend improvements to the County which will insure better medical transportation;
- (m) Maintain all records required by this Ordinance and other applicable County regulations; and

- (n) Perform such of the above functions as may be requested by any municipality within the County of Duplin.

12.2 **Violations of Ordinance.**

1. Any act constituting a violation of the provisions of this Ordinance or a failure to comply with any of its requirements shall subject the offender to a civil penalty of \$500.00. If the offender fails to remedy the violation and pay any civil penalty within ten (10) days after being cited for said violation (or within the time prescribed by a citation if it provides for a longer period of time than ten days), the civil penalty may be recovered in a civil action in the nature of a debt. Civil penalties begin to accrue from the date of the first notice of violation.
2. This Ordinance may also be enforced by any appropriate equitable action authorized by law, including injunctive relief, whether or not there is an adequate remedy at law.
3. Each day that any violation continues, regardless of the date of notice, shall be considered a separate offense for purposes of the penalties and remedies specified in this section. In such an event, civil penalties begin to accrue from the date of the first notice of violation. For continuing violations, the initial citation and requirement that the civil penalty be paid within the time prescribed therein shall be the only notice required to be given; and shall be deemed to be an on-going citation and notice for continuing violations after the date of the citation.
4. Any one, all, or any combination of the foregoing penalties and remedies may be used to enforce this Ordinance.
5. Violations of the provisions of this Ordinance or failure to comply with any of its requirements shall not constitute a misdemeanor as provided in N.C. Gen. Stat. § 14-4, unless any specific penalty set forth elsewhere provides to the contrary.

- 12.3 **Alternatives for Enforcement.** In addition to the provisions of this section, any provision of this Ordinance or other ordinance of the county may be enforced by any one or more of the remedies authorized by N.C. Gen. Stat. §153A-123, excluding misdemeanor charges as provided in N.C. Gen. Stat. § 14-4, unless any specific penalty set forth elsewhere provides to the contrary.

SECTION XIII. MISCELLANEOUS

- 13.1 The County may inspect a franchisee's records, premises, and equipment at any time in order to insure compliance with this Ordinance and any franchise granted hereunder.

SECTION XIV. ADDENDUMS TO ORDINANCE

14.1 The Board of Commissioner of the County of Duplin may, through appropriate actions, amend or expand this Ordinance to include other emergency departments or agencies as deemed necessary.

SECTION XV. EFFECTIVE DATE

This Ordinance shall become effective and be in full force form and after the 17TH day of April, 2017. Upon execution of this Ordinance any and all previous Ordinances Regulating Ambulance Franchises in Duplin County shall be automatically repealed.

[Signature]
s/
Chairman
Duplin County Board of Commissioners

ATTEST: s/ *[Signature]*
Clerk

**DUPLIN COUNTY ORDINANCE
ALLOWING THE SALE
OF ALCOHOLIC BEVERAGES BEFORE NOON ON
SUNDAYS AT LICENSED PREMISES**

WHEREAS, on June 29, 2017, the North Carolina General Assembly enacted Senate Bill 155, entitled "An Act to Make Various Changes to the Alcoholic Beverage Control Commission Laws"; and

WHEREAS, Section 4 of Ratified Senate Bill 155 authorizes city and county governments to adopt an ordinance to allow alcohol sales beginning at 10 am on Sundays; and

WHEREAS, Ratified Senate Bill 155 was signed into law by Governor Roy Cooper on the 30th day of June, 2017 and became effective on that date (Session Law 2017, Chapter 87); and

WHEREAS, by enacting Senate Bill 155, North Carolina joins 47 other States in allowing alcohol service before noon on Sunday; and

WHEREAS, Sunday morning alcohol service will allow the hospitality community and retail merchants in our county to meet the needs of their customers; and

WHEREAS, Sunday morning alcohol service will benefit the county's small business community, bring people into business districts earlier in the day, and generate increased tax revenues; and

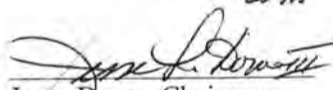
WHEREAS, our County has a diverse and growing population with different religious beliefs, each of which has various times and multiple days for worship;

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of Duplin County, North Carolina that:

Section 1. Pursuant to the authority contained in G.S. 153A - 145.7, the sale of malt beverages, unfortified wine, fortified wine, and mixed beverages is allowed in Duplin County beginning at 10 A.M. on Sunday pursuant to the licensed premises' permit issued under G.S 18B - 1001.

Section 2. This ordinance is effective on the ^{6th} day of November, 2017.
2017

Adopted this ^{6th} day of November, 2017.
2017


Jesse Dowe, Chairman

Attest: 
Mike Aldridge, Clerk

DUPLIN COUNTY
SMOKING, TOBACCO, VAPOR AND E.N.D.S. USE ORDINANCE
(DESIGNATED SMOKING AREAS)

ARTICLE 1. PURPOSE. Due to the significant medical risks connected to smoking, including e-cigarettes, to both smokers and individuals exposed to secondhand smoke, the Duplin County Board of County Commissioners finds that the regulation and control of smoking in buildings and vehicles owned or leased by the county is a matter of vital concern, affecting the public health, safety and welfare of all persons employed by or transacting business with the county.

ARTICLE 2. AUTHORITY. On January 2, 2010, "An Act To Prohibit Smoking In Certain Public Places And Certain Places Of Employment, North Carolina Session Law 2009-27, became effective, authorizing local governments to adopt and enforce ordinances "that are more restrictive than State law and that apply in local government buildings, on local government grounds, in local vehicles, or in public places." The Duplin County Board of Commissioners feel that it is necessary to preserve, protect, and promote the public health, safety, and welfare of the Citizens of Duplin County to restrict the use and location of tobacco use on County property.

ARTICLE 3. DEFINITIONS.

The following definitions are applicable to this ordinance.

1. "Cabin Lake County Park" – An enclosed or unenclosed area owned, leased or operated by Duplin County as part of its Parks & Recreation program located at 220 Cabin Lake Road, Pink Hill, Duplin County, North Carolina.
2. "County building" – A building owned, leased as lessor, or the area leased as lessee and occupied by Duplin County.
3. "County vehicle" – A passenger-carrying vehicle owned, leased, or otherwise controlled by Duplin County and assigned permanently or temporarily to its employees, agencies, institutions, or facilities for official County business.
4. "Designated Smoking Areas" – a specified area on County property where smoking is permitted that is identified by proper signs."
5. "E.N.D.S" – Electronic Nicotine Delivery Systems (also known as e-cigarettes, e-cigars, e-hookahs, and e-pipes.
6. "Grounds". – An unenclosed area owned, leased, or occupied by the County within fifty (50) feet of a County owned, leased or occupied building.

7. "Smoking" – The use or possession of a lighted cigarette, lighted cigar, lighted pipe, or any other lighted tobacco product.

8. "Tobacco". – Any product containing, made, or derived from tobacco that is intended for human consumption, smoked, absorbed, dissolved, inhaled, or ingested by any other means, or any component part or accessory of a tobacco product, including but not limited to cigarettes; cigars; little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; Cavendish; shorts; refuse scraps, clippings, cutting and sweepings of tobacco; and other kinds and forms of tobacco. A tobacco product excludes any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product, as a tobacco dependence product, or for other medical purposes, and is being marketed and sold solely for such an approved purpose.

9. "Universal 'No Smoking' Symbol" – Symbol consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it.

10. "Vaping" – the use of electronic nicotine delivery systems or electronic smoking devices.

ARTICLE 4. AREAS WHERE SMOKING, VAPINGS & E.N.D.S. PROHIBITED.

(a) Smoking, Vaping, and the use of E.N.D.S. are prohibited:

- (1) In any County building owned, leased, or occupied, as herein defined;
- (2) In any County vehicle owned, leased, or controlled by the County;
- (3) Cabin Lake County Park; and
- (4) Within fifty (50) feet of any County building owned, leased, or occupied by the County. EXCEPTION: DESIGNATED SMOKING AREAS SPECIFICALLY MARKED.

ARTICLE 5. SIGNAGE.

- (a) The County shall post signs that meet all the requirements of this Section.
- (b) State in English that smoking, vaping, and the use of E.N.D.S. are prohibited and include the universal "No Smoking" symbol.
- (c) Be of sufficient size to be clearly legible to a person of normal vision, and be conspicuously posted.
- (d) Be posted at each entrance to a County building and in other locations within the

building reasonably calculated to inform employees and the public of the prohibition.

- (e) May be posted in each County vehicle in areas visible to passengers, provided that their placement does not interfere with the safe operation of the vehicle or the purpose of the vehicle.
- (f) Be posted on County grounds in locations and at intervals reasonably calculated to inform employees and the public of the prohibition.

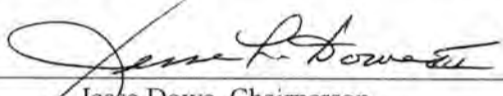
ARTICLE 6. ENFORCEMENT & VIOLATIONS.

- (a) Criminal penalties. Violation of this Ordinance shall constitute a Class 3 misdemeanor. Each day during which a violation continues shall be determined a separate and distinct offense.

Section 5. Effective Date.


This Policy shall be effective on DECEMBER 1, 2017

Adopted this 20TH day of NOVEMBER, 2017.



 Jesse Dowe, Chairperson
 Duplin County Board of Commissioners

ATTEST:


 _____ Clerk to Board of Commissioners
 Mike Aldridge

00685

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FIRE PREVENTION AND PROTECTION CODE ORDINANCE

Section 1. TITLE AND AUTHORITY

This ordinance shall be known as the Fire Prevention and Protection Code Ordinance of Duplin County, North Carolina, and may be cited as such and referred to as the "ordinance". This ordinance is adopted under the provisions of North Carolina General Statutes 143-138(e), 143-139, 153A-123 and 160a-175.

Section 2. INTENT OF ORDINANCE

It is the intent of the ordinance to prescribe regulations consistent with nationally recognized practices, for the safety of the citizens of Duplin County from the hazards of fire, and explosions, arising from the storage, manufacturing, and handling of flammable materials.

The provisions of the ordinance shall apply to the repair, equipment, use, occupancy, and maintenance of every existing building or structure, other than one or two family dwellings and town homes. The provisions of this ordinance shall apply to the installation of fire protection systems.

The ordinance shall not be construed to hold the county responsible for any damage to persons, or property by reasons of the inspection or re-inspections authorized herein, or failure to inspect or re-inspect, or the permits issued or denied as herein provided, or by reason of the approval or disapproval of any permit authorized herein.

Section 3. DEFINITIONS

- (a) The word "Fire Code Enforcement Official" shall mean Fire Marshal, Assistant Fire Marshal, Fire Inspector and any other designated code enforcement agent.
- (b) The term "qualified" shall mean a person who possesses an appropriate valid certificate issued by the North Carolina Code Officials Qualification Board.
- (c) The term "he" is interchangeable with the term "she".
- (d) Small Business – Less Than 5,000 square feet.
- (e) Large Business – 5,001 square feet and greater.

- (f) Inspections – Visit to occupancy or business to determine if fire codes are met.
- (g) Permits – An official document or certificate issued by the authority having jurisdiction authorizing performance of specified activity based on inspection by the Fire Code Enforcement Official at the time of issuance.
- (h) Re-inspections – A re-visit to determine if corrections(s) have been made to any items deficient during the previous inspection.
- (i) Periodic Inspections – Inspections that occur on a periodic basis as designated by the Fire Code.
- (j) Special Use Permits – Temporary structure, i.e. tents or events not addressed in ordinance.
- (k) Pyrotechnics -- Any and all kinds of fireworks and explosives, which are used for exhibitions or amusement purposes, not including:
 - (1) Explosive caps designed to be fired in toy pistols, provided that the explosive mixture of the explosive caps shall not exceed twenty-five hundredths (.25) of a gram for each cap.
 - (2) Snake and glow worms composed of pressed pellets of a pyrotechnic mixture that produce a large, snake-like ash when burning.
 - (3) Smoke devices consisting of a tube or sphere containing a pyrotechnic mixture that produces white or colored smoke.
 - (4) Trick noisemakers which produce a small report designed to surprise the user and which include:
 - a. A party popper, which is a small plastic or paper item containing not in excess of 16 milligrams of explosive mixture. A string protruding from the device is pulled to ignite the device, expelling paper streamers and producing a small report.
 - b. A string popper, which is a small tube containing not in excess of 16 milligrams of explosive mixture with string protruding from both ends. The strings are pulled to ignite the friction-sensitive mixture, producing a small report.
 - c. A snapper or drop pop, which is a small, paper-wrapped item containing no more than 16 milligrams of explosive mixture coated on small bits of sand. When dropped, the device produces a small report.

- 2790
- (5) Wire sparklers consisting of wire or stick coated with nonexplosive pyrotechnic mixture that produces a shower of sparks upon ignition. These items must not exceed 100 grams of mixture per item.
 - (6) Other sparkling devices which emit showers of sparks and sometimes a whistling or crackling effect when burning, do not detonate or explode, do not spin, are hand-held or ground-based, cannot propel themselves through the air, and contain not more than 75 grams of chemical compound per tube, or not more than a total of 200 grams if multiple tubes are used.

Section 4. POWERS OF FIRE MARSHAL – AUTHORITY

Authority. The Fire Marshal and/or their designee(s) is hereby authorized, empowered, and directed to enforce all the provisions of the ordinance and the regulatory codes herein adopted.

- (a) Right-of-Entry. The Fire Marshal shall have the right-of-entry on any premises within the jurisdiction of the regulatory codes herein adopted at reasonable hours for the purpose of inspection or enforcement of the requirements of this ordinance and the regulatory codes, upon presentation of proper credentials.
- (b) Stop Orders. Whenever any building or structure or part thereof is being demolished, constructed, reconstructed, altered, or repaired in a hazardous manner, or in violation of any provision of this ordinance in violation of any provision of any regulatory code herein adopted, or in violation of the terms of the permit(s) issued therefore, or in such manner as to endanger life or property, the Fire Marshal may order such work to be immediately stopped. Such order shall be in writing to the owner of the property or to his/her agent, or to the person doing the work, and shall state the reasons therefore and the conditions under which the work may be resumed.
- (c) Solid waste ordinance Adopted by the Duplin County Board of Commissioners the 15th day of August, 1994, illegal burning section 43, 80, and 93.3.

Section 5. ADOPTION OF TECHNICAL CODES AND STANDARDS BY REFERENCE, COPIES ON FILE

- (a) There is hereby adopted by reference and incorporated herein that certain code known as and entitled The International Fire Code, with North Carolina Amendments, including but not limited to Appendix C – Fire Hydrant Locations and Distribution, Appendix D – Fire Apparatus Access Roads and Appendix H – Test Requirements for Flame Retardant Chemicals to be Used on Christmas Trees of the International Fire Code. Copies of the Duplin County Fire Prevention and Protection Code Ordinance and all technical codes and standards adopted by reference shall be filed and available for public inspection the Office of the Fire Marshal.
- (b) Amendments to codes and standard adopted by reference herein which are adopted and published by the North Carolina State Building Code Council shall be effective in Duplin County at the time such amendments become a part of the North Carolina Fire Prevention Code of the North Carolina State Building Code.

Section 6. INSPECTION OF BUILDING AND PREMISES

Subject to the limitations, and conditions stated in the North Carolina State Building Code, it shall be the duty of the Fire Code Enforcement Official, in inspect or cause to be inspected as often as deemed necessary, or appropriate all buildings, structures, and premises within his jurisdiction for the purpose of ascertaining and causing to be corrected any condition which may cause a fire, or explosion, endanger life, from fire or explosion, or any violations of the provisions of the code.

Section 7. GENERAL DUTIES OF FIRE CODE ENFORCEMENT OFFICIAL

It shall be the duty of the Fire Marshal to enforce all of the provisions of this ordinance and of the regulatory codes adopted herein, and to make all inspections necessary to determine whether or not the provisions of this ordinance and such codes are being met.

Section 8. OVERSIGHT NOT TO LEGALIZE VIOLATION

No oversight or dereliction of duty on the part of any inspector or other official or employee of the Fire Marshal's Office shall be deemed to legalize the violation of any provisions of the ordinance or any provisions of any regulatory code herein adopted.

Section 9. CONFLICT OF INTREST

No officer or employee of the Fire Marshal's Office shall be financially interested in the furnishing of labor, material, or appliances for the construction, alteration, or maintenance of a building or any part thereof, or in the making of plans or specifications therefore, unless he/she is the owner of such building. No officer or employee of the Fire Marshal's Office shall engage in any work which is inconsistent with his/her duties or with the interests of the County.

Section 10. REPORTS AND RECORDS

The Fire Marshal's Office, and each inspector, shall keep complete, permanent, and accurate records in convenient form of all applications received, permits issued, inspections, and re-inspections made, and all other work and activities of the Fire Marshal's Office. Periodic reports shall be submitted to the Duplin County Board of Commissioners, and to other agencies, as required.

Section 11. TYPES OF PERMITS

There shall be three (3) types of permits as follows:

- (a) Operational permit. An operational permit allows the applicant to conduct an operation or a business for which a permit is required for either:
 - i. A prescribed period.
 - ii. Until renewed or revoked.
- (b) Construction permit. A construction permit allows the applicant to install or modify systems and equipment for which a permit is required.
- (c) Permits For Use of Pyrotechnics at Public Exhibitions.
 - i. Indoor Pyrotechnics Permit— no person shall use pyrotechnics in Duplin County in connection with concerts or public exhibitions unless the County Fire Marshal issues a Indoor Pyrotechnics Permit prior to said event. A person, business, display operator or entity applying for an Pyrotechnics Permit for indoor use will be required to show and certify to the County Fire Marshal:
 - (1.) Adequate fire suppression will be used at the site,
 - (2.) The structure is safe for the use of such pyrotechnics with the type of fire suppression to be used,
 - (3.) Adequate egress from the building is available based on the size of the expected crowd,
 - (4.) Proof of insurance by the display operator in the amount of \$1,000,000.00 or more of general liability insurance, and

(5.) A release of liability and indemnity agreement holding Duplin County harmless for any and all claims related to the issuance of said permit.

ii. Outdoor Pyrotechnics Permit— no person shall use pyrotechnics in Duplin County in connection with concerts, public exhibitions, fairs, carnivals, and the like, unless the County Fire Marshal issues an Outdoor Pyrotechnics Permit prior to said event. A person, business, display operator or entity applying for an Pyrotechnics Permit for outdoor use will be required to show and certify to the County Fire Marshall:

(1.) The use of the pyrotechnics is for use in connection with the conduct of concerts, public exhibitions, fairs, or carnivals to the satisfaction of the County Fire Marshall,

(2.) Proof of insurance by the display operator in the amount of at least \$1,000,000.00, and

(3.) A release of liability and indemnity agreement holding Duplin County harmless for any and all claims related to the issuance of said permit.

Open burning which requires a permit from the Division of Forest Resources under General Statutes 113-60.24 is allowed without a permit from the county. Open burning which is exempted from the necessity of obtaining a permit from the Division of Forest Resources under General Statutes 113-60.31 is allowed by the county with a permit.

If a person does not have a permit as required by General Statutes 113-60.24 from the Division of Forest Resources, this person will be in violation of this ordinance. Duplin County Emergency Services is an authorized agent of the Division of Forest Resources to provide Open Burning Permits from their administrative office location (209 Seminary St, Kenansville).

Section 12. APPLICATION FOR PERMIT

Written applications shall be made for all permits required by this ordinance, and shall be made on forms provided by the Fire Marshal's Office. Such application shall be made by the owner of the building or structure affected or by his/her authorized agent or representative, and in addition to such other information as may be required by the Fire Marshal to determine whether the permit applied for should be issued, shall show the following:

(a.) Name, residence, and business address of owners;

(b.) Name, residence, and business address of authorized representative or agent, if any;

- (c.) Name and address of the contractor, if any, together with evidence that he has obtained a certificate from the appropriate state licensing board for such contractors, if such be required for the work involved in the permit for which application is made.

Section 13. ACTION ON APPLICATION

The Fire Marshal shall examine or cause to be examined applications for permits and amendments thereto within a reasonable time after filing. If the application or the construction documents do not conform to the requirements of pertinent laws, the Fire Marshal shall reject such application in writing, stating the reasons therefore. If the Fire Marshal is satisfied that the proposed work or operation conforms to the requirements of this Ordinance applicable thereto, the Fire Marshal shall issue a permit therefore as soon as practicable.

Section 14. REFUSAL TO ISSUE PERMIT

If the application for a permit describes a use that does not conform to the requirements of this code and other pertinent laws and ordinances, the Fire Marshal shall not issue a permit, but shall return the application to the applicant with the refusal to issue such permit. Such refusal shall, when requested, be in writing and shall contain the reasons for the refusal.

Section 15. INSPECTION AUTHORIZED

Before a new operational permit is approved, the Fire Marshal is authorized to inspect the receptacles, vehicles, buildings, devices, premises, storage spaces or areas to be used to determine compliance with the Ordinance and any operational constraints required.

Section 16. ISSUANCE OF PERMIT

When a permit application for a permit has been made, and the Fire Marshal is satisfied that the application and the proposed work comply with the provisions of this ordinance and the appropriate regulatory codes, he shall issue such permit, upon payment of the proper fee or fees as adopted by the Duplin County Board of Commissioners.

Section 17. REVOCATION OF PERMITS

The Fire Marshal may revoke and require the return of any permit by notifying the permit holder in writing stating the reason for such revocation. Permits shall be revoked for any material departure from the approved application, plans or specifications; for refusal or failure to comply with proper orders of the Fire Marshal; for refusal or failure to comply with requirements of this ordinance and the appropriate regulatory codes; or false statements or misrepresentations made in securing such permit.

Section 18. CONDITIONS OF A PERMIT

A permit shall constitute permission to maintain, store or handle materials; or to conduct processes which produce conditions hazardous to life or property; or to install equipment utilized in connect with such activities; or to install or modify any fire protection system or equipment or any other construction, equipment installation or modification in accordance with the provisions of this ordinance where a permit is required. Such permission shall not be construed as authority to violate, cancel or set aside any of the provisions of the Ordinance or applicable regulations or laws of the jurisdiction.

Section 19. EXPIRATION OF PERMITS

An operational permit and permits for use of pyrotechnics at public exhibitions shall remain in effect until reissued, renewed, or revoked or for such a period of time as specified in the permit. Permits are not transferable and any change in occupancy, operations, tenancy or ownership shall require that a new permit be issued.

Section 20. CONDITIONAL PERMITS

Where permits are required and upon the request of a permit applicant, the Fire Marshal's authorized to issue a conditional permit to occupy the premises or portion thereof before the entire work or operations on the premises is completed, provided that such portion or portions will be occupied safely prior to full completion or installation of equipment and operations without endangering file or public welfare. The Fire Marshal shall notify the permit applicant in writing of any limitation or restrictions necessary to keep the permit area safe. The holder of a conditional permit shall proceed only to the point for which approval has been given, at the permit holder's own risk and without assurance that approval for the occupancy or the utilization of the entire premises, equipment or operations will be granted.

Section 21. POSTING THE PERMIT

Issued permits shall be kept on the premises designated therein at all times and shall be readily available for inspection by the Fire Marshal.

Section 22. COMPLIANCE WITH CODE

The issuance or granting of a permit shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this code or of any other ordinance of the jurisdiction. Permits presuming to give authority to violate or cancel the provisions of this ordinance shall not be valid. The issuance of a permit based on construction documents and other data shall not prevent the Fire Marshal from requiring the correction of errors in the construction documents and other data. Any addition to or alteration of approved construction documents shall be approved in advance by the Fire Marshal, as evidenced by the issuance of a new or amended permit.

Section 23. TIME LIMITATIONS ON VALIDITY OF PERMITS

All construction permits issued under this ordinance shall expire by limitation six (6) months after the date of issuance if the work authorized by the permit has not been commenced. If after commencement, the work is discontinued for a period of twelve (12) months, the permit; therefore, shall immediately expire. No work authorized by any permit that has expired shall thereafter be performed until a new permit has been secured.

Section 24. EXTENSION OF PERMITS

A construction permit holder having an unexpired construction permit shall have the right to apply for an extension of the time within which the permit holder will commence work under the permit when work is unable to be commenced within the time required by this section for good and satisfactory reasons. The Fire Marshal is authorized to grant, in writing, one or more extensions of the time period of a permit for periods of not more than 90 days each. Such extensions shall be required by the permit holder in writing and justifiable cause demonstrated.

Section 25. CHANGES IN WORK

After a permit has been issued, changes or deviations from the terms of the application and permit, or changes or deviations from the plans or specifications involving any work under the jurisdiction of this ordinance or any regulatory code adopted herein, shall not be made until specific written approval of such changes or deviations has been obtained from the Fire Marshal.

Section 26. PLANS AND SPECIFICATIONS

Where plans and specifications are deemed necessary by the Fire Marshal in order for him to determine whether the proposed work complies with the appropriate regulatory codes; plans shall be drawn to scale with sufficient clarity to indicate the nature and extent of the work proposed, and plans and specifications together shall contain information sufficient to indicate that the work proposed will conform to the provisions of this ordinance and the appropriate regulatory codes. Where plans and specifications are required, a copy of the same shall be kept at the work site until all authorized operations have been completed and approved by the Fire Marshal.

Section 27. FEE SCHEDULE

- (a) Fees for inspections required by this Ordinance shall be determined by resolution of the Board of County Commissioners. An inspection fee schedule shall be filed with the Clerk of the Board of County Commissioners and the Fire Marshal's Office for public inspection.
- (b) Inspection fees shall be paid at the time of inspection or permit issued.

Section 28. VIOLATIONS AND PENALTIES

- (a) Any person who shall violate any of the provisions of the Ordinance hereby adopted or who shall fail to comply with any judicial warrant, lawful order, or regulation made hereunder, or who builds in violation of any specifications, or plans shall be guilty of a misdemeanor. Each day that such violation continues shall constitute a separate offense. In the name of the County, the County Fire Code Enforcement Official, through the County Attorney, may enjoin the construction or erection of any facility, building, or structure which does not conform to the provisions of the Ordinance.
- (b) This Ordinance may be enforced by any of the remedies set forth in G.S. 153A-123, in addition to others specifically set out herein.
- (c) Any persons who violates this Ordinance subjects the offender to a civil debt if the offender does not pay the penalty within the time prescribed herein after he has been cited for violation of this ordinance. The penalty for a civil violation shall be adopted by the Duplin County Board of Commissioners. Each day of violation constitutes a separate and distinct offense.
- (d) Civil penalties must be paid within seven (7) business days after a citation has been issued by the Fire Code Enforcement Official for a violation. The Fire Code Enforcement Official is authorized to issue written citation(s) in the name of the County for violations.
- (e) If any person shall violate this ordinance or chapter or any provision thereof, he/she shall be guilty of a misdemeanor and shall be imprisoned and fined not more than the maximum imposed by N.C.G.S. 14-4.

Section 29. REMOVAL OF OBSTRUCTIONS PROHIBITED PARKING

Any vehicle found obstructing, any fire hydrant, fire protection equipment, designated and marked fire lane, or fire station, may be issued a citation, removed or towed away by or under the direction of the Fire Code Enforcement Official to a storage area or garage.


The owner of such vehicle shall be deemed to have appointed the Fire Code Enforcement Official as his/her agent for the purpose of arranging for the transportation and safe storage of the vehicle. The owner of such vehicle, before obtaining possession thereof, shall pay all reasonable cost incidental to the removal and storage of the vehicle due for the violation of prohibited parking. The County assumes no liability for any damages for vehicles towed that are in violation of this section.

Section 30. ADMINISTRATION AND ENFORCEMENT

The County hereby adopts the North Carolina Administration and Enforcement Volume 1-A of the North Carolina State Building Code.

It is the legislative intent of the Board of Commissioners in enacting this Article that each section and subdivision is separate and divisible from any other section, and if any provision hereof should be held or declared by a court of competent jurisdiction to be invalid for any reason, such decision or holding shall not affect the validity of any other section or provision hereof.

Adopted this second day of August, 2010 to become effective the first day of September, 2010.


Cary Turner
Chairman

ATTEST: Mike Aldridge

Clerk

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DUPLIN COUNTY FLOOD DAMAGE PREVENTION ORDINANCE

Non-Coastal Regular Phase

ARTICLE I. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES.

SECTION A. STATUTORY AUTHORIZATION.

The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Parts 3 and 4 of Article 18 of Chapter 153A; and Part 121, Article 6 of Chapter 153A of the North Carolina General Statutes, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare.

Therefore, the Board of County Commissioners of Duplin County, North Carolina, does ordain as follows:

SECTION B. FINDINGS OF FACT.

- (1) The flood prone areas within the jurisdiction of Duplin County are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- (2) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities and by the occupancy in flood prone areas of uses vulnerable to floods or other hazards.

SECTION C. STATEMENT OF PURPOSE.

It is the purpose of this ordinance to promote public health, safety, and general welfare and to minimize public and private losses due to flood conditions within flood prone areas by provisions designed to:

- (1) Restrict or prohibit uses that are dangerous to health, safety, and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights or velocities;
- (2) Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;
- (3) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;
- (4) Control filling, grading, dredging, and all other development that may increase erosion or flood damage; and
- (5) Prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or which may increase flood hazards to other lands.

SECTION D. OBJECTIVES.

The objectives of this ordinance are to:

- (1) Protect human life, safety, and health;
- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the

general public;

- (4) Minimize prolonged business losses and interruptions;
- (5) Minimize damage to public facilities and utilities (i.e. water and gas mains, electric, telephone, cable and sewer lines, streets, and bridges) that are located in flood prone areas;
- (6) Minimize damage to private and public property due to flooding;
- (7) Make flood insurance available to the community through the National Flood Insurance Program;
- (8) Maintain the natural and beneficial functions of floodplains;
- (9) Help maintain a stable tax base by providing for the sound use and development of flood prone areas; and
- (10) Ensure that potential buyers are aware that property is in a Special Flood Hazard Area.

ARTICLE 2. DEFINITIONS.

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance it's most reasonable application.

"Accessory Structure (Appurtenant Structure)" means a structure located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports and storage sheds are common urban accessory structures. Pole barns, hay sheds and the like qualify as accessory structures on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.

"Addition (to an existing building)" means an extension or increase in the floor area or height of a building or structure.

"Alteration of a watercourse" means a dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

"Appeal" means a request for a review of the Floodplain Administrator's interpretation of any provision of this ordinance.

"Area of Special Flood Hazard" see "Special Flood Hazard Area (SFHA)".

"Base Flood" means the flood having a one (1) percent chance of being equaled or exceeded in any given year.

"Base Flood Elevation (BFE)" means a determination of the water surface elevations of the base flood as published in the Flood Insurance Study. When the BFE has not been provided in a "Special Flood Hazard Area", it may be obtained from engineering studies available from a Federal, State, or other source using FEMA approved engineering methodologies. This elevation, when combined with the "Freeboard", establishes the "Regulatory Flood Protection Elevation".

"Basement" means any area of the building having its floor subgrade (below ground level) on all sides.

"Building" see "Structure".

"Chemical Storage Facility" means a building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

"Design Flood": See "Regulatory Flood Protection Elevation."

"Development" means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

"Development Activity" means any activity defined as Development which will necessitate a Floodplain Development Permit.

This includes buildings, structures, and non-structural items, including (but not limited to) fill, bulkheads, piers, pools, docks, landings, ramps, and erosion control/stabilization measures.

“Digital Flood Insurance Rate Map (DFIRM)” means the digital official map of a community, issued by the Federal Emergency Management Agency (FEMA), on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.

“Disposal” means, as defined in NCGS 130A-290(a)(6), the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

“Elevated Building” means a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

“Encroachment” means the advance or infringement of uses, fill, excavation, buildings, structures or development into a special flood hazard area, which may impede or alter the flow capacity of a floodplain.

“Existing building and existing structure” means any building and/or structure for which the “start of construction” commenced before September 16, 1988.

“Existing Manufactured Home Park or Manufactured Home Subdivision” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before the initial effective date of the floodplain management regulations adopted by the community.

“Flood” or “Flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (a) The overflow of inland or tidal waters; and/or
- (b) The unusual and rapid accumulation or runoff of surface waters from any source.

“Flood Boundary and Floodway Map (FBFM)” means an official map of the community, issued by the FEMA, on which the Special Flood Hazard Areas and the floodways are delineated. This official map is a supplement to and shall be used in conjunction with the Flood Insurance Rate Map (FIRM).

“Flood Insurance” means the insurance coverage provided under the National Flood Insurance Program.

“Flood Insurance Rate Map (FIRM)” means an official map of the community, issued by the FEMA, on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated. (see also DFIRM)

“Flood Insurance Study (FIS)” means an examination, evaluation, and determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones, and other flood data in a community issued by the FEMA. The Flood Insurance Study report includes Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), if published.

“Flood Prone Area” see “Floodplain”

“Flood Zone” means a geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

“Floodplain” means any land area susceptible to being inundated by water from any source.

“Floodplain Administrator” is the individual appointed to administer and enforce the floodplain management regulations.

“Floodplain Development Permit” means any type of permit that is required in conformance with the provisions of this ordinance, prior to the commencement of any development activity.

“Floodplain Management” means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including, but not limited to, emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

"Floodplain Management Regulations" means this ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power. This term describes federal, state or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

"Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures, and their contents.

"Flood-resistant material" means any building product [material, component or system] capable of withstanding direct and prolonged contact (minimum 72 hours) with floodwaters without sustaining damage that requires more than low-cost cosmetic repair. Any material that is water-soluble or is not resistant to alkali or acid in water, including normal adhesives for above-grade use, is not flood-resistant. Pressure-treated lumber or naturally decay-resistant lumbars are acceptable flooring materials. Sheet-type flooring coverings that restrict evaporation from below and materials that are impervious, but dimensionally unstable are not acceptable. Materials that absorb or retain water excessively after submergence are not flood-resistant. Please refer to Technical Bulletin 2, *Flood Damage-Resistant Materials Requirements*, and available from the FEMA. Class 4 and 5 materials, referenced therein, are acceptable flood-resistant materials.

"Floodway" means the channel of a river or other watercourse, including the area above a bridge or culvert when applicable, and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

"Floodway encroachment analysis" means an engineering analysis of the impact that a proposed encroachment into a floodway or non-encroachment area is expected to have on the floodway boundaries and flood levels during the occurrence of the base flood discharge. The evaluation shall be prepared by a qualified North Carolina licensed engineer using standard engineering methods and models.

"Freeboard" means the height added to the BFE to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge or culvert openings, and the hydrological effect of urbanization of the watershed. The BFE plus the freeboard establishes the "Regulatory Flood Protection Elevation".

"Functionally Dependent Facility" means a facility which cannot be used for its intended purpose unless it is located in close proximity to water, limited to a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

"Hazardous Waste Management Facility" means, as defined in NCGS 130A, Article 9, a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.

"Highest Adjacent Grade (HAG)" means the highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the structure.

"Historic Structure" means any structure that is:

- (a) Listed individually in the National Register of Historic Places (a listing maintained by the US Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;
- (b) Certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (c) Individually listed on a local inventory of historic landmarks in the communities with a "Certified Local Government (CLG) Program"; or
- (d) Certified as contributing to the historical significance of a historic district designated by the community with a "Certified Local Government (CLG) Program."

Certified Local Government (CLG) Programs are approved by the US Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.

"Letter of Map Change (LOMC)" means an official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

- (a) Letter of Map Amendment (LOMA): An official amendment, by letter, to an effective National Flood Insurance Program map. A LOMA is based on technical data showing that a property had been inadvertently mapped as being in the floodplain, but is actually on natural high ground above the base flood elevation. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.
- (b) Letter of Map Revision (LOMR): A revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.
- (c) Letter of Map Revision Based on Fill (LOMR-F): A determination that a structure or parcel of land has been elevated by fill above the BFE and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.
- (d) Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.

"Light Duty Truck" means any motor vehicle rated at 8,500 pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less as defined in 40 CFR 86.082-2 and is:

- (a) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or
- (b) Designed primarily for transportation of persons and has a capacity of more than 12 persons; or
- (c) Available with special features enabling off-street or off-highway operation and use.

"Lowest Adjacent Grade (LAG)" means the lowest elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.

"Lowest Floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or limited storage in an area other than a basement area is not considered a building's lowest floor, provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

"Manufactured Home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

"Manufactured Home Park or Subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"Market Value" means the building value, not including the land value and that of any accessory structures or other improvements on the lot. Market value may be established by independent certified appraisal; replacement cost depreciated for age of building and quality of construction (Actual Cash Value); or adjusted tax assessed values.

"New Construction" means structures for which the "start of construction" commenced on or after the effective date of the initial floodplain management regulations and includes any subsequent improvements to such structures.

"Non-Conversion Agreement" means a document stating that the owner will not convert or alter what has been constructed and approved. Violation of the agreement is considered a violation of the ordinance and, therefore, subject to the same enforcement procedures and penalties. The agreement must be filed with the recorded deed for the property. The agreement must show the clerk's or recorder's stamps and/or notations that the filing has been completed.

"Non-Encroachment Area (NEA)" means the channel of a river or other watercourse, including the area above a bridge or culvert when applicable, and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot as designated in the Flood Insurance Study report.

"Post-FIRM" means construction or other development for which the "start of construction" occurred on or after July 4, 1989, the effective date of the initial Flood Insurance Rate Map.

"Pre-FIRM" means construction or other development for which the "start of construction" occurred before July 4, 1989, the effective date of the initial Flood Insurance Rate Map.

"Principally Above Ground" means that at least 51% of the actual cash value of the structure is above ground.

"Public Safety" and/or "Nuisance" means anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

"Recreational Vehicle (RV)" means a vehicle, which is:

- (a) Built on a single chassis;
- (b) 400 square feet or less when measured at the largest horizontal projection;
- (c) Designed to be self-propelled or permanently towable by a light duty truck;
- (d) Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use, and
- (e) Is fully licensed and ready for highway use.

For the purpose of this ordinance, "Tiny Homes/Houses" and Park Models that do not meet the items listed above are not considered Recreational Vehicles and should meet the standards of and be permitted as Residential Structures.

"Reference Level" is the top of the lowest floor for structures within Special Flood Hazard Areas designated as Zones A, AE, AH, AO, A99.

"Regulatory Flood Protection Elevation" means the "Base Flood Elevation" plus the "Freeboard". In "Special Flood Hazard Areas" where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE plus two (2) feet freeboard. In "Special Flood Hazard Areas" where no BFE has been established, this elevation shall be at least two feet above the highest adjacent grade.

"Remedy a Violation" means to bring the structure or other development into compliance with state and community floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.

"Riverine" means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

"Salvage Yard" means any non-residential property used for the storage, collection, and/or recycling of any type of equipment, and including but not limited to vehicles, appliances and related machinery.

"Solid Waste Disposal Facility" means any facility involved in the disposal of solid waste, as defined in NCGS 130A-290(a)(35).

"Solid Waste Disposal Site" means, as defined in NCGS 130A-290(a)(36), any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.

"Special Flood Hazard Area (SFHA)" means the land in the floodplain subject to a one percent (1%) or greater chance of being flooded in any given year, as determined in Article 3, Section B of this ordinance.

"Start of Construction" includes substantial improvement, and means the date the building permit was issued provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the

installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

“**Structure**” means a walled and roofed building, a manufactured home, or a gas, liquid, or liquefied gas storage tank that is principally above ground.

“**Substantial Damage**” means damage of any origin sustained by a structure during any one-year period whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred. See definition of “substantial improvement”.

“**Substantial Improvement**” means any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one-year period for which the cost equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either:

- (a) Any correction of existing violations of state or community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (b) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure and the alteration is approved by variance issued pursuant to Article 4 Section E of this ordinance.

“**Temperature Controlled**” means having the temperature regulated by a heating and/or cooling system, built-in or appliance.

“**Variance**” is a grant of relief from the requirements of this ordinance.

“**Violation**” means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Articles 4 and 5 is presumed to be in violation until such time as that documentation is provided.

“**Water Surface Elevation (WSE)**” means the height, in relation to NAVD 1988, of floods of various magnitudes and frequencies in the floodplains of riverine areas.

“**Watercourse**” means a lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

ARTICLE 3. GENERAL PROVISIONS.

SECTION A. LANDS TO WHICH THIS ORDINANCE APPLIES.

This ordinance shall apply to all Special Flood Hazard Areas within the jurisdiction, including Extra-Territorial Jurisdictions (ETJs), of Duplin County.

SECTION B. BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS.

The Special Flood Hazard Areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its FIS dated June 20, 2018 for Duplin County and associated DFIRM panels, including any digital data developed as part of the FIS, which are adopted by reference and declared a part of this ordinance. Future revisions to the FIS and DFIRM panels that do not change flood hazard data within the jurisdictional authority of Duplin County are also adopted by reference and declared a part of this ordinance. Subsequent Letter of Map Revisions (LOMRs) and/or Physical Map Revisions (PMRs) shall be adopted within 3 months.

SECTION C. ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT.

A Floodplain Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities within Special Flood Hazard Areas determined in accordance with the provisions of Article 3, Section B of this ordinance.

SECTION D. COMPLIANCE.

No structure or land shall hereafter be located, extended, converted, altered, or developed in any way without full compliance with the terms of this ordinance and other applicable regulations.

SECTION E. ABROGATION AND GREATER RESTRICTIONS.

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

SECTION F. INTERPRETATION.

In the interpretation and application of this ordinance, all provisions shall be:

- (a) Considered as minimum requirements;
- (b) Liberally construed in favor of the governing body; and
- (c) Deemed neither to limit nor repeal any other powers granted under State statutes.

SECTION G. WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur. Actual flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the Special Flood Hazard Areas or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of Duplin County or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

ARTICLE 4. ADMINISTRATION.**SECTION A. DESIGNATION OF FLOODPLAIN ADMINISTRATOR.**

The Duplin County Chief Building Inspector, hereinafter referred to as the "Floodplain Administrator", is hereby appointed to administer and implement the provisions of this ordinance. In instances where the Floodplain Administrator receives assistance from others to complete tasks to administer and implement this ordinance, the Floodplain Administrator shall be responsible for the coordination and community's overall compliance with the National Flood Insurance Program and the provisions of this ordinance.

SECTION B. FLOODPLAIN DEVELOPMENT APPLICATION, PERMIT AND CERTIFICATION REQUIREMENTS.

- (1) **Application Requirements.** Application for a Floodplain Development Permit shall be made to the Floodplain Administrator prior to any development activities located within Special Flood Hazard Areas. The following items shall be presented to the Floodplain Administrator to apply for a floodplain development permit:
 - (a) A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the

proposed floodplain development:

- (i) 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;
 - (ii) The boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in Article 3, Section B, or a statement that the entire lot is within the Special Flood Hazard Area;
 - (iii) Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in Article 3, Section B;
 - (iv) The boundary of the floodway(s) or non-encroachment area(s) as determined in Article 3, Section B;
 - (v) The Base Flood Elevation (BFE) where provided as set forth in Article 3, Section B; Article 4, Section C; or Article 5, Section D;
 - (vi) The old and new location of any watercourse that will be altered or relocated as a result of proposed development; and
 - (vii) The certification of the plot plan by a registered land surveyor or professional engineer.
- (b) Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to:
- (i) Elevation in relation to NAVD 1988 of the proposed reference level (including basement) of all structures;
 - (ii) Elevation in relation to NAVD 1988 to which any non-residential structure in Zones A, AE, AH, AO, A99 will be floodproofed; and
 - (iii) Elevation in relation to NAVD 1988 to which any proposed utility systems will be elevated or floodproofed.
- (c) If floodproofing, a Floodproofing Certificate (FEMA Form 086-0-34) with supporting data, an operational plan, and an inspection and maintenance plan that include, but are not limited to, installation, exercise, and maintenance of floodproofing measures.
- (d) A Foundation Plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this ordinance are met. These details include but are not limited to:
- (i) The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls); and
 - (ii) Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with Article 5, Section B(4)(d) when solid foundation perimeter walls are used in Zones A, AE, AH, AO, A99.
- (e) Usage details of any enclosed areas below the lowest floor.
- (f) 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.
- (g) Certification that all other Local, State and Federal permits required prior to floodplain development permit issuance have been received.
- (h) Documentation for placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure that the provisions of Article 5, Section B, subsections (6) and (7) of this ordinance are met.

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- (i) 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.
- (2) **Permit Requirements.** The Floodplain Development Permit shall include, but not be limited to:
- (a) A complete description of all the development to be permitted under the floodplain development permit (e.g. house, garage, pool, septic, bulkhead, cabana, pier, bridge, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials, etc.).
 - (b) The Special Flood Hazard Area determination for the proposed development in accordance with available data specified in Article 3, Section B.
 - (c) The Regulatory Flood Protection Elevation required for the reference level and all attendant utilities.
 - (d) The Regulatory Flood Protection Elevation required for the protection of all public utilities.
 - (e) All certification submittal requirements with timelines.
 - (f) 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 Article 5, Section F have been met.
 - (g) The flood openings requirements, if in Zones A, AE, AH, AO, A99.
 - (h) Limitations of below BFE enclosure uses (if applicable). (i.e., parking, building access and limited storage only).
 - (i) All materials below BFE/RFPE must be flood resistant materials.
- (3) **Certification Requirements.**
- (a) Elevation Certificates
 - (i) An Elevation Certificate (FEMA Form 086-0-33) is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to NAVD 1988. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit.
 - (ii) An Elevation Certificate (FEMA Form 086-0-33) is required after the reference level is established. Within seven (7) calendar days of establishment of the reference level elevation, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to NAVD 1988. Any work done within the seven (7) day calendar period and prior to submission of the certification shall be at the permit holder's risk. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being permitted to proceed. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop-work order for the project.
 - (iii) A final Finished Construction Elevation Certificate (FEMA Form 086-0-33) is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Compliance/Occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy. *The Finished Construction Elevation Certificate certifier shall provide at least 2 photographs showing the front and rear of the building taken within 90 days from the date of*

certification. The photographs must be taken with views confirming the building description and diagram number provided in Section A. To the extent possible, these photographs should show the entire building including foundation. If the building has split-level or multi-level areas, provide at least 2 additional photographs showing side views of the building. In addition, when applicable, provide a photograph of the foundation showing a representative example of the flood openings or vents. All photographs must be in color and measure at least 3" x 3". Digital photographs are acceptable.

(b) Floodproofing Certificate

- (i) If non-residential floodproofing is used to meet the Regulatory Flood Protection Elevation requirements, a Floodproofing Certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.
- (ii) A final Finished Construction Floodproofing Certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the issuance of a Certificate of Compliance/Occupancy. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing certificate shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to Certificate of Occupancy. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to deny a Certificate of Compliance/Occupancy.

(c) If a manufactured home is placed within Zones A, AE, AH, AO, A99 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required in accordance with the provisions of Article 5, Section B(3)(b).

(d) If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; a professional engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.

(e) Certification Exemptions. The following structures, if located within Zones A, AE, AH, AO, A99, are exempt from the elevation/floodproofing certification requirements specified in items (a) and (b) of this subsection:

- (i) Recreational Vehicles meeting requirements of Article 5, Section B(6)(a);
- (ii) Temporary Structures meeting requirements of Article 5, Section B(7); and
- (iii) Accessory Structures that are 150 square feet or less and Cost of Structure \$3,000.00 or less and meeting requirements of Article 5, Section B(8).

(4) **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:

- (a) 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;
- (b) 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;
- (c) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and
- (d) Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the NC Building Code and this ordinance is required.

SECTION C. DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR.

The Floodplain Administrator shall perform, but not be limited to, the following duties:

- (1) Review all floodplain development applications and issue permits for all proposed development within Special Flood Hazard Areas to assure that the requirements of this ordinance have been satisfied.
- (2) Review all proposed development within Special Flood Hazard Areas to assure that all necessary local, state and federal permits have been received, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
- (3) Notify adjacent communities and the North Carolina Department of Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).
- (4) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained.
- (5) Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of Article 5, Section F are met.
- (6) Obtain actual elevation (in relation to NAVD 1988) of the reference level (including basement) and all attendant utilities of all new and substantially improved structures, in accordance with the provisions of Article 4, Section B(3).
- (7) Obtain actual elevation (in relation to NAVD 1988) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with the provisions of Article 4, Section B(3).
- (8) Obtain actual elevation (in relation to NAVD 1988) of all public utilities in accordance with the provisions of Article 4, Section B(3).
- (9) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the provisions of Article 4, Section B(3) and Article 5, Section B(2).
- (10) Where interpretation is needed as to the exact location of boundaries of the Special Flood Hazard Areas, floodways, or non-encroachment areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.
- (11) When BFE data has not been provided in accordance with the provisions of Article 3, Section B, 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 Article 5, Section D(2)(c), in order to administer the provisions of

this ordinance.

- (12) When BFE data is provided but no floodway or non-encroachment area data has been provided in accordance with the provisions of Article 3, Section B, obtain, review, and reasonably utilize any floodway data or non-encroachment area data available from a federal, state, or other source in order to administer the provisions of this ordinance.
- (13) Permanently maintain all records that pertain to the administration of this ordinance and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.
- (14) Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the Floodplain Administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the Floodplain Administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.
- (15) Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this ordinance, the Floodplain Administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing or in charge of the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.
- (16) Revoke floodplain development permits as required. The Floodplain Administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, and specifications; for refusal or failure to comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable State or local law may also be revoked.
- (17) Make periodic inspections throughout the Special Flood Hazard Areas within the jurisdiction of the community. The Floodplain Administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.
- (18) Follow through with corrective procedures of Article 4, Section D.
- (19) Review, provide input, and make recommendations for variance requests.
- (20) Maintain a current map repository to include, but not limited to, historical and effective FIS Report, historical and effective FIRM and other official flood maps and studies adopted in accordance with the provisions of Article 3, Section B of this ordinance, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify State and FEMA of mapping needs.
- (21) Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-Fs) and Letters of Map Revision (LOMRs).

SECTION D. CORRECTIVE PROCEDURES.

- (1) Violations to be corrected: When the Floodplain Administrator finds violations of applicable state and local laws; it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.
- (2) Actions in Event of Failure to Take Corrective Action: If the owner of a building or property shall fail to take prompt corrective action, the Floodplain Administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:
 - (a) That the building or property is in violation of the floodplain management regulations;
 - (b) That a hearing will be held before the Floodplain Administrator at a designated place and time, not later than ten

- (10) days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and
- (c) That following the hearing, the Floodplain Administrator may issue an order to alter, vacate, or demolish the building; or to remove fill as applicable.
- (3) Order to Take Corrective Action: If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator shall find that the building or development is in violation of the Flood Damage Prevention Ordinance, he or she shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than sixty (60) calendar days, nor more than least one hundred eighty (180) calendar days. Where the Floodplain Administrator finds that there is imminent danger to life or other property, he or she may order that corrective action be taken in such lesser period as may be feasible.
- (4) Appeal: Any owner who has received an order to take corrective action may appeal the order to the local elected governing body by giving notice of appeal in writing to the Floodplain Administrator and the clerk within ten (10) days following issuance of the final order. In the absence of an appeal, the order of the Floodplain Administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.
- (5) Failure to Comply with Order: If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a Class 1 misdemeanor pursuant to NC G.S. § 143-215.58 and shall be punished at the discretion of the court.

SECTION E. VARIANCE PROCEDURES.

- (1) The Duplin County Planning Board as established by Duplin County, hereinafter referred to as the "appeal board", shall hear and decide requests for variances from the requirements of this ordinance.
- (2) Any person aggrieved by the decision of the appeal board may appeal such decision to the Court, as provided in Chapter 7A of the North Carolina General Statutes.
- (3) Variances may be issued for:
- (a) 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;
 - (b) Functionally dependent facilities if determined to meet the definition as stated in Article 2 of this ordinance, provided provisions of Article 4, Section E(9)(b), (c), and (e) have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety; or
 - (c) Any other type of development provided it meets the requirements of this Section.
- (4) In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:
- (a) The danger that materials may be swept onto other lands to the injury of others;
 - (b) The danger to life and property due to flooding or erosion damage;
 - (c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (d) The importance of the services provided by the proposed facility to the community;
 - (e) The necessity to the facility of a waterfront location as defined under Article 2 of this ordinance as a functionally

- dependent facility, where applicable;
- (f) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 - (g) The compatibility of the proposed use with existing and anticipated development;
 - (h) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - (i) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (j) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
 - (k) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.
- (5) A written report addressing each of the above factors shall be submitted with the application for a variance.
 - (6) Upon consideration of the factors listed above and the purposes of this ordinance, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this ordinance.
 - (7) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the BFE and the elevation to which the structure is to be built and that such construction below the BFE increases risks to life and property, and that the issuance of a variance to construct a structure below the BFE may result in increased premium rates for flood insurance up to \$25 per \$100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.
 - (8) The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the FEMA and the State of North Carolina upon request.
 - (9) Conditions for Variances:
 - (a) Variances shall not be issued when the variance will make the structure in violation of other federal, state, or local laws, regulations, or ordinances.
 - (b) 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.
 - (c) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - (d) Variances shall only be issued prior to development permit approval.
 - (e) Variances shall only be issued upon:
 - (i) A showing of good and sufficient cause;
 - (ii) A determination that failure to grant the variance would result in exceptional hardship; and
 - (iii) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
 - (10) A variance may not be issued for solid waste disposal facilities or sites, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in Special Flood Hazard Areas.

ARTICLE 5. PROVISIONS FOR FLOOD HAZARD REDUCTION.

In all Special Flood Hazard Areas the following provisions are required:

- (1) All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.
- (2) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage in accordance with the FEMA Technical Bulletin 2, *Flood Damage-Resistant Materials Requirements*.
- (3) All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.
- (4) All new electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall be located at or above the RFPE or designed and installed to prevent water from entering or accumulating within the components during the occurrence of the base flood. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, water heaters, and electric outlets/switches.
 - (a) Replacements part of a substantial improvement, electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall also meet the above provisions.
 - (b) Replacements that are for maintenance and not part of a substantial improvement, may be installed at the original location provided the addition and/or improvements only comply with the standards for new construction consistent with the code and requirements for the original structure.
- (5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into flood waters.
- (7) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- (8) Nothing in this ordinance shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this ordinance and located totally or partially within the floodway, non-encroachment area, or stream setback, provided there is no additional encroachment below the Regulatory Flood Protection Elevation in the floodway, non-encroachment area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this ordinance.
- (9) New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted.
- (10) All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.
- (11) 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.
- (12) All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- (13) 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.
- (14) When a structure is partially located in a Special Flood Hazard Area, the entire structure shall meet the requirements for new construction and substantial improvements.

- (15) 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 shall apply.

SECTION B. SPECIFIC STANDARDS.

In all Special Flood Hazard Areas where BFE data has been provided, as set forth in Article 3, Section B, or Article 5, Section D, the following provisions, in addition to the provisions of Article 5, Section A, are required:

- (1) Residential Construction. New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the Regulatory Flood Protection Elevation, as defined in Article 2 of this ordinance.
- (2) Non-Residential Construction. New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the Regulatory Flood Protection Elevation, as defined in Article 2 of this ordinance. Structures located in Zones A, AE, AH, AO, A99 may be floodproofed to the Regulatory Flood Protection Elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the Regulatory Flood Protection Elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy.
- (3) Manufactured Homes.
- (a) New and replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the Regulatory Flood Protection Elevation, as defined in Article 2 of this ordinance.
- (b) Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by certified engineered foundation system, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance pursuant to NCGS 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis thirty-six (36) inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above thirty-six (36) inches in height, an engineering certification is required.
- (c) All enclosures or skirting below the lowest floor shall meet the requirements of Article 5, Section B (4).
- (d) 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.
- (4) Elevated Buildings. Fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor:
- (a) Shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas;
- (b) Shall not be temperature-controlled or conditioned;
- (c) Shall be constructed entirely of flood resistant materials; and
- (d) Shall include, in Zones A, AE, AH, AO, A99 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:
- (i) A minimum of two flood openings on different sides of each enclosed area subject to flooding;

- (ii) The total net area of all flood openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding;
 - (iii) If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;
 - (iv) The bottom of all required flood openings shall be no higher than one (1) foot above the higher of the interior or exterior adjacent grade;
 - (v) Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and
 - (vi) Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.
- (e) Property owners shall be required to execute and record a non-conversion agreement prior to issuance of a building permit declaring that the area below the lowest floor shall not be improved, finished or otherwise converted to habitable space; Duplin County may have the right to inspect the enclosed area. Duplin County will conduct annual inspections. This agreement shall be recorded with the Duplin County Register of Deeds and shall transfer with the property in perpetuity.

(5) Additions/Improvements.

- (a) 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:
 - (i) Not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages.
 - (ii) A substantial improvement, with modifications/rehabilitations/improvements to the existing structure or the common wall is structurally modified more than installing a doorway, both the existing structure and the addition must comply with the standards for new construction.
- (b) Additions to pre-FIRM or post-FIRM structures that are a substantial improvement with no modifications/rehabilitations/improvements to the existing structure other than a standard door in the common wall, shall require only the addition to comply with the standards for new construction.
- (c) 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:
 - (i) Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction consistent with the code and requirements for the original structure.
 - (ii) A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
- (d) Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a 1 year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started must comply with the standards for new construction. For each building or structure, the 1 year period begins on the date of the first improvement or repair of that building or structure subsequent to the effective date of this ordinance. Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The requirement does not, however, include either:

- (i) 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.
 - (ii) Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.
- (6) Recreational Vehicles. Recreational vehicles shall either:
- (a) Temporary Placement
 - (i) Be on site for fewer than 180 consecutive days; or
 - (ii) 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.)
 - (b) Permanent Placement. Recreational vehicles that do not meet the limitations of Temporary Placement shall meet all the requirements for new construction.
- (7) Temporary Non-Residential Structures. Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the Floodplain Administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning notification. The following information shall be submitted in writing to the Floodplain Administrator for review and written approval:
- (a) A specified time period for which the temporary use will be permitted. Time specified may not exceed three (3) months, renewable up to one (1) year;
 - (b) The name, address, and phone number of the individual responsible for the removal of the temporary structure;
 - (c) The time frame prior to the event at which a structure will be removed (i.e., minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);
 - (d) A copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and
 - (e) Designation, accompanied by documentation, of a location outside the Special Flood Hazard Area, to which the temporary structure will be moved.
- (8) Accessory Structures. When accessory structures (sheds, detached garages, etc.) are to be placed within a Special Flood Hazard Area, the following criteria shall be met:
- (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 the provisions of Article 5, Section A(1);
 - (f) All service facilities such as electrical shall be installed in accordance with the provisions of Article 5, Section A(4); and
 - (g) Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below Regulatory

Flood Protection Elevation in conformance with the provisions of Article 5, Section B(4)(d).

An accessory structure with a footprint less than 150 square foot and that is a minimal investment of \$3,000 or less and satisfies the criteria outlined above is not required to meet the elevation or floodproofing standards of Article 5, Section B (2). Elevation or floodproofing certifications are required for all other accessory structures in accordance with Article 4, Section B(3).

- (9) Tanks. When gas and liquid storage tanks are to be placed within a Special Flood Hazard Area, the following criteria shall be met:
- (a) Underground tanks. Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty;
 - (b) Above-ground tanks, elevated. Above-ground tanks in flood hazard areas shall be elevated to or above the Regulatory Flood Protection Elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area;
 - (c) Above-ground tanks, not elevated. Above-ground tanks that do not meet the elevation requirements of Article 5, Section B (2) of this ordinance shall be permitted in flood hazard areas provided the tanks are designed, constructed, installed, and anchored to resist all flood-related and other loads, including the effects of buoyancy, during conditions of the design flood and without release of contents in the floodwaters or infiltration by floodwaters into the tanks. Tanks shall be designed, constructed, installed, and anchored to resist the potential buoyant and other flood forces acting on an empty tank during design flood conditions.
 - (d) Tank inlets and vents. Tank inlets, fill openings, outlets and vents shall be:
 - (i) 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
 - (ii) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.
- (10) Other Development.
- (a) Fences in regulated floodways and NEAs that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of Article 5, Section F of this ordinance.
 - (b) Retaining walls, sidewalks and driveways in regulated floodways and NEAs. Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of Article 5, Section F of this ordinance.
 - (c) 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 Article 5, Section F of this ordinance.

SECTION C. RESERVED.

SECTION D. STANDARDS FOR FLOODPLAINS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS.

Within the Special Flood Hazard Areas designated as Approximate Zone A and established in Article 3, Section B, where no BFE data has been provided by FEMA, the following provisions, in addition to the provisions of Article 5, Section A, shall apply:

- (1) No encroachments, including fill, new construction, substantial improvements or new development shall be permitted

within a distance of twenty (20) feet each side from top of bank or five times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

- (2) The BFE used in determining the Regulatory Flood Protection Elevation shall be determined based on the following criteria:
- (a) When BFE data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this ordinance and shall be elevated or floodproofed in accordance with standards in Article 5, Sections A and B.
 - (b) 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 Article 5, Sections B and F.
 - (c) All subdivision, manufactured home park and other development proposals shall provide BFE data if development is greater than five (5) acres or has more than fifty (50) lots/manufactured home sites. Such BFE data shall be adopted by reference in accordance with Article 3, Section B and utilized in implementing this ordinance.
 - (d) When BFE data is not available from a Federal, State, or other source as outlined above, the reference level shall be elevated or floodproofed (nonresidential) to or above the Regulatory Flood Protection Elevation, as defined in Article 2. All other applicable provisions of Article 5, Section B shall also apply.

SECTION E. STANDARDS FOR RIVERINE FLOODPLAINS WITH BASE FLOOD ELEVATIONS BUT WITHOUT ESTABLISHED FLOODWAYS OR NON-ENCROACHMENT AREAS.

Along rivers and streams where BFE data is provided by FEMA or is available from another source but neither floodway nor non-encroachment areas are identified for a Special Flood Hazard Area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:

- (1) Standards of Article 5, Sections A and B; and
- (2) Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community.

SECTION F. FLOODWAYS AND NON-ENCROACHMENT AREAS.

Areas designated as floodways or non-encroachment areas are located within the Special Flood Hazard Areas established in Article 3, Section B. The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in Article 5, Sections A and B, shall apply to all development within such areas:

- (1) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless:
 - (a) It is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood discharge, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the Floodplain Administrator prior to issuance of floodplain development permit; or
 - (b) A Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision

(LOMR) must also be obtained within six months of completion of the proposed encroachment.

- (2) If Article 5, Section F(1) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this ordinance.
- (3) Manufactured homes may be permitted provided the following provisions are met:
 - (a) The anchoring and the elevation standards of Article 5, Section B(3); and
 - (b) The encroachment standards of Article 5, Section F(1).

ARTICLE 6. LEGAL STATUS PROVISIONS.

SECTION A. EFFECT ON RIGHTS AND LIABILITIES UNDER THE EXISTING FLOOD DAMAGE PREVENTION ORDINANCE.

This ordinance in part comes forward by re-enactment of some of the provisions of the Flood Damage Prevention Ordinance enacted September 16, 1988 as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this ordinance shall not affect any action, suit or proceeding instituted or pending. All provisions of the Flood Damage Prevention Ordinance of Duplin County enacted on September 16, 1988, as amended, which are not reenacted herein are repealed.

The date of the initial Flood Damage Prevention Ordinance for Duplin County is September 16, 1988.

The date of the initial Flood Damage Prevention Ordinance for each municipal jurisdiction within Duplin County is as follows:

| <u>Town</u> | <u>Initial Ordinance Date</u> |
|-------------|-------------------------------|
| Beulaville | 9/16/1988 |
| Calypso | 6/27/2005 |
| Faison | 5/7/1997 |
| Greenevers | 6/13/2005 |
| Kenansville | 6/1/1987 |
| Magnolia | 9/16/1988 |
| Rose Hill | 5/12/1998 |
| Teachey | 1/5/2004 |
| Wallace | 1/8/1987 |
| Warsaw | 8/15/2005 |

SECTION B. EFFECT UPON OUTSTANDING FLOODPLAIN DEVELOPMENT PERMITS.

Nothing herein contained shall require any change in the plans, construction, size, or designated use of any development or any part thereof for which a floodplain development permit has been granted by the Floodplain Administrator or his or her authorized agents before the time of passage of this ordinance; provided, however, that when construction is not begun under such outstanding permit within a period of six (6) months subsequent to the date of issuance of the outstanding permit, construction or use shall be in conformity with the provisions of this ordinance.

SECTION C. SEVERABILITY.

If any section, clause, sentence, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

SECTION D. EFFECTIVE DATE.

This ordinance shall become effective June 20, 2018.

SECTION E. ADOPTION CERTIFICATION.

I hereby certify that this is a true and correct copy of the Flood Damage Prevention Ordinance as adopted by the Duplin County Board of Commissioners Duplin County, North Carolina, on the 16th day of April, 2018.

WITNESS my hand and the official seal of Duplin County, this the 16th day of April, 2018.


Jesse Dowe, Chairman


Davis H. Brinson, Clerk



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**DUPLIN COUNTY
VOLUNTARY AGRICULTURAL DISTRICTS
ORDINANCE**

ARTICLE I
TITLE

This program, adopted by the Board of Commissioners of Duplin County, North Carolina, shall be known as the **Duplin County Voluntary Agricultural Districts Ordinance**.

ARTICLE II
AUTHORITY

The articles and sections of this program ordinance are adopted pursuant to the authority conferred by N. C. General Statutes §106-735 through 106-743.

ARTICLE III
PURPOSE

The purpose of this program ordinance is to promote the health, safety, rural agricultural values, and general welfare of the County, and more specifically, increase identity and pride in the agricultural community and its way of life, encourage the economic and financial health of agriculture; increase protection from non-farm development; and increase the protection of farms from suits and other negative impacts on properly managed farms.

ARTICLE IV
JURISDICTION

The Duplin County Voluntary Agricultural Districts will follow the lines/boundaries of the existing five county commissioner's districts within the County and will cover all unincorporated areas within those to include the extra territorial jurisdictions (ETJ) of each town.

ARTICLE V
DEFINITIONS

Agricultural board: The Duplin County Voluntary Agricultural District Board is a committee of representatives from each Commissioner district, the Director of the Duplin County Cooperative Extension Service, the Duplin County Planner, the Register of Deeds, the President of the Duplin County Agribusiness Council, and performs duties outlined in this Voluntary Agricultural District (VAD) Ordinance.

Administrative Support: Designated staff from Duplin County Cooperative Extension Service, Soil and Water Conservation District (SWCD), and Natural Resources Conservation Service (NRCS) will provide administrative/technical assistance and support to the Voluntary Agricultural District (VAD) Board.

Alternates: The Duplin County Board of Commissioners may appoint alternates for the five district members.

Board of Commissioners: The Board of Commissioners of Duplin County, North Carolina.

Chairman: Chairman of the Duplin County Voluntary Agricultural Board (VAD).

District: A voluntary agricultural district (VAD) established under the terms and conditions of this program by the Board of Commissioners.

ARTICLE VI QUALIFICATIONS AND CERTIFICATION OF FARMLAND

Section 600, Requirements

In order for farmland to qualify for participation under the terms of this program, it shall meet the following requirements:

- (1) The farmland shall be real property;
- (2) The farm property shall be participating in the farm present-use-value taxation program established by G. S. § 105-277.2 through 105.277.7, or is otherwise determined by the County to meet all the qualifications of this program set forth in G. S. § 105.277.3;
- (3) The property shall be certified by the Natural Resources Conservation Service of the United States Department of Agriculture, in consultation with the Cooperative Extension Service and the Farm Service Agency, as being a farm on which at least two-thirds of the land is composed of soils that:
 - (a) are best suited for providing food, seed, fiber, forage, timber, and horticultural crops, including Christmas trees and ornamentals;
 - (b) have good soil qualities;
 - (c) are favorable for all major crops common to the county where the land is located;
 - (d) have a favorable growing season; and
 - (e) receive the available moisture needed to produce high yields for an average of eight out of ten years; or

- (f) soils on which at least two-thirds of the land has been actively used in agricultural, horticultural, or forestry operations as defined in G. S. § 105-277.2.
- (4) The property, if highly erodible land exists on the farm, is managed in accordance with the Natural Resources Conservation Service defined erosion control practices that are addressed to said highly erodible land; and
- (5) The property is the subject of a conservation agreement, as defined in G. S. § 121-35, between the County and the owner of such land that prohibits non-farm use of development of such land for a period of at least ten years, except for the creation of not more than three lots that meet applicable County watershed and subdivision regulations, or the regulations of any municipality which apply to the farm property. The property owner may voluntarily revoke this conservation agreement by submitting a written request to the Board in accordance with Article VIII.

Section 601. Certification

The owner of the farm seeking to qualify his property for participation in the farmland preservation program ordinance shall submit written evidence that the property conforms to the requirements of Section 600 of this program. This written information shall be submitted to the Chairman of the Voluntary Agricultural District Board or the designated staff person on forms provided by the Board. The certification may be submitted at the time the owner applies for inclusion in a district.

ARTICLE VII APPLICATION, APPROVAL AND APPEAL PROCEDURES FOR VOLUNTARY AGRICULTURAL DISTRICTS

Section 700. Creation of Voluntary Agricultural Districts

In order to implement the purposes stated in Article III, this program provides for the creation of voluntary agricultural districts which shall meet the following standards:

- (1) The district, when initially established, shall either:
 - (a.) contain a minimum of ten (10) contiguous acres of qualified farmland, OR
 - (b.) contain two (2) or more qualified farms which at least one (1) farm contains a minimum of ten (10) acres and are located within one (1) mile of each other,
OR
 - (c.) contain the minimum amount of acreage of qualified farmland required under N. C. General Statute § 105-277.3 as determined by the County.
- (2) The landowner(s) requesting inclusion in the district shall execute an agreement with the County to sustain agriculture in the district in accordance with Section 600 (5) of

this program. Said agreement shall be in a form which is reviewed and approved by the Voluntary Agricultural District Board; and

- (3) For each district created under the terms of this program, one of the existing Voluntary Agricultural District Board members shall be assigned to represent the district.

Section 701. Application to Participate

A landowner may apply to participate in the program by making application to the chairman of the Voluntary Agricultural District Board or to a designated staff person. The application shall be on forms provided by the Duplin County Voluntary Agricultural Board. The application to participate in a district may be filed with the certification of qualifying farmland.

Section 702. Approval Process

Upon review by the staff of the written certification and application submitted by the property owner, the Board shall meet within 90 days, if possible, to review all qualifying and any non-qualifying applications. The chairman or his/her designee shall notify the applicants of said approval or disapproval of participation in the district.

Upon receipt of an application, the chairman of the Voluntary Agricultural District Board may forward a copy of the application to the County Manager, the County Tax Assessor, and the County Planning Board which may be asked to provide comments, if any, to the Duplin County Voluntary Agricultural Board prior to the vote on the application.

Section 703. Appeal

If an application is denied by the Duplin County Voluntary Agricultural District Board, the petitioner has 30 days from the date of the letter to appeal the decision to the Duplin County Board of Commissioners. Such appeal shall be presented in writing. The decision of the Board of Commissioners is final.

ARTICLE VIII

REVOCATION OR WITHDRAWAL OF CONSERVATION AGREEMENTS

By written notice to the board, a landowner of qualifying farmland may revoke the preservation agreement formulated pursuant to Section 600 (5) of this program, or the board may revoke same preservation agreement based on noncompliance by the landowner. Such revocation shall result in loss of qualifying farm status, and consequently, loss of eligibility to participate in a voluntary agricultural district and the benefits thereof. Revocation by a landowner of a preservation agreement and the resulting loss of qualifying farmland status for the purpose of participation in a voluntary agricultural district shall in no way affect the

[8/28/2015]

eligibility of the land to be taxed at its present use value as provided in N. C. G. S. § 105-277.2 through N. C. G. S. § 105-277.6. If a portion of a district is removed for any reason after being established by this program, the remaining qualified farms may remain in the program, provided they meet all other requirements except the minimum area requirements of Section 700 (1).

ARTICLE IX AGRICULTURAL BOARD

Section 900. Creation

In accordance with N. C. G. S. § 106.739, the Board of Commissioners hereby establishes a Duplin County Voluntary Agricultural District Board to implement the provisions of this program ordinance.

Section 901. Appointments and Memberships

The Duplin County Voluntary Agricultural District Board shall consist of five members appointed by the Duplin County Board of Commissioners, plus the Director of the Duplin County Cooperative Extension Service, the Duplin County Planner, the Register of Deeds, and the President of the Agribusiness Council.

Requirements: Each Board Member appointed by the Duplin County Board of Commissioners shall be a County resident or landowner in Duplin County.

(1) Membership:

- (a) The Duplin County Voluntary Agricultural District Board shall consist of no less than nine members. One member that is actively engaged in farming shall be appointed from each of the five districts, plus the Director of the Duplin County Cooperative Extension Service, the Duplin County Planner, the Register of Deeds, and the President of the Agribusiness Council. These shall be known as the Permanently Established Committee Members for purposes of establishing a quorum (see item (c) below regarding quorum). In addition, any alternate committee Members shall be counted to establish a quorum if the Permanently Established Committee Member(s) is absent from the Board Meeting.
- (b) The five board members and any alternates actively engaged in farming representing the Commissioner Districts shall be recommended for appointment by the Agribusiness Council and approved by the Board of Commissioners. The Director of the Duplin County Cooperative Extension

Service, the Duplin County Planner, and the Register of Deeds will be required to participate on this board as part of their job description additional duties.

- (c) A quorum shall be five or more committee members. Voting on items of business shall be by those Permanently Established Committee Members as listed in item (a) above. If the Permanently Established Committee Members are absent, then the Permanently Established *Alternate* Committee Member(s) shall be counted to establish a quorum in order to conduct business of the Committee and be allowed to vote on all items of business at the Committee meeting. The Permanently Established *Alternate* Committee Member(s) shall not be counted to establish a quorum if the Permanently Established Committee Member(s) are present nor be allowed to vote on items of business.
- (2) Tenure: The initial Duplin County Voluntary Agricultural District Board shall consist of two members appointed for a term of one year, two members appointed for a term of two years, and two members appointed for a term of three years. Thereafter, all appointments to the Voluntary Agricultural District Board will be for a period of three years with reappointment permitted. The terms for the appointment of the initial Voluntary Agricultural District Board will be determined by lottery.
- (3) Vacancies: Any vacancy on the Duplin County Voluntary Agricultural District Board is to be filled by the Board of Commissioners for the remainder of the unexpired term following the same procedure as for the initial appointment upon recommendations from the Agribusiness Council or by employee replacement.
- (4) Removal for Cause: Any member of the Duplin County Voluntary Agricultural District Board may be removed for cause, (the inability or unwillingness to serve), by the Board of Commissioners upon written notice.
- (5) Funding: Appropriations for Performance of Duties. Funds shall be appropriated by the Board of Commissioners to the Duplin County Voluntary Agricultural District Board to perform its duties. A budget request will be presented to the County Commissioners annually.

Section 902. Procedures

The Board shall adopt rules of procedure which are consistent with the enabling legislation and other applicable statutes.

- (1) Chairperson: The Board shall elect a chairperson and vice-chairperson each year at its first meeting of the calendar year. The chairperson shall preside over all regular or special meetings of the Board. In the absence or disability of the chairperson, the vice-chairperson shall preside and shall have and exercise all the powers of the chairperson so absent or disabled. Additional officers may be elected as needed.

- (2) Supplementary Rules: The jurisdiction and procedures of the Board are set out in this article, except that the Board may adopt supplementary rules of procedure not inconsistent with this article or with other provisions of law.
- (3) Board Year: The Board shall use the County fiscal year as its meeting year.
- (4) Meetings: Meetings of the Board, following such notice as required by this article, shall be held at the call of the Chairperson and at such other times as the Board in its rules of procedure may specify. A regular meeting shall be held at least quarterly. The normal schedule of these meetings will be the 4th Tuesday evenings of the months of January, April, July, and October unless delayed by call of the Chairperson. A quorum shall consist of five of the members of the Board.
- (5) Voting: The concurring vote of a majority of the members of the Board shall be necessary to reverse any order, requirement, decision, or determination of any administrative official or agency to decide in favor of an applicant or to pass upon any other matter on which it is required to act under this article. Authority to vote is explained in above item 901 (1) (c).
- (6) Records: The Board shall keep minutes of the proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions all of which shall be immediately filed in the office of the Board (Cooperative Extension) and shall be a public record.
- (7) Administrative Services: The Cooperative Extension Service Office shall serve the Agricultural Board for record keeping, correspondence, and application procedures under this article together with such other services the Board needs to complete its duties.

Section 903. Duties:

The Voluntary Agricultural District Board shall:

- (1) Review and approve applications for qualified farmland and voluntary agricultural districts.
- (2) Advise the Board of Commissioners on projects, programs, or issues affecting the agricultural economy or activities within the County and that will affect agricultural districts.
- (3) Perform other related tasks or duties assigned by the Board of Commissioners.
- (4) Review and make recommendations concerning proposed amendments to this ordinance.

- (5) Make recommendations to the Duplin County Board of Commissioners on the implementation of the Duplin County Agricultural Protection Plan adopted as the county wide strategic agriculture plan on December 20, 2010 in support of the Duplin County agricultural needs, and as defined in N. C. G. S. § 106-744 (C)(1) ; and
- (6) Study additional methods of farmland preservation and make recommendations to the Board of Commissioners.

ARTICLE X
LAND USE INCENTIVES TO VOLUNTARY
AGRICULTURAL DISTRICT INFORMATION

Section 1000. Purpose

- (1) Upon certification of qualifying farmland and designation of real property as an agricultural district, the title to that qualifying farmland and real property, which is contained in the Duplin County Land Records System, shall be changed to include a notice reasonably calculated to alert any person researching the title of a particular tract and such tract is located within one-half (1/2) aerial mile of a Voluntary Agricultural District.
- (2) The Duplin County Voluntary Agricultural District Board, in cooperation with the County, shall take measures as set forth below to provide notification to property owners, residents, and other interested persons in and adjacent to any designated agricultural district with a goal of informing all current and potential residents and property owners in and adjacent to an agricultural district that farming and agricultural activities may take place in this district any time during the day or night.
 - (a) Signs identifying approved agricultural districts shall be placed along the rights-of-way of major roads leading into the County. Members of the Duplin County Voluntary Agricultural District will place signs on their individual farms denoting their agricultural district membership in a way calculated to reasonably notify the public and adjoining of the presence of the farm property.
 - (b) Information identifying approved districts shall be provided to the Register of Deeds Office, the Duplin Soil and Water Conservation District, the Cooperative Extension Service Office, the Farm Service Agency, the Duplin County Planning Department, and the Duplin County Tax Department.

- (c) The following notice shall be displayed in a prominent position in the Office of the Register of Deeds and the public access area in the Duplin County Tax Department.

NOTICE TO REAL ESTATE PURCHASERS IN DUPLIN COUNTY
DUPLIN COUNTY VOLUNTARY AGRICULTURAL DISTRICTS
Duplin County has established agricultural districts to protect and preserve agricultural lands and activities. These districts have been developed and mapped to inform all purchasers of real property that certain agricultural activities, including but not limited to, pesticide spraying, manure spreading, machinery and truck operations, livestock operations, sawing, and similar activities may take place in these districts any time during the day or night. Maps and/or information on the location and establishment of these districts can be obtained from the Cooperative Extension Service Office, the County Planning Department, the Register of Deeds, the Natural Resources Conservation Service, the Farm Service Agency Office, and the County Tax Department.

- (3) Limit of Liability – In no event shall the County or any of its officers, employees, or agents be held liable in damages for any misfeasance, malfeasance, or nonfeasance occurring in good faith in connection with the duties or obligations imposed by this ordinance.
- (4) No Cause of Action – In no event shall any cause of action arise out of the failure of any person, including a person researching the title of a particular tract, to report to any person the proximity of the tract to a qualifying farm or voluntary agricultural district as defined in this ordinance.

Section 1002. Expenditure of County Funds for Non-Farm Uses

Prior to expending any monies which would convert land in a voluntary agricultural district to non-farm uses, the County or any other local unit of government shall submit to the Duplin County Voluntary Agricultural District Board detailed information showing that said governmental unit has considered alternatives.

ARTICLE XI
SUBDIVISION ORDINANCE AND ZONING ORDINANCE REVIEW

Developers of major subdivisions or planned unit developments shall designate on preliminary development plans, the existence of the agricultural districts within one-half (1/2) aerial mile of the proposed development.

ARTICLE XII
NORTH CAROLINA AGENCY NOTIFICATION

Section 1200. Consultation with N. C. Department of Agriculture and Consumer Services and Other Agencies

The Board may consult with the Cooperative Extension Service Office, the Natural Resources Conservation Service Office, the Farm Service Agency Office, the N. C. Department of Agriculture and Consumer Services, and any other such agency the Board deems necessary to properly conduct its business.

Section 1201. Recording the Program Ordinance

An official copy of this program ordinance shall be recorded with the North Carolina Commissioner of Agriculture's Office after adoption. At least once a year, the Voluntary Agricultural Board shall submit a written report to the Commissioner of Agriculture and County Commissioners, including the status, progress and activities of the Duplin County Agricultural Protection Plan and voluntary agricultural districting information regarding:

- (1) Number of landowners enrolled;
- (2) Number of acres applied;
- (3) Number of acres certified;
- (4) Number of acres denied; and
- (5) Date certified.

ARTICLE XIII
LEGAL PROVISIONS

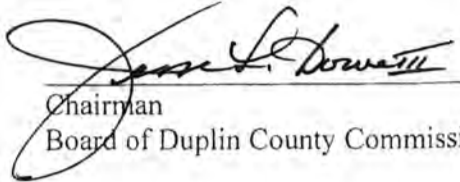
Section 1300. Severability, Conflict with Other Ordinances and Statutes, and Amendments

- (1) Severability: If any article, section, subsection, clause, phrase or portion of this ordinance is for any reason invalid or unconstitutional as determined by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.
- (2) Conflict with other ordinances and statutes: Whenever the provisions of any federal or state statute require more restrictive provisions than are required by this ordinance, the provisions of such statute shall govern.
- (3) Amendments: This ordinance may be amended from time to time after a public hearing, notice of which shall be sent to program participants by first class mail 30 days prior to the hearing, and in consultation with the Duplin County Voluntary Agricultural District Board to the Board of Commissioners.

ARTICLE XIV
ENACTMENT

The Duplin County Board of Commissioners hereby adopts and enacts the preceding articles and sections of this ordinance as amended.

Adopted this the 16 day of April, 2018.

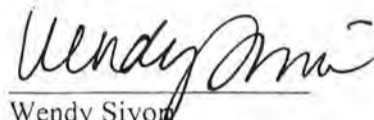

Chairman
Board of Duplin County Commissioners

ATTEST:




Clerk to the Board

APPROVED as to form:


Wendy Sivor
County Attorney

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DUPLIN COUNTY

PEDDLING AND SOLICITATION ORDINANCE

WHEREAS, the Duplin County Board of Commissioners has received numerous complaints about unwanted door-to-door sales calls being made on citizens throughout the County;

WHEREAS, the Board believes that it would be in the public interest to prohibit door-to-door sales for commercial purposes;

WHEREAS, North Carolina General Statute §153A-125 gives counties the authority to regulate and restrict such activities;

WHEREAS, the Board believes that it should not prohibit door-to-door sales by non-profit organization (or subgroups thereof) such as schools, churches, volunteer fire departments, rescue squads, historic preservation groups, garden clubs, and/or other charitable organizations.

NOW THEREFORE, PURSUANT TO NORTH CAROLINA GENERAL STATUTE SECTIONS §153A-125, 153A-121, AND 153A-12, RESPECTIVELY, IT IS HEREBY ORDAINED:

Section 1. Prohibited Acts. Except as otherwise provided herein, the practice of going in and upon private residence within the jurisdiction of Duplin County by solicitors, peddlers, hawkers, itinerant merchants, or transient vendors of merchandise not having been requested or invited to do so by the owner or occupant of such private residence for the purpose of soliciting orders for the sale of goods, wares, services or merchandise or disposing of or peddling or hawking the same is hereby declared to be a nuisance and punishable as a misdemeanor.

Section 2. Exceptions. This Ordinance shall not apply to sales of any kind or nature by non-profit organizations (or subgroups thereof) such as schools, churches, volunteer fire departments, rescue squads, historic preservation groups, garden clubs, and/or other charitable organizations.

Section 3. Violations. This Ordinance shall be enforced by the Duplin County Sheriff Department. Any violation of a provision of this Ordinance shall constitute a Class 3 Misdemeanor, punishable upon conviction as provided in North Carolina General Statute § 14-4 or any successor statute by a maximum fine as provided by statute.

Section 4. Cooperation of Complainants. Before initiating a criminal proceeding pursuant to this Ordinance, the Duplin County Sheriff shall have the option of requesting the complaining party sign a sworn statement of the alleged offense and require the cooperation of the complaining party in any court appearance arising out of said complaint. Nothing contained in

this Ordinance shall obligate Duplin County, the Duplin County Sheriff, their officers, or their employees from pursuing any proceedings hereunder where the complaining party is unwilling to sign a sworn statement and/or cooperate in court appearance arising out of said complaint.

Section 5. Effective Date. This Ordinance shall become effective January 1, 2012.

Adopted this the 3rd day of October, 2011.

Frances Parks, Chairman
Duplin County Board of Commissioners

ATTEST:

Mike Aldridge, Clerk
Duplin County Board of Commissioners

Duplin County AirPark Development Ordinance

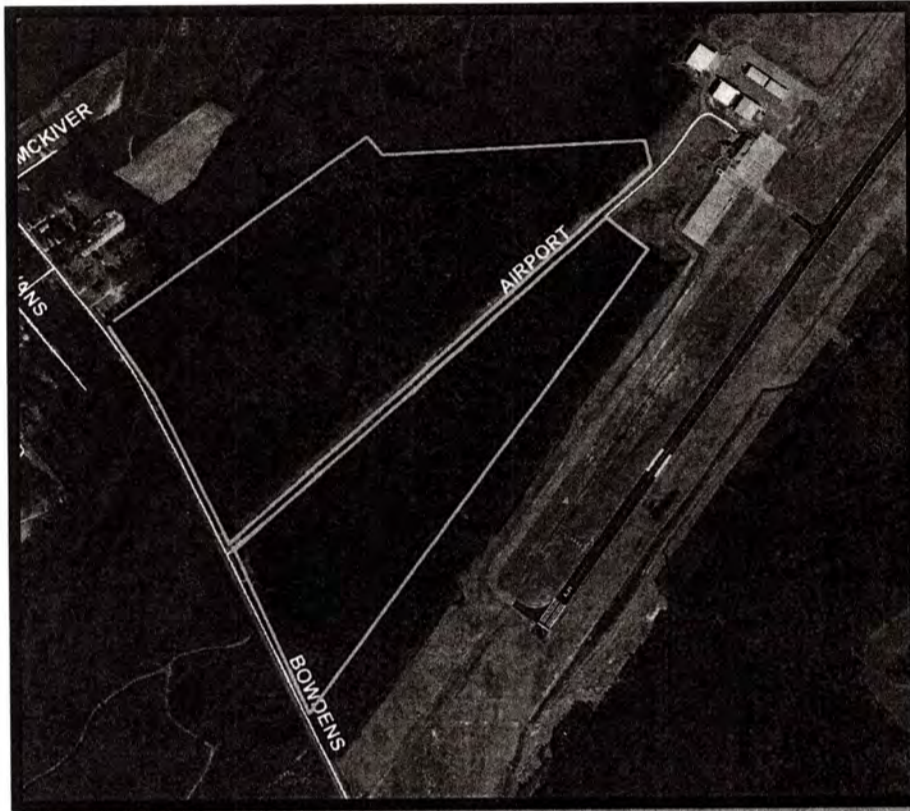
Adopted by

Duplin County Board of Commissioners

Duplin County Airport Commission

Duplin County Planning Board

Duplin County Economic Development Commission



Prepared by

George Futrelle, Airport Director

Elizabeth Stalls, Planning Director

James Wolfe, Economic Development Director

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Executive Summary

Objective

The Duplin County Airport Commission, Economic Development Commission, and Planning Board initiated the AirPark Development Ordinance with the objective of identifying potential uses, design, and development objectives of the AirPark, Duplin County's Business and Industry Center. Emphasis is placed on developing a detailed plan for development covenants to create a defined character and identify of the business park, with functional and accessible uses for industrial, research, office, and commercial companies.

Purpose

The AirPark Development Ordinance was constructed with the purpose of aligning the uses of the AirPark with the County's objectives to develop a business and industry center in close proximity to the airport for expedited transportation potential. The AirPark Development Ordinance will guide planning, public investment, and economic development in the AirPark by giving structure to a vision for the ultimate development of the property and building types that are desired both locally and by those primary and future targeted industries.

Site History

The AirPark, as depicted on the AirPark Planning Concept Layout (see Appendix A), was studied and reviewed in the early 2000s for its potential as a future commercial and business park development. Duplin County and the Airport collectively own approximately 123 acres along Airport Road, with 110 acres being suitable for development. The "Airside" portion of the AirPark is located on the southeast side of Airport Road, and is adjacent to the south parallel taxiway. The "Landside" portion of the AirPark is located on the northwest side of Airport Road. Approximately 35 acres of the AirPark is located on the airside and approximately 75 acres is located on the landside.

A study by W.K. Dickson & Co., Inc. was conducted in 2008 on the AirPark location to ascertain more information about the best utilization of the property, environmental assessments, and to analyze the opportunities for development. The 35 acres airside is included in the Airport's land for future terminal development and reserved for development related to air industry only. The landside section of the AirPark is available for any kind of commercial development permitted under this ordinance, including those unrelated to air industry.

Utilities

Electricity

Tri-County Electric Membership Corporation provides 3-phase 12 ½ Kilovolt distribution line through the site.

Water

The Duplin County Water Department indicates that there is six-inch line running along Airport Road.

Communications

Fiber optic cable is available, and can be purchased from the utility provider, CenturyLink.

Natural Gas

Piedmont Natural Gas provides an eight inch 550 psi gas line that is located 3 ½ miles from the AirPark site.

Wastewater

Wastewater service is available is provided along Airport Road by the City of Kenansville.

Highway Access

Bowdens Road is the rural major collector road traveling adjacent to Airport Road. Developers can coordinate with the NC Department of Transportation for traffic concerns, with the potential for a deceleration lane or turning lanes to address increased traffic load entering the site.

ARTICLE 1: AIRPARK REVIEW COMMITTEE & BOARD**I. AIRPARK REVIEW COMMITTEE**

The AirPark Review Committee members are:

- Duplin County Airport Director
- Duplin County Economic Development Director
- Duplin County Planning Director

The AirPark Review Committee shall have the authority to grant AirPark permits as defined in Article 3, Sections I and II of this Ordinance that meet the requirements set therein. The AirPark Review Committee was created under the direction of the Airport Commission, Economic Development Commission, Planning Board, and the Board of County Commissioners. The AirPark Review Committee members are employees of Duplin County serving an administrative role. The AirPark Review Committee facilitates the administrative review of AirPark applications and site plans, and issues site plan permits for AirPark development. A Design Review Checklist (see Appendix B) has been developed by the AirPark Review Committee as a guide for prospective developers to reference during site plan development.

II. AIRPARK REVIEW BOARD

The AirPark Review Board members are:

- Duplin County Economic Development Commission Chairman
- Duplin County Planning Board Chairman
- Duplin County Airport Commission Chairman

The AirPark Review Board shall have the authority to hear requests for variance as defined in Article 3, Section VI of this Ordinance that meet the requirements set therein.

III. ENFORCEMENT OFFICER

The Enforcement Officer is the:

- Duplin County Planning Director

The Enforcement Officer is appointed by the AirPark Review Board and shall carry out the duties delegated to the Enforcement Officer under Articles 3 and 4 of this Ordinance.

ARTICLE 2: AIRPARK DEVELOPMENT COVENANTS

The Covenants herein established are subject to review and compliance with all Duplin County Ordinances and Federal and State Regulations. (i.e. Duplin County Airport Land Use and Height Restriction Ordinance, FAA Safety Bulletins, etc.)

General Design Concept

The overall design concept for the AirPark—Duplin County Business and Industrial Center, hereinafter referred to collectively as “AirPark”, is to create a strong sense of project identity and character throughout the business park, conveying an attractive, functional, well-planned, and accessible employment center supporting a wide variety of high-quality industrial, research, office and commercial land uses. The design and development standard for the Duplin County Industrial AirPark is organized in the following categories:

- I. **Site Planning and Design Standards**
- II. **Building Design Standards**
- III. **Landscape Design Style and Standards**
- IV. **Signage Standards**
- V. **Parking Standards**

All of these standards combined are intended to provide guidance for high quality, attractive, and functional commercial land uses in the AirPark.



Duplin County Airport and Economic Development

I. SITE PLANNING and DESIGN STANDARDS

The site planning for the AirPark is intended to provide direction for the layout of each parcel within the business park area, and they are intended to ensure site designs that are efficient, convenient and safe for pedestrian and circulation access, and provide attractive frontages, landscaping, and external areas. Effective site planning techniques will establish a strong outline and framework for guiding future individual development projects, and create a unique high quality business park. The successful integration of effective site planning techniques, with the basic design elements on individual projects, will enhance the visual experience in the business area, and promote a true sense of place.

1. Airside development is included in the Airport's land for future terminal development and is reserved for development related to air industry only.
2. Landside development is available for any kind of commercial development permitted under this ordinance, including those unrelated to air industry.

Site and design plans are reviewed by the AirPark Review Committee and may be subject to review by architectural and engineering consultants. Every attempt will be made to reply to planning and design submissions within 30 to 60 calendar days.

A. Service Areas

Functional service areas are critical to industrial buildings that have frequent truck traffic and research facilities that receive and/or distribute chemicals, gas tanks and other controlled materials. Service areas include delivery and loading zones, trash disposal areas and spaces that hold transformers.

Each building must have an adequate and appropriate amount of space dedicated to these services that are easy for their users to access. Service areas shall be designed to shield the public from potential unsightly, noisy, and noxious environments.

1. Delivery and Loading Areas

- i. There shall be at least 85 feet from the edge of all loading docks to the far edge of the maneuvering area. Preferred spacing for extended trailers and larger docking areas may be up to 130 feet.
- ii. Service areas and delivery areas (such as loading docks and storage areas) shall be located away from the street and screened from the street view. Appropriate screening methods include recesses, walls, trellises, landscaping, or some combination of these elements.
- iii. Loading zones shall be clearly signed and articulated
- iv. Utility equipment shall be screened with plantings, berms, or an enclosure.
- v. Loading space, exclusive of driveways, shall be provided in addition to required parking spaces.
- vi. Every building or structure in the AirPark used for commercial or industrial uses shall provide truck loading and unloading space.
- vii. Loading bays shall be adequately sized and spaced for the uses that they are intended to serve. Examples of adequate dimensions of loading bays are 52' x 52' for smaller facilities and 60' x 52' for larger facilities.



Service Loading/unloading area – Design Workshop Warsaw



Service Loading/unloading area – Design Workshop Warsaw

2. Trash Enclosures and Transformers:

- i. Outdoor trash areas shall be visually screened by a minimum 6-foot high, noncombustible enclosure constructed of the same materials and finishes as the adjacent building or fencing with solid panels. The same screening materials can be used for both service and delivery areas.
- ii. Trash enclosures shall be designed and located so as not to be highly visible from adjacent streets and property.
- iii. Transformers and emergency generators, where required, shall be screened by walls, fences with solid panels, enclosures, or dense landscaping.
- iv. Aboveground transformers and trash enclosures shall not be permitted within the front building setback. Transformers located in the front setback shall be underground.
- v. Aboveground switching devices, installed as part of the backbone utility system, shall be screened from view from adjacent streets and shall not be permitted in the front setback.

B. Setbacks

Building setback indicate the distance between the outer edge of the building façade and the property line, and the edge of the public right-of-way. Standard setback regulations ensure a visually consistent corridor and establish development character. These regulations also contribute to a pedestrian-friendly environment by de-emphasizing large-scale buildings and reinforcing sidewalk edges with consistent landscaping and appropriate screening.

- i. Front Setback – 50 feet minimum from edge of pavement
- ii. Side Setback – 20 feet minimum from edge of pavement for corner lots, property line for interior lots
- iii. Rear Setback – 20 feet minimum from property line

C. Site Utilities

Aboveground utility poles can be visually obstructive and detract from the landscaping and design elements on the site. The intent of these standards is to restrict the use of above ground utilities to the duration of the construction process.

- i. All new utilities shall be installed and maintained underground.
- ii. Utilities shall be designed and installed to minimize disruption of off-site activity during construction.
- iii. Temporary overhead power and telephone facilities shall be permitted only during construction.

II. BUILDING DESIGN STANDARDS

Buildings within the AirPark should be attractive and high quality, providing a comfortable environment for employees and visitors. The AirPark design concept encourages an underlying compatibility among the various buildings and building types, using harmonious materials, finishes, and colors while promoting individual expression and identity.

The AirPark will be an image of quality buildings with clean lines constructed of glass, architectural metal, manufactured or natural stone, brick, and precast concrete as preferred materials. Other materials will be reviewed on an individual basis with respect to the architectural quality.

One of the main problems in business parks with industrial uses is the difference in use, scale and construction of the office portion and the plant portion of an industrial building or buildings. Scale and massing of the buildings will vary depending on the size of the lot and the building use. Both office portions and industrial plants should be unified by the architectural treatment. Where this is not possible, the office portion should be designed as an architectural focal point with a neutral background for industrial plant architecture.

The following design standards comprise the minimum architectural standards for buildings within the AirPark.

A. AirPark Airside

Innovative design and the use of higher quality materials is highly encouraged. Buildings and hangars constructed on the airside must meet the standards and specifications set forth in the Minimum Requirements for Construction of Pre-Engineered Corporate Hangars and T-Hangars at the Duplin County Airport (see Appendix C); however, it is also encouraged that buildings constructed on the landside of the AirPark align with the same standards, if possible.

B. Building Orientation

Building orientation standards are intended to ensure that buildings will be located on a site in a manner that is welcoming for employees and visitors, with entrances clearly delineated.

- i. Building entries, public areas, administration areas, and other window areas should be oriented towards adjacent streets when possible.
- ii. Relationships to adjacent buildings shall be considered concurrent with individual project layout. Projects shall be "off-set" to minimize views directly into opposing buildings when buildings are fewer than 80 feet apart.



Duplin Professional Court – Warsaw



Mar Mac Pointe – Goldsboro

C. Building Height

Establishing a maximum building height helps to ensure that the buildings within the AirPark and are appropriately sized and scaled, and adequate to serve the proposed industrial and office uses.

- i. Maximum building heights shall be 60 feet, except for lots on the airside, which shall be 50 feet. Should the applicant desire to build a taller building, they may do so by using the following formula: for every foot you go up in height, you must set the building back two more feet than what is normally required.

D. Building Entries

The following standards help to ensure that building entries are clearly defined and accessible, in order to create a welcoming, comfortable environment for employees of and visitors to uses within AirPark.

- i. The primary building entry shall face the street, and shall be clearly defined with special massing, lighting, architectural detail and/or landscape treatment to make it stand apart from the rest of the building.
- ii. Building entries shall be obvious. The primary building entry shall be clearly defined for pedestrians, with an enhanced hardscaped entryway for each building. Front doors shall be substantial in appearance.
- iii. Secondary entrances may be oriented toward parking areas.
- iv. The use of architectural features, such as porticos, canopies, or arcades, special roof treatments and/or landscape treatments such as entry plazas or courtyards can create an easily identifiable entry, and shall be required.



Benchmark – Kenansville



Dail Farms – Kenansville

E. Articulation of Building Façades

Building façade standards are intended to help create varied and visually interesting buildings.

- i. Façades shall be continuous on buildings with both office and industrial uses.
- ii. Large flat unarticulated building elevations shall not be permitted.
- iii. The building design shall be articulated with either a change in materials, color and finishes, fenestration pattern and size, façade plane/vertical plane, a special building entrance, and/or arcade.
- iv. Architectural details and multiple color schemes help break up the long façades of industrial buildings and make them more aesthetically interesting.
- v. Building façades shall be articulated with a combination of windows, entries, and bays.
- vi. Building façades shall incorporate recesses and projections, entry elements and layering of wall planes to create visual interest.

F. Articulation of Building Massing

Industrial/Office buildings are often very large, and can be difficult to relate to a pedestrian scale. The following standards are intended to help guide the development of buildings in AirPark to ensure they are visually appealing and interesting, even at a large scale.

- i. Buildings should be well articulated by changes in roof heights and vertical planes to reduce the appearance of bulk, and create interesting building façades.
- ii. Changes in building massing such as second story areas and/or vaulted areas establish a rich composition and shall be enhanced and articulated on the building façade.
- iii. "Terraced" building designs with second story areas set back from the street are strongly encouraged, and help to create a more pedestrian-friendly streetscape.

G. Energy Conservation Techniques

Energy conservation techniques for building design are strongly encouraged. Effective techniques to conserve power and water consumption can reduce utility operating costs and can be achieved through a variety of design techniques. Following are standards that may be incorporated into the design of a building design for energy conservation.

- i. Computerized controls to monitor temperatures in tenant spaces and adjust heating and cooling should be considered.
- ii. Lighting controls that monitor and adjust lights needed for working, security, or aesthetics are strongly encouraged.
- iii. Specification of Energy Star and appliance, light and equipment is desirable.
- iv. Specifications of low-flow plumbing fixtures are strongly encouraged.
- v. Encourage the construction of narrower floor plates that allow more windows or install skylights to reduce the need for artificial lighting. This improves the quality of the work environment, reduces energy use and adds interest to exterior façades.
- vi. The use of low-emissive double glazed windows is recommended.
- vii. Effective insulation should be installed for walls and roofs.
- viii. Radiant heating systems should be installed in spaces with large roll-up or sliding doors in lieu of or in addition to forced air heat as appropriate.

H. Building Materials

The use of high quality materials is essential to creating a high quality employment center, where buildings will have long-lasting value and appeal.

High quality building materials and quality construction shall be used for all buildings, and a variety in building materials is encouraged. Primary building materials constitute the majority of the building's exterior and provide the greatest visual impact.

- i. Acceptable primary building materials shall consist of high-quality industrial building materials and may include, but are not limited to architectural concrete (finished surface, exposed aggregate, or sand blasted), natural stone, architectural steel, and masonry (brick, terra cotta, tile, glass block). Building materials may be a combination of the permitted materials as long as the combination holds to a clearly articulated architectural design strategy.
- ii. The use of prefabricated metal, such as roll formed metal siding or corrugated metal, shall be permitted. It is recommended that some alternative material be used for the façade. This does not preclude the use of metal detail as part of architecturally designed buildings, such as "Cor-Ten" steel, aluminum, or other high quality metals needed to complete an architectural design.

- iii. Glazing shall be tinted with high-performance materials and glazing colors, and transparency and reflectiveness shall be limited to green, blue, light gray, clear, or other lightly tinted shades.
- iv. Reflective or darkly tinted glass shall not be allowed.
- v. Roof materials shall complement the materials and colors of façades, and provide texture or relief.
- vi. Use of recycled, local and/or rapidly renewable materials is encouraged.



Jet Techs – Duplin County Airport



House of Raeford – Duplin County Airport

I. Architectural Detailing

Architectural details help to provide visual interest, and inclusion of detailing will help to create a cohesive design element throughout the AirPark, and reinforce the AirPark as a high quality employment center. The following standards can be applied to all building elements, including entries, façades, and roofs.

- i. Architectural details shall have a consistent style that creates a unified design across the building. For example, window details shall be consistent with door and canopy details.
- ii. The use of industrial materials and accent features is required to animate building façades and entries. These features shall include window canopies, trellises, structural pilasters or columns, window mullions and mechanical screens.
- iii. Architectural and water features are encouraged in site and building design to enhance and strengthen development character. Water features may range in size but may include larger water areas that can be used for recreation for employees, or smaller water areas, such as fountains, which can promote corporate identity.
- iv. Sculptural elements in public spaces are strongly encouraged.

J. Site and Building Lighting

Lighting in the AirPark serves several purposes: to create a safe and secure environment, and as decorative elements to help reinforce the character of the area, and the appearance of the buildings. Lighting within a development should be consistent and uniform, using recommended lighting standards.

- i. Lights shall be designed and placed to direct lighting to appropriate surfaces and minimize glare into adjacent areas.
- ii. Lighting shall be used to provide illumination for security and safety or parking, loading, and access areas.
- iii. All lighting shall be shielded (full cut off) to keep light spread within the site boundaries.
- iv. Pole light fixtures shall not exceed 30 feet in height.
- v. Security light fixtures shall not project above the fascia or roofline of the building.
- vi. Exterior building lighting shall be used to reinforce the architectural design. Emphasis shall be placed on entries, landscaping elements, major architectural features, etc. The use of up lighting to accent interesting architectural features or landscaping is encouraged. Luminaries used for up lighting are encouraged to be low spotlights to reduce glare and light pollution.
- vii. Lighting shall be directed toward the building and not towards adjacent properties.
- viii. Light standards ranging from 12' – 16' in height are recommended throughout a project area and shall illuminate all sidewalks and connecting walkways.
- ix. Placement of light standards and trees shall not conflict with one another. Light standards shall not rise above tree canopies such that the trees keep occupied spaces in shadow from the lighting.



Interior Lighting – House of Raeford, Duplin County Airport



Exterior Lighting – Duplin Tech Center

K. Building Utilities

Rooftop and ground mounted mechanical equipment and trash storage areas shall be screened from view as much as possible from adjoining properties, and public rights-of-way to shield the public from unsightly, noisy, and noxious environments.

- i. All rooftop equipment or devices including vents, louvers, hoods, and mechanical equipment shall be painted to match the building color.

- ii. Any device for transmission or reception of communication signals shall be screened with compatible material and finishes as utilized in the building.
- iii. Roof-mounted equipment shall not be mounted on any exterior building elevation. Rooftop devices may extend above the building's highest architectural element but no such equipment shall be visible from the public right of way.
- iv. Any screening device shall be constructed of the same materials as the supporting building or closely matching materials; the screen shall blend in with the rest of the building.
- v. HVAC air intakes shall be located as far as possible and upwind from loading docks and other vehicular access points.

III. LANDSCAPE DESIGN STYLE and STANDARDS

The quality of site landscaping is a major consideration in a quality business park. Landscape plans should be related to and coordinated with those proposed on adjacent parcels. The landscaping shall be appropriate for industrial and office uses, and should help to provide an attractive, welcoming, and pedestrian friendly environment that is pleasant for the AirPark employees and visitors to the area.

The landscape standards for AirPark are intended to provide a uniform character and identity to the AirPark, and help establish a "sense of place" with both functional and aesthetic considerations.

The preferred approach is to group trees and shrubs to frame the front face of the building and to use landscaping and/or berming to screen parking areas. Consideration should be given to the angled sight lines from the street. Site grading should complement the landscaping. Foundation planting which complements and focuses attention to the office portion of the building is encouraged.

A. Landscape Standards

- i. Perimeter setback areas shall be landscaped with a consistent pattern of trees and shrubs to function as framing elements for each development area. Shrubs shall be a maximum of three feet high within 25 feet of driveways for safe visibility.
- ii. Front and side setbacks shall be landscaped.
- iii. Landscape lighting, with no visible light source, is encouraged to accent focal elements of building sites. An example would be up lighting for signs and trees located at a primary driveway entry. Low angle spotlights are encouraged for reduction of glare and light pollution.
- iv. Design of curbs to allow passage of storm water into planted areas at islands and along the lot edges is encouraged. This strategy shall include appropriate design of islands and edge plantings to manage storm water flows.
- v. Planting around building perimeters are recommended to be colorful and highly accented. It is suggested that trees shrubs have either colorful foliage or flowering characteristics, except where restrictive areas require more vertical species. More intense plantings of colored ground

cover and shrubs should be utilized to accent major architectural features of the building, such as entries.



Front Entrance to Smithfield – Warsaw



Front Entrance to Dail Farms – Kenansville

B. General Planting Standards

The following general planting standards will help ensure a healthy, attractive, and sustainable landscape for new office and industrial development in the AirPark.

- i. Native and drought-tolerant plant materials are strongly encouraged. Where recycled water is or will be available, use plants tolerant of the water source. Turf lawns are encouraged only at areas designated for human access, such as a round picnic tables or benches.
- ii. Mulched planting beds are encouraged as a replacement for turf areas. Acceptable organic shredded mulches and bark chips, wood grinding (from non-infected wood sources), synthetic mulch, leaf mulch, or stone. Sheet plastic in planting areas should not be used.



Smithfield Complex—Warsaw



Duplin Professional Court –Warsaw

C. Irrigation

Irrigation standards are intended to help ensure efficient use of water and resources, and to help maintain an attractive and comfortable landscape environment.

- ii. For efficient water use, irrigate turf areas separately from other plantings. Landscaped plantings should be grouped according to similar water needs.

- iii. Trees, shrubs, flowers and ground covers should be watered efficiently by an automatic system with low volume drip, or bubbler emitters.
- iv. Spray emitters are discouraged.
- v. Low-volume irrigation equipment shall be required for all planted areas within the individual sites.
- vi. Irrigation water should not overthrow onto walks, common areas, or onto any architectural walls.
- vii. Utility cabinets and irrigation hardware shall be screened by landscaping.

D. Walls and Screening Elements

Walls and fences are to be utilized for either landscape design elements to create visual barriers for screening purposes. The following standards are intended to ensure that walls and fences within the AirPark are visually appealing, consistently designed, and provide adequate screening.

- i. Walls or fences shall be required as a means of screening when the AirPark Review Committee determines landscaping materials alone to be insufficient.
- ii. Walls or fences required for screening of loading, outdoor storage areas, trash enclosures and other storage areas shall be a minimum of six feet high.
- iii. Walls constructed within the required front setback areas shall not exceed three feet in height.
- iv. Walls shall be constructed of masonry, architectural metals or concrete materials consistent with, and complementary to, the architecture of the building.
- v. Chain link fencing shall not be permitted, except for side and rear setback areas of interior lots that are not visible from the public right-of-way.
- vi. Walls or fences shall not be required between separate lots unless deemed necessary for security or screening purposes. Such walls located on property lines between lots shall not exceed six feet in height.
- vii. Landscaped screening shall be required in front of walls.

IV. SIGNAGE STANDARDS

The following signage standards identify a framework in which advertising a place of business, or providing directions and information can be accomplished without detracting from the overall quality and character of the AirPark. Design, color, materials, and placement are all important in creating signs that are architecturally attractive and integrated into the overall AirPark design. The intent of Signage standards is to create and promote a quality visual environment by allowing signs, which are compatible with the proposed development and which effectively, communicate their message.

- i. Visible signage shall be present for all buildings that provide the building address, and to establish a strong identity for the entire development.
- ii. A coordinated signage plan should be included for all developments with multiple tenants.
- iii. All signage shall be designed to complement the architectural style and setting of the structure or use to which it is adjacent. Building wall and fascia signs shall be compatible with the predominant visual elements of the building.
- iv. Sign letters and materials shall be professionally designed and fabricated.
- v. Signs shall be constructed using high-quality materials such as metal, stone, brick and/or wood.
- vi. Exposed conduit and tubing is prohibited. All transformers and other equipment shall be concealed.
- vii. Signage shall be located at every major site-entry to establish development character.
- viii. Wall signs and logos attached to the building shall be individual letters and surface mounted.
- ix. Signs shall not be painted directly onto buildings.
- x. Wall signs shall only be located on the building face adjacent to the street, and shall be limited to identify tenants within each building. These signs shall be restricted to the name of the firm, company, or corporation only.
- xi. All freestanding signs shall be of a monument design and include business identification, business directories, and informational/directional identification. Maximum height for freestanding monument signs shall be seven feet. Freestanding signs for business identification shall be limited to perimeter locations adjacent to existing arterials.
- xii. Monument signs shall be designed to complement the architectural style of the buildings they serve and shall utilize high quality materials such as brick, stone, tile, cast concrete or similar masonry materials. A cabinet sign placed on a base does not meet the intent of these standards. Cabinet signs may be allowed provided the entire cabinet exclusive of the sign face is encased in the above-mentioned materials or if the overall design of the sign is unique and meets the intent of these standards.



Smithfield - Warsaw



Ag Provision - Warsaw

V. PARKING STANDARDS

The intent of the following parking standards is to provide for well-organized adequate parking, with safe and convenient pedestrian connections to buildings within AirPark.

A. Parking Standards

The minimum required number of parking spaces for the land uses within the AirPark are as follows:

- i. Industrial /Warehouse/Distribution: two spaces per three employees on largest shift.
- ii. Office Flex (this includes office space within Industrial/Warehouse and Distributions centers): one space per 300 square feet of gross floor area of office.
- iii. Additional uses: one space per employee on largest shift plus one per 300 square feet gross floor area of customer service/public access areas.

B. Parking Lot Design

Parking shall be designed to provide flexibility for the buildings to change uses. Additional landscaped areas that can be converted to expand parking or building coverage is required in lieu of constructing oversized parking lots.

C. Location of Parking

To the extent possible, employee parking areas shall be located to the side and rear of building. Visitor and handicap parking may be located in the front of the building and near the primary building entry. In such cases, appropriate screening and landscaping shall be provided to visually buffer all parking areas from the street.

Loading zones shall be clearly delineated and kept separate from parking areas, and entries shall be located to reduce the potential of pedestrian/truck and automobile/truck conflicts. Uses with operations requiring a heavy volume of truck traffic shall have separate truck parking areas that are clearly delineated, in order to prevent trucks from parking on the street.

D. Pedestrian Connections

Tree-lined sidewalks shall connect parking lots directly to building entries. Where parking layouts exceed two rows in depth, parking shall be aligned in the direction of the pedestrian movement. A pedestrian island walkway should be provided within the planted area.

ARTICLE 3: PERMIT REQUIREMENTS**I. REVIEW BY AIRPARK REVIEW COMMITTEE**

The AirPark Permit Application is available from the Enforcement Officer (also see Appendix D) and may be amended or modified by an act of the Board of County Commissioners. A permit application shall accompany a site plan. Upon approval of the application and site plan, the AirPark Review Committee will issue an AirPark Permit. No building permits shall be issued by the Duplin County Building Inspector until an AirPark Permit is issued by the AirPark Review Committee. A copy of an issued AirPark Permit shall be immediately provided to the Building Inspections department by the Enforcement Officer.

II. PERMITS REQUIRED – FUTURE USE

No change shall be made in the use of land or the establishment of a structure unless a permit has been applied for and granted by the AirPark Review Committee. Each application shall indicate the purpose for which the permit is desired, with sufficient information regarding whether the resulting use or structure would conform to the regulations prescribed in this section.

The Duplin County Building Inspector shall not issue a building permit for the construction of any new structure within the AirPark prior to the approval of the site plan and issuance of an AirPark Permit by the Duplin County AirPark Review Committee.

III. PERMITS REQUIRED – EXISTING USES

Before any existing use or structure may be replaced or substantially altered within any area of the AirPark, an AirPark Permit shall be secured authorizing such replacement, change or repair. No such permit shall be granted that would allow the establishment or creation of an airport hazard or permit a nonconforming use when the application for a permit is made. Except as indicated, all applications for a permit for replacement change or repair of an existing structure shall be granted.

IV. VIOLATIONS

AirPark Permits shall be valid until revoked. The Enforcement Officer is tasked with periodically inspecting the structure(s), trees, and land use to determine continued compliance with this ordinance. If the land use or obstruction is in violation, the Enforcement Officer shall advise the owner in writing of the violations and of action necessary to bring the obstruction or land use into compliance. Failure by the owner to correct violations within 120 days of notification shall constitute grounds for revocation of the permit. Further, violators of this ordinance shall be subject, upon conviction, to fine and/or imprisonment as provided by G.S. 14-4.

V. REVOCTION OF PERMIT

Valid permits may be revoked by the Enforcement Officer for any of the following reasons:

- (1) Incorrect or misrepresented information on the permit application.
- (2) Failure to construct structure in accordance with application and permit.
- (3) Any other violation of these covenants.

In the event the permit is revoked, the Enforcement Officer shall advise the owner in writing of the status of the permit, the action necessary to correct the violation and of the enforcement techniques available to the County to remedy continued violation. The Enforcement Officer shall immediately notify the Building Inspections Department of any revocation of AirPark permit in the event that the premise has not received a Certificate of Occupancy. When the Enforcement Officer determines that the structure or land use has been brought back into compliance with these covenants, the Enforcement Officer shall reinstate the permit.

VI. VARIANCE and EXCEPTION

Upon a request for Variance, the AirPark Review Board may issue variances and exceptions from the requirements of these covenants such that would not be contrary to the public interest, or the spirit and intent of these covenants, and where due to special conditions, a literal enforcement of the provisions of these covenants would result in an unnecessary hardship. In granting a variance, the AirPark Review Board may prescribe appropriate conditions and safeguards as it deems necessary to preserve the intent of this ordinance. In granting a variance or exception to these covenants, the AirPark Review Board must determine the following:

- (1) Special conditions and circumstances exist which are peculiar to the land or buildings involved and which are not applicable to other land or buildings.
- (2) The literal interpretations of the provision of this ordinance would deprive the applicant of rights commonly enjoyed by other properties.
- (3) Special conditions and circumstances do not result from the actions of the applicant.
- (4) Granting the variance required will not confer on the applicant any special privilege that is denied by this ordinance to other- lands or- buildings.

Upon granting a variance it shall continue for an indefinite period of time unless otherwise specified at the time granted. A hearing in front of AirPark Review Board for a variance shall be a quasi-judicial hearing. The AirPark Review Board shall determine contested facts and make its decision within a reasonable time period. Every quasi-judicial decision shall be reduced to writing to reflect the Board's determination of contested facts and their application to the applicable standards. The written decision must be signed by the chair or other duly authorized member. The written decision shall be delivered to the applicant by either personal delivery of first-class mail. In the event of denial of a Variance from the AirPark Review Board, the applicant shall be permitted to file an appeal with the County Manager within thirty (30) business days from receipt of denial. In the event that the applicant fails to appeal within thirty (30) business days they shall lose their right to appeal to the Board of Commissioners. Upon receipt of a timely appeal the County Manager shall schedule a hearing on the appeal with the Board of Commissioners within sixty (60) days of the Appeal. The Applicant shall provide the Board of Commissioners and the County Attorney with a copy of their application, any documents or exhibits they plan to present at the Appeal and a list of any witnesses they plan to call at least seven (7) days prior to the scheduled Appeal date. A member from the AirPark Review Board shall be present at the hearing and be available as a witness. The AirPark Review Board shall also provide a copy of their written decision to the Board of Commissioners and County Attorney within seven (7) days prior to the scheduled Appeal date.

Every quasi-judicial decision shall be subject to review by the Superior Court by proceedings in the nature of certiorari pursuant to G.S. 160A-393. 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 given in accordance with this Ordinance. When first-class mail is used to deliver notice, three days shall be added to the time to file the petition.

Any request for a variance to the Height Restrictive portion of this Ordinance shall be accompanied by a finding from the Federal Aviation Administration as to the impact the variance may have on the safe, efficient use of the airport and its airspace.

Issuance of a variance shall not set precedence and each case shall be reviewed independently of others.

ARTICLE 4: LEGAL PROVISIONS**I. ENFORCEMENT**

The ordinance may be enforced by any one or more of the remedies authorized by G.S. 153A-123.

II. COMPLAINTS

Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a written complaint with the Enforcement Officer stating the cause and basis for the complaint. The Enforcement Officer shall record the complaint, investigate and take such action as may be necessary to enforce these covenants.

III. SEVERABILITY

Should any section or provision of this ordinance be declared by the courts to be invalid for any reason, such declaration shall not affect these covenants as a whole, or any part thereof other than the part so declared to be invalid.

IV. AMENDMENT

Petitions for amendment to this ordinance may be filed with the Enforcement Officer by any citizen of the County, any county department or agency, or any board or commission of the County.

V. ORDINANCE AMENDMENT

The provisions and requirements of this ordinance may be amended by the County Commissioners according to the procedure set forth:

- (1) County Planning Board Review - No amendment shall become effective unless it has been reviewed by the Planning Board. The Planning Board shall have 45 days in which to review the proposed amendment and to make recommendation to the County Commissioners. If the Planning Board fails to report to the Commissioners within forty-five (45) days, it shall be deemed to have approved the proposed amendment.
- (2) County Economic Development Commission - No amendment shall become effective unless it has been reviewed by the Economic Development Commission. The Economic Development Commission shall have forty-five (45) days in which to review the proposed amendment and to make recommendation to the County Commissioners. If the Economic Development Commission fails to report to the Commissioners within 45 days, it shall be deemed to have approved the proposed amendment.
- (3) Airport Commission Review - No amendment shall become effective unless it has been reviewed by the Airport Commission. The Airport Commission shall have 45 days in which to review the proposed amendment and to make recommendation to the County Commissioners. If the Airport Commission fails to report to the Commissioners within forty-five (45) days, it shall be deemed to have approved the proposed amendment.

- (4) County Commissioners Review - No amendment shall become effective until after being adopted by the County Commissioners and upon a public hearing.

VI. ADOPTION OF ORDINANCE



Effective Date

The Duplin County AirPark Development Ordinance shall become effective the 2nd day of July, 2018.

The Duplin County AirPark Development Ordinance is adopted by the Duplin County Board of Commissioners on the 2nd day of July, 2018.

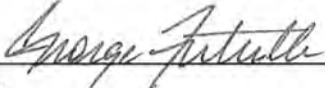


 Chairman
 Duplin County Board of Commissioners

 **DUPLIN COUNTY**
 CLERK: 
 Clerk

The Duplin County AirPark Development Ordinance is adopted by the Duplin County Airport Commission on the 26TH day of JUNE, 2018.


Chairman
Duplin County Airport Commission

ATTEST: 
Clerk

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The Duplin County AirPark Development Ordinance is adopted by the Duplin County Planning Board on the 12 day of June, 2018.

Chuck W. Edwards Jr.

Chairman
Duplin County Planning Board

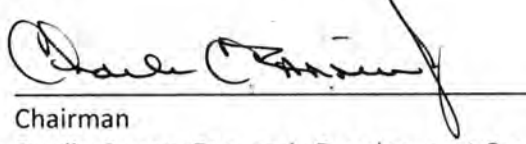
ATTEST:

Elizabeth Halls
Clerk

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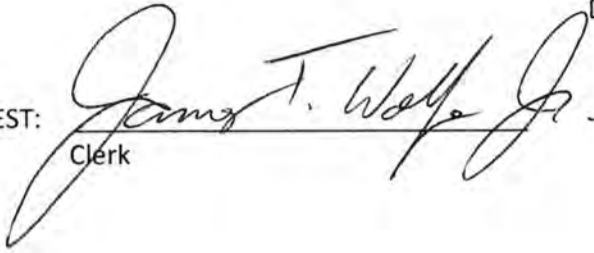
1570

The Duplin County AirPark Development Ordinance is adopted by the Duplin County Economic Development Commission on the 30 day of June, 2018.



Chairman
Duplin County Economic Development Commission

ATTEST:

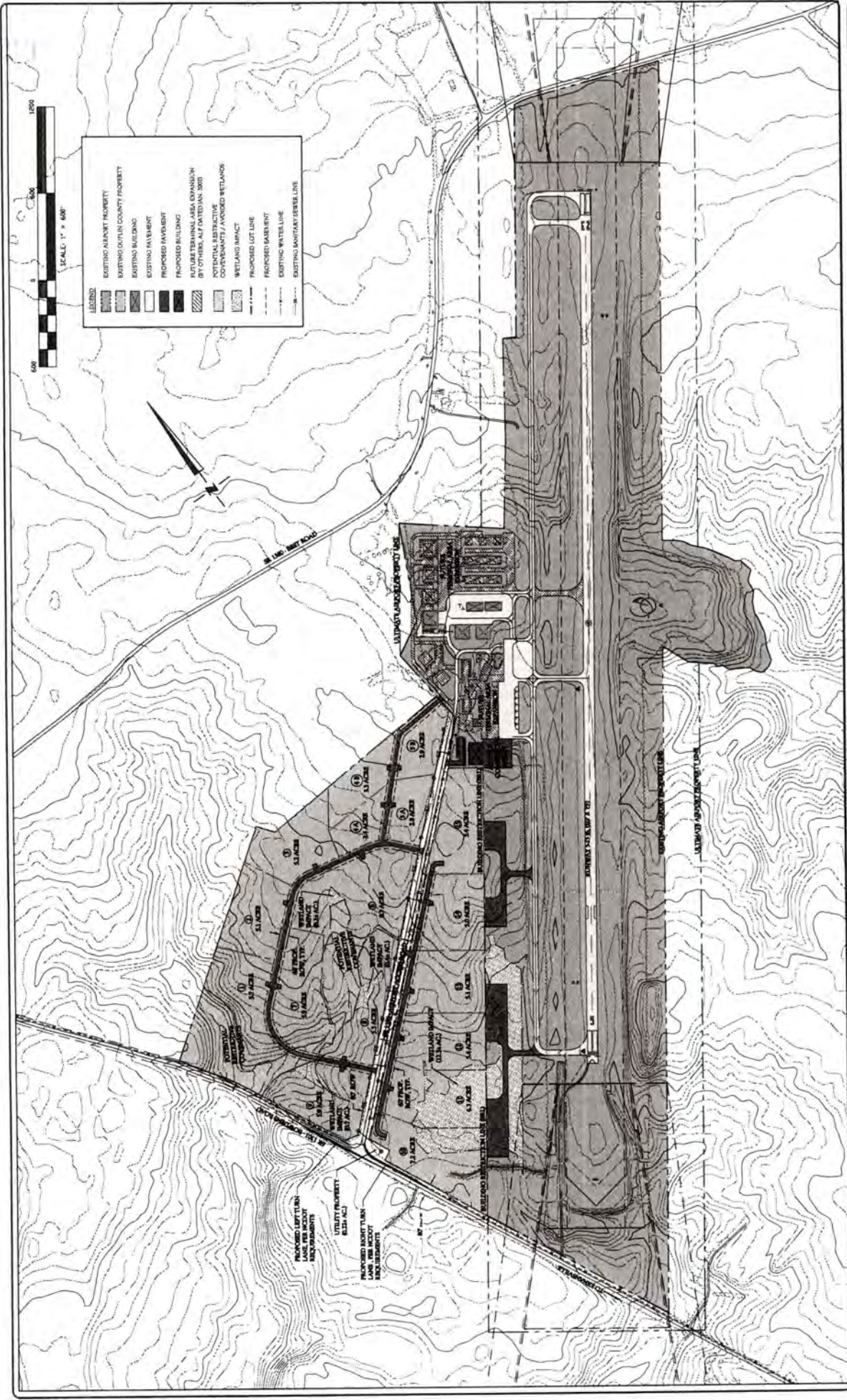


Clerk

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Appendix A

AirPark Planning Concept Layout



CONCEPT LAYOUT 1A OVERALL

AIRPARK PLANNING
FOR THE
DUPLIN COUNTY AIRPORT
KEMANSVILLE, NORTH CAROLINA

DATE: _____

| NO. | DATE | DESCRIPTION | BY |
|-----|------|-------------|----|
| | | | |
| | | | |
| | | | |
| | | | |

WK DICKSON
COMMUNITY DEVELOPMENT CONSULTANTS

2776A SANDHURST DRIVE
DURHAM, NORTH CAROLINA 27713
TEL: 919.487.1000
WWW.WKDICKSON.COM

| NO. | DATE | DESCRIPTION | BY |
|-----|------|-------------|----|
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THIS PLAN AND ALL INFORMATION THEREON ARE THE PROPERTY OF WK DICKSON AND SHALL REMAIN THE PROPERTY OF WK DICKSON WHETHER OR NOT THIS PLAN IS USED FOR ANY PURPOSE. NO PART OF THIS PLAN OR INFORMATION THEREON SHALL BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF WK DICKSON.

Appendix B

Design Review Checklist

Design Review Checklist

The following shall be used by the applicants and the review committee as a checklist for items to be included on the Site Plan Drawings.

Site Plan Drawings

1. Building Siting (including future expansion areas if applicable).
2. Driveways, parking and loading areas included curb details, and surface materials.
3. Sidewalks, other paved areas.
4. Existing trees with existing and proposed grades.
5. Lot grading and drainage showing approved grades on the site.
6. Service lead-ins (storm, sanitary, water, hydro, gas and telephone).
7. Hydro poles, transformers, meters, fire hydrants, Siamese connections.
8. Fence and wall locations, design, height, materials, and colors.
9. Exterior lighting locations, design, color and throw.
10. Exterior storage areas and their screening (including garbage).

Building Elevation Drawings

1. Elevation drawings.
2. Materials types and colors to be used (samples may be requested).
3. All mechanical equipment, vent stacks, etc. on elevation of roofs (locations, size, color) and proposed screening.
4. Building signage (if applicable).

Landscape Plans

1. Existing trees, grades and measures proposed to preserve them.
2. Site contours.
3. All planting, including location, type (common and scientific name), size in caliper, height and spread.
4. All screening, including details.
5. Coordination with minimum landscape requirements for streetscape edge, foundations planting, and landscape buffers.

Signage and Exterior Furnishings (If Applicable)

1. Flags, banner, sculpture, fountains, benches, planters, waste receptacles, including locations, size, design materials and colors.
2. Exterior signs and graphics.
3. Location in Site Plan.
4. Elevations depicting building mounted signage, 1:100 minimum scale.
5. Materials and colors; may be required to provide samples on request.
6. Type of lettering. Show graphics on elevations.
7. Lighting. (Location, color and throw)
8. Framing and supporting walls of devices.

Appendix C

**Minimum Requirements for Construction of Pre-Engineered
Corporate Hangars and T-Hangars at the Duplin County Airport**

Duplin County Airport

Hangar Performance Specifications

Minimum Requirements for Construction
of
Pre-Engineered Corporate Hangars and T-Hangars
at the
Duplin County Airport
as part of the
Preliminary Terminal Area Development Project

260 Airport Road
Kenansville, North Carolina 28349

WKD No: 20150121.00.RA
DPL No: 44-7538
NCDOT DOA No: 36237.13.13.1



720 Corporate Center Drive
Raleigh, NC 27607
License No. F-0374

March 11, 2016



DO NOT USE FOR CONSTRUCTION

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TABLE OF CONTENTS

The following specification divisions are organized by MasterFormat Construction Specification Institute (CSI) Standards and illustrate minimum requirements for construction/development of Hangars at Duplin County Airport:

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| 03 | CONCRETE | 1-3 |
| 09 | FINISHES | 1-5 |
| 13 | SPECIAL CONSTRUCTION – PRE-ENGINEERED HANGAR BUILDINGS | 1-22 |
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APPENDICES

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| Appendix A | Geotechnical Exploration Report prepared by S&ME dated September 2, 2015 |
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DIVISION 01 – GENERAL REQUIREMENTS

PART 1- GENERAL

1.1 SUMMARY

- A. These specifications have been established to provide an outline of the minimum requirements for construction of pre-engineered corporate hangars and T-hangars at the Duplin County Airport. These specifications are intended to provide a standard for planning, design, and construction. All hangars to be constructed on airport property must meet or exceed all requirements specified herein.
- B. For the purposes of this document, the term Owner shall refer to Duplin County or its designated representative, including the Duplin County Airport Commission and the Airport Director.
- C. Hangars may not be constructed on airport property unless approved by the Owner and the Owner's Engineer for conformance with the following:
 - 1. Current Airport Layout Drawing (ALD)
 - 2. Current Terminal Area Drawing (TAD)
 - 3. Current Terminal Area Development Plan
- D. The Developer will be responsible for obtaining a Duplin County Building Permit and any other permits required by Duplin County or the Town of Kenansville.
- E. The developer will be responsible for obtaining an Erosion and Sediment Control permit from North Carolina Department of Environmental Quality (NCDEQ) for development that creates one (1) or more acres of ground disturbance.
- F. Construction must be in compliance with FAA regulations for design and construction, height restrictions, and all other regulations established by applicable agencies having jurisdiction over the project.
- G. Design must conform to FAA requirements and shall incorporate FAA standard construction specifications located in Advisory Circular 150/5370-10, Standards for Specifying Construction of Airports (current edition).
- H. Anyone constructing a hangar on airport property must follow the Owner's Rules & Regulations, Stormwater Pollution Prevention Plan (SWPPP), and Spill Prevention Control and Countermeasure Plan (SPCC).

- I. Hangar construction must be in compliance with the National Fire Protection Association (NFPA) regulations, all state and local Fire Codes. All construction must be approved by the local Fire Marshal.

1.2 SUBMITTALS

- A. Plans and specifications for construction must be prepared by a Professional Engineer (PE) licensed in the State of North Carolina. The cost of all engineering and permitting services shall be the Developer's responsibility.
- B. The Developer is responsible for preparing all documents contained in this section and submitting documents to Owner and to the Owner's Consulting Engineer for review and approval. The Developer is responsible for all cost associated with the Owner's Consulting Engineer's review of the proposed plans, specifications, shop drawings and submittals.
- C. 30% Design Submittal
 1. Developer shall submit to the Owner three (3) sets of 22"x34" plans, as well as a PDF copy. The plan set shall include the following at a minimum:
 - a. Cover Sheet
 - b. Project Layout and Safety Plan
 - i. Existing and proposed geometry
 - ii. Haul route
 - iii. Staging and stockpile areas
 - iv. Phasing and construction safety measures
 - c. Typical Sections - for proposed pavement and hangar floor
 - d. Proposed Profiles - for proposed access roads and taxilanes
 - e. Demolition Plans
 - f. Geometric Layout Plan
 - g. Grading and Drainage / Site Plan
 - i. Existing and proposed contours
 - ii. Proposed hangar fixed floor elevation (FFE)
 - iii. Proposed drainage pipes and structures
 - h. Utility Layout Plan
 2. The Owner shall complete review of the 30% submittal and return comments within

14 days of receipt.

D. Pre-Construction Submittal

1. Project must be approved by Owner before construction may begin.
2. Developer shall submit three (3) sets of 22"x34" plans sealed by a Professional Engineer (PE) licensed in the state of North Carolina, as well as a PDF copy. The plan set shall include the following at a minimum:
 - a. Cover Sheet
 - b. Project Layout and Safety Plan
 - i. Existing and proposed geometry
 - ii. Haul Route
 - iii. Staging and Stockpile Areas
 - iv. Project Limits
 - v. Phasing and construction safety measures
 - vi. Traffic control devices, if necessary
 - c. Typical Sections - for proposed details for pavement and hangar floor
 - d. Demolition Plans
 - e. Geometric Layout Plan
 - f. Joint Layout Plan – for concrete aprons and hangar floor
 - g. Erosion Control Plans
 - h. Grading and Drainage / Site Plan
 - i. Existing and Proposed Contours
 - ii. Spot Elevations
 - iii. Proposed hangar fixed floor elevation (FFE)
 - iv. Proposed drainage pipes and structures
 - v. Pipe invert and size
 - i. Utility Layout Plan
 - i. Proposed water service, sanitary sewer service, oil/water separator, grinder pump, electrical service, data/communication service
 - ii. Associated utility details
 - j. Landscaping Plan

- k. Structural Plans
 - l. Building Plans
 - m. Foundation/Footing Details
 - n. Mechanical, Electrical, and Plumbing Plans and Details
3. Project specifications
 4. Shop drawings, material information, and other items as specified in other Divisions.
 5. The Developer is responsible for submitting a Notice of Proposed Construction, Form 7460-1, to the FAA for review and approval. The Developer shall submit this form once the Owner has approved the hangar site location and hangar size. Form 7460-1 reviews typically take 45-90 days to process and approve. No construction will be allowed to begin until an approved FAA 7460-1 form is on file with the Owner.
- E. Complete set of Record Drawings upon the completion of construction. Record Drawings shall be submitted in AutoCAD format, as well as a set of 24" x 36" drawings.

1.3 WARRANTY REQUIREMENTS

- A. Warranty periods begin at the date of Substantial Completion.
1. Metal Panel Finishes – 20 years
 2. Weathertightness Warranty for Metal Roof Panels – 2 years
 3. Grinder Pump – 2 years
 4. Warranty for Corrosion and Structural Defects of Oil/Water Separators – 10 years
 5. Warranty for all other construction – 1 year

1.4 CONSTRUCTION ADMINISTRATION, INSPECTION, & QUALITY ASSURANCE

- A. The Owner's Consulting Engineer and Duplin County shall be allowed to inspect any and all work done during the construction phase of the project. The Developer shall authorize the Owner's Consulting Engineer and/or Duplin County to stop work at the Hangar immediately in the event that any of the plans or specifications are not being followed. In the event that the Owner's Consulting Engineer and/or Duplin County stops Work at the Hangar, the Developer shall be immediately notified and the parties shall work towards a sufficient solution to avoid any unnecessary delays.
- B. The Owner's Consulting Engineer shall provide quality assurance testing to ensure the Developer's compliance with any and all of the Owner's construction specifications and

all project specifications. The Developer is solely responsible for any and all costs related to the Owner's Consulting Engineer's quality assurance testing to verify conformance with earthwork, stone base, concrete, and asphalt to the minimum requirements outlined in the Owner's Construction Specification and the project specifications.

- C. The Owner's Consulting Engineer shall provide periodic construction inspection services to ensure all elements of the project are being constructed in accordance with Owner's Development Plan, Professional Engineer's plans and specifications, respectively. The Developer is solely responsible for any and all costs related to the Owner's Consulting Engineer's periodic construction inspection services.

1.5 GENERAL REQUIREMENTS DURING CONSTRUCTION

- A. All construction activities must conform to the requirements of FAA Advisory Circular 150/5370-2 (current edition), Operational Safety on Airports During Construction.
- B. Developer must utilize a General Contractor properly licensed in the State of North Carolina to oversee all construction.
- C. Developer shall be required to locate and protect existing utilities and facilities from damage by equipment or personnel. The locations of existing underground utilities are shown in an approximate way only on the Owner's Terminal Area Development Plan. Developer is responsible for repair of any utilities or facilities damaged during construction.
- D. Developer will be required to transport and store all equipment and materials in a manner which will not damage any existing pavement, buildings, signs, lights, etc. Any damage will be repaired by the Developer at no cost to the Owner.
- E. No debris of any nature shall be allowed outside of the Developer's approved construction area. All loose materials must be kept within the limits of construction. No loose materials that could blow into aircraft operations areas shall be allowed in the construction area.
- F. Developer shall control and continuously remove waste or loose materials that might attract wildlife during construction.
- G. Developer must not leave or place foreign object debris (FOD) on or near active aircraft operations areas (AOA). Material tracked onto these areas must be continuously removed during the construction project.

1.6 GENERAL REQUIREMENTS FOR OPERATION OF HANGAR

- A. All improvements made by the Developer to the hangar building throughout the life of the ground lease shall remain in the hangar and become the property of the Owner when ownership of the hangar reverts to the Airport.
- B. Developer shall be responsible for providing for his own trash removal. Dumpsters will not be allowed adjacent to the corporate or T-hangars. A dumpster must be provided by the Developer and located in a centralized location on airport property, as directed by the Owner.
- C. Developer shall be responsible for the cost of all utilities provided to the hangar building.
- D. Developer shall be responsible for costs associated with annual testing of backflow preventers, as required by Duplin County.

END OF DIVISION 01

DIVISION 03 - CONCRETE

PART 1- GENERAL

1.1 SUMMARY

A. Section Includes:

1. Concrete for building slabs on grade
2. Concrete floor finish

1.2 REFERENCES

- A. FAA Advisory Circular 150/5370-10 (current edition) - Standards for Specifying Construction of Airports.

1.3 SUBMITTALS

A. Submit product information and mix design for concrete pavements.

B. Product Data:

1. Aggregate certifications
2. Joint materials, admixtures, and curing compounds
3. Reinforcing materials

C. Product and process data for penetrating liquid floor treatment for polished concrete.

D. Manufacturer's product data.

E. Manufacturer's installation instructions.

F. Catalog pages illustrating products to be incorporated into project.

G. Foundation and footing design to be approved by Owner's Consulting Engineer.

1.4 RELATED WORK SPECIFIED ELSEWHERE

- A. Requirements for concrete pavements for both landside and airfield pavements are detailed in Division 32 Exterior Improvements.

PART 2 - PRODUCTS**2.1 CONCRETE SECTION AND MATERIALS**

- A. Concrete hangar slabs shall be Portland cement concrete.
- B. Cement shall conform to the requirements of ASTM C150 Type I.
- C. Concrete hangar slabs designed for aircraft weighing 30,000 lbs. or less shall be constructed in accordance with Item P-501 from FAA AC 150/5370-10. All concrete for hangar floors, foundations, and footings shall have a minimum 28-day compressive strength of 4,400 psi.
- D. Concrete hangar slabs designed for aircraft weighing over 30,000 lbs. shall be constructed in accordance with Item P-501 of FAA AC 150/5370-10. All concrete for hangar floors, foundations, and footings shall have a minimum flexural strength of 650 psi.
- E. Concrete floor slabs shall be reinforced with a minimum 6x6 welded wire fabric, furnished in flat sheets only, conforming to the requirements of ASTM A1064, or bar mats conforming to the requirements of ASTM A184 or A704.
- F. Refer to Division 32, Exterior Improvements Section 2.1 C, for floor slab thickness, stone base thickness, and joint spacing.
- G. 6 mil vapor barrier shall be placed beneath stone base under concrete slab.
- H. The Developer's building manufacturer or structural engineer shall be responsible for the design of concrete footings.
- I. Corporate and T-hangar hangar floor finish shall be polished concrete, approved by the owner. Polished concrete shall include grinding installation of silicate sealer, polishing, and a stain repellent. The polished floor shall have medium reflectivity, 800 grit. Other methods of finishing concrete floors may be submitted to the Owner for review and approval.

PART 3 - EXECUTION**3.1 PREPARATION**

- A. Concrete placement operations must adhere to the weather limitations detailed in the applicable specifications listed above.
- B. Stone base shall not be placed until underlying subgrade has been reviewed and accepted

by the Owner and/or the Owner's Consulting Engineer.

- C. Concrete may not be placed until Owner and/or Owner's Consulting Engineer has reviewed and accepted the preparation of the underlying subgrade and stone base.

3.2 CONCRETE SLAB CONSTRUCTION

- A. Owner will conduct acceptance sampling and testing as outlined in the above specifications. If testing reveals that construction does not meet the applicable specifications, construction activities shall stop until a mutually acceptable solution can be reached.
- B. Corporate hangar floor slab shall be constructed to flow to floor drain. Slope shall be approximately 0.5%.
- C. T-hangar floors shall be sloped to drain towards doors.
- D. No abrupt change in grade will be allowed between concrete hangar floor and adjacent asphalt or concrete apron. A smooth transition is required.

END OF DIVISION 03

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DIVISION 09 – FINISHES

PART 1- GENERAL

1.1 SUMMARY

- A. This division specifies the general requirements for interior and exterior painting for T-Hangars and Corporate Hangars constructed on airport property. All colors shall be reviewed and approved by the Owner prior to construction.

1.2 SUBMITTALS

- A. Submit manufacturer's Product Data Sheets for each product to be used in the work.
- B. Submit label analysis of each paint product to be used in the work.
- C. Certificates: Submit letters of certification from the paint manufacturer certifying that top coats are compatible and appropriate with undercoats when undercoats and topcoats are of a different manufacturer.

1.3 DELIVERY, STORAGE AND HANDLING

- A. Deliver all materials to the job site in original, unopened containers with labels and tags attached. Store paint materials and tools in an assigned room. Furnish galvanized drip pans in the paint mixing space, and do all mixing and handling of paint on these pans. Keep paint cans closed when not in use, and keep the room clear of oily rags and other waste that might create a fire hazard.

1.4 JOB CONDITIONS

- A. Refer to the paint manufacturer's Product Data Sheets for paint application job condition.
- B. Spaces to be painted shall be broom clean and dust free.

1.5 RELATED WORK SPECIFIED ELSEWHERE

- A. Factory Finished Items.
- B. Shop Coats.
- C. Division 13 Special Construction - Pre-Engineered Hangar Building.

2.1 PAINTING

- A. Structural Painting: All uncoated structural steel shall be cleaned of all foreign matter and loose scales in accordance and given a one mil coat of red oxide primer. Primer shall be applied by the use of airless handguns. Primer shall meet or exceed the performance requirements of Federal Specification TT-P0636D. Light gauge steel members shall be shot blasted and pre-coated with one coat of red oxide primer. Some hand sprayed shop touch up may be employed. Primer shall be furnished to touch up abrasions caused by handling. All members (if required) shall be touched up prior to field assembly.

Prime Coat: The base metal shall be pre-treated and then primed with an epoxy type primer for superior adhesion and superior resistance to corrosion.

2.2 PAINT SELECTION

- A. Materials selected for each painting system shall be the product of a single manufacturer.
- B. Thinners, solvents, and tinting colors shall be as specified on the manufacturer's Product Data Sheets.
- C. All paint shall be factory mixed except tinting necessary to distinguish undercoats.
- D. Exterior colors shall be selected by the Owner.

2.3 ACCEPTED PAINT PRODUCTS

- A. Alkyd Rust Inhibitive Primer:

PPG 6-208
Glidden 4570
Porter 297

- B. Alkyd Universal Steel Primer:

PPG 97-682
Glidden 5210
Porter 284

- C. A8046 Alkyd-Zinc Dust Primer:

PPG 6-215/6-216
Porter 299

- D. Alkyd-Portland Cement Primer:

PPG 6-209

Glidden 5229
Porter 290

E. Phosphoric Acid Treatment:
Porter 99

F. Alkyd Interior Wood Undercoater:
PPG 6-6
Glidden 555
Porter 429

G. Latex Block Filler:
PPG 6-7
Glidden 5320
Porter 896

H. Cementitious Block Filler:
Glidden 1971
Porter 895

I. Alkyd Gloss Enamel:
PPG 6-252 Series
Glidden 4500 Series
Porter I.A. 24

J. Alkyd Interior S.G. Enamel:
PPG 6-90
Glidden
Porter I.A. 24 S.G.

K. Polyamide Epoxy Gloss Coating:
PPG 97 Line
Glidden 5240/5242
Porter MCR 43

L. Polyamide Epoxy High Build Intermediate Coat:
PPG 97-150 Series
Glidden 5555/5556
Porter MCR 43 High Build

Alternative, equivalent paint products may be submitted to the Owner for review and approval.

PART 3 - EXECUTION**3.1 SURFACE PREPARATION**

- A. All Surfaces: Before starting work, examine all surfaces which are to be painted. Do not apply paint on dirty, dusty, or otherwise contaminated surfaces, nor on surfaces of materials having more than 15% moisture content. Do not start work on any surface requiring corrective work. Start of work constitutes acceptance of surface as suitable for painting.
- B. Ferrous Metals: Remove all oil, grease, dirt, salts, loose rust, loose mill scale, and loose paint. Remove shop crayon marks.
- C. Galvanized Steel:
 - 1. Remove oil and grease by wiping with clean rags soaked in xylol.
 - 2. Remove white rust with soap and water and rinse clean.
 - 3. Remove red rust by power tool cleaning.
 - 4. Deactivate fresh zinc surfaces and remove passivating compounds by weathering six months or by applying phosphoric Acid Etch.
- D. Concrete Block: Let the concrete unit masonry cure for 30 days before painting. Fill all minor holes and cracks. Rub to remove mortar burrs from surface of joints and block.
- E. Wood: Sand to remove raised grain, tool marks and similar imperfections. After prime coat has dried, putty nail holes, cracks, open joints and other defects. At the same time, seal knots, pitch and resinous.

3.2 PAINT APPLICATION SCHEDULE

- A. Paint the following:
 - 1. Paint exposed steel pipe, brackets, hangers, valve bodies, electrical conduits, outlet boxes and junction boxes.
 - 2. Paint exposed pipe insulation.
- B. Do not paint the following:
 - 1. Steel to be embedded in concrete.
 - 2. Factory items fully finished.
 - 3. Exterior formed concrete foundation walls, steps or slabs on grade, unless noted otherwise.

4. Interior concrete floor slabs, unless noted otherwise.
 5. Aluminum, brass, cadmium plated surfaces, and stainless steel.
 6. Interior air handling ductwork.
 7. Acoustical ceiling board.
 8. Plastic pipe and plastic conduit.
 9. Plastic pipe insulation covers.
 10. Code required labels.
- C. Paint shall be tinted, reduced, mixed and applied according to the manufacturer's Product Data Sheets.
- D. Flow all paint evenly and fully over surfaces being painted. Leave each coat free of brush marks, voids, sags, runs or other defects. Each coat shall be applied as a film of uniform thickness. Hiding shall be complete.
- E. Do not thin the paint for any coat to a degree that reduces the finished dry film thickness below that specified.
- F. Remove hardware, accessories, fixtures, switch plates and similar items and replace after painting. Remove paint from all surfaces not intended to be painted.
- G. Paint sharp clean edges at perimeter of painted surfaces and at changes of color.
- H. Paint primed grilles, access panels, ducts, etc., to match adjacent wall or ceiling surface.
- I. Apply all paint with brush or roller except where spraying is recommended for ceilings and/or epoxy wall finishes. Overspray on surfaces scheduled to be unfinished shall be repaired by removing the overspray or by painting the entire surface at the Owner's option.

END OF DIVISION 09

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**DIVISION 13 – SPECIAL CONSTRUCTION
PRE-ENGINEERED HANGAR BUILDINGS**

PART 1- GENERAL

1.1 SUMMARY

- A. This section includes requirements for pre-engineered hangar buildings. Hangars shall be a single story, rigid frame, metal building with eave heights, roof slopes and configuration to be specified by the Developer and approved by the Owner.
- B. These specifications cover the materials and fabrication of metal buildings designed, fabricated and readily erected to be weather tight. These specifications are an outline of performance to insure the basis for design, manufacture and application of all the manufacturer's metal building systems.
- C. Hangar building shall be supplied by a manufacturer who is regularly engaged in the manufacture of aircraft hangar buildings and hangar doors. The hangar package shall be supplied as a complete system and furnished by a manufacturer who provides hangar doors and hangar building as an integral hangar building package. The hangar manufacturer shall have been engaged in the manufacture for a minimum of five years and upon request from Owner provide a list of completed hangar projects.
- D. Hangar sizes must be approved by Owner.
- E. Hangar buildings and doors shall be designed to withstand 115 MPH wind loading.
- F. Single Source Responsibility for Pre-engineered building system: Obtain pre-engineered building from a single source for the entire building system as described in this section. Corporate hangar doors may be provided by a separate manufacturer. If a different manufacturer is used, Developer must provide evidence that the design and construction of the hangar building and the hangar doors has been coordinated by both manufacturers.
- G. Erector's Qualifications: Pre-engineered building shall be erected by a firm that has no less than 5-years successful experience in the erection of pre-engineered buildings similar to those required for this project.

1.2 RELATED WORK SPECIFIED ELSEWHERE

- A. Surface treatment for concrete is detailed in Division 03 Concrete.
- B. Field painting or primed metal members are specified in Division 09 Finishes.
- C. Information concerning the concrete foundation and footings can be found in Division 32

Exterior Improvements.

1.3 SUBMITTALS

- A. Product Data: Submit manufacturer's product information, specifications and installation instructions for building components and accessories.
- B. Calculations: Submit calculations for all structural elements indicating compliance with specified design requirements.
- C. Manufacturer shall furnish complete erection drawings for the proper identification and assembly of all building components. These drawings will show anchor bolt settings, transverse cross sections, sidewall, endwall, roof framing, flashing, sheeting and accessory installation details.
- D. Shop Drawings: Submit complete erection drawings showing anchor bolt settings, foundation drawings, electrical drawings, mechanical drawings, sidewall, endwall, and roof framing, frame bracing, transverse cross section, covering and trim details, and accessory installation details to clearly indicate proper assembly of building components.
- E. Certification: Standard drawings and design analysis shall bear the seal of a registered professional engineer licensed in the state of North Carolina. Design analysis shall be furnished to the Owner. The Manufacturer shall furnish a sealed letter of certification stating that the building design and fabrication will meet all design specifications and loads as required by applicable codes. This letter must be furnished prior to delivery of building.

1.4 STRUCTURAL STEEL DESIGN

- A. General: The building manufacturer shall use standards, specifications, recommendations, findings, and/or interpretations of professionally recognized groups (AISC, AISI, AAMA, AWS, ASTM, MBMA), Federal Specifications and unpublished research by MBMA as the basis for establishing design, drafting, fabrication and quality criteria, practices and tolerances. For convenience, one or more sources may be referenced in a particular portion of these specifications.
- B. Structural Steel: For design of structural steel members, comply with requirements of the American Institute of Steel Construction's (AISC) "Specifications for the Design, Fabrications and Erection of Structural Steel for Buildings" for design requirements and allowable stresses.
- C. In all instances, however, the manufacturer's design, drafting, fabrication, quality criteria, practices and tolerances shall govern, unless specifically countermanded by the Contract Documents. Structural mill sections or welded up plate sections will be designed in

accordance with AISC's "Specification of the Design, Fabrication, and Erection of Structural Steel for Buildings" (latest edition).

- D. Cold-formed steel structural members will be designed in accordance with AISI's "Specification for the Design of Cold-formed Steel Structural members" (latest edition)
1. Design Loads: Design loads will include dead load, roof live loads, wind load, seismic loads, collateral loads, auxiliary equipment loads, and/or other applied or specified loads.
 2. Dead Loads: The actual weight of the building system supported by a member.
 3. Roof Live Loads: Loads produced by maintenance activities, rain, erection activities and other movable or moving loads, but not including wind, snow, seismic, crane, or dead loads.
 4. Roof Snow Loads: Gravity load induced by weight of snow or ice on the roof, assume to act on horizontal projection of the roof.
 5. Winds Loads: The loads on a structure induced by the forces of wind blowing from any horizontal direction.
 6. Collateral Loads: The weight of any non-moving equipment of material, such as ceilings, electrical or mechanical equipment, sprinkler systems or plumbing. Purlins and frames shall support electrical, including lighting. Add purlins as required.
 7. Seismic Loads: Horizontal loads acting in any direction on a structural system due to action of an earthquake.
 8. Floor Live Loads: Loads induced on a floor system by occupants of a building and their furniture, equipment, etc.
 9. Wind-Uplift Resistance: Provide metal roof panel assemblies that comply with UL 580 for Class 90.
- E. Design of all members shall be in accordance with the latest international building code with North Carolina amendments.
- F. The pre-engineered metal building shall be designed for all loads as required by the governing building code. The metal building engineer shall determine these required loads and clearly note them in calculations and on building drawings. They shall contact the local authorities for verification of governing codes. The metal building engineer shall also account for all superimposed loads from building accessories and systems such as but not limited to mechanical equipment, suspended ceilings, fixtures, piping, operable

doors, etc. Building accessories may or may not be noted on the contract drawings. It is up to the Contractor to coordinate all materials from other trades to ensure they are accounted for.

1.5 BASIC MATERIAL SPECIFICATIONS

- A. Primary Framing Steel: Steel for hot rolled shapes shall conform to the requirements of ASTM Specification A36, with minimum yield of 36,000, 42,000, or 50,000 psi.
- B. Steel for built up sections shall conform to the physical requirements of ASTM A570, ASTM 572 or ASTM A36 as applicable, with minimum yield of 42,000 or 50,000 psi as indicated by the design requirements.
- C. Steel for endwall "C" sections shall conform to the physical requirements of Republic Steel's P-55 or equivalent and have a minimum yield of 55,000 psi.
- D. Secondary Framing Steel: Steel used to form purlins, girts, eave struts and "C" sections shall be Republic Steel's P-55 or equivalent of ASTM A607 Grade 55. Minimum yield shall be 55,000 psi.

1.6 STRUCTURAL FRAMING

- A. General: All framing members shall be shop fabricated for field bolted assembly. The surfaces of the bolted connections shall be smooth and free from burrs or distortions.
- B. Primary Framing:
 - 1. Primary structural framing shall be main load carrying structural members. They shall include door trusses, rafters, interior columns and exterior columns.
 - 2. Rigid Frame: All rigid frames shall be connected to webs by means of a continuous fillet weld on one side.
 - 3. Endwall Frame: All endwall roof beams and endwall columns shall be cold-formed "C" sections, mill rolled sections or built up "I" sections depending on design requirements.
 - 4. Plate, Stiffeners, etc.: All base plates, splice and flanges shall be shop fabricated to include bolt connections holes. Webs shall be shop fabricated to include bracing holes.
 - 5. Connections for secondary structural (purlins and girts) shall be by means of welded clips.
- C. Secondary Framing:

1. Secondary framing shall be the structural members which carry the loads to the primary framing systems; and shall include the purlins, girts, wind bracing and miscellaneous structural members.
2. Purlins and Girts: Purlins and girts shall be cold-formed "Z" sections with stiffened flanges. They shall be pre-punched at the factory to provide for field bolting to the rigid frames. They shall be simple or continuous span as required by design. Connection bolts will install through the webs, not flanges.
3. Eave Struts: Eave struts shall be unequal flange cold-formed "C" sections.

D. Bracing:

1. Provide wind bracing, rafter bracing, sheeting angles where required.
2. Diagonal Bracing: Diagonal bracing in the roof shall be used to remove longitudinal loads from the structure. This bracing will be furnished to length and equipped with bevel washers and nuts at each end. It may consist of rods threaded each end or galvanized cable with suitable threaded end anchors. If load requirements so dictate bracing may be of structural angle and/or pipe, bolted in place.
3. Flange Braces: The compression flange of all primary framing shall be braced laterally with angles connecting to the webs of purlins or girts so that the flange compressive stress is within allowable limits for any combination of loading.

1.7 FIRE SUPPRESSION

- A. Fire suppression and fire rated construction for hangars shall be provided in accordance with State and local Building Codes and the requirements of the local Fire Marshal.
- B. Construction of fire lines and fire hydrants shall be in accordance with State and local Building Codes and the requirements of the local Fire Marshal.

1.8 DELIVERY, STORAGE, AND HANDLING

- A. Deliver and store prefabricated components, sheets, panels, and other manufactured items so they will not be damaged or deformed. Stack materials on platforms or pallets, covered with tarpaulins or other suitable weather-tight ventilated covering. Store metal sheets or panels so that water accumulations will drain freely. Do not store sheets or panels in contact with other materials which might cause staining.

PART 2 - T-HANGAR REQUIREMENTS

2.1 GENERAL

- A. Hangar building shall be a 10-unit, nested T configuration conforming to the layout as shown on the Airport Layout Plan.

2.2 MANUFACTURERS

- A. T-hangar Available Manufacturer's: Based on the history of installation and years of manufacturing experience in pre-engineered hangar building construction, T-Hangars should be manufactured by one of the following, or an approved equal:

- | | | |
|----|--|---|
| 1. | Erect-a-Tube (800) 624-9217 | P.O. Box 100, Harvard, Illinois 60030-0100 |
| 2. | Ful-Fab Aircraft Hangars (330) 477-7211 | 1525 Whipple Ave. S.W. Canton, Ohio 44710 |
| 3. | OSI Building Systems (334) 834-3500 | P.O. Box 5230, Montgomery, AL 36103 |

2.3 MATERIALS

- A. Sheeting Materials:

1. Roof sheets shall be 26 gauge galvalume coating conforming to ASTM specification A-792 with panel configuration with 1-1/8" min. high major ribs 12" on center. Panel coverage shall be 36" and shall be furnished full length from building eave to ridge purlin. A pre-formed ridge cap shall be provided.
2. Wall sheet shall be 26 ga. galvalume coating conforming to ASTM specification A446 Panel configuration shall be 1-1/8" min. major ribs 12" on center. Wall sheet shall be furnished full height.
3. Interior walls shall be 26 ga. galvalume metal extending from floor to ceiling.
4. Building trim shall include eave trim, gable trim, corner trim, service door trim, and hangar door trim. All trim shall be 26 ga. and manufactured of flat stock material equal in quality to wall sheets and color as selected from manufacturer's standard color chart, and approved by the Owner. Trim pieces shall be packaged for shipment at factory.

5. All standard exterior gutters, rake flashing, and downspouts shall be 26 ga. galvalume steel, with painted finish to match.

B. Sealants and Closures:

1. All gutter and downspout joints, rake flashing laps, and ridge flashing laps, shall be sealed with pigmented caulk of butyl rubber base to match the color.
2. Factory applied sealant used in panel side laps shall be a hot melt, foamable mastic.
3. Field applied sealant used at the end laps, ridge assembly, and gable flashings shall be 100% solids, butyl-based elastomeric tape sealer, furnished in roll form or pre-cut to length. Sealant used to the eave shall be pre-compressed expanding foam sealant tape.
4. Joint sealant material shall be as recommended by manufacturer to seal all side and end laps in metal sheets and panels, at ridges, bolt holes before inserting fasteners, for all flashings and corner closure sheets and elsewhere as necessary to provide watertight construction.
5. Closures: Inside and outside semi-rigid cross-linked polyethylene foam closure shall be provided as required to provide a bird proof building. Inside closure shall be self-adhesive.
6. 3" x 9" x 11 gauge galvanized gas curb angle at the curb of EVERY interior partition wall with fuel resistant sealant on all sides.

C. Gutter, Flashing, and Downspouts:

1. Metal gutter and downspouts sizes and spacing to be determined by building manufacturer. Unless otherwise approved by the Owner, downspouts shall be connected to storm drainage system. If downspouts cannot be connected to storm drainage system, adequate splash pads must be provided at each outlet to prevent erosion. Proposed splash pad must be approved by the Owner.
2. Gutters and Flashing: All standard exterior gutters, rake flashing and downspouts are 26 gauge galvalume steel, with painted finish to match.
3. Flashing and Trim: Flashing at the rake (parallel to roof panels) and high eave shall not compromise the integrity of the roof system by constricting movement due to thermal expansion and contraction. The panel manufacturer shall supply the flexible membranes if applicable.
4. Installation: Erection of the roof system shall be in complete accordance with the

manufacturer's erection manual.

D. Finishes:

1. Painting: All interior exposed structural steel shall receive two coats shop primer. All exterior surfaces of the hangars and hangar doors for all exterior wall and roof sheeting shall be factory-painted with a Thermoset coating system composed of polyester resin which has been modified with a silicon resin equal to MS Color Fast 30. All interior surfaces of metal siding, hangar doors, and panels shall be galvanized. All interior divider wall panels shall be galvanized, both sides.
2. Colors shall be as selected by the Owner from the manufacturers' standard selection. Developer shall submit color swatches to Owner for selection.

E. Insulation:

1. Insulation for conditioned spaces shall be in accordance with current building code and energy conservation code regulations.
 2. Exterior walls, doors, and roof shall be insulated.
 3. Insulation shall be glass fiber blanket insulation, complying with ASTM C991, of 0.5 lbs. per cu.ft. density, R-13 minimum insulation value, with UL flame spread classification of 25 or less and 2 inches wide continuous vapor-tight edge tabs.
 4. Insulation shall have scrim reinforced white vinyl facing.
 5. Vapor barrier shall be vinyl film.
 6. Retainer strips for insulation shall be 26-gauge formed galvanized steel retainer clips, colored to match the insulation facing.
 7. Insulation shall be installed tightly, without sagging. Install insulation concurrently with installation of roof panels in accordance with manufacturer's directions. Install blankets straight and true in one-piece lengths with both sets of tabs sealed to provide a complete vapor barrier. Locate insulation on underside of roof sheets, extending across the top flange of purlin members and held taut and snug to roofing panels with retainer clips. Install retainer strips at each longitudinal joint, straight and taut, nesting with roof rib to hold insulation in place.
- F. Hangar Doors: Provide a flush-mounted, electrically operated bi-folding or single-panel hydraulic hangar door.
1. Each T shall have a door with a 14'-0" high by 44'-0" wide clear opening, minimum.

2. Each hangar door panel shall be provided with a 3'-0" x 6'-8" steel entry door for personnel use. Provide keying of locks as directed by Owner.
3. Doors shall have a rubber seals to provide a water tight door.
4. The hangar doors shall be coordinated for design and furnished by the manufacturer of the building structural system for complete integration.
5. The door framing shall be designed to carry its own dead load and resist horizontal wind pressure as specified by code.
6. Door insulation shall be the same as wall panel insulation.
7. Sliding doors and manually operated hangar doors are prohibited.

G. Hollow Metal Doors and Frames:

1. Where indicated in these specifications, provide exterior hollow metal door, frames and hardware (see below) with aluminum threshold. The door dimensions are as follows:

Width: 3'-0"
Height: 6'-8"
Thickness: 1-3/4"

2. Hardware to include 1-1/2 pair ball bearing butts, overhead closer, weather stripping, and heavy-duty cylinder lock set. Provide keying of locks as directed by Owner.
3. Hollow metal doors and frames shall conform to SDI 100-76, Recommended Specifications, Standard Steel Doors and Frames, for minimum requirements.
4. Personnel doors shall have fire exit signs with battery backups above each door, per the requirements of State and Federal building and fire code.

H. Electrical:

1. A locking, electric panel board shall be installed inside one of the end hangar units. The location of the panel board shall be coordinated with local building inspections department and is subject to the approval of the Owner. Distribution panel shall be appropriately sized for the loads (200 amp minimum).
2. Interior lighting in each T-hangar bay shall consist of a minimum of three (3) 4 ft. long, LED, linear light fixtures designed for low-bay installation, meeting the following requirements:

- a. Maximum of 40 watts rating per fixture
- b. Suitable for damp locations
- c. 80+ CRI rating at 4,000K
- d. 120° beam angle or wider
- e. Minimum 2700 lumens
- f. Lighting configuration should provide illuminance of approximately 10 foot-candles
- g. Lights shall be instant-on and provide flicker free lighting
- h. Switch shall be located adjacent to personnel door and shall be in accordance with State, Local, and Federal requirements.

Alternate lighting fixtures which provide equal or better illumination may be submitted to Owner for review and approval.

3. Each T-hangar bay shall be equipped with a minimum of three (3) 110V receptacles. Receptacles shall be evenly spaced throughout the bay.
 4. Exterior lighting shall consist of building-mounted flood lights. Lights shall be 250 watt high pressure sodium flood lights. Each light is to include a fixed hood/visor, white finish, and shall be equipped with motion detectors adjustable up to a one-hour delayed "off". All exterior lighting power shall be activated by one single photocell oriented to northern sky and mounted on exterior of the building. Alternate lighting fixtures which provide equal or better illumination may be submitted to Owner for review and approval. A minimum of one light fixture for every two units/bays shall be provided. In addition, one exterior fixture shall be provided on each end of the T-hangar building.
- I. Plumbing: T-hangar building shall be equipped with one hose bib on each end of the building.
 - J. Signage: Exterior signage will not be allowed on T-hangar buildings.

PART 3 – CORPORATE HANGAR REQUIREMENTS**3.1 GENERAL**

- A. This section shall apply to any size box or corporate hangar to be constructed on the Airport.

3.2 MANUFACTURERS

- A. Corporate hangar shall be supplied by a manufacturer meeting the requirements of Section 1.1 C, of this specification.

3.3 MATERIALS**A. Sheeting Materials:**

1. Roof sheets shall be 26 gauge galvalume coating conforming to ASTM specification A-792 with panel configuration with 1-1/8" min. high major ribs 12" on center. Panel coverage shall be 36" and shall be furnished full length from building eave to ridge purlin. A pre-formed ridge cap shall be provided.
2. Wall sheet shall be 26 ga. galvalume coating conforming to ASTM specification A446. Panel configuration shall be 1-1/8" min. major ribs 12" on center. Wall sheet shall be furnished full height.
3. Building trim shall include eave trim, gable trim, corner trim, service door trim, bi-parting hangar door trim. All trim shall be 26 ga. and manufactured of flat stock material equal in quality to wall sheets and color as selected from manufacturer's standard color chart. Trim pieces shall be packaged for shipment at factory.
4. All standard exterior gutters, rake flashing, and downspouts shall be 26 gauge galvalume steel, with painted finish to match.
5. Interior walls shall have liner panels a minimum of 8 feet high. Liner panels shall be 29 gauge steel or shall be clad with fiberglass panels. Panels shall be provided from the manufacturer in white, unless otherwise approved by Owner.

B. Sealants and Closures:

1. All gutter and downspout joints, rake flashing laps, and ridge flashing laps, shall be sealed with pigmented caulk of butyl rubber base to match the color.
2. Factory applied sealant used in panel side laps shall be a hot melt, foamable mastic.
3. Field applied sealant used at the end laps, ridge assembly, and gable flashings shall

be 100% solids, butyl-based elastomeric tape sealer, furnished in roll form or pre-cut to length. Sealant used to the eave shall be pre-compressed expanding foam sealant tape.

4. Joint sealant material shall be as recommended by manufacturer to seal all side and end laps in metal sheets and panels, at ridges, bolt holes before inserting fasteners, for all flashings and corner closure sheets and elsewhere as necessary to provide watertight construction.
5. Closures: Inside and outside semi-rigid cross-linked polyethylene foam closure shall be provided as required to provide a bird proof building. Inside closure shall be self-adhesive.

C. Gutter, Flashing, and Downspouts:

1. Metal gutter and downspouts sizes and spacing to be determined by building manufacturer. Unless otherwise approved by the Owner, downspouts shall be connected to storm drainage system. If downspouts cannot be connected to storm drainage system, adequate splash pads must be provided at each outlet to prevent erosion. Proposed splash pad must be approved by the Owner.
2. Gutters and Flashing: All standard exterior gutters, rake flashing and downspouts are 26 gauge galvalume steel, with painted finish to match.
3. Flashing and Trim: Flashing at the rake (parallel to roof panels) and high eave shall not compromise the integrity of the roof system by constricting movement due to thermal expansion and contraction. The panel manufacturer shall supply the flexible membranes if applicable.
4. Installation: Erection of the roof system shall be in complete accordance with the manufacturer's erection manual.

D. Finishes:

1. Painting: All interior exposed structural steel shall receive two coats shop primer. All exterior surfaces of the hangars and hangar doors for all exterior wall and roof sheeting shall be factory-painted with a Thermoset coating system composed of polyester resin which has been modified with a silicon resin equal to MS Color Fast 30. All interior surfaces of metal siding, hangar doors, and panels shall be galvanized. All interior divider wall panels shall be galvanized, both sides.
2. Colors shall be as selected by the Owner from the manufacturers' standard selection. Developer shall submit color swatches to Owner for selection.

3. Any façade or wainscoting proposed by the Developer shall be reviewed and approved by the Owner. Owner reserves the right to reject the use of a façade other than the standard metal sheeting.

E. Insulation:

1. Exterior walls, doors, and roof shall be insulated.
2. Insulation shall be glass fiber blanket insulation, complying with ASTM C991, of 0.5 lbs. per cu.ft. density, R-13 minimum insulation value, with UL flame spread classification of 25 or less and 2 inches wide continuous vapor-tight edge tabs.
3. Insulation shall have scrim reinforced white vinyl facing.
4. Vapor barrier shall have a permeance of not greater than 0.10 perms.
5. Retainer strips for insulation shall be 26-gauge formed galvanized steel retainer clips, colored to match the insulation facing.
6. Insulation shall be installed tightly, without sagging. Install insulation concurrently with installation of roof panels in accordance with manufacturer's directions. Install blankets straight and true in one-piece lengths with both sets of tabs sealed to provide a complete vapor barrier. Locate insulation on underside of roof sheets, extending across the top flange of purlin members and held taut and snug to roofing panels with retainer clips. Install retainer strips at each longitudinal joint, straight and taut, nesting with roof rib to hold insulation in place.
7. Insulation for conditioned spaces, including offices and restrooms, shall be in accordance with current building code and energy conservation code regulations. Insulation rating shall meet the requirements identified in Table 502.1.2 or Table 502.2(1) of the North Carolina Energy Conservation Code.

F. Bottom Rolling Hangar Doors:

1. The hangar doors shall be designed for complete integration with the building.
2. The door framing shall be designed to carry its own dead load and resist horizontal wind pressure as specified by code.
3. Main members both vertical and horizontal shall be of continuous sections of new hot rolled structural steel equal to or exceeding ASTM A-36 and comply with AISC specifications. Cold-formed C and Z shapes shall be used only for girts and interior bracing and not as structural framing members. All framing members shall be true to dimension and square in all directions. Diagonal bracing shall be provided so that

the completed door section assembly will be adequately braced to withstand design loads.

4. Top guides shall be either the fixed type or the telescoping type depending on the amount of specified building vertical deflection. Fixed type shall have permanently lubricated rollers that engage both sides of the web of the top track wide flange beam and allow for vertical deflection between the flanges. Telescoping type shall have both vertical and horizontal permanently lubricated rollers that engage both sides of the web of the top track wide flange beam and have the predetermined amount of vertical travel built into the telescoping design of the guide assembly
5. Bottom rail system shall consist of 25 lb/yd ASCE rail with rail supports of hot or cold rolled angles with a minimum yield strength yield of 36,000 psi supported during erection by A307 anchor bolts with double nuts intended for leveling. Anchor bolts specified by manufacturer and furnished by contractor.
6. Bottom wheels: Each door section shall have two double flange solid steel wheels of a diameter capable to handle the load of the door. Each wheel shall be equipped with tapered roller bearings capable of transmitting both vertical and horizontal loads. Bearings shall be provided with grease seals. Wheels shall be removable from the housing without the need to remove the door from its position on the rail.
7. Provide weather stripping that is easily replaceable on the horizontal bottom and vertical edges of the door. Material shall be EPDM with cloth insertion and be attached 12" O.C
8. Exterior door paneling and trim shall match the building wall panels.
9. Door insulation shall be the same as wall panel insulation.
10. Fasteners shall be A-325 for all door framing connections.
11. All door framing shall be stop primed the same as the structural framing members.
12. Door system shall include rail drains.

G. Hollow Metal Doors and Frames:

1. Where indicated in these specifications, provide exterior hollow metal door, frames and hardware (see below) with aluminum threshold. The doors dimensions are as follows:

| | |
|---------|-------|
| Width: | 3'-0" |
| Height: | 6'-8" |

Thickness: 1-3/4"

2. Hardware to include 1-1/2 pair ball bearing butts, overhead closer, weather stripping, and heavy-duty cylinder lock set. Provide keying of locks as directed by Owner.
3. Hollow metal doors and frames shall conform to SDI 100 for minimum requirements.
4. Personnel doors shall have fire exit signs with battery backups above each door, per the requirements of State and Federal building and fire code.
5. Exact location of personnel doors for egress shall be per Code requirements.

H. Utility Doors:

1. Provide a slide-up or roll-up metal utility door, frames and hardware. The utility door should be installed on the back wall of the hangar, opposite of the main hangar door. The minimum door dimensions are as follows:

Width: 10'-0"
 Height: 10'-0"
 Thickness: 26 gauge galvanized steel

2. Mechanically or manually operated utility doors will be acceptable.
3. A minimum 10' x 10' concrete pad shall be installed adjacent to the utility door.

I. Electrical:

1. All electrical work must be performed by a contractor licensed to perform electrical work in the State of North Carolina.
2. Interior lighting in corporate hangar shall consist of LED light fixtures designed for high-bay installation, meeting the following requirements:
 - a. Maximum of 300 watts rating per fixture
 - b. Suitable for damp locations
 - c. 70+ CRI rating at 4,000K
 - d. 120° beam angle or wider
 - e. Minimum 20,000 lumens
 - f. Lighting configuration should provide illuminance of approximately 50 foot-candles
 - g. Lights shall be instant-on and provide flicker free lighting

- h. Switches shall be located adjacent to all personnel doors and shall be in accordance with State, Local, and Federal requirements. Lights shall be configured on a minimum of 2 circuits.

Alternate lighting fixtures which provide equal or better illumination may be submitted to Owner for review and approval.

- 3. 110V duplex receptacles shall be provided on each wall of the hangar. Receptacles shall be spaced not more than 30 feet apart.
- 4. Exterior lighting shall consist of building-mounted flood lights, meeting the following requirements:
 - a. Lights shall be 250 watt high pressure sodium flood lights.
 - b. Each light is to include a fixed hood/visor.
 - c. Finish of fixtures shall be reviewed and approved by the Owner.
 - d. All exterior lighting power shall be activated by one single photocell oriented to northern sky and mounted on exterior of the building.
 - e. Alternate lighting fixtures which provide equal or better illumination may be submitted to Owner for review and approval.
 - f. A minimum of two fixtures shall be provided on the front of the hangar, facing the aircraft apron. In addition, an exterior light shall be provided over each personnel door and adjacent to each utility door.
- 5. Hangars 6,400 sq.ft. or larger shall be provided with a minimum of 2 electrical outlets for use in charging a Ground Power Unit (GPU) capable of delivering a minimum of 28 volts of DC.
- 6. See section K below for restroom electrical requirements.
- 7. See section L below for office space electrical requirements.
- 8. One, double, steady-burning, red obstruction light (L-810) meeting the requirements of FAA Advisory Circular 70/7460-1L Obstruction Lighting and Marking, and FAA Advisory Circular 150/5345-43G Specification for Obstruction Lighting Equipment, shall be installed on the hangar roof. Light shall be installed on the airside face of the hangar at the highest point of the roof line.

J. Plumbing:

1. Hangars larger than 3,600 sq.ft. shall be provided with two utility sinks located on opposite walls on the interior of the building. Sinks shall be equipped with hot and cold water. An interior hose bibb shall be installed adjacent to each sink.
2. Two hose bibbs shall be installed on the exterior of the building. Hose bibbs shall be located on opposite walls.

K. Restroom: All corporate hangars shall be provided with one restroom space. Restroom shall meet the following requirements, at a minimum:

1. Restrooms are considered conditioned spaces and must meet all applicable code requirements. Developer must provide heating and air conditioning for restroom.
2. Restroom facility shall meet North Carolina Handicap Code and ADA requirements.
3. Walls and ceiling of restroom shall be minimum 5/8" gypsum wall board or as required by code official, finished and painted with primer and two coats of latex enamel, semi-gloss paint. All interior walls shall have a 4" rubber base.
4. Flooring shall be polished concrete. Use of vinyl composition tile or other materials may be submitted to Owner for review and approval.
5. Toilet shall be enclosed in a handicap accessible restroom stall.
6. Sink shall be standalone adjacent to restroom stall.
7. Electric, 1.5 GPM point-of-use tankless water heater shall be installed at the restroom sink.
8. Shower facilities are optional. Any shower facility provided shall meet the North Carolina Handicap Code and ADA requirements. If shower facilities are provided, additional water heater capacity shall be provided.
9. All restroom fixtures shall be American Standard or Kohler commercial grade fixtures, or approved equal.
10. Ceiling vent fan vented to the exterior of the building.
11. Restroom lighting shall consist of 40 W florescent light fixtures above the sink and other ceiling florescent lighting necessary for a 10 footcandle illumination level in the restroom area. Florescent fixtures shall not have exposed tubes. Light switch shall be located adjacent to the entry door.
12. One 110V duplex GFCI outlet shall be provided in the restroom.
13. Ceiling vent fan and lights shall be controlled by a single switch located adjacent to the restroom door.
14. Door shall be 3'-0" x 6'-8" interior type as required for use and location. Hardware

- shall be locking and keyed.
15. All waterline construction shall be in accordance with State, Local, and Federal requirements.
 16. All sanitary sewer line construction shall be in accordance with State, Local, and Federal requirements.
 17. Restroom shall have floor drain connecting to oil/water separator.
- L. Office: Inclusion of office space in corporate hangars is optional. Office space shall meet the following requirements, at a minimum:
1. Offices are considered conditioned spaces and must meet all applicable code requirements. Developer must provide heating and air conditioning for offices.
 2. Office space shall meet North Carolina Handicap Code and ADA requirements.
 3. Walls and ceiling of office shall be minimum 5/8" gypsum wall board or as required by code official, finished and painted with primer and two coats of latex enamel, eggshell or satin paint.
 4. All interior walls shall have a 4" rubber base. Use of other baseboard materials may be submitted to the Owner for review and approval.
 5. Flooring shall be polished concrete. Use of vinyl composition tile or other materials may be submitted to Owner for review and approval.
 6. Office lighting shall consist of 40 W florescent light fixtures necessary for a 30 foot candle illumination level in each room of the office area. Florescent fixtures shall not have exposed tubes. Light switch shall be located adjacent to the entrance to each room.
 7. A minimum of one 110V duplex receptacle shall be provided on each wall of each individual room within the office space.
 8. Door shall be interior type as required for use and location. Hardware shall be locking and keyed.
 9. Office space shall have a door leading to the exterior of the building. Door shall be situated to open onto existing or proposed parking area, as shown on Airport's Terminal Area Development Plan.
- M. HVAC: Hangar shall be equipped with a minimum of two power wall louvers and overhead fans to promote air circulation.
- N. Signage:
1. Exterior signage is optional. All signage plans must be reviewed and approved by the Owner.

2. Exterior sign will consist of one building-mounted sign facing the landside and/or one building mounted sign facing the airside. Height of individual letters in the sign shall be not more than 1/12 the height of the building. The total sign height shall be no more than 1/6 of the building's elevation and the sign width no more than 3/4 of the width of the entire side. Wording of these signs shall be restricted to recognized company signatures. Other inscriptions of an informational nature may be approved.
3. Only wall mounted signs will be allowed. Signs shall not extend above the eaves of the building.
4. Proposed illumination of signs will be reviewed and approved on a case-by-case basis.
5. The following types of signs are prohibited:
 - a. Freestanding signs
 - b. Roof signs
 - c. Flashing, moving, animated, digital, or fluttering signs
 - d. Neon signs
 - e. Portable signs
 - f. Inflatable signs
 - g. Exterior signs containing excessive product or service advertising or trade names.
 - h. Flags, banners and pennants
 - i. Billboards

O. Miscellaneous Appurtenances:

1. Outdoor trash areas shall be visually screened. Trash enclosures shall be designed and located so as not to be highly visible from adjacent streets and property.

PART 4 – EXECUTION

4.1 FABRICATION

- A. General: Design prefabricated components and necessary field connections required for erection to permit easy assembly and disassembly. Fabricate components in such a manner that once assembled, they may be disassembled, repackaged and reassembled with a minimum amount of labor.

1. Clearly and legibly mark each piece and part of the assembly to correspond with previously prepared erection drawings, diagrams and instruction manuals.
- B. Structural Framing: Shop fabricate structural framing components to the indicated size and section complete with base plates, bearing plates and other plates required for erection, welded in place. Provide required holes for anchoring or connections either shop drilled or punched to template dimensions.
- C. Shop Connections: Provide power riveted, bolted or welded shop connections.
- D. Field Connections: Provide bolted field connections.

4.2 EXAMINATION

- A. Examine substrates, areas, and conditions, with Erector present, for compliance with requirements for installation tolerances and other conditions affecting performance of work.
- B. Before erection proceeds, survey elevations and locations of concrete- and masonry-bearing surfaces and locations of anchor rods, bearing plates, and other embedments to receive structural framing, with Erector present, for compliance with requirements and metal building system manufacturer's tolerances.
- C. Proceed with erection only after unsatisfactory conditions have been corrected.

4.3 PREPARATION

- A. Clean and prepare surfaces to be painted according to manufacturer's written instructions for each particular substrate condition.
- B. Provide temporary shores, guys, braces, and other supports during erection to keep structural framing secure, plumb, and in alignment against temporary construction loads and loads equal in intensity to design loads. Remove temporary supports when permanent structural framing, connections, and bracing are in place, unless otherwise indicated.

4.4 ERECTION

- A. Framing: Erect structural framing true to line, level and plumb, rigid and secure. Level base plates to a true even plan with full bearing to supporting structures, set with double-nutted anchor bolts. Use a non-shrinking grout to obtain uniform bearing and to maintain a level base line elevation. Moist cure grout for not less than 7 days after placement.
- B. Purlins and Girts: Provide rake or gable purlins with tight fitting closure channels and fascias. Secure structural framing and hold rigidly to a straight line by sag rods.

- C. Bracing: Provide angle bracing in both roof and sidewalls as required to meet design criteria. Movement resisting frames may be used in lieu of sidewall rod bracing, to suit manufacturer's standards.
- D. Where aluminum surfaces come in contact with ferrous metal or other incompatible metals, paint the incompatible metal with a coating of heavy-bodied bituminous paint.
- E. Apply sheets or panels for exterior wall construction with the ribs or corrugations in a vertical position. All side and end laps shall be sealed with joint sealant as specified in this section. The placement of closure strips, flashing and sealing materials shall be accomplished in an approved manner which will assure complete weather-tightness.
- F. All roofing sheets or panels shall be applied with the corrugations or ribs parallel to the slope of the roof. Roofing sheets or panels shall be supplied in the longest lengths obtainable with the end laps occurring only at the structural members, with no transverse joints. All side laps shall be laid away from the prevailing wind, and all side and end laps shall be sealed with the joint sealing specified in this section.
- G. Apply sheets or panels for interior wall construction with the ribs or corrugations in a vertical position.
- H. Minimum side laps for all types of sheets or panels shall be one or more corrugation or rib. Minimum end laps for all types of sheets or panels shall be 2-1/2".
- I. Flashing and Trim: Comply with performance requirements, manufacturer's written installation instructions, and SMACNA's "Architectural Sheet Metal Manual". Provide concealed fasteners where possible, and set units true to line and level as indicated. Install work with laps, joints, and seams that will be permanently watertight and weather resistant.
 - 1. Install exposed flashing and trim that is without excessive oil canning, buckling, and tool marks and that is true to line and levels indicated, with exposed edges folded back to form hems. Install sheet metal flashing and trim to fit substrates and to result in waterproof and weather-resistant performance.
 - 2. Expansion Provisions: Provide for thermal expansion of exposed flashing and trim. Space movement joints at a maximum of 10 feet (3 m) with no joints allowed within 24 inches (600 mm) of corner or intersection. Where lapped or bayonet-type expansion provisions cannot be used or would not be sufficiently weather resistant and waterproof, form expansion joints of intermeshing hooked flanges, not less than 1 inch (25 mm) deep, filled with mastic sealant (concealed within joints).
 - 3. Pipe Flashing: Form flashing around pipe penetration and metal roof panels. Fasten and seal to panel as recommended by manufacturer.

J. Doors:

1. Hollow Metal Doors and Frames: Install doors and frames straight, plumb, and level. Securely anchor frames to building structure. Set units with 1/8" maximum clearance between door and frame at jambs and head 3/4" maximum between door and floor. Adjust for proper operation.
 2. Hangar Doors: Erect doors in accordance with manufacturer's recommendations and approved trade practice. Doors shall be hung plumb and true to building and shall open in a smooth continuous motion without binding and warping. Adjust all rollers, cables, shafts, hinges, locks, cane bolts, etc., for proper operation.
 3. Electrically Operated Bi-fold Doors: Erect doors in accordance with manufacturer's recommendations and approved trade practice. Doors shall be hung plumb and true to building and shall open in a smooth continuous motion without binding and warping. Adjust all rollers, cables, shafts, hinges, locks, cane bolts, etc., for proper operation.
 4. After completing installation of doors, test and adjust doors to operate easily, free of warp, twist, or distortion.
- K. All OSHA safety requirements shall be adhered to including 100% fall protection when above 6'-0" working height.

4.5 CLEANING AND PROTECTION

- A. Repair damaged galvanized coatings on galvanized items with galvanized repair paint according to ASTM A 780 and manufacturer's written instructions.
- B. Touchup Painting: After erection, promptly clean, prepare, and prime or reprime field connections, rust spots, and abraded surfaces of prime-painted structural framing and accessories.
- C. Metal Panels: Remove temporary protective coverings and strippable films, if any, as metal panels are installed. On completion of metal panel installation, clean finished surfaces as recommended by metal panel manufacturer. Maintain in a clean condition during construction. Replace metal panels that have been damaged or have deteriorated beyond successful repair by finish touchup or similar minor repair procedures.
- D. Doors and Frames: Immediately after installation, sand smooth rusted or damaged areas or prime coat and apply touchup of compatible air-drying primer. Immediately before final inspection, remove protective wrappings from doors and frames.

END OF DIVISION 13

DIVISION 31 – EARTHWORK**PART 1- GENERAL****1.1 SUMMARY**

- A. This section includes earthwork required to construct hangar buildings, airside pavement, parking lots, and access roads.
- B. Grading shall be in conformance with the Airport's Terminal Area Development Plan.
- C. The contractor will be responsible for all site safety and for following the appropriate OSHA guidelines.

1.2 REFERENCES

- A. FAA Advisory Circular 150/5370-10 (current edition) - Standards for Specifying Construction of Airports.
- B. See Appendix A, Geotechnical Exploration Report.

1.3 RELATED WORK SPECIFIED ELSEWHERE

- A. Division 32 Exterior Improvements

PART 2 - PRODUCTS

NOT USED

PART 3 - EXECUTION**3.1 GENERAL**

- A. All earthwork shall be completed in accordance with Item P-152 of FAA AC 150/5370-10.
- B. Grades shall be maintained so that the surface is well drained at all times.
- C. Developer shall be prepared to provide dewatering to maintain groundwater levels below bottom of excavation areas.
- D. The existing soils onsite are suitable for use as structural fill only when dry. When wet, the contractor shall be required to disk, or use other approved methods, to dry the soils prior to use as fill material.
- E. All excess material generated from grading operations shall be disposed of off airport

property, unless otherwise approved by the Owner.

- F. All areas to be graded shall be stripped of vegetation and topsoil. Topsoil shall be stockpiled temporarily for future use.

3.2 COMPACTION REQUIREMENTS

- A. The subgrade under areas to be paved or areas where buildings are to be constructed shall be compacted to the depth and density as shown in the table below. The material to be compacted shall be within +/- 2% of optimum moisture content before beginning rolling to obtain the prescribed compaction.

Table 1: Minimum Subgrade Compaction Requirements

| Pavement Location | Pavement Type | Aircraft Weight (lbs.) | Proctor | Compaction Depth* | Compaction Density* |
|-------------------|----------------|------------------------|-----------------------|-------------------|---------------------|
| Landside | Asphalt | - | Standard (ASTM D698) | 12" | 98% |
| Airside | Asphalt or PCC | 30,000 | Standard (ASTM D698) | 12" | 98% |
| | Asphalt or PCC | 50,000 | Standard (ASTM D698) | 12" | 98% |
| | Asphalt or PCC | 60,000 | Standard (ASTM D698) | 12" | 98% |
| | PCC | 75,000 | Modified (ASTM D1557) | 12" | 100% |
| | PCC | 100,000 | Modified (ASTM D1557) | 12" | 100% |

*Minimum Requirement

- B. Owner will conduct acceptance sampling and testing as outlined in FAA Item P-152. If testing reveals that construction does not meet the applicable specifications, construction activities shall stop until a mutually acceptable solution can be reached.

3.3 STRUCTURAL FILL

- A. Off-site borrow for structural fill should consist of soils having USCS designations of SC, SM, SP, or SW. The material should also have a maximum plasticity index of 15 percent, be free of debris, and must have less than 3% organics. The material should have a modified Proctor maximum dry density (MDD) of at least 115 pcf. These soils should have a CBR value of at least 15 percent when compacted to at least 95% of their modified Proctor MDD at their optimum moisture content.

3.4 EMBANKMENT

- A. All sod and vegetative matter shall be removed from the surface upon which the embankment is to be placed. The cleared surface shall be broken up by plowing or scarifying to a minimum depth of 6" and shall then be compacted as indicated in paragraph 3.2, above.
- B. Sloped surfaces steeper than one (1) vertical to four (4) horizontal shall be plowed, stepped, benched, or broken up so that the fill material will bond with the existing material. When the subgrade is part fill and part excavation or natural ground, the excavated or natural ground portion shall be scarified to a depth of 12" and compacted as specified for the adjacent fill.
- C. Embankments shall be formed in successive horizontal layers of not more than 8" in loose depth. The material in each layer shall be within +/- 2% of optimum moisture content before rolling to obtain the prescribed compaction.

END OF DIVISION 31

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DIVISION 32 – EXTERIOR IMPROVEMENTS

PART 1- GENERAL

1.1 SUMMARY

A. Section Includes:

1. Asphalt Paving
2. Concrete Paving
3. Concrete Sidewalks
4. Seeding and Mulching
5. Site Restoration

1.2 REFERENCES

- A. NCDOT Standard Specifications for Roads and Structures (current edition) published by the North Carolina Department of Transportation.
- B. FAA Advisory Circular 150/5370-10 (current edition) - Standards for Specifying Construction of Airports.

1.3 SUBMITTALS

A. Submit product information and mix design for asphalt and concrete pavements.

B. Product Data:

1. Aggregate certifications
2. Asphalt binder certifications
3. Joint materials, admixtures, and curing compounds
4. Grass seed mixture

1.4 RELATED WORK SPECIFIED ELSEWHERE

- A. Division 03 Concrete
- B. Division 31 Earthwork

PART 2 - PRODUCTS

2.1 PAVEMENT SECTIONS AND MATERIALS

A. Parking Lots and Access Roads

1. Access roads and parking lots shall be asphalt pavement. Use Superpave mix design conforming to Section 610 of NCDOT Standard Specifications.
2. The pavement section for access roads and parking lots shall consist of the following minimum thicknesses:
 - a. Surface Course - 3" NCDOT Asphalt Pavement (SF-9.5A), placed in two 1.5" lifts, with tack coat between lifts.
 - b. Base Course - 6" NCDOT Crushed Aggregate Base Course (CABC)
 - c. Compacted subgrade

B. Airside Pavement (T-Hangars)

1. Airfield pavement in the T-Hangar area shall be either asphalt concrete or Portland cement concrete (PCC) pavement. Pavement shall be designed and constructed in accordance with FAA Items designated below, as defined in AC 150/5370-10.
2. Reclaimed asphalt pavement (RAP) will not be allowed in airside pavement.
3. Asphalt pavement sections shall consist of the following minimum thicknesses:
 - a. Surface Course - 4" FAA Bituminous Surface Course (FAA P-401), placed in two 2" lifts, with tack coat (FAA P-603) between lifts.
 - b. Base Course - 8" FAA Crushed Aggregate Base Course (FAA P-209)
 - c. Compacted subgrade
4. Concrete for T-hangar areas shall meet the requirements outlined in Section C, below.

C. Airside Pavement (Corporate Hangars)

1. Airfield pavement in the Corporate Hangar area must be PCC, constructed in accordance with FAA P-501.
2. Concrete aprons designed for aircraft weighing 30,000 lbs. or less shall have a minimum 28-day compressive strength of 4,400 psi.
3. Concrete aprons designed for aircraft weighing over 30,000 lbs. shall have a minimum flexural strength of 650 psi.

4. Cement shall conform to the requirements of ASTM C150 Type I.
5. See table below for minimum PCC pavement thicknesses based on aircraft design weights:

| Pavement Design Weight (lbs.) | P-501 (Inches) | P-209 (Inches) | k-Value Subgrade | Max. Joint Spacing (feet) |
|-------------------------------|----------------|----------------|------------------|---------------------------|
| 30k | 6 | 4 | 195 | 12.5 |
| 45k | 7 | 4 | 195 | 15 |
| 60k | 9 | 4 | 195 | 15 |
| 75k | 10 | 4 | 195 | 20 |

6. Concrete floor slabs shall be reinforced with a minimum 6x6 welded wire fabric, furnished in flat sheets only, conforming to the requirements of ASTM A1064, or bar mats conforming to the requirements of ASTM A184 or A704.
7. The ratio of the longest side of a slab to the shortest side of a slab shall not exceed 1.25.
8. Pavement joints shall be constructed in accordance with FAA AC 150/5320-6.
9. Concrete joint sealer shall meet the requirements of FAA Item P-605. Joint sealants shall be Dow Corning 888-SL, or 890-SL, as applicable, or approved equal.
10. The Owner shall review the Developer's selected pavement design weight in relation to the dimensions of the proposed hangar building. At the Owner's discretion, the Developer may be required to provide concrete pavement designed for a heavier aircraft.
11. Expansion of the main concrete aircraft apron, required to accommodate hangar construction, as shown on the Airport's Terminal Area Development Plan, shall be constructed for a minimum aircraft weight of 75,000 lbs.

D. Sidewalks

1. Sidewalks shall be constructed of PCC in accordance with FAA P-610.
2. Concrete for sidewalks shall have a minimum 28-day compressive strength of 3,000 psi.
3. Concrete sidewalk shall be a minimum 4" thick and shall be constructed 5' wide.

4. A 5'x5' concrete pad shall be constructed outside of any personnel door which does not exit onto a turfed area.

2.2 SEEDING AND MULCHING

- A. Seeding, lime, fertilizer, and mulch shall be in accordance with Items T-901 and T-908 of FAA AC 5370-10.
- B. The use of Bahiagrass is not permitted.
- C. Temporary Seed for December 1- April 15 shall meet the following requirements:
 1. Rye (grain) applied at 120 lbs/acre.
 2. Annual Kobe Lespedeza applied at 50 lbs/acre
 3. Apply 2,000 lbs/acre ground agricultural limestone and 750 lbs/acre of 10-10-10 fertilizer.
- D. Temporary Seed for April 15 – August 15 shall meet the following requirements:
 1. German Millet applied at 40 lbs/acre
 2. Apply 2,000 lbs/acre ground agricultural limestone and 750 lbs/acre of 10-10-10 fertilizer.
- E. Temporary Seed for August 15 – December 30
 1. Rye (grain) applied at 120 lbs/acre
 2. Apply 2,000 lbs/acre ground agricultural limestone and 1,000 lbs/acre of 10-10-10 fertilizer.
- F. Permanent Seed for April 15 – June 30 shall meet the following requirements:
 1. Common Bermuda Grass applied at 80 lbs/acre
 2. Apply 4,000 lbs/acre ground agricultural limestone and 1,000 lbs/acre of 10-10-10 fertilizer.
- G. Permanent Seed for August 25 – September 15 shall meet the following requirements:
 1. Blend of two turf-type tall Fescues (90%) and two or more Kentucky Bluegrass varieties (10%) applied at 250 lbs/acre.
 2. Apply 4,000 lbs/acre ground agricultural limestone and 1,000 lbs/acre of 10-10-10 fertilizer.
- H. Apply 4,000 lbs/acre of straw mulch. Anchor straw by tacking with asphalt, netting, or mulch anchoring tool.

2.3 LANDSCAPING

- A. Landscaping of the premises is required for corporate hangars. A plan for landscaping the premises shall be submitted to the Owner for its review and approval.
- B. Careful review will be placed on the plant material selection. Plant materials that attract birds and other wildlife are prohibited.
- C. Developer shall be responsible for maintaining the landscaping.

PART 3 - EXECUTION

3.1 PAVEMENT PREPARATION

- A. Asphalt and concrete paving operations must adhere to the weather limitations detailed in the applicable specifications listed above.
- B. Stone base shall not be placed until underlying subgrade has been reviewed and accepted by the Owner and/or the Owner's Consulting Engineer.
- C. Asphalt and concrete pavements may not be placed until Owner and/or Owner's Consulting Engineer has reviewed and accepted the preparation of the underlying subgrade and stone base.

3.2 PAVEMENT CONSTRUCTION

- A. Owner will conduct acceptance sampling and testing as outlined in the above specifications. If testing reveals that construction does not meet the applicable specifications, construction activities shall stop until a mutually acceptable solution can be reached.
- B. No abrupt change in grade will be allowed between concrete hangar floor and adjacent asphalt or concrete pavement. A smooth transition is required.
- C. All pavements shall be constructed to drain away from hangar building.

3.3 SITE RESTORATION

- A. All disturbed areas, including haul routes, staging areas, and stockpiles shall be restored to a smooth line and grade with positive drainage. Disturbed areas shall be smooth graded to allow for ease of mowing.
- B. All disturbed areas shall be seeded and mulched.

- C. All disturbed areas shall be seeded and stabilized within 14 calendar days of completion of grading operations.
- D. Cover seeded slopes where grade is greater than 4H: 1V with erosion control fabric. Lay fabric smoothly on surface, bury top end of each section in 6" deep excavated topsoil trench. Overlay edges and ends of adjacent rolls minimum 12 inches. Backfill trenches and rake smooth, level with adjacent soil. Secure outside edges and overlaps at 36" intervals with stakes.
- E. Refertilize if growth is not fully adequate. Developer shall be responsible for achieving a vigorous stand of permanent grass.
- F. Reseed, refertilize, and mulch immediately following erosion or other damage.

END OF DIVISION 32

DIVISION 33 – UTILITIES

PART 1- GENERAL

1.1 SUMMARY

- A. Section Includes:
1. Stormwater drainage
 2. Sanitary sewer
 3. Waterline service
 4. Power service
 5. Data / telephone
- B. Developer shall be responsible for individual connection to all utilities and shall have meters for water and electricity for each hangar building.
- C. All utility layouts must conform to the Airport's Terminal Area Development Plan and be approved by the Owner and the Owner's Consulting Engineer.
- D. Developer shall be responsible for coordination with utility companies and shall be responsible for any costs associated with permits, taps, meters, transformers, or other costs associated with establishing service.
- E. All development on airport property must follow the Owner's Rules & Regulations, Stormwater Pollution Prevention Plan (SWPPP), and Spill Prevention Control and Countermeasure Plan (SPCC).

1.2 REFERENCES

- A. FAA Advisory Circular 150/5370-10 (current edition) - Standards for Specifying Construction of Airports.

1.3 SUBMITTALS

- A. Submit manufacturer's Product Data Sheets for each product to be used in the work.
- B. Submit product information and construction and installation details for proposed oil/water separator.
- C. Submit product information and installation details for grinder pump.

1.4 RELATED WORK SPECIFIED ELSEWHERE

- A. Division 13 – Special Construction – Pre-Engineering Hangar Buildings

PART 2 - PRODUCTS

2.1 STORMWATER DRAINAGE SYSTEM

- A. Stormwater pipes shall be sized and installed per the Owner's adopted Terminal Area Development Plan.
- B. Developer shall submit proposed stormwater drainage plan to Owner for review and approval for any proposed development in the T-hangar area.
- C. All stormwater pipe shall be constructed in conformance with the requirements of Item D-701 of FAA AC 150/5370-10.
1. Reinforced concrete pipe shall meet the requirements of ASTM C76. Pipe installed under pavements to be used by aircraft shall be Class IV. Pipe installed under parking lots, access roads, and in turfed areas shall be Class III.
 2. Corrugated polyethylene pipe shall meet the requirements of AASHTO M294.
 3. Rigid pipe shall have Class B bedding.
- D. All stormwater structures shall be installed in conformance with the requirements of Items D-751 and D-752 of FAA AC 150/5370-10.
- E. Unless otherwise approved by the Owner, downspouts shall be connected to the storm drainage system. If downspouts cannot be connected to storm drainage system, adequate splash pads must be provided at each outlet to prevent erosion. Proposed splash pad must be approved by the Owner.

2.2 SANITARY SEWER SYSTEM

- A. Sanitary sewer service shall include force main, gravity lines, wyes, saddles, bends, and appurtenances required for proper installation and complete and approved system.
- B. All materials shall meet the requirements of the local utility.
- C. Maintain 3-foot minimum depth of cover over pipe. Sanitary sewer lines shall have a minimum separation of 18" vertical and 10' horizontal from water lines. Sanitary sewer lines shall have a minimum separation of 12" vertical from storm sewers.
- D. Sanitary sewer manholes, if necessary, shall be reinforced, precast manholes meeting the requirements of ASTM C478.

- E. Plastic ribbon and trace wire tape shall be installed over water lines. Ribbon shall be brightly colored green continuously printed with "Sanitary Sewer" in large letters, minimum 6 inches wide by 4 mils thick, with magnetic detectable conductor manufactured for direct burial service.
- F. Each corporate hangar shall have a dedicated oil/water separator as shown on the Owner's Terminal Area Development Plan.
- G. All corporate hangars must have a minimum of one appropriately sized trench drain in the main hangar bay, which drains to the oil/water separator. Trench drain system shall be HDPE or fiberglass, 4" inner diameter, drain system with frame and grate rated for aircraft loading. Trench drain systems shall be one of the following, or approved equal:
 - 1. Zurn Z886 Perma-Trench System with DGE or FGF grate.
 - 2. Eric'sons DuraTrench DTPF-HDBP
- H. All restrooms must have a floor drain which drains to the oil/water separator.
- I. Oil/water separator shall be, at a minimum, Proceptor OMC 300 without a coalescer, or Proceptor OMC 150 with a coalescer, or approved equal. A larger oil/water separator may be required based on actual use and activities proposed for the hangar by the Developer.
- J. Each corporate hangar shall have a grinder pump station to pump wastewater to the sewer main.
- K. Minimum grinder pump shall be model DH151-74, manufactured by E-ONE, or approved equal. A larger pump may be required based on actual usage proposed by Developer.
- L. Force main discharge pipe from grinder pump shall be 1 1/4" diameter, for use with DH151-74 pump. If a larger grinder pump is necessary, force main discharge pipe shall be sized to meet the requirements of the grinder pump.

2.3 WATER SERVICE

- A. Water service connections shall include tapping the main line and providing all saddles, corporation stops, fittings, service lines, copper setters, meters, meter boxes, backflow preventers, and other incidentals required for proper installation and complete and approved system.
- B. All materials shall meet the requirements of the local utility company.
- C. Water service pipe sizes shown on the Airport's Terminal Area Development Plan are minimum requirements. Developer may need larger pipe sizes depending on the expected water usage for the hangar.

- D. Developer shall be required to install fire line and fire hydrant as required per the Airport's Terminal Area Development plan and the local Fire Marshall.
- E. Maintain 3-foot minimum depth of cover over pipe.
- F. Plastic ribbon and trace wire tape shall be installed over water lines. Ribbon shall be brightly colored blue continuously printed with "Water Service" in large letters, minimum 6 inches wide by 4 mils thick, with magnetic detectable conductor manufactured for direct burial service.

2.4 POWER SERVICE

- A. The Developer shall provide and coordinate electric power supply to all buildings with the local utility. Existing power supply at the airport is 3-phase, 208 V. Developer will be responsible for any cost associated with extending power service or installation of any required transformers.
- B. All permanent power lines shall be installed underground.
- C. Temporary overhead power shall only be permitted during construction.

2.5 DATA/TELEPHONE SERVICE

- A. The Developer shall provide and coordinate data/telephone service to all corporate hangars.
- B. Data/telephone service shall be provided to each office space incorporated into a corporate hangar.
- C. T-hangar buildings will not require data/telephone service.
- D. All data/telephone lines shall be installed underground.

PART 3 – EXECUTION

3.1 STORMWATER SYSTEM

- A. Stormwater pipe and structures shall be installed in accordance with Items D-701, D-751, and D-752 of FAA AC 150/5370-10.

3.2 TRENCHING

- A. Excavate subsoil required for utilities. Remove lumped subsoil, boulders, and rock.

- B. Perform excavation within 48 inches of existing utility service in accordance with utility's requirements.
- C. Remove water or materials that interfere with pipe installation.
- D. Trench Width: Excavate bottom of trenches maximum 16 inches wider than outside diameter of pipe.
- E. Excavate trenches to depth required for installation of pipe as shown on the Airport's Terminal Area Development Plan. Provide uniform and continuous bearing and support for bedding material and pipe.
- F. Maintain vertical faces to an elevation equal to 12 inches above top of pipe.
 - 1. When Project conditions permit, side walls may be sloped or benched above this elevation.
 - 2. When side walls cannot be sloped, provide sheeting and shoring to protect excavation as specified in this Section.
- G. Support Utilities and Structures:
 - 1. Keep trench width at top of trench to practical minimum to protect adjacent or crossing utility lines.
 - 2. Support utilities crossing trench by means acceptable to utility company.
 - 3. Do not interfere with 45-degree bearing splay of foundations.
 - 4. Provide temporary support for structures above and below ground.
- H. When subsurface materials at bottom of trench are loose or soft, excavate to firm subgrade or to depth directed by Engineer.
 - 1. Cut out soft areas of subgrade not capable of compaction in place.
 - 2. Backfill with foundation stone and compact to density equal to or greater than requirements for subsequent backfill material.
- I. Trim Excavation: Hand trim for bell and spigot pipe joints where required. Remove loose matter.

3.3 SHEETING AND SHORING

- A. Sheet, shore, and brace excavations to prevent danger to persons, structures, and adjacent properties and to prevent caving, erosion, and loss of surrounding subsoil.
- B. Support trenches more than 5 feet deep excavated through unstable, loose, or soft material. Provide sheeting, shoring, bracing, or other protection to maintain stability of excavation.
- C. Design sheeting and shoring to be removed at completion of excavation work unless approved by Engineer.
- D. Repair damage caused by failure of the sheeting, shoring, or bracing and for settlement of filled excavations or adjacent soil.
- E. Repair damage to new and existing Work from settlement, water, or earth pressure or other causes resulting from inadequate sheeting, shoring, or bracing.

3.4 SURFACE WATER CONTROL

- A. Control and remove unanticipated water seepage into excavation.
- B. Provide ditches, berms, and other devices to divert and drain surface water from excavation area as indicated on drawings.
- C. Divert surface water and seepage water within excavation areas into sumps or settling basins prior to pumping water into drainage channels and storm drains.

3.5 DEWATERING

- A. Design and provide dewatering system to permit Work to be completed on dry and stable subgrade.
- B. Operate dewatering system continuously until backfill is minimum 2 feet above normal ground water table elevation.
- C. Modify dewatering systems when operation causes or threatens to cause damage to new construction, existing site improvements, adjacent property, or adjacent water wells.
- D. Discharge ground water and seepage water within excavation areas into sumps or settling basins prior to pumping water into drainage channels and storm drains.

3.6 BEDDING AND BACKFILL

- A. Place No. 57 pipe bedding material full width of trench to a depth of 6" and compact to 95 percent maximum density. Excavate for pipe bells.
- B. Install utility pipe and conduit in accordance with the utility company requirements.
- C. Support pipe uniformly along entire length of pipe.
- D. Backfill trenches to contours and elevations with unfrozen fill materials. Backfill shall be compacted to 95% of maximum density.
- E. Place fill material in continuous 8" loose layers and compact.
- F. Employ placement method that does not disturb or damage utilities in trench or foundation perimeter drainage.
- G. Maintain optimum moisture content of fill materials to attain required compaction density.
- H. Protect open trench to prevent danger to the public.

3.7 OIL/WATER SEPARATORS AND GRINDER PUMPS

- A. Oil/water separators and grinder pump stations shall be installed per manufacturer's recommendations.

3.8 MAINTENANCE

- A. Maintenance of oil/water separators and grinder pumps shall be the responsibility of Developer.
- B. Developer shall be responsible for costs associated with annual testing of backflow preventers, as required by Duplin County.

END OF DIVISION 33

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APPENDIX A

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**Geotechnical Exploration Report
Duplin County Airport
Terminal Area Development
Duplin County, North Carolina
S&ME Project No. 1305-15-082**



Prepared for:
W.K. Dickson & Company, Inc.
720 Corporate Center Drive
Raleigh, North Carolina 27613

Prepared by:
S&ME, Inc.
3201 Spring Forest Road
Raleigh, NC 27616

September 2, 2015



00831

September 2, 2015

W.K. Dickson & Company, Inc.
720 Corporate Center Drive
Raleigh, North Carolina 27613

Attention: Ms. Brigid Williams, P.E.

Reference: **Geotechnical Exploration Report**
Duplin County Airport - Terminal Area Development
Duplin County, North Carolina
S&ME Project No. 1305-15-082
NC PE Firm License No. F-0176

Dear Ms. Williams:

S&ME, Inc. (S&ME) is pleased to submit this geotechnical exploration report prepared for the referenced project. Work was conducted in accordance with S&ME's Revised Proposal 13-1500395 dated July 22, 2015. The purpose of the exploration was to evaluate subsurface conditions as they relate to site grading and subgrade support for potential future development. This report presents a summary of pertinent project information, a description of our exploration program, results of field and laboratory testing, and our geotechnical conclusions and recommendations regarding potential future development. A Boring Location Plan, Generalized Subsurface Profile, boring logs, and laboratory test records are included in the Appendix.

S&ME appreciates the opportunity to provide our professional engineering services on this project. Should you have any questions concerning this report or if we may be of further assistance, please contact us at your convenience.

Sincerely,

S&ME, Inc.



J. Adam Browning, P.E.
Sep 2 2015 8:37 AM



J. Adam Browning, P.E.
Project Manager
N.C. Registration No. 034984

John R. Browning, P.E.
Senior Engineer



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- Appendix I – Figures
- Appendix II – Boring Logs
- Appendix III – Laboratory Test Records



1.0 PROJECT AND SITE DESCRIPTION

We understand that new development is planned at the Duplin County Airport in Duplin County, North Carolina. We understand that initial development will include preliminary grading and drainage improvements for future apron expansions, hangar construction, and vehicular access and parking in the terminal area. We understand W.K. Dickson will develop minimum construction standards for the airport that could be provided to a private developer, including minimum concrete slab requirements for a variety of hangar sizes and aircraft loading.

You provided us with ten boring locations on a Google Earth aerial image that you requested S&ME drill to a depth of 15 feet below existing grade. We understand that future proposed grades may be as much as 5 to 8 feet below existing grade.

The site is currently an open, relatively flat, grassed area. Broken asphalt was observed at the ground surface in the north portion of the site near boring location B-10. Possible fill may exist in the area of borings B-8 through B-10. We estimate possible fill depths may be on the order of 2 to 3 feet based on a visual evaluation of existing site elevations during our site reconnaissance. A drainage ditch exists along the south and west sides of the existing concrete apron. Water was observed in the ditch with the banks showing signs of erosion. Based on a conversation with on-site personnel, we understand the concrete apron was built approximately 25 years ago above a low-lying, wet area.

2.0 EXPLORATION PROGRAM

The field exploration program for this project included a site reconnaissance by an S&ME representative along with the performance of ten soil test borings. The boring locations were provided by W.K. Dickson and marked in the field by an S&ME representative estimating distances off existing site features. The approximate boring locations are shown on Figure 1 in the Appendix.

The soil borings were advanced to depths of 15 feet below the existing ground surface using hollow stem auger drilling procedures with a CME-45D drill rig. Within each of the soil test borings, samples of subsurface soils were obtained at approximately 2-1/2 foot intervals to a depth of 10 feet and 5 feet intervals below 10 feet using a split-spoon sampler. Standard penetration tests were conducted in conjunction with split-spoon sampling in general accordance with ASTM D 1586 -11.

The boreholes were observed for groundwater at completion of drilling. Boreholes were then backfilled up to the original ground surface with auger cuttings.

A Generalized Subsurface Profile drawing (Figure 2) and Boring Logs presenting subsurface information from the borings are included in the Appendix. Stratification lines shown on the Test Boring Records are intended to represent approximate depths of changes in soil types. Naturally, transitional changes in soil types are often gradual and cannot be defined at a particular depth.

3.0 SUBSURFACE CONDITIONS

Approximately 4 inches of grass/topsoil was encountered at the ground surface at the boring locations. Fill/possible fill soils were encountered below the surface materials in borings B-8, B-9, and B-10. Fill soils consisted of clayey sands (Unified Soil Classification System classification SC). Asphalt fragments were encountered in the split-split spoon sample obtained from 1 to 2.5 feet in B-10. Standard Penetration Test (SPT) N-values in fill soils ranged from 4 to 11 blows per foot (bpf). Well-compacted fill soils typically exhibit SPT N-values on the order of 10 bpf or greater. Thus, existing fill soils appear poorly to moderately compacted. The lower consistency existing fill was encountered in B-8 (SPT N-value of 4 bpf) and B-10 (SPT N-value of 7 bpf). The fill soils were visually observed as moist to wet.

Natural, Coastal Plain soils were encountered below the surface and fill materials to boring termination depths. Natural soils consisted of low plasticity clays (CL), clayey sands (SC), silty sands (SM), slightly clayey sands (SP-SC), slightly silty sands (SP-SM), and relatively clean sands (SP). SPT N-values in natural soils ranged from 4 to 50 blows per foot. These values are indicative of soft to very stiff consistencies for the clays and very loose to dense consistencies for the sands. Relatively low consistency natural soils (having SPT N-values of 4 to 7 bpf) were encountered near the existing ground surface in borings B-1, B-3, and B-6. Low consistency clays and clayey sands (having SPT N-values of 4 to 6 bpf) were encountered from about 3 to 6 feet in borings B-4, B-6, B-7, and B-9. Natural soils were visually observed as moist to wet. Wet soils were encountered in the split-spoon driven from 1 to 2.5 feet at B-1, B-3, and B-5.

Water levels were measured within the boreholes at the termination of drilling. Water levels measured ranged from approximately 5 feet (B-1) to 13 feet (B-10) below the existing ground surface. Please note that these groundwater levels were recorded at the termination of drilling and may not represent more stabilized water levels that may exist after an extended period of time. Stabilized water levels could be slightly higher. Groundwater elevations can be expected to fluctuate due to seasonal variations in rainfall, evaporation, and other factors.

4.0 LABORATORY TESTING

Laboratory testing consisted of natural moisture content, grain size analysis, modified Proctor, and California Bearing Ratio (CBR) testing. The modified Proctor was used per FAA guidelines for airports servicing aircraft having gross weights of 60,000 pounds or greater.

Grain size analysis testing was performed on bulk samples of near-surface soils obtained from B-2 and B-9. Testing indicated the soils were mostly fine sand (about 67 to 70 percent) with about 23 to 25 percent fines (silt and clay).

Modified Proctor tests were performed on the bulk samples of near-surface soils obtained from borings B-2 and B-9. Testing indicated maximum dry densities of about 118 to 125 pounds per cubic foot with corresponding optimum moisture contents of about 9.1 to 9.4 percent. Natural moisture content tests performed on near surface soils indicated moisture contents ranging from 7.2 to 22.7 percent. These values indicate the near-surface soils range from about 2 percent dry to more than 13 percent wet of their optimum moisture content.

California Bearing Ratio (CBR) tests were also performed on recompacted specimens from the bulk samples obtained from borings B-2 and B-9. The test specimens were recompacted to approximately 95 percent of their modified Proctor maximum dry density near their optimum moisture content. The test specimens were then soaked for 96 hours. California Bearing Ratios of 33 to 47 percent were measured. No swelling was observed in the specimens during soaking.

5.0 CONCLUSIONS AND RECOMMENDATIONS

The subsurface exploration indicates that the future development areas are adaptable for the proposed construction. Geotechnical issues that should be taken into consideration in development of the site include near surface very loose to loose natural sands, poorly compacted near surface fill, near surface wet soils, and water tables that may impact deeper excavations. The following paragraphs present more detailed conclusions and recommendations regarding these issues.

5.1 Site Preparation

Site grading will be difficult during wet periods of the year. Most near surface soils are moisture sensitive, and when wet, will tend to rut and pump under rubber-tired traffic and provide poor subgrade support for structures and pavements. As stated above wet near surface soils were encountered at several of the borings. To reduce potential earthwork problems, we recommend that site preparation and grading be conducted during the typically drier summer and fall months. If grading is attempted during wet conditions, more extensive repair of near surface soils and use of select off-site borrow will be necessary to adequately prepare subgrades for new construction. Heavy rubber-tired construction equipment should not be allowed to operate on exposed subgrades during wet conditions. Even during drier periods of the year, we recommend that exposed subgrades be sloped and sealed at the end of each day to promote runoff and reduce infiltration from rainfall.

Site preparation should begin with stripping of existing vegetation and topsoil. Existing asphalt debris should also be removed where encountered near boring location B-10. Approximately 4 inches of topsoil was encountered in borings. We recommend that this site be stripped with wide track dozers to reduce subgrade disturbance and prevent mixing of topsoil with underlying clean soils. Topsoil may be stockpiled on site and reused in landscaped areas. Topsoil should not be used for construction of permanent slopes. It should be noted that stained (black) sands are present near the existing ground surface. These materials should not be considered topsoil unless organic contents are greater than 5%.

Following stripping, areas at planned grades and areas that will receive fill should be proofrolled with a loaded, tandem-axle dump truck or equivalent. Any areas that are observed to rut, pump, or deflect excessively during the proofrolling process should be repaired as recommended by the geotechnical engineer. It is anticipated that some repair of low consistency near-surface soils will likely be required in the area of borings B-1, B-6, and B-8. Possible repair measures may include undercutting to stable soils (estimated undercutting depths of 2 to 3 feet, based on the borings) and backfilling with well compacted, low-plasticity sandy soils, discing/drying/compacting existing soils, in-place densification using a large vibratory steel drum roller, placement of a geotextile stabilization fabric and crushed stone, or some combination of these. The most practical repair measure will be influenced by the degree of instability which exists and weather conditions. As such, actual repair measures must be determined in the field at time of construction.



Existing fill materials encountered in B-8, B-9, and B-10 (to approximate depths of 3 feet below the existing ground surface) should be further evaluated during construction by the performance of shallow test pits. Fill materials containing debris or organic contents greater than 5% should be removed and replaced with suitable, compacted structural fill.

5.2 Excavations

Based on results of borings, low to moderate consistency soils are present at the site. Past experience indicates that these materials can be excavated by routine earth-moving equipment such as scrapers pushed by dozers, backhoes, front end loaders, etc. Where wet and lower consistency soils exist heavy rubber tired equipment will cause subgrade disturbance. Local excavations for shallow utility trenches and foundations can likely be accomplished by a conventional backhoe.

Groundwater was encountered at depths of approximately 5 (B-1) to 13 feet (B-10) below the existing ground surface at time of drilling. Please note that more stabilized groundwater levels may exist at higher elevations and groundwater levels will fluctuate with rainfall amounts and seasonal conditions. The contractor should be prepared to maintain groundwater levels below excavation bottoms by appropriate means (i.e. pumping from sumps, well points, etc.).

For confined excavations, trench safety must be evaluated on a case-by-case basis. The contractor will be responsible for all site safety, including the determination of appropriate trench safety measures according to OSHA guidelines.

5.3 Structural Fill

The soils at this site having a Unified Soil Classification designation of CL, SC, SM, SP-SC, SP-SM, and SP are suitable for reuse as structural fill provided that the moisture content is properly controlled during placement and compaction. The moisture condition of near surface soils will be influenced by prevailing weather conditions. At the time our borings were performed, some of the near surface soils were wet and would require drying prior to use as fill.

Off-site borrow for structural fill should consist of soils having USCS designations of SC, SM, SP, or SW, have a maximum plasticity index of 15 percent, be free of debris and have less than 3% organics, and have a modified Proctor maximum dry density (MDD) of at least 115 pcf. These soils when compacted to at least 95% of their modified Proctor MDD at their optimum moisture content should have a CBR value of at least 15 percent.

Fill should be placed in 8 to 10-inch loose lifts and compacted to the following compaction requirements. Moisture contents should be maintained within +/-2% of their optimum moisture content:

- ◆ Pavements Not Subjected to Aircraft Loading
 - At least 95% of standard Proctor Below Top 12 inches
 - At least 98% of standard Proctor within Top 12 inches



- ◆ Pavements Subjected to Aircraft Loading Greater than 60,000 pounds (per FAA requirements)
 - At least 95% of modified Proctor Below Top 12 inches
 - At least 100% of modified Proctor within Top 12 inches

In-place density testing should be performed during fill placement to confirm that the recommended degree of compaction is achieved.

5.4 Recommendations for Drainage Improvements

Groundwater was encountered at depths of approximately 5 (B-1) to 13 feet (B-10) below the existing ground surface at time of drilling. Please note that more stabilized groundwater levels may exist at higher elevations and groundwater levels will fluctuate with rainfall amounts and seasonal conditions. If excavations are required such that final subgrades are within 3 feet of groundwater elevations, then we recommend that permanent drainage be established. Permanent drainage may include French drains, blanket/edge drains, perimeter ditching, or some combination of the above draining by gravity to low points. If gravity drainage is not possible, installation of sumps and permanent pumping will be required. Once development plans are further along, S&ME can further evaluate the groundwater conditions and how they may affect proposed construction.

5.5 California Bearing Ratio and Subgrade Reaction Modulus Recommendations

Based on laboratory CBR testing along with past experience in this area with similar soils, we recommend a design CBR of 15 percent used for pavement design.

We recommend a design subgrade reaction modulus (k-value) of 195 pci based on the CBR value recommended above. This value is based on FAA's recommended conversion from CBR to k-value using the following formula:

$$K = [(1500 \times \text{CBR}) / 26] ^{0.7788} \text{ (in pci)}$$

Please note that the design CBR and k-value assume the subgrade is compacted in accordance with the structural fill recommendations provided in section 5.3.

6.0 QUALIFICATIONS OF REPORT

This report has been prepared in accordance with generally accepted engineering practice for specific application to this project. Any wetland, environmental, or contaminant assessment efforts are beyond the scope of this geotechnical exploration; and therefore, those issues are not addressed in this geotechnical exploration report. The recommendations contained in this report are based on the applicable standards of our profession at the time this report was prepared. No other warranty, express or implied, is made.

Conclusions and recommendations submitted in this report are based, in part, upon the data obtained from the geotechnical exploration. The nature and extent of variations between and outside of the borings may not become evident until construction. If variations appear evident, then it will be necessary to re-evaluate the recommendations of this report. In the event that any changes in the grades, nature,

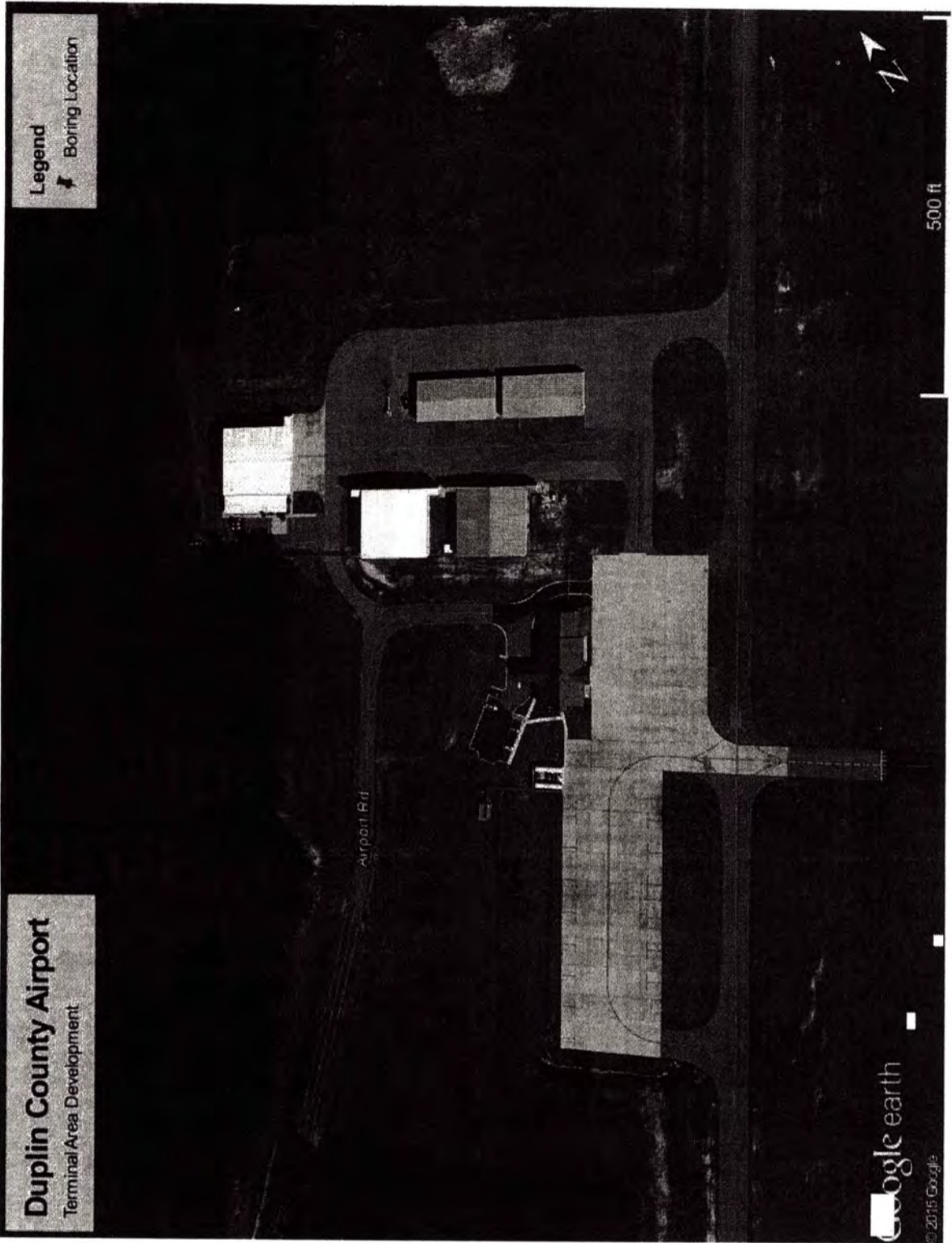


design, or location of the proposed development are planned, the recommendations contained in this report should be reviewed and modified or verified in writing. We recommend that our firm be provided the opportunity for general review of final design plans and specifications to confirm that our recommendations are properly interpreted and implemented.


Appendices

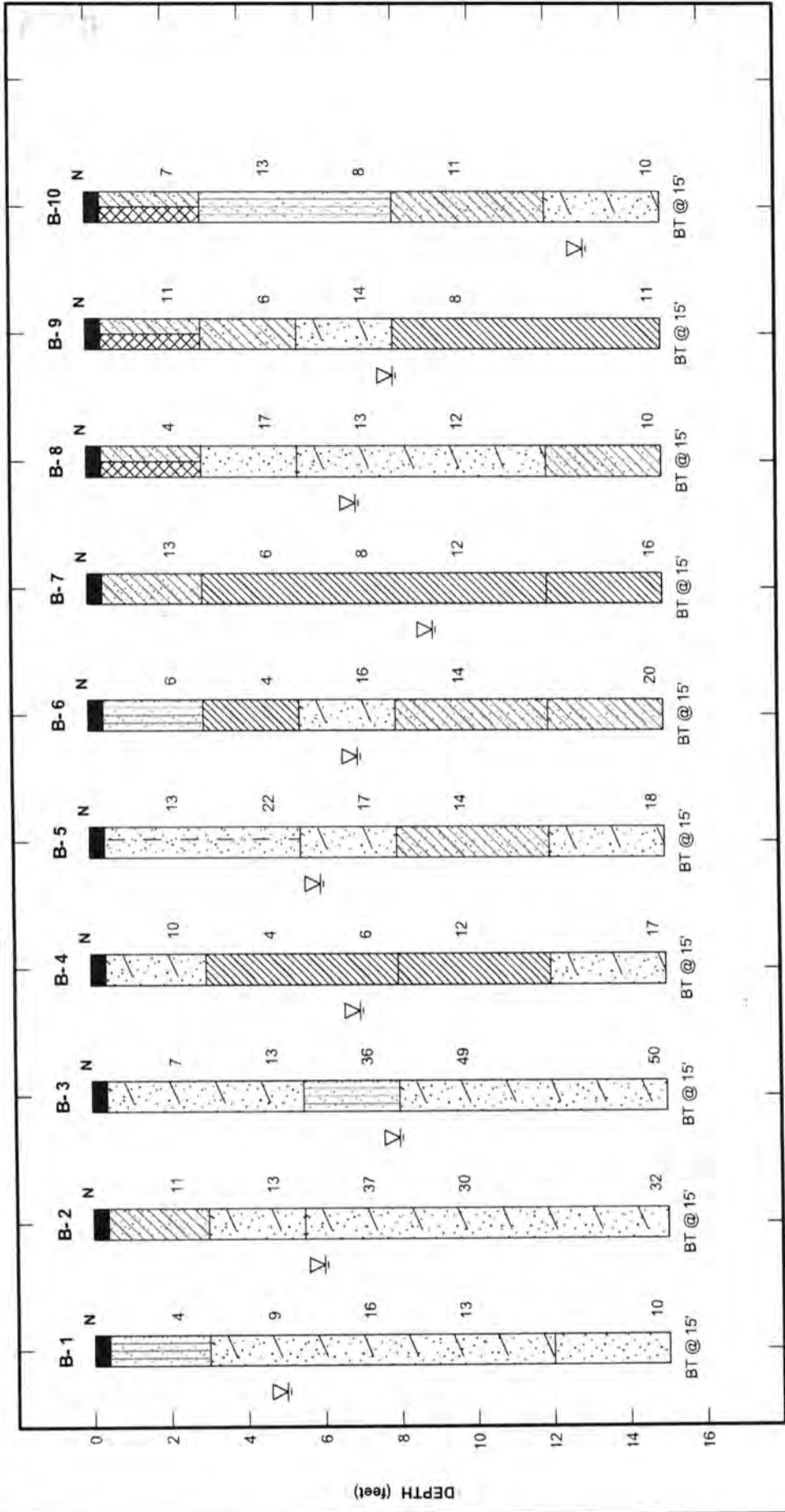
Appendix I - Figures

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Note: Base figure from Google Earth, prepared by W.K. Dickson.

| | | | |
|-----------------|---|---|---------------------------|
| SCALE: AS SHOWN |  | BORING LOCATION PLAN DUPLIN COUNTY AIRPORT EXPANSION DUPLIN COUNTY, NORTH CAROLINA | FIGURE NUMBER 1 |
| CHECKED BY: JRB | | | |
| DRAWN BY: JAB | | | |
| DATE: AUG. 2015 | | | |
| | | S&ME PROJECT NUMBER: 1305-15-082 | |



- Topsoil
- SC, Clayey Sand
- Water Level at Termination of Drilling
- SM, Silty Sand
- CL, Low Plasticity Clay
- Fill
- SP/SC, Poorly-graded Sand with Clay
- SP/SM, Poorly-graded Sand with Silt
- SP, Poorly-graded Sand

N = Standard Penetration Test resistance value (blows per foot). The depicted stratigraphy is shown for illustrative purposes only. The actual subsurface conditions will vary between boring locations.



JOB NO: 1305-15-082

DATE: 8/24/15

Diagram: GENERALIZED SUBSURFACE CONDITIONS
 Project: Duplin County Airport
 Location: Kenansville, NC





















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Appendix II – Boring Logs

LEGEND TO SOIL CLASSIFICATION AND SYMBOLS




SOIL TYPES

(Shown in Graphic Log)

| | |
|---|---|
|  | Fill |
|  | Asphalt |
|  | Concrete |
|  | Topsoil |
|  | Partially Weathered Rock |
|  | Cored Rock |
|  | GW WELL-GRADED GRAVELS, GRAVEL-SAND MIXTURES, LITTLE OR NO FINES |
|  | GP POORLY-GRADED GRAVELS, GRAVEL-SAND MIXTURES, LITTLE OR NO FINES |
|  | GM SILTY GRAVELS, GRAVEL-SAND-SILT MIXTURES |
|  | GC CLAYEY GRAVELS, GRAVEL-SAND-CLAY MIXTURES |
|  | SW WELL-GRADED SANDS, GRAVELLY SANDS, LITTLE OR NO FINES |
|  | SP POORLY-GRADED SANDS, GRAVELLY SAND, LITTLE OR NO FINES |
|  | SM SILTY SANDS, SAND-SILT MIXTURES |
|  | SC CLAYEY SANDS, SAND-CLAY MIXTURES |
|  | ML INORGANIC SILTS AND VERY FINE SANDS, ROCK FLOUR, SILTY OR CLAYEY FINE SANDS OR CLAYEY SILTS WITH SLIGHT PLASTICITY |
|  | CL INORGANIC CLAYS OF LOW TO MEDIUM PLASTICITY, GRAVELLY CLAYS, SANDY CLAYS, SILTY CLAYS, LEAN CLAYS |
|  | OL ORGANIC SILTS AND ORGANIC SILTY CLAYS OF LOW PLASTICITY |
|  | MH INORGANIC SILTS, MICACEOUS OR DIATOMACEOUS FINE SAND OR SILTY SOILS |
|  | CH INORGANIC CLAYS OF HIGH PLASTICITY |
|  | OH ORGANIC CLAYS OF MEDIUM TO HIGH PLASTICITY, ORGANIC SILTS |

WATER LEVELS

(Shown in Water Level Column)

| | |
|---|--|
|  | = Water Level At Termination of Boring |
|  | = Water Level Taken After 24 Hours |
|  | = Loss of Drilling Water |
| HC | = Hole Cave |

CONSISTENCY OF COHESIVE SOILS

CONSISTENCY

Very Soft
Soft
Firm
Stiff
Very Stiff
Hard
Very Hard

STD. PENETRATION RESISTANCE BLOWS/FOOT

0 to 2
3 to 4
5 to 8
9 to 15
16 to 30
31 to 50
Over 50

RELATIVE DENSITY OF COHESIONLESS SOILS

RELATIVE DENSITY





Very Loose
Loose
Medium Dense
Dense
Very Dense

STD. PENETRATION RESISTANCE BLOWS/FOOT

0 to 4
5 to 10
11 to 30
31 to 50
Over 50

SAMPLER TYPES

(Shown in Samples Column)

| | |
|--|-------------|
|  | Shelby Tube |
|  | Split Spoon |
|  | Rock Core |
|  | No Recovery |

TERMS

Standard Penetration Resistance - The Number of Blows of 140 lb. Hammer Falling 30 in. Required to Drive 1.4 in. I.D. Split Spoon Sampler 1 Foot. As Specified in ASTM D-1586.

REC - Total Length of Rock Recovered in the Core Barrel Divided by the Total Length of the Core Run Times 100%.

RQD - Total Length of Sound Rock Segments Recovered that are Longer Than or Equal to 4" (mechanical breaks excluded) Divided by the Total Length of the Core Run Times 100%.



| PROJECT: Duplin County Airport Kenansville, NC S&ME Project No. 1305-15-082 | | BORING LOG | | B-1 | | | | | | | | | | | |
|--|----------------|---|-------------|---|------------|-------------|------------------------|---------------|---------------|--|----|----|------|---------|----|
| DATE DRILLED: 8/14/15 | | ELEVATION: | | NOTES: Boring location is approximate. | | | | | | | | | | | |
| DRILL RIG: CME 45-D | | BORING DEPTH: 15.0 ft | | | | | | | | | | | | | |
| DRILLER: Carolina Drilling | | WATER LEVEL: 5' ATD | | | | | | | | | | | | | |
| HAMMER TYPE: Automatic | | LOGGED BY: A. Browning | | | | | | | | | | | | | |
| SAMPLING METHOD: Split spoon | | | NORTHING: | | EASTING: | | | | | | | | | | |
| DRILLING METHOD: 3/4" H.S.A. | | | | | | | | | | | | | | | |
| DEPTH (feet) | GRAPHIC LOG | MATERIAL DESCRIPTION | WATER LEVEL | ELEVATION (feet) | SAMPLE NO. | SAMPLE TYPE | BLOW COUNT / CORE DATA | | | STANDARD PENETRATION TEST DATA (blows/ft) /REMARKS | | | | N VALUE | |
| | | | | | | | 1st 6in / RUN # | 2nd 6in / REC | 3rd 6in / RQD | 10 | 20 | 30 | 6080 | | |
| | | TOPSOIL (4 inches) | | | | | | | | | | | | | |
| | | SILTY SAND (SM) very loose, brown, fine, wet | | | SS-1 | | 3 | 2 | 2 | | | | | | 4 |
| | | SLIGHTLY CLAYEY SAND (SP-SC) loose to medium dense, gray, fine, wet | | | | | 3 | 4 | 5 | | | | | | 9 |
| 5 | | | ▽ | | | | 5 | 7 | 9 | | | | | | 16 |
| 10 | | | | | | | 4 | 6 | 7 | | | | | | 13 |
| | | SAND (SP) loose, tan, medium to fine, wet | | | | | 3 | 5 | 5 | | | | | | 10 |
| 15 | | Boring terminated at 15 ft | | | | | | | | | | | | | |

S&ME BORING LOG 15-082.GPJ S&ME.GDT 8/24/15

NOTES:

1. THIS LOG IS ONLY A PORTION OF A REPORT PREPARED FOR THE NAMED PROJECT AND MUST ONLY BE USED TOGETHER WITH THAT REPORT.
2. BORING, SAMPLING AND PENETRATION TEST DATA IN GENERAL ACCORDANCE WITH ASTM D-1586.
3. STRATIFICATION AND GROUNDWATER DEPTHS ARE NOT EXACT.
4. WATER LEVEL IS AT TIME OF EXPLORATION AND WILL VARY.



| PROJECT: Duplin County Airport Kenansville, NC S&ME Project No. 1305-15-082 | | BORING LOG B-2 | | | | | | | | |
|--|-------------------------------|--|------------------------------------|------------|-------------|-------------------------|---------------|---------------|--|------------|
| DATE DRILLED: 8/14/15 | ELEVATION: | NOTES: Boring location is approximate. | | | | | | | | |
| DRILL RIG: CME 45-D | BORING DEPTH: 15.0 ft | *Bulk sample collected from 1 to 5 feet. | | | | | | | | |
| DRILLER: Carolina Drilling | WATER LEVEL: 6' ATD | | | | | | | | | |
| HAMMER TYPE: Automatic | LOGGED BY: A. Browning | | | | | | | | | |
| SAMPLING METHOD: Split spoon | | NORTHING: | EASTING: | | | | | | | |
| DRILLING METHOD: 3 1/4" H.S.A. | | | | | | | | | | |
| DEPTH (feet) | GRAPHIC LOG | MATERIAL DESCRIPTION | WATER LEVEL ELEVATION (feet) | SAMPLE NO. | SAMPLE TYPE | BLOW COUNT CORE DATA | | | STANDARD PENETRATION TEST DATA (blows/ft) /REMARKS | N VALUE |
| | | | | | | 1st 6in / RUN # | 2nd 6in / REC | 3rd 6in / RQD | | |
| | | TOPSOIL (4 inches) | | | | | | | | |
| | | CLAYEY SAND (SC) medium dense, black, fine, moist | | | | 3 | 5 | 6 | | 11 |
| | | SLIGHTLY CLAYEY SAND (SP-SC) medium dense, gray tan, fine, wet | | | | 3 | 6 | 7 | | 13 |
| 5 | | SLIGHTLY CLAYEY SAND (SP-SC) dense, gray, fine, wet | ▽ | | | 13 | 18 | 19 | | 37 |
| 10 | | | | | | 10 | 12 | 18 | | 30 |
| 15 | | Boring terminated at 15 ft | | | | 13 | 15 | 17 | | 32 |

S&ME BORING LOG 15-082.GPJ S&ME.GD

NOTES:

1. THIS LOG IS ONLY A PORTION OF A REPORT PREPARED FOR THE NAMED PROJECT AND MUST ONLY BE USED TOGETHER WITH THAT REPORT.
2. BORING, SAMPLING AND PENETRATION TEST DATA IN GENERAL ACCORDANCE WITH ASTM D-1586.
3. STRATIFICATION AND GROUNDWATER DEPTHS ARE NOT EXACT.
4. WATER LEVEL IS AT TIME OF EXPLORATION AND WILL VARY.



| | |
|---|----------------------------|
| PROJECT: Duplin County Airport Kenansville, NC S&ME Project No. 1305-15-082 | BORING LOG B-3 |
|---|----------------------------|

| | | |
|---------------------------------------|-------------------------------|---|
| DATE DRILLED: 8/14/15 | ELEVATION: | NOTES: Boring location is approximate. |
| DRILL RIG: CME 45-D | BORING DEPTH: 15.0 ft | |
| DRILLER: Carolina Drilling | WATER LEVEL: 8' ATD | |
| HAMMER TYPE: Automatic | LOGGED BY: A. Browning | |
| SAMPLING METHOD: Split spoon | | NORTHING: |
| DRILLING METHOD: 3 1/4" H.S.A. | | EASTING: |

| DEPTH (feet) | GRAPHIC LOG | MATERIAL DESCRIPTION | WATER LEVEL | ELEVATION (feet) | SAMPLE NO. | SAMPLE TYPE | BLOW COUNT / CORE DATA | | | STANDARD PENETRATION TEST DATA (blows/ft) /REMARKS | | | | N VALUE |
|-----------------|----------------|---|-------------|---------------------|------------|-------------|------------------------|---------------|---------------|--|----|----|------|---------|
| | | | | | | | 1st 6in / RUN # | 2nd 6in / REC | 3rd 6in / RQD | 10 | 20 | 30 | 6080 | |
| | | TOPSOIL (4 inches) | | | | | | | | | | | | |
| | | SLIGHTLY CLAYEY SAND (SP-SC) loose to medium dense, gray, fine, wet | | | SS-1 | | 4 | 3 | 4 | | | | | 7 |
| 5 | | SILTY SAND (SM) dense, black, fine, wet | | | | | 6 | 5 | 8 | | | | | 13 |
| | | SLIGHTLY CLAYEY SAND (SP-SC) dense, dark gray, fine, wet | ▽ | | | | 10 | 19 | 17 | | | | | 36 |
| 10 | | | | | | | 13 | 27 | 22 | | | | | 49 |
| 15 | | Boring terminated at 15 ft | | | | | 19 | 24 | 26 | | | | | 50 |

S&ME BORING LOG 15-082.GPJ, S&ME.GDT 8/24/15

NOTES:

1. THIS LOG IS ONLY A PORTION OF A REPORT PREPARED FOR THE NAMED PROJECT AND MUST ONLY BE USED TOGETHER WITH THAT REPORT.
2. BORING, SAMPLING AND PENETRATION TEST DATA IN GENERAL ACCORDANCE WITH ASTM D-1586.
3. STRATIFICATION AND GROUNDWATER DEPTHS ARE NOT EXACT.
4. WATER LEVEL IS AT TIME OF EXPLORATION AND WILL VARY.



| PROJECT: Duplin County Airport Kenansville, NC S&ME Project No. 1305-15-082 | | BORING LOG | | B- 4 | | | | | | | | | | | |
|--|----------------|--|-------------|---|------------|-------------|------------------------|---------------|---------------|----|--|----|----|----|---------|
| DATE DRILLED: 8/14/15 | | ELEVATION: | | NOTES: Boring location is approximate. | | | | | | | | | | | |
| DRILL RIG: CME 45-D | | BORING DEPTH: 15.0 ft | | | | | | | | | | | | | |
| DRILLER: Carolina Drilling | | WATER LEVEL: 7' ATD | | | | | | | | | | | | | |
| HAMMER TYPE: Automatic | | LOGGED BY: A. Browning | | | | | | | | | | | | | |
| SAMPLING METHOD: Split spoon | | | | NORTHING: | | EASTING: | | | | | | | | | |
| DRILLING METHOD: 3/4" H.S.A. | | | | | | | | | | | | | | | |
| DEPTH (feet) | GRAPHIC LOG | MATERIAL DESCRIPTION | WATER LEVEL | ELEVATION (feet) | SAMPLE NO. | SAMPLE TYPE | BLOW COUNT / CORE DATA | | | | STANDARD PENETRATION TEST DATA (blows/ft) /REMARKS | | | | N VALUE |
| | | | | | | | 1st 6in / RUN # | 2nd 6in / REC | 3rd 6in / ROD | 10 | 20 | 30 | 60 | 80 | |
| | | TOPSOIL (4 inches) | | | | | | | | | | | | | |
| | | SLIGHTLY CLAYEY SAND (SP-SC) loose, gray, fine, moist | | | | | 2 | 5 | 5 | | | | | | 10 |
| 5 | | SANDY CLAY (CL) soft to firm, tan gray, wet | | | | | 2 | 2 | 2 | | | | | | 4 |
| | | SANDY CLAY (CL) stiff, tan gray, wet | | | | | 2 | 3 | 3 | | | | | | 6 |
| 10 | | SLIGHTLY CLAYEY SAND (SP-SC) medium dense, orange, fine, wet | | | | | 4 | 5 | 7 | | | | | | 12 |
| 15 | | Boring terminated at 15 ft | | | | | 5 | 8 | 9 | | | | | | 17 |

S&ME BORING LOG 15-082.GPJ S&ME.GDT

NOTES:

1. THIS LOG IS ONLY A PORTION OF A REPORT PREPARED FOR THE NAMED PROJECT AND MUST ONLY BE USED TOGETHER WITH THAT REPORT.
2. BORING, SAMPLING AND PENETRATION TEST DATA IN GENERAL ACCORDANCE WITH ASTM D-1586.
3. STRATIFICATION AND GROUNDWATER DEPTHS ARE NOT EXACT.
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| PROJECT: Duplin County Airport Kenansville, NC S&ME Project No. 1305-15-082 | | BORING LOG | | B- 5 | | | | | | | | | | |
|--|----------------|---|-------------|---|------------|-------------|---------------------------|---------------|---------------|--|----|----|-------|---------|
| DATE DRILLED: 8/14/15 | | ELEVATION: | | NOTES: Boring location is approximate. | | | | | | | | | | |
| DRILL RIG: CME 45-D | | BORING DEPTH: 15.0 ft | | | | | | | | | | | | |
| DRILLER: Carolina Drilling | | WATER LEVEL: 6' ATD | | | | | | | | | | | | |
| HAMMER TYPE: Automatic | | LOGGED BY: A. Browning | | | | | | | | | | | | |
| SAMPLING METHOD: Split spoon | | | | NORTHING: | | | | | | | | | | |
| DRILLING METHOD: 3/4" H.S.A. | | | | EASTING: | | | | | | | | | | |
| DEPTH (feet) | GRAPHIC LOG | MATERIAL DESCRIPTION | WATER LEVEL | ELEVATION (feet) | SAMPLE NO. | SAMPLE TYPE | BLOW COUNT / CORE DATA | | | STANDARD PENETRATION TEST DATA (blows/ft) /REMARKS | | | | N VALUE |
| | | | | | | | 1st 6in / RUN # | 2nd 6in / REC | 3rd 6in / RQD | 10 | 20 | 30 | 60/80 | |
| | | TOPSOIL (4 inches) | | | | | | | | | | | | |
| | | SLIGHTLY SILTY SAND (SP-SM) medium dense, black gray brown, fine, wet | | | | | 4 | 6 | 7 | | | | | 13 |
| 5 | | SLIGHTLY CLAYEY SAND (SP-SC) medium dense, gray, fine, wet | | | | | 6 | 9 | 13 | | | | | 22 |
| | | SLIGHTLY CLAYEY SAND (SP-SC) medium dense, gray, fine, wet | ▽ | | | | 5 | 8 | 9 | | | | | 17 |
| 10 | | CLAYEY SAND (SC) medium dense, tan gray, fine, wet | | | | | 6 | 6 | 8 | | | | | 14 |
| | | SLIGHTLY CLAYEY SAND (SP-SC) medium dense, pink tan, fine, wet | | | | | 5 | 7 | 11 | | | | | 18 |
| 15 | | Boring terminated at 15 ft | | | | | | | | | | | | |

S&ME BORING LOG 15-082.GPJ S&ME.GDT 8/24/15

NOTES:

1. THIS LOG IS ONLY A PORTION OF A REPORT PREPARED FOR THE NAMED PROJECT AND MUST ONLY BE USED TOGETHER WITH THAT REPORT.
2. BORING, SAMPLING AND PENETRATION TEST DATA IN GENERAL ACCORDANCE WITH ASTM D-1586.
3. STRATIFICATION AND GROUNDWATER DEPTHS ARE NOT EXACT.
4. WATER LEVEL IS AT TIME OF EXPLORATION AND WILL VARY.



| PROJECT: Duplin County Airport Kenansville, NC S&ME Project No. 1305-15-082 | | BORING LOG B-6 | | | | | | | | |
|---|------------------------|--|------------------------------|------------|-------------|------------------------|---------------|---------------|---|---------|
| DATE DRILLED: 8/14/15 | ELEVATION: | NOTES: Boring location is approximate. | | | | | | | | |
| DRILL RIG: CME 45-D | BORING DEPTH: 15.0 ft | | | | | | | | | |
| DRILLER: Carolina Drilling | WATER LEVEL: 7' ATD | | | | | | | | | |
| HAMMER TYPE: Automatic | LOGGED BY: A. Browning | | | | | | | | | |
| SAMPLING METHOD: Split spoon | | NORTHING: | EASTING: | | | | | | | |
| DRILLING METHOD: 3/4" H.S.A. | | | | | | | | | | |
| DEPTH (feet) | GRAPHIC LOG | MATERIAL DESCRIPTION | WATER LEVEL ELEVATION (feet) | SAMPLE NO. | SAMPLE TYPE | BLOW COUNT / CORE DATA | | | STANDARD PENETRATION TEST DATA (blows/ft) / REMARKS | N VALUE |
| | | | | | | 1st 6in / RUN # | 2nd 6in / REC | 3rd 6in / RQD | | |
| | | TOPSOIL (4 inches) | | | | | | | | |
| | | SILTY SAND (SM) loose, black, with clay, fine, moist | | SS-1 | | 4 | 3 | 3 | | 6 |
| | | SANDY CLAY (CL) soft, red gray, moist | | | | 1 | 1 | 3 | | 4 |
| 5 | | SLIGHTLY CLAYEY SAND (SP-SC) medium dense, tan, fine, wet | ▽ | | | 5 | 7 | 9 | | 16 |
| | | CLAYEY SAND (SC) medium dense, pink tan, fine, wet | | | | 7 | 7 | 7 | | 14 |
| 10 | | SLIGHTLY CLAYEY SAND (SC) medium dense, pink tan, fine, wet | | | | 7 | 9 | 11 | | 20 |
| 15 | | Boring terminated at 15 ft | | | | | | | | |

S&ME BORING LOG 15-082.GPJ S&ME.GD.

NOTES:

1. THIS LOG IS ONLY A PORTION OF A REPORT PREPARED FOR THE NAMED PROJECT AND MUST ONLY BE USED TOGETHER WITH THAT REPORT.
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3. STRATIFICATION AND GROUNDWATER DEPTHS ARE NOT EXACT.
4. WATER LEVEL IS AT TIME OF EXPLORATION AND WILL VARY.



| PROJECT: Duplin County Airport Kenansville, NC S&ME Project No. 1305-15-082 | | BORING LOG | | B- 7 | | | | | | | | | | | |
|--|----------------|--|-------------|---|------------|-------------|------------------------|---------------|---------------|--|----|----|-------|---------|----|
| DATE DRILLED: 8/14/15 | | ELEVATION: | | NOTES: Boring location is approximate. | | | | | | | | | | | |
| DRILL RIG: CME 45-D | | BORING DEPTH: 15.0 ft | | | | | | | | | | | | | |
| DRILLER: Carolina Drilling | | WATER LEVEL: 9' ATD | | | | | | | | | | | | | |
| HAMMER TYPE: Automatic | | LOGGED BY: A. Browning | | | | | | | | | | | | | |
| SAMPLING METHOD: Split spoon | | | NORTHING: | | EASTING: | | | | | | | | | | |
| DRILLING METHOD: 3/4" H.S.A. | | | | | | | | | | | | | | | |
| DEPTH (feet) | GRAPHIC LOG | MATERIAL DESCRIPTION | WATER LEVEL | ELEVATION (feet) | SAMPLE NO. | SAMPLE TYPE | BLOW COUNT / CORE DATA | | | STANDARD PENETRATION TEST DATA (blows/ft) /REMARKS | | | | N VALUE | |
| | | | | | | | 1st 6in / RUN # | 2nd 6in / REC | 3rd 6in / ROD | 10 | 20 | 30 | 60/80 | | |
| | | TOPSOIL (4 inches) | | | | | | | | | | | | | |
| | | CLAYEY SAND (SC) medium dense, orange brown, fine, moist | | | | | 5 | 6 | 7 | | | | | | 13 |
| 5 | | SANDY CLAY (CL) firm to stiff, brown, moist to wet | | | | | 5 | 3 | 3 | | | | | | 6 |
| | | | | | | | 4 | 4 | 4 | | | | | | 8 |
| 10 | | | | | | | 3 | 5 | 7 | | | | | | 12 |
| | | SANDY CLAY (CL) very stiff, gray brown, wet | | | | | 5 | 8 | 8 | | | | | | 16 |
| 15 | | Boring terminated at 15 ft | | | | | | | | | | | | | |

S&ME BORING LOG 15-082.GPJ S&ME.GDT 8/24/15

NOTES:

1. THIS LOG IS ONLY A PORTION OF A REPORT PREPARED FOR THE NAMED PROJECT AND MUST ONLY BE USED TOGETHER WITH THAT REPORT.
2. BORING, SAMPLING AND PENETRATION TEST DATA IN GENERAL ACCORDANCE WITH ASTM D-1586.
3. STRATIFICATION AND GROUNDWATER DEPTHS ARE NOT EXACT.
4. WATER LEVEL IS AT TIME OF EXPLORATION AND WILL VARY.



| PROJECT: | | Duplin County Airport Kenansville, NC S&ME Project No. 1305-15-082 | | BORING LOG | | B- 8 | | | | | | | |
|------------------------------|----------------|--|-------------|--|------------|-------------|------------------------|---------------|---------------|--|--|---------|----|
| DATE DRILLED: 8/14/15 | | ELEVATION: | | NOTES: Boring location is approximate. | | | | | | | | | |
| DRILL RIG: CME 45-D | | BORING DEPTH: 15.0 ft | | | | | | | | | | | |
| DRILLER: Carolina Drilling | | WATER LEVEL: 7' ATD | | | | | | | | | | | |
| HAMMER TYPE: Automatic | | LOGGED BY: A. Browning | | | | | | | | | | | |
| SAMPLING METHOD: Split spoon | | | | NORTHING: | | EASTING: | | | | | | | |
| DRILLING METHOD: 3/4" H.S.A. | | | | | | | | | | | | | |
| DEPTH (feet) | GRAPHIC LOG | MATERIAL DESCRIPTION | WATER LEVEL | ELEVATION (feet) | SAMPLE NO. | SAMPLE TYPE | BLOW COUNT / CORE DATA | | | | STANDARD PENETRATION TEST DATA (blows/ft) /REMARKS | N VALUE | |
| | | | | | | | 1st 6in / RUN # | 2nd 6in / REC | 3rd 6in / ROD | | | | |
| | | TOPSOIL (4 inches) | | | | | | | | | | | |
| | | FILL: CLAYEY SAND (SC) very loose, brown, fine, moist | | | SS-1 | | 2 | 2 | 2 | | | | 4 |
| | | SAND (SP) medium dense, white tan, fine, wet | | | | | 3 | 7 | 10 | | | | 17 |
| 5 | | SLIGHTLY CLAYEY SAND (SP-SC) medium dense, gray, fine, wet | | | | | 4 | 6 | 7 | | | | 13 |
| | | CLAYEY SAND (SC) loose, gray, fine, wet | | | | | 5 | 5 | 7 | | | | 12 |
| 10 | | | | | | | 4 | 6 | 4 | | | | 10 |
| 15 | | Boring terminated at 15 ft | | | | | | | | | | | |

S&ME BORING LOG 15-082.GPJ S&ME.GDI

NOTES:

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3. STRATIFICATION AND GROUNDWATER DEPTHS ARE NOT EXACT.
4. WATER LEVEL IS AT TIME OF EXPLORATION AND WILL VARY.



| | | |
|---|-------------------------------|---|
| PROJECT: Duplin County Airport Kenansville, NC S&ME Project No. 1305-15-082 | | BORING LOG B-9 |
| DATE DRILLED: 8/14/15 | ELEVATION: | NOTES: Boring location is approximate. *Bulk sample obtained from 1 to 5 feet. |
| DRILL RIG: CME 45-D | BORING DEPTH: 15.0 ft | |
| DRILLER: Carolina Drilling | WATER LEVEL: 8' ATD | |
| HAMMER TYPE: Automatic | LOGGED BY: A. Browning | |
| SAMPLING METHOD: Split spoon | | NORTHING: EASTING: |
| DRILLING METHOD: 3/4" H.S.A. | | |

| DEPTH (feet) | GRAPHIC LOG | MATERIAL DESCRIPTION | WATER LEVEL | ELEVATION (feet) | SAMPLE NO. | SAMPLE TYPE | BLOW COUNT / CORE DATA | | | STANDARD PENETRATION TEST DATA (blows/ft) /REMARKS | | | | N VALUE |
|-----------------|-------------------------|--|-------------|---------------------|------------|-------------|------------------------|---------------|---------------|--|----|----|------|---------|
| | | | | | | | 1st 6in / RUN # | 2nd 6in / REC | 3rd 6in / ROD | 10 | 20 | 30 | 6080 | |
| 0 - 4 | [Cross-hatched pattern] | TOPSOIL (4 inches) | | | | | | | | | | | | |
| 4 - 5 | [Diagonal lines /] | FILL: CLAYEY SAND (SC) medium dense, brown, fine, moist | | | | 8 | 6 | 5 | | | | | | 11 |
| 5 - 6 | [Diagonal lines /] | CLAYEY SAND (SC) loose, brown, fine, wet | | | | 2 | 3 | 3 | | | | | | 6 |
| 6 - 10 | [Dotted pattern] | SLIGHTLY CLAYEY SAND (SP-SC) medium dense, gray, fine, wet | | | | 3 | 7 | 7 | | | | | | 14 |
| 10 - 15 | [Diagonal lines \] | SANDY CLAY (CL) firm to stiff, gray brown, wet | ▽ | | | 2 | 2 | 6 | | | | | | 8 |
| 15 - 15 | | Boring terminated at 15 ft | | | | 3 | 4 | 7 | | | | | | 11 |

S&ME BORING LOG 15-082.GPJ S&ME.GDT 8/24/15

NOTES:

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3. STRATIFICATION AND GROUNDWATER DEPTHS ARE NOT EXACT.
4. WATER LEVEL IS AT TIME OF EXPLORATION AND WILL VARY.



| PROJECT: Duplin County Airport Kenansville, NC S&ME Project No. 1305-15-082 | | BORING LOG B-10 | | | | | | | | | | | | |
|--|------------------------|--|------------------------------------|------------|-------------|------------------------|---------------|---------------|--|----|----|------|---------|----|
| DATE DRILLED: 8/14/15 | ELEVATION: | NOTES: Boring location is approximate. | | | | | | | | | | | | |
| DRILL RIG: CME 45-D | BORING DEPTH: 15.0 ft | | | | | | | | | | | | | |
| DRILLER: Carolina Drilling | WATER LEVEL: 13' ATD | | | | | | | | | | | | | |
| HAMMER TYPE: Automatic | LOGGED BY: A. Browning | | | | | | | | | | | | | |
| SAMPLING METHOD: Split spoon | | NORTHING: | EASTING: | | | | | | | | | | | |
| DRILLING METHOD: 3/4" H.S.A. | | | | | | | | | | | | | | |
| DEPTH (feet) | GRAPHIC LOG | MATERIAL DESCRIPTION | WATER LEVEL ELEVATION (feet) | SAMPLE NO. | SAMPLE TYPE | BLOW COUNT / CORE DATA | | | STANDARD PENETRATION TEST DATA (blows/ft) /REMARKS | | | | N VALUE | |
| | | | | | | 1st 6in / RUN # | 2nd 6in / REC | 3rd 6in / RQD | 10 | 20 | 30 | 6080 | | |
| | | TOPSOIL (4 inches) | | | | | | | | | | | | |
| | | FILL: CLAYEY SAND (SC) loose, black tan, with asphalt fragments, medium to fine, wet | | | | 7 | 4 | 3 | | | | | | 7 |
| 5 | | SILTY SAND (SM) medium dense to loose, tan black, fine, wet | | | | 7 | 6 | 7 | | | | | | 13 |
| | | CLAYEY SAND (SC) medium dense, black, fine, wet | | | | 4 | 4 | 4 | | | | | | 8 |
| 10 | | CLAYEY SAND (SC) medium dense, black, fine, wet | | | | 3 | 4 | 7 | | | | | | 11 |
| | | SLIGHTLY CLAYEY SAND (SP-SC) loose, tan, fine, wet | | | | 3 | 5 | 5 | | | | | | 10 |
| 15 | | Boring terminated at 15 ft | | | | | | | | | | | | |

S&ME BORING LOG 15-082.GPJ S&ME.GDT

NOTES:

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2. BORING, SAMPLING AND PENETRATION TEST DATA IN GENERAL ACCORDANCE WITH ASTM D-1586.
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4. WATER LEVEL IS AT TIME OF EXPLORATION AND WILL VARY.



Appendix III – Laboratory Test Records

Sieve Analysis of Soils



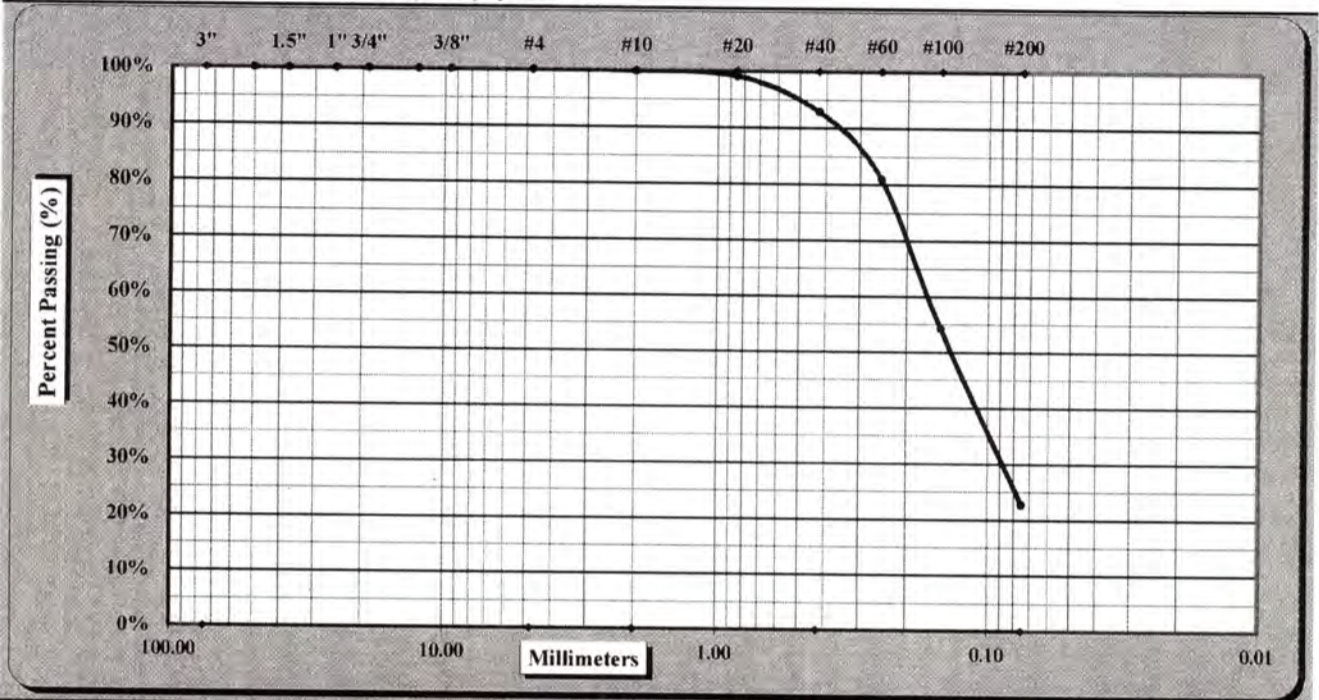
ASTM D 6913

Quality Assurance

S&ME, Inc. Raleigh, 3201 Spring Forest Road, Raleigh, North Carolina 27616

| | | | |
|------------------------|--------------------|----------------------|----------------|
| Project #: | 1305-15-082 | Report Date: | 8/24/15 |
| Project Name: | Duplin Co. Airport | Test Date(s): | 8/21 - 8/24/15 |
| Client Name: | | | |
| Client Address: | | | |
| Boring No.: | B-2 | Sample: | Bag |
| | | Sample Date: | 8/14/15 |
| Location: | Site-Borehole | Offset: | N/A |
| | | Depth (ft): | 1 - 5 ft. |

Sample Description: Dark Gray Clayey SAND



| | | | |
|-------------|---------------------------------|-----------|----------------------------------|
| Cobbles | < 300 mm (12") and > 75 mm (3") | Fine Sand | < 0.425 mm and > 0.075 mm (#200) |
| Gravel | < 75 mm and > 4.75 mm (#4) | Silt | < 0.075 and > 0.005 mm |
| Coarse Sand | < 4.75 mm and > 2.00 mm (#10) | Clay | < 0.005 mm |
| Medium Sand | < 2.00 mm and > 0.425 mm (#40) | Colloids | < 0.001 mm |

| | | | | | |
|-----------------------|------|------------------|------|---------------|-------|
| Maximum Particle Size | #4 | Coarse Sand | 0.1% | Fine Sand | 70.1% |
| Gravel | 0.0% | Medium Sand | 7.0% | Silt & Clay | 22.8% |
| Liquid Limit | ND | Plastic Limit | ND | Plastic Index | ND |
| Specific Gravity | ND | Moisture Content | 9.9% | | |

| | | | | | |
|---|-------------------------------------|-------------|-------------------------------------|---------------------|--------------------------|
| Coarse Sand | 0.1% | Medium Sand | 7.0% | Fine Sand | 70.1% |
| Description of Sand & Gravel Particles: | | Rounded | <input checked="" type="checkbox"/> | Angular | <input type="checkbox"/> |
| Hard & Durable | <input checked="" type="checkbox"/> | Soft | <input type="checkbox"/> | Weathered & Friable | <input type="checkbox"/> |

Notes / Deviations / References: ND=Not Determined.

ASTM D 4318: Liquid Limit, Plastic Limit, & Plastic Index of Soils

ASTM D 2487: Classification of Soils for Engineering Purposes (Unified Soil Classification System)

Mal Krajan, ET
Technical Responsibility

Signature

Laboratory Manager
Position

8/24/2015
Date

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Form No. TR-D698-2
 Revision No. : 0
 Revision Date: 11/21/07

Moisture - Density Report



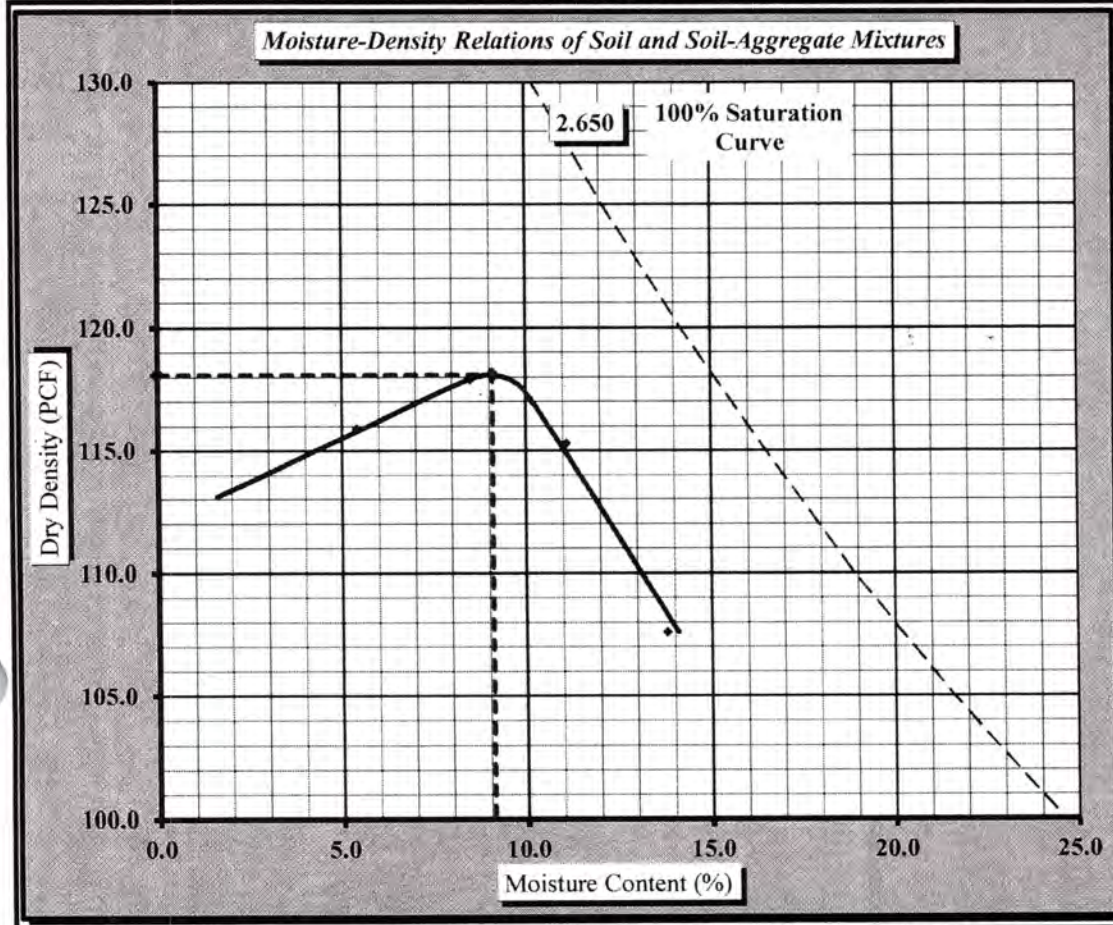
Quality Assurance

S&ME, Inc. Raleigh, 3201 Spring Forest Road, Raleigh, North Carolina 27616

| | | | |
|---------------------|-----------------------|---------------|----------------|
| S&ME Project #: | 1305-15-082 | Report Date: | 8/25/15 |
| Project Name: | Duplin Co. Airport | Test Date(s): | 8/21 - 8/25/15 |
| Client Name: | | | |
| Client Address: | | | |
| Boring #: | B-2 | Sample #: | Bag |
| Location: | Site-Borehole | Sample Date: | 8/14/2015 |
| | | Offset: | N/A |
| | | Depth: | 1 - 5 ft. |
| Sample Description: | Dark Gray Clayey SAND | | |

Maximum Dry Density 118.1 PCF. Optimum Moisture Content 9.1%

ASTM D1557 -- Method A



| Soil Properties | |
|--------------------------|--------|
| Natural Moisture Content | 9.9% |
| Assumed Specific Gravity | 2.650 |
| Liquid Limit | ND |
| Plastic Limit | ND |
| Plastic Index | ND |
| % Passing | |
| 3/4" | 100.0% |
| 3/8" | 100.0% |
| #4 | 100.0% |
| #10 | 99.9% |
| #40 | 92.9% |
| #60 | 81.0% |
| #200 | 22.8% |
| Oversize Fra | |
| Bulk Gravity | |
| % Moisture | |
| % Oversize | |
| MDD | |
| Opt. MC | |

Moisture-Density Curve Displayed: Fine Fraction Corrected for Oversize Fraction (ASTM D 4718)
 Sieve Size used to separate the Oversize Fraction: #4 Sieve 3/8 inch Sieve 3/4 inch Sieve
 Mechanical Rammer Manual Rammer Moist Preparation Dry Preparation

References / Comments / Deviations: ND=Not Determined.

- ASTM D 422: Particle Size Analysis of Soils
- ASTM D 2216: Laboratory Determination of Water (Moisture) Content of Soil and Rock by Mass
- ASTM D 1557: Laboratory Compaction Characteristics of Soil Using Modified Effort

Mal Krajan, ET
 Technical Responsibility

Signature

Laboratory Manager
 Position

8/27/2015
 Date

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**CBR (California Bearing Ratio) of Laboratory
Compacted Soil**

ASTM D 1883



Quality Assurance

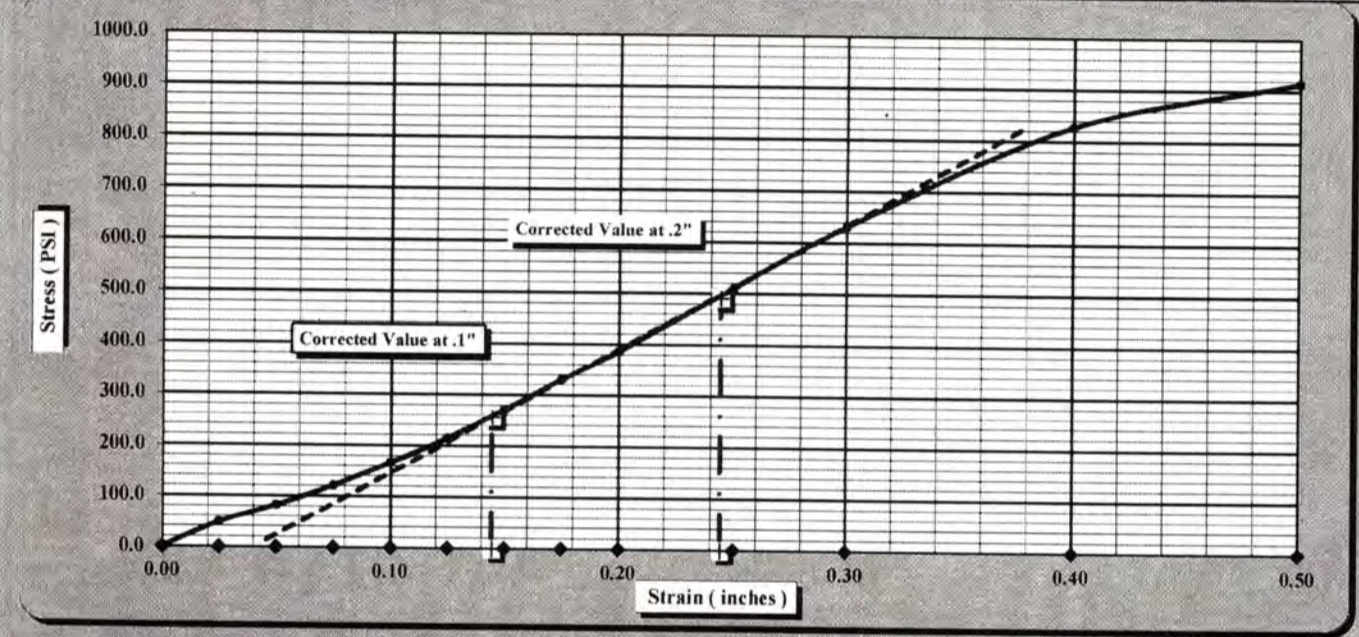
S&ME, Inc. Raleigh, 3201 Spring Forest Road, Raleigh, North Carolina 27616

| | |
|---|-------------------------------------|
| Project #: 1305-15-082 | Report Date: 8/29/15 |
| Project Name: Duplin Co. Airport | Test Date(s): 8/21 - 8/29/15 |
| Client Name: | |
| Client Address: | |
| Boring #: B-2 | Sample #: Bag |
| Location: Borehole | Sample Date: 8/14/15 |
| | Offset: N/A |
| | Depth (ft): 1 - 5 ft. |

Sample Description: Dark Gray Clayey SAND

| | | |
|---|---------------------------------------|---|
| <i>ASTM D1557 Method A</i> | Maximum Dry Density: 118.1 PCF | Optimum Moisture Content: 9.1% |
| Compaction Test performed on grading complying with CBR spec. | | % Retained on the 3/4" sieve: 0.0% |

| Uncorrected CBR Values | | Corrected CBR Values | |
|----------------------------|----------------------------|----------------------------|----------------------------|
| CBR at 0.1 in. 16.6 | CBR at 0.2 in. 25.7 | CBR at 0.1 in. 25.7 | CBR at 0.2 in. 32.7 |



CBR Sample Preparation:

The entire gradation was used and compacted in a 6" CBR mold in accordance with ASTM D1883, Section 7.1.1

| Before Soaking | | After Soaking | |
|--|-----------------------|---|-------|
| Compactive Effort (Blows per Layer) | 40 | Final Dry Density (PCF) | 110.1 |
| Initial Dry Density (PCF) | 112.0 | Average Final Moisture Content | 11.3% |
| Moisture Content of the Compacted Specimen | 9.3% | Moisture Content (top 1" after soaking) | 11.8% |
| Percent Compaction | 94.8% | Percent Swell | 0.0% |
| Soak Time: 96-hr | Surcharge Weight 20.0 | Surcharge Wt. per sq. Ft. 101.9 | |
| Liquid Limit ND | Plastic Index ND | | |

Notes/Deviations/References: ND=Not Determined.

Test specimen was compacted to 95% at optimum moisture.

Mal Krajan, ET
Technical Responsibility

Signature

Laboratory Manager
Position

8/29/2015
Date

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Sieve Analysis of Soils



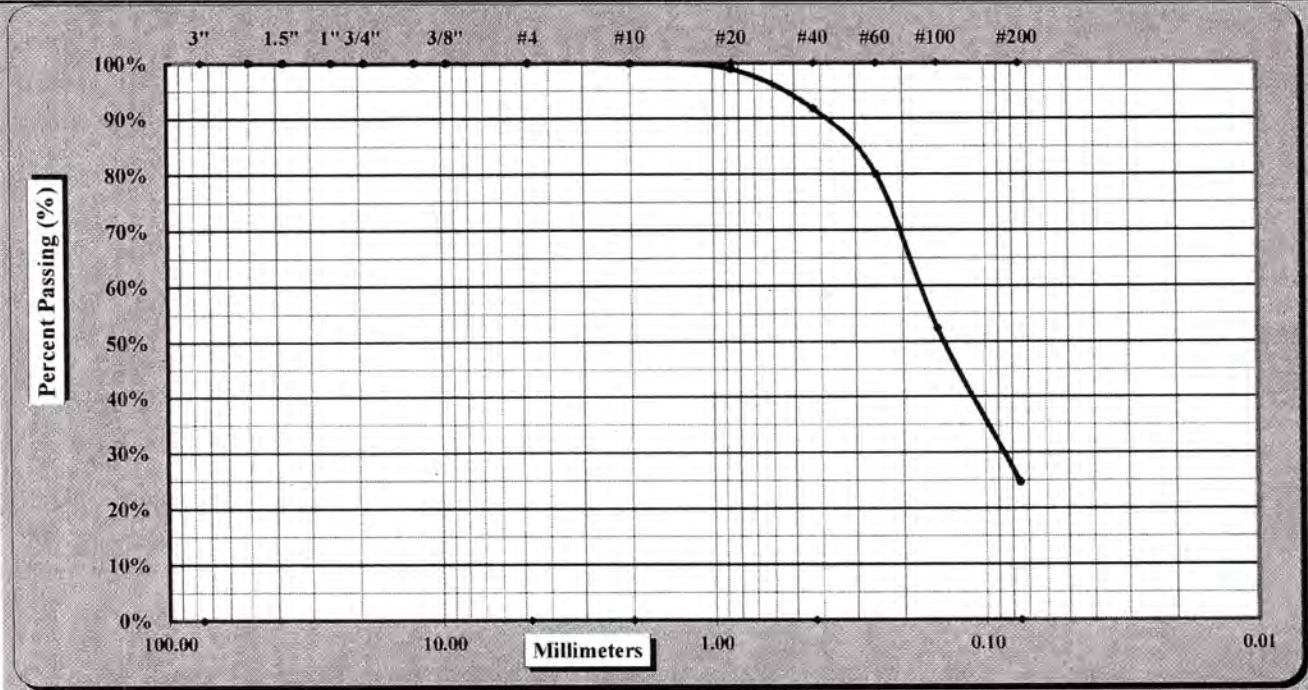
ASTM D 6913

Quality Assurance

S&ME, Inc. Raleigh, 3201 Spring Forest Road, Raleigh, North Carolina 27616

| | | | |
|-----------------|--------------------|---------------|----------------|
| Project #: | 1305-15-082 | Report Date: | 8/24/15 |
| Project Name: | Duplin Co. Airport | Test Date(s): | 8/21 - 8/24/15 |
| Client Name: | | | |
| Client Address: | | | |
| Boring No.: | B-9 | Sample: | Bag |
| | | Sample Date: | 8/14/15 |
| Location: | Site-Borehole | Offset: | N/A |
| | | Depth (ft): | 1 - 5 ft. |

Sample Description: Brown Clayey SAND



| | | | |
|-------------|---------------------------------|-----------|----------------------------------|
| Cobbles | < 300 mm (12") and > 75 mm (3") | Fine Sand | < 0.425 mm and > 0.075 mm (#200) |
| Gravel | < 75 mm and > 4.75 mm (#4) | Silt | < 0.075 and > 0.005 mm |
| Coarse Sand | < 4.75 mm and > 2.00 mm (#10) | Clay | < 0.005 mm |
| Medium Sand | < 2.00 mm and > 0.425 mm (#40) | Colloids | < 0.001 mm |

| | | | | | |
|-----------------------|------|------------------|------|---------------|-------|
| Maximum Particle Size | #4 | Coarse Sand | 0.1% | Fine Sand | 67.0% |
| Gravel | 0.0% | Medium Sand | 8.2% | Silt & Clay | 24.7% |
| Liquid Limit | ND | Plastic Limit | ND | Plastic Index | ND |
| Specific Gravity | ND | Moisture Content | 7.2% | | |

| | | | | | |
|---|-------------------------------------|-------------|-------------------------------------|---------------------|--------------------------|
| Coarse Sand | 0.1% | Medium Sand | 8.2% | Fine Sand | 67.0% |
| Description of Sand & Gravel Particles: | | Rounded | <input checked="" type="checkbox"/> | Angular | <input type="checkbox"/> |
| Hard & Durable | <input checked="" type="checkbox"/> | Soft | <input type="checkbox"/> | Weathered & Friable | <input type="checkbox"/> |

Notes / Deviations / References: ND=Not Determined.

ASTM D 4318: Liquid Limit, Plastic Limit, & Plastic Index of Soils

ASTM D 2487: Classification of Soils for Engineering Purposes (Unified Soil Classification System)

Mal Krajan, ET
Technical Responsibility

Signature

Laboratory Manager
Position

8/24/2015
Date

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Moisture - Density Report

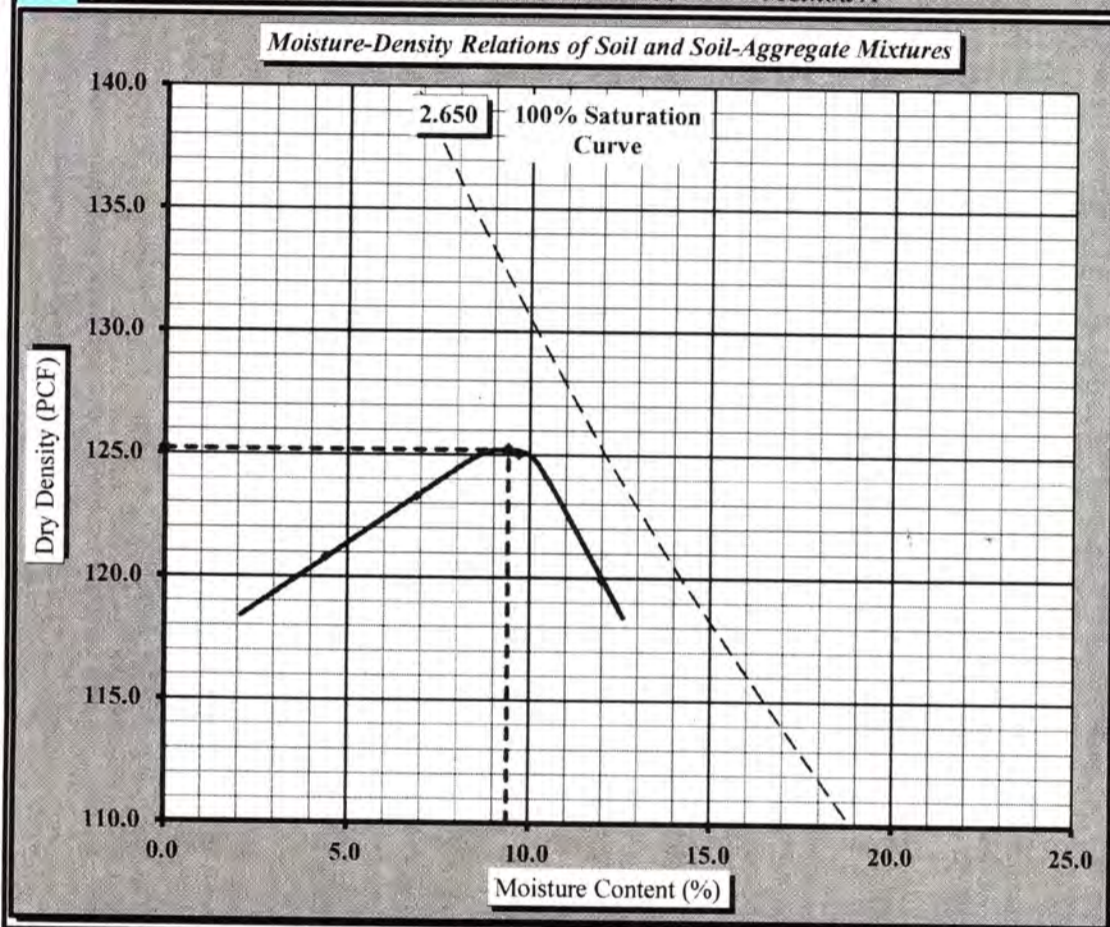


Quality Assurance

S&ME, Inc. Raleigh, 3201 Spring Forest Road, Raleigh, North Carolina 27616

| | | | |
|---------------------|--------------------|---------------|----------------|
| S&ME Project #: | 1305-15-082 | Report Date: | 8/25/15 |
| Project Name: | Duplin Co. Airport | Test Date(s): | 8/21 - 8/25/15 |
| Client Name: | | | |
| Client Address: | | | |
| Boring #: | B-9 | Sample #: | Bag |
| Location: | Site-Borehole | Sample Date: | 8/14/2015 |
| | | Offset: | N/A |
| | | Depth: | 1 - 5 ft. |
| Sample Description: | Brown Clayey SAND | | |

Maximum Dry Density 125.2 PCF. Optimum Moisture Content 9.4%
 ASTM D1557 -- Method A



| Soil Properties | |
|--------------------------|--------|
| Natural Moisture Content | 7.2% |
| Assumed Specific Gravity | 2.650 |
| Liquid Limit | ND |
| Plastic Limit | ND |
| Plastic Index | ND |
| % Passing | |
| 3/4" | 100.0% |
| 3/8" | 100.0% |
| #4 | 100.0% |
| #10 | 99.9% |
| #40 | 91.7% |
| #60 | 80.0% |
| #200 | 24.7% |
| Oversize Fraction | |
| Bulk Gravity | |
| % Moisture | |
| % Oversize | |
| MDD | |
| Opt. MC | |

Moisture-Density Curve Displayed: Fine Fraction Corrected for Oversize Fraction (ASTM D 4718)
 Sieve Size used to separate the Oversize Fraction: #4 Sieve 3/8 inch Sieve 3/4 inch Sieve
 Mechanical Rammer Manual Rammer Moist Preparation Dry Preparation

References / Comments / Deviations: ND=Not Determined.
 ASTM D 422: Particle Size Analysis of Soils
 ASTM D 2216: Laboratory Determination of Water (Moisture) Content of Soil and Rock by Mass
 ASTM D 1557: Laboratory Compaction Characteristics of Soil Using Modified Effort

Mal Krajan, ET
 Technical Responsibility

Signature

Laboratory Manager
 Position

8/27/2015
 Date

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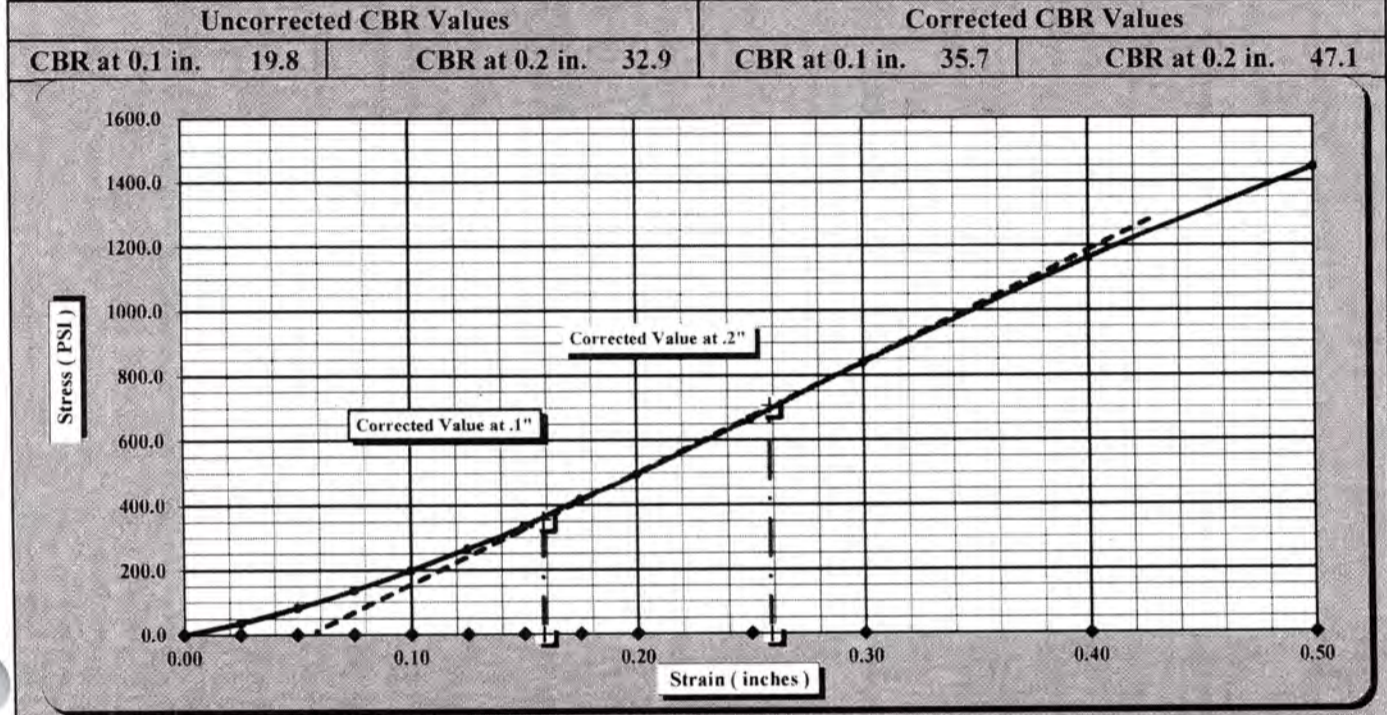
**CBR (California Bearing Ratio) of Laboratory
Compacted Soil**

ASTM D 1883



Quality Assurance

| | | | |
|---|--|---------------------|--------------------------------------|
| S&ME, Inc. Raleigh, 3201 Spring Forest Road, Raleigh, North Carolina 27616 | | | |
| Project #: | 1305-15-082 | Report Date: | 8/29/15 |
| Project Name: | Duplin Co. Airport | Test Date(s) | 8/21 - 8/29/15 |
| Client Name: | | | |
| Client Address: | | | |
| Boring #: | B-9 | Sample #: | Bag |
| | | Sample Date: | 8/14/15 |
| Location: | Borehole | Offset: | N/A |
| | | Depth (ft): | 1 - 5 ft. |
| Sample Description: Brown Clayey SAND | | | |
| <i>ASTM D1557 Method A</i> | Maximum Dry Density: | 125.2 PCF | Optimum Moisture Content: |
| | | | 9.4% |
| | <i>Compaction Test performed on grading complying with CBR spec.</i> | | % Retained on the 3/4" sieve: |
| | | | 0.0% |



CBR Sample Preparation:
The entire gradation was used and compacted in a 6" CBR mold in accordance with ASTM D1883, Section 7.1.1

| Before Soaking | | After Soaking | |
|--|-------|---|-------|
| Compactive Effort (Blows per Layer) | 40 | Final Dry Density (PCF) | 118.7 |
| Initial Dry Density (PCF) | 119.2 | Average Final Moisture Content | 10.4% |
| Moisture Content of the Compacted Specimen | 9.7% | Moisture Content (top 1" after soaking) | 10.8% |
| Percent Compaction | 95.2% | Percent Swell | -0.2% |
| Soak Time: | 96-hr | Surcharge Weight | 20.0 |
| Liquid Limit | ND | Surcharge Wt. per sq. Ft. | 101.9 |
| | | Plastic Index | ND |

Notes/Deviations/References: ND=Not Determined.
Test specimen was compacted to 95% at optimum moisture.

Mal Krajan, ET
Technical Responsibility

Signature

Laboratory Manager
Position

8/29/2015
Date

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Appendix D

AirPark Permit Application



DUPLIN COUNTY AIRPARK PERMIT APPLICATION

Applicant Contact Information

Name: _____

Mailing Address: _____

Phone No.: _____ Cell Phone No.: _____

Email Address: _____

Describe Proposed Use: _____

A site plan must accompany this application.

The site plan should show a scale (ex. 1" = 100') and include all existing and proposed site features as outlined on the Design Review Checklist (Appendix B of the Duplin County AirPark Development Ordinance).

Signature of Applicant

Date

Print Name and Title

Official Use Only - AirPark Review Committee

Site Plan Permit

Site Plan Approved

Site Plan Not Approved - Reason: _____

AirPark Review Committee Representative

Date

00865

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COUNTY OF DUPLIN

00363

BOARD OF COMMISSIONERS

Board of Commissioners

Jesse L. Dowe, III, Chair
Kennedy Thompson, Vice-Chair
Dexter Edwards
Doug Grady
Jessie H. Ladson



County Manager/Clerk to the Board

Davis H. Brinson

Assistant County Manager

George Futrelle

224 Seminary Street; Post Office Box 910
Kenansville, North Carolina 28349
Office (910) 296-2100 Fax (910) 296-2107

DUPLIN COUNTY POST DISASTER DEBRIS COLLECTION ORDINANCE

ARTICLE 1. In the event of a natural or man-made disaster that has been declared a State of Emergency by the Chairman of the Duplin County Board of County Commissioners, the County may exercise its authority to implement the measures set forth herein for the public health, safety and welfare of all citizens of Duplin County.

ARTICLE 2. The County Manager/Emergency Management Director shall have the authority and responsibility to protect the public health and safety of the citizens of Duplin County and, therefore, shall have the authority to remove debris which poses an immediate threat to life, public health and safety and/or causes significant damage to improved public and private property, and the economic recovery of the County.

ARTICLE 3. The County is hereby authorized to enter upon and remove debris from public and private roads, rights of ways, including private and gated communities for the purposes of emergency vehicle travel, storm water conveyance, protecting public health and safety, facilitating response and recovery operations and for any other purpose that the County Manager/Emergency Management Director determines is necessary to remove an immediate threat to life, public health and safety, and/or significantly damages to improved public and private property, and the economic recovery of the County.

ARTICLE 4. This Ordinance shall be immediately effective upon the execution of any State of Emergency by the Chairman of the Duplin County Board of Commissioners, including any of those currently in effect.

Adopted this 1st day of October, 2018.



Davis H. Brinson
Davis H. Brinson
Clerk to Board of Commissioners

Jesse L. Dowe, III
Jesse L. Dowe, III, Chairperson
Duplin County Board of Commissioners

00867

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DUPLIN COUNTY ORDINANCE
ADDRESSING AND ROAD NAMING
ENACTMENT

This ordinance establishes a uniform system for addressing, and road naming, and for the enforcement thereof.

Preamble

WHEREAS, in the opinion of the Duplin County Board of Commissioners, a uniform system for addressing and road naming is required to promote the health, safety, and general welfare of the citizens of Duplin County and

WHEREAS, the Duplin County Board of Commissioners are desirous that this approach reflect the county's emphasis upon minimizing problems of identification for emergency and other services, and

WHEREAS, all applicable requirements of the General Statutes of North Carolina have been met.

WHEREAS, the purpose behind this amendment is to amend the existing **Addressing and Road Naming Ordinance for Duplin County, North Carolina dated April 5, 1993;**

NOW THEREFORE, BE IT ORDAINED BY THE COUNTY COMMISSIONERS OF DUPLIN COUNTY North Carolina.

SECTION 10. Authority

The provisions of the ordinance are adopted under authority granted by NC Gen. Stat. § 153A-239.1.

SECTION 20. Purpose and Intent

The purpose and intent of this ordinance is to provide a uniform system of address for all structures (residential and business) throughout the County's jurisdiction in order to facilitate adequate public safety and decrease emergency response time. This amendment is necessary to facilitate the provision of adequate public safety and emergency services and to minimize the difficulty in locating properties.

SECTION 30. Jurisdiction

The jurisdiction of this ordinance includes the entire geographic area of Duplin County. The municipal areas within Duplin County are included in this ordinance as evidenced by a

resolution from each town requesting to be included in this ordinance pursuant to N.C. Gen. Stat. §160A, Article 20.

SECTION 40. Numbering System

The Duplin County E-911 Addressing Coordinator is authorized to assign or reassign street numbers on any road in Duplin County at anytime. Upon assigning a new number the E-911 Coordinator shall cause notice of its action to be given to the postmaster, the Board of Transportation and to any city within five (5) miles of the road. Road Numbers shall be assigned as follows:

- a. On the property –numbering map, the **NORTH/SOUTH** base line is hereby designated as NC 11 Hwy Beginning at the Pender County line and running north through Kenansville to NCSR 1004 and continuing north to the Wayne County line.
- b. The **EAST/WEST** base line is hereby designated as NC 24 Hwy beginning at the Sampson County line and running easterly through Kenansville to Onslow County line.
- c. Physical addresses shall be assigned to the location of structures in the standard interval 21.12 feet from the point of beginning (p.o.b) of the street/road. Even numbers must always be on the right side and the odd on the left side of the street/road from the p.o.b.

SECTION 50. Road Name Signs

Road name signs shall be assigned and installed for all roads, whether public or private, and at all intersections throughout the unincorporated areas of Duplin County. Road name sign maintenance within municipalities will remain the responsibility of the municipality.

SECTION 60. Definitions

For the purpose of this ordinance, the following terms shall be defined as specified below. Unless specifically defined, words or phrases used in this ordinance shall be interpreted to give them the meaning they have in common usage and to give this ordinance the most reasonable application.

1. **Addressable Structure:**

Any structure that has the capability to maintain an outgoing telephone line that could be used to dial "911" or any structure requiring the installation of a dedicated, permanent electrical meter.

2. **Base Line:**

Can be defined as those lines which divide the county into identifiable sectors and which follow prominent major thoroughfares. In each case, one base line runs EAST/WEST and the other one, NORTH/SOUTH. Base lines intersect at a reference point.

3. Driveway:

A private way, beginning at the property line of a lot abutting a public road, private road, easement or private right-of-way, giving access from that public road, private road, or private right-of-way leading to a building, use or structure on that lot and serves not more than two structures.

4. Frontage Unit:

A frontage unit is a standard interval in feet to assign consecutive structure numbers on a street or road. The standard frontage unit adopted for use throughout Duplin County is 21.12 feet.

5. Plat:

A map or plan for a parcel of land to be or has been subdivided.

6. Private Road:

Any road which is not maintained by the N.C. Department of Transportation and/or municipality through the use of public funds.

7. Reference Point:

The reference point for the Duplin County Addressing System is hereby designated at the Duplin County Courthouse which is situated near the intersection of NC 24 Hwy and NC 11 Hwy in Kenansville NC.

8. Road:

A public or private one-way or two-way road for ingress and /or egress. Such roads may be of various types including frontage roads, rear access roads, roads with cul-de-sacs, and dead-end roads. This definition includes secondary roads, but does not include driveways.

9. Road Address:

The Combination of numbers and road name assigned to a particular location of a structure by the Duplin County E-911 Addressing Department according to this ordinance, which uniquely identifies a particular location of a structure.

SECTION 70. Naming or Renaming County Road

ARTICLE 1. RENAMING OR NAMING BY E-911 COORDINATOR

1. **Renaming by E-911 Coordinator.** Road names may be changed by the E-911 Coordinator when the road name is a duplicate or another name within Duplin County and interferes with the accurate dispatch of emergency services. A public hearing shall be heard in front of the Board of County Commissioners pursuant to N.C. Gen. Stat. §153A-239.1. However, no road named by the Board of Transportation shall be renamed unless the Board of Transportation agrees.
2. **Naming a Private Road by E-911 Coordinator.** A public hearing shall be heard in front of the Board of County Commissioners pursuant to N.C. Gen. Stat. §153A-239.1 except as it shall relate to new subdivisions.
 - a. **New Subdivisions** – subdivisions created at or after the effective date of this Ordinance the E-911 Coordinator will review the proposed street names for duplication and for overall compliance with the street naming policy. The proposed name for each street shall be identified on the map to be recorded and approved by the E-911 Coordinator prior to recordation. The approved street names shall be included in the final plat submitted for recordation. All road names shall comply with this Ordinance and Duplin County's Subdivision Regulations Ordinance.

ARTICLE 2. RENAMING OR NAMING BY PROPERTY OWNER(S)

1. **Renaming Request by Property Owner(s).**
 - a. A Request for a road name change must include a completed petition signed by at least 50% plus one of the residents and/or property owners who are addressed off of the affected road.
 - b. Only one individual per residential household and/or property owner may sign said Petition.
 - c. A public hearing must be held pursuant to N.C. Gen. Stat. 153A-239.1. Costs associated with the public hearing shall be paid by the property owner prior to the public hearing notice being run.
 - d. The fee for the replacement of sign blades shall also be paid by the property owner at the time of Petition filing.
2. **Request to Name Unnamed Private Road by Property Owner(s).**
 - a. Request to name an unnamed private road must include a completed petition signed by the owner of the property on which the private road or lane is situated.
 - b. If there is more than one owner of the property on which the road resides, the petition must be signed by at least 50% plus one, of the property owners of the road. If a consensus among the property owners cannot be met, the

Addressing Coordinator shall assign the name recommended by the majority of the property owners.

- c. A public hearing must be held pursuant to N.C. Gen. Stat. 153A-239.1.
- d. A petition to name a private lane must include the fee for sign blades which shall be paid at the time of Petition filing. The cost of advertising public hearings which must be paid prior to the public hearing notice being run.
- e. Petitions to name private unnamed roads must be approved by the Postmaster prior to being returned to the County E-911 Addressing Coordinator. Copies of the new road name and residents and/or business will be sent to the Board of Transportation and any city within five (5) miles of the road. Notice will also be sent Fire Department and EMS Med Unit serving the affected area after a new name and/or number is assigned.

SECTION 80. ROAD NAME & NUMBER REQUIREMENTS

1. The name of the public or private road will be limited to thirteen (13) letters, not including the road ending.
2. The road name must comply with postal standards.
3. FEES:
 - a. Sign Blade Replacement Cost fee = \$25.00
 - b. Public Hearing Advertisement = \$100.00
4. The County Commissioners must approve all road name changes. If the County Commissioners do not approve the request, all but the cost of public hearing will be refunded.
5. Petitions by Property Owner(s) to change the name of a public or private road must be approved by Postmaster and Fire Department Chief, serving the affected area prior to being returned to the County E-911 Addressing Coordinator. If the Fire Chief cannot be contacted in a timely manner, the signature of the Fireman Association President for Duplin County may sign in their place.
6. The E-911 Addressing Coordinator will review requests to determine if: all procedures are met, that the proposed name does not duplicate an existing name and the petition meets all other requirements of this Ordinance.
7. The E-911 Addressing Coordinator will notify the petitioners of the total cost to change the name of the affected area and collect all funds prior to any further action.
8. Petition applications may be obtained from the E-911 Addressing Department.
9. Petitions for road name changes by property owner(s) shall be considered annually during the 1st quarter by County Commissioners. Petitions for naming unnamed roads shall be considered as needed.

SECTION 80. New Road Names

The Duplin County Communications Department is hereby authorized to prepare and present to the County Commissioners, recommendations for the naming of all unnamed roads, both public and private, within the unincorporated area of Duplin County and to propose new names to eliminate duplications and sound alike road names, and to present any and all petition received to change the name of existing road.

SECTION 90. Addressing

1. A private road name petition may be submitted if there are 3 or more addressable structures located on and accessed by the private road.
2. In order for a new address to be assigned to a lot without an addressable structure present, the lot must be cleared, accessible by a vehicle, and a have had a Perk Test approved by Duplin County Health Department. The four corners of the future structure must be clearly marked so that an E-911 Addressing Technician can positively identify the permanent location of the structure.
3. Mobile Home Parks and Subdivisions fall under their own County Ordinances enforced by the Duplin County Planning Department. All proposed lane names must be approved by the E-911 Addressing Coordinator before a finalization on the submitted plat may be approved by the Planning Board. No address may be assigned off of the finalized plat. All lanes must be accessible by a vehicle and lots properly marked off before addresses can be assigned.
4. When each addressable structure has been assigned its respective address, the County Communications Department, in cooperation with U.S. Postal Services, shall notify the owners, or occupants, agents of affected structures, by letter advising of their new address.

SECTION 100. Duty of Property Owner, Agent, or Occupant to Display Address Numbers

1. The official address number must be displayed on the front of the addressable structure or at the entrance to a structure which is most clearly visible from the street or road during both day and night.
2. If a structure is more than 100 feet from any road, the address number shall be displayed both on the structure and at the end of the driveway or easement nearest the road which provides access to the building.
3. Numeral indicating the address number of a residential structure shall be at least four (4) inches in height and shall be posted and maintained so as to be legible from the road.
4. Numerals indicating the address number of a non-residential structure shall be at least six (6) inches in height and shall be placed on the front of the structure facing the road and on the end of the building nearest the road.

5. Numerals must be of contrasting color to the background.
6. Mobile home lots shall have sequential address numbers throughout the park. Each lot will have a separate address number assigned. No unit designator shall be allowed in the address of the mobile homes. The individual address number of each lot must be clearly displayed on the lot by being attached to the mobile home consistent with paragraph (1) above. The lot number should be clearly displayed on the electrical service box.
7. It is the responsibility of the individual resident to post the correct address for a private residence.
8. It is the responsibility of the owner of the mobile home park to post the correct address and lot number on each individual unit within the mobile home park.
9. The address shall be placed on existing buildings within thirty (30) days from the date of the notification letter.

SECTION 110. New Addresses Assignment

1. The owner, occupant or person in charge of any house or building in need of an address in the unincorporated area of Duplin County shall apply through the County's E-911 Addressing Department.
2. No building inspection permit shall be issued for any principal building until the owner or occupant has procured the official address of the premises from the E-911 Coordinator.
3. No Certificate of Occupancy shall be issued until an address has been displayed in accordance with this Ordinance.
4. No Certificate of Completion shall be issued until address numbers are properly displayed in accordance with this Ordinance.

SECTION 120. Ordinance Administrator

1. The E-911 Addressing Coordinator is hereby designated Administrator of this Ordinance and shall have authority to verify, modify, or assign addresses and to enforce the requirements of this ordinance.
2. The Ordinance Administrator shall assign and maintain a record of all addresses for Duplin County.
3. The Ordinance Administrator shall maintain a database of existing road names, such that duplication and sound-alike road names are neither assigned nor approved.

SECTION 130. Amendments

Petitions for amendment of this ordinance may be filed with the E-911 Addressing Coordinator.

SECTION 140. Variances

The County Commissioners may approve variances and exceptions from the requirements of this Ordinance. In order to qualify for a Variance the Commissioners must determine all of the following:

1. Special conditions and circumstances exist which are peculiar to the road naming or addressing involved and which are not applicable to other roads, or addresses;
2. The literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other citizens;
3. Special conditions and circumstances do not result from the actions of the applicant; and
4. Granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other citizens.

SECTION 160. Enforcement

After the effective date of this Ordinance, any person, firm, or agent thereof that intentionally violates this Ordinance shall be guilty of a misdemeanor, for the conviction of which, the maximum penalty by law may be imposed. Each day's continuing violation is a separate and distinct offense.

SECTION 190. Conflict with other Provisions

Insofar as the provision of this Ordinance are inconsistent with the provisions of any State or Federal laws then the State or Federal law shall control.

EFFECTIVE DATE

This Ordinance shall become effective and be in full force from and after the 1st day of April, 2019. Adopted by the Duplin County Board of Communications this 18th day of MARCH, 2019.

K.T.Z.

Kennedy Thompson
Chairman



ATTEST:

Davis H. Brinson

Davis H. Brinson
Clerk to the Board

COUNTY OF DUPLIN

AN ORDINANCE DECLARING A ROAD CLOSURE FOR A COMMUNITY REUNION

WHEREAS, the County Commissioners of Duplin County acknowledge a long tradition of a Community Reunion organized by Jacquelyn Fennell located on Wellstown Road (State Road No. 1146) the Saturday before Labor Day; and

WHEREAS, the County Commissioners of Duplin County acknowledge the benefit to the Community of holding the annual Community Reunion; and

WHEREAS, the County Commissioners of Duplin County acknowledge that Wellstown Road in Rose Hill will need to be blocked off during said reunion and it has never adversely affected local residential or commercial traffic by blocking off the road during this reunion; and

WHEREAS, as this Community reunion is an annual event, Ms. Fennell requests that this Ordinance remain in effect until or unless otherwise repealed;

NOW THEREFORE BE IT ORDAINED by the County Commissioners of Duplin County pursuant to the authority granted by G.S. 20-169 that they do hereby declare a temporary road closure during the day and times set forth below on the following described portion of a State Highway System route:

- Date: Saturday, August 31, 2019 and every Saturday immediately preceding Labor Day thereafter
- Times: 12:00 p.m. to 8:00 p.m.
- Route Description: State Road 1146, Wellstown Road, Rose Hill

This ordinance to become effective when signs are erected giving notice of the limits and times of the event, and implementation of adequate traffic control to protect participants and to guide vehicles around the event route.

Adopted this 15 day of July, 2019.

K. J. Thompson
Kennedy Thompson, Chairman



Attest:
Davis H. Brinson
Davis H. Brinson, Clerk

87300

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2019 Airport T-Hangar/Box Hangar Capital Project Ordinance:

BE IT RESOLVED by the Governing Board of the County of Duplin, North Carolina, that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance is hereby adopted:

Section 1. The project authorized is the site development, construction and equipping of six "T"-hangar units and two 60'x60' box hangar units at the Duplin County Airport.

Section 2. The Duplin County Airport Commission, and the Duplin County Airport Director, in their oversight of the Airport Capital Projects, are hereby directed to proceed with the project identified in Section 1 of this Ordinance within the terms of the related documents, and the budget contained within.

Section 3. The following amounts are appropriated for the project:

| | |
|---------------------------------------|-----------------|
| Engineering Design/Bid Services | \$ 94,147.00 |
| Construction Admin/Project Inspection | \$ 148,878.00 |
| Hangar Construction Cost-As Bid | \$ 1,771,415.00 |
| Contingency | \$ 111,130.00 |
| Total | \$2,125,570.00 |

Section 4. The following revenues are anticipated to be available to complete these projects:

| | |
|----------------------------------|----------------|
| Proceeds from USDA REDLG | \$ 500,000.00 |
| State Grant Funds | \$1,075,570.00 |
| Federal NPE Grant Funds | \$ 450,000.00 |
| Airport Grant Match Contribution | \$ 100,000.00 |
| Total | \$2,125,570.00 |

Section 5. The Finance Officer is hereby directed to maintain within the FY 2019/2020 Capital Project Fund 7544 sufficient detailed accounting records to satisfy the requirements of all federal/state regulations.

Section 6. Copies of this Capital Project Ordinance shall be furnished to the Chairman of the Duplin County Airport Commission and to the Duplin County Airport Director for direction in carrying out this project.

87000 Adopted this the 21 day of October, 2019

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KJZ

Kennedy Thompson, Chairman

Duplin County Board of Commissioners

ATTESTED:

David H. Gannon

Clerk to the Governing Board

THE SOLID WASTE MANAGEMENT ORDINANCE
FOR
DUPLIN COUNTY, NORTH CAROLINA

February 1, 2021

ENACTMENT

This is an ordinance establishing regulations for the storage, collection, recycling, transportation and disposal of solid waste within Duplin County, North Carolina and providing for the administration and enforcement thereof, as required by state law.

PREAMBLE

WHEREAS, in the opinion of the Duplin County Board of Commissioners to protect the health, safety, and general welfare of the residents of Duplin County it is necessary and advisable to regulate the storage, collection, transportation, recycling, transfer and disposal of solid waste, and

WHEREAS, the Duplin County Board of Commissioners and administration have developed this ordinance with due consideration, and

WHEREAS, the Duplin County Board of Commissioners has developed and adopted this ordinance to replace and supersede the previous Solid Waste Management Ordinance adopted August 31, 1994, along with the revision thereto adopted July 1, 1998; and

WHEREAS, all applicable requirements of the General Statutes of North Carolina have been met.

NOW, THEREFORE BE IT ORDAINED BY THE COUNTY COMMISSIONERS OF THE COUNTY OF DUPLIN AS FOLLOWS:

ARTICLE I – AUTHORITY

The provisions of this ordinance are adopted under authority granted by North Carolina General Statutes §§ 153A-121, -132.1, -132.2, -136, -140, -274 through -278, and -291 through -294, 130A, Article 9, and 143-215.112, and 15A NCAC 02D.1901 through 1907.

ARTICLE II – APPLICABILITY

This ordinance shall govern the storage, collection, recycling, transportation, transfer and disposal of solid waste within the unincorporated area of Duplin County and to incorporated municipalities by agreement with the County. It shall be unlawful for any person to dispose of solid waste in a manner inconsistent with this ordinance.

ARTICLE III – DEFINITIONS

For the purposes of this ordinance, the following terms shall be defined as specified below. Unless specifically defined, words or phrases used in this ordinance shall be interpreted to give them the meaning they have in common usage and to give this ordinance the most reasonable application.

Aluminum Can: A cylindrical receptacle typically used to hold beverages.

Banned Materials: Items that are illegal or not allowed. Items that are unacceptable by law.

Bulky Waste: Large items of solid waste such as household appliances, furniture, mattress, bedding, automobiles, large machinery parts and other waste whose large size precludes or complicates their handling by normal solid waste collection, processing or disposal methods.

Collection: The act of removing solid wastes from a point of generation to a central storage point or to a disposal site or from a central point to a disposal site.

Collection Sites: Collection sites are located within the county for residents and businesses not located within a municipality to dispose of household trash, household furniture, metal and recyclables only. The sites are not for use by commercial collection services.

Commercial Solid Waste: Solid waste generated by stores, offices, restaurants, warehouses and other non-manufacturing activities, excluding residential and industrial waste.

Composting: The controlled decomposition of organic waste by naturally occurring bacteria, yielding a stable, humus-like, pathogen-free final product resulting in volume reduction of 30%-75%.

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Construction Debris: Any discarded material such as sheetrock, plaster, insulation, Styrofoam, paper, plastics, vinyl and aluminum siding, or other substances accumulated as a result of construction of new structures or buildings, remodeling, repairs or additions to existing structure or buildings, or demolition of existing structures or buildings. Construction debris does not include concrete, brick, wood, or asphalt.

County Solid Waste Facilities: Collective term meaning all county owned and operated disposal facilities including but not limited to the transfer station, tire disposal area, (LCID) yard waste disposal area, metal recycling area, electronics recycling, bricks-blocks-cement area, solid waste and recycling collection sites, and recycling facilities.

Disposal: The discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land so that such solid waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any water, including groundwater.

Garbage: All putrescible wastes, including food waste, food containers and vegetable matter, but excluding sewage and human waste.

Hazardous Wastes: Solid waste, or a combination of solid wastes, that because of its quantity, concentration or physical, chemical or infectious characteristics may: (1) Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or (2) Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

Industrial Solid Waste: Solid waste materials generated by industrial from processing plants, factories or manufacturing operations--including but not limited to sawdust, shavings, feathers, excelsior, cartons, boxes, metal, glass, paper, wood, textiles, chemicals, or plastics.

Industry: A place of business employing more than ten individuals and engaged in the manufacture or assembly of a product or products.

Infectious Waste: Solid waste capable of producing an infectious disease. The types of waste designated as infectious are: microbiological waste, pathological waste, blood products and sharps.

Institutional Solid Waste: Solid waste generated by educational, health care, correctional and other institutional facilities.

Land Cleaning Debris: Stumps, logs, limbs, etc. or other items resulting from land cleaning operations.

LCID (Land Clearing and Insert Debris) Area: An approved area that is limited to receiving stumps, limbs, leaves or uncontaminated earth.

Licensed Solid Waste Hauler: Any individual, corporation, company, association, partnership, unit of government or other legal entity permitted and approved as a solid waste collector by the Duplin County Solid Waste Department.

Litter: Any discarded, used, unconsumed, not-containerized substance or solid waste, including but not limited to, any garbage, household trash, business trash, yard debris, construction debris, furniture and any other junk not disposed of in a manner approved within this ordinance.

Littering: To scatter, cast, throw, place, sweep, dump or deposit anywhere within the county any trash (of any kind) in a manner that it may be carried or deposited by the elements upon public or private property, streets, roads, sidewalks, allies, sewers, parks, waters or other public places.

Manufacturing: The making of goods by manual labor or machinery on a large scale.

Medical Waste: Solid waste that is generated in the diagnosis, treatment, or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals, but does not include any hazardous waste, radioactive waste, household waste or those substances excluded from the definition of solid waste in this ordinance.

Municipal Solid Waste: Any solid waste resulting from the operation of residential, commercial, industrial governmental or institutional establishments that would normally be collected, processed, and disposed of through public or private solid waste management service. Municipal solid waste does not include hazardous waste, sludge, or mining or agricultural wastes.

Nuisance: Any action or conditions that is dangerous to prejudicial to public health, welfare or safety.

Pathological Wastes: Includes human tissues, organs, body parts, secretions and excretions, blood and body fluids that are removed during surgery and autopsies; and the carcasses and body parts of all animals that

were exposed to pathogens in research, were used in the production of biological or in the in vivo testing of pharmaceuticals, or that died of known or suspected infectious disease.

Person: An individual, corporation, company, association, partnership, unit of local government, state agency, federal agency, or other legal entity.

Public View: View from a passenger vehicle driven along any public road maintained by the state or local municipality for public travel or along any private road that provides access to residences or commercial establishments.

Putrescible: Solid Waste capable of being decomposed by microorganisms with sufficient rapidity as to cause nuisances from odors and gases, such as kitchen wastes, offal and carcasses.

Radioactive Waste: Any waste which emits ionizing radiation spontaneously.

Recyclable Corrugated Cardboard: Clean, dry, unwaxed paper boxes and thick layered paper, formed with groves and ridges, used in shipping or in which goods are received.

Recyclable Materials: Materials identified by appropriate governmental authority that is cable of being recycled at a recycling facility.

Recycling: The process by which solid waste or recovered materials are collected, separated or processed for reuse.

Refuse: All non-putrescible waste.

Residential: Living accommodations.

Roofing Materials: Shingles, roof-felt, tar paper and other petroleum products used in the construction or repair of roofs.

Rubbish: Refuse exclusive of garbage and ashes including but not limited to paper, rags, cartons, and boxes.

Sanitary Area: A facility for disposal of solid waste on land in a sanitary manner in accordance with the rules concerning sanitary landfills adopted pursuant to Chapter 130A, Article 9 of the North Carolina General Statutes..

Scavenge: Any unauthorized salvaging of discarded items.

Scrap Metals: Discarded iron, steel, tin, aluminum, and other ferrous and non-ferrous metals.

Sharps: Needles, syringes with attached needles, capillary tubes, slides and cover slips, and scalpel blades.

Sludge: Any solid, semisolid or liquid waste generated from a municipal, commercial, institutional, or industrial waste water treatment plant, water supply treatment plant, or air pollution control facility or any other such waste having similar characteristics and effect.

Solid Waste: Any hazardous or nonhazardous garbage, refuse, and other material that is either discarded or is being accumulated, stored or treated prior to being discarded, or has served its original intended use and is generally discarded, including solid, liquid, semisolid or contained gaseous material resulting from industrial, institutional, commercial and agricultural operations, and from community activities. The term does not include: fowl and animal fecal waste; or sludge, oil or other liquid petroleum products or radioactive material.

Solid Waste and Recycling Container Site: A facility owned and operated by the County consisting of containers and/or compactors and other appurtenances for the collection of solid waste and recyclables.

Solid Waste Collector: Any person who collects, transports, or disposes of solid waste for compensation.

Source Separation: The separation of recyclable materials from solid waste at the point of generation.

Storage: The containment of solid waste, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal.

Tire: A continuous solid or pneumatic rubber covering encircling the wheel of a motor vehicle.

Transfer Station: A facility owned and operated by the County at which solid waste is concentrated for transport to a processing facility or disposal site.

Waterway: A body of water including streams, creeks, rivers, lakes and ponds.

White Goods: Inoperative discarded refrigerators, ranges, water heaters, freezers, and other similar domestic and large commercial appliances.

Yard Waste: Solid Waste consisting solely of vegetative matter resulting from landscaping maintenance.

ARTICLE IV – SOLID WASTE DISPOSAL

General

As a public service, the Duplin County Board of Commissioners has authorized the operation of a transfer station, land clearing and insert debris (LCID) area, tire disposal area, metal recycling area, electronic recycling area, bricks-blocks-concrete recycling area, solid waste and recycling container sites and a recycling handling facility to serve the citizens of Duplin County. These facilities shall be utilized in accordance with the terms and conditions of this ordinance and in compliance with applicable state and federal regulations.

Authority of Commissioners

It shall be unlawful for any person to throw, dump, or cause to be dumped any garbage, refuse, rubbish, litter, junk, appliances, equipment, cans, bottles, paper, lumber, building materials, trees, tree limbs, brush, or other forms of solid waste anywhere in the unincorporated area of the County, except as may be permitted by County regulations, without the expressed written authorization of the Board of Commissioners.

Solid Waste Disposal Methods

No person shall dispose of any solid waste in Duplin County except by one of the following methods. However, this section shall not be construed so as to prevent any person from properly disposing of items on his own property, as may be permitted by this ordinance state and federal regulations.

- A. Approved sanitary landfill
- B. Approved demolition area
- C. Solid waste and recycling container site
- D. Approved solid waste incinerator
- E. Approved recycling or reclaiming operations
- F. Approved private solid waste or recycling container
- G. Approved yard waste disposal area
- H. Approved transfer station

Open Burning

It shall be unlawful to burn or set fire to any refuse, garbage, rubbish, tires, asphalt, shingles or other petroleum products for the purpose of disposal within the unincorporated area of Duplin County. Each tire or container of petroleum products shall constitute a separate violation.

Operational Policies

The following operational policies, unless otherwise stated, shall be applicable to the transfer station, land clearing insert debris (LCID) area, tire disposal area, area, metal recycling area, electronic recycling area, solid waste and recycling container sites, recycling handling facilities and any other such facilities as the County Commissioners may authorize.

- A. The solid waste facilities are operated as authorized by the County Commissioners under the supervision of the Solid Waste Director.
- B. Solid waste facilities shall be open on such schedule as may be established by the Board of Commissioners. Facilities will be open to the public only when a County employee is on duty and the gate is open.
- C. Open burning of solid waste on site is prohibited.
- D. Vehicles shall observe the posted speed limit of 10 m.p.h. and all other directional signs.
- E. Children younger than twelve (12) years of age shall not be allowed outside of vehicles.
- F. Solid waste facilities are intended for the disposal of solid waste generated within Duplin County only. In addition, solid waste and recycling container sites are for use only by households and businesses located within the unincorporated area of the County or by incorporated municipality as may be authorized by the Board of Commissioners.
- G. Salvaging, scavenging and loitering is prohibited unless the Board of Commissioners authorize such operations for the benefit of the County.
- H. Solid waste shall be observed and inspected for prohibited materials. Persons delivering solid waste to county landfill facilities shall upon request define full nature, content, and source of all materials delivered. All solid waste delivered to the County Solid Waste Facilities must be separated into various categories and disposed of in the appropriate area. Vehicles arriving with mixed loads will be instructed on the proper disposal area(s). Solid waste will be accepted only in the appropriate disposal area. Persons disposing of unacceptable materials may be required to remove such materials at the discretion of the Solid Waste Director or be charged a "Banned materials" fee. All costs incurred by the County in the removal of prohibited material shall be

recoverable from the person disposing of such material and from the persons generating such material.

- I. Solid Waste shall be disposed of at these facilities in the manner and according to procedures established by the Solid Waste Director or the director's representative. It shall be the responsibility of persons generating solid waste to insure that such solid waste is disposed of in accordance with the requirements of this ordinance.

Transfer Station

The facility shall serve as the County's central collection point where solid waste is concentrated and compacted prior to transport to a processing facility or disposal site. Solid waste shall be disposed of at the transfer station in accordance with this ordinance and as authorized by the Solid Waste Director, state and federal authorities.

Disposal Restrictions at Transfer Station

The following items shall not be acceptable for disposal in the transfer station.

- A. Liquid wastes
- B. Hazardous wastes
- C. Radioactive wastes
- D. Containers containing unacceptable or unidentifiable wastes
- E. Animal and fowl fecal matter
- F. Animals and fowl, dead or alive
- G. Land Clearing Debris/Yard waste
- H. Scrap metals
- I. White goods
- J. Wooden pallets
- K. Large automobile or machinery parts or other items that require specialized handling or processing
- L. Aluminum cans
- M. Recyclable corrugated cardboard
- N. Tires
- O. Motor oil/oil filters
- P. Lead-acid batteries
- P. Antifreeze
- Q. Pesticides, herbicides, or poisons of any nature
- R. Hot ashes
- S. Explosives of any kind
- T. Asbestos waste
- U. Yard waste
- V. Sludge
- W. Infectious waste
- X. Untreated regulated medical waste
- Y. Sharps, unless contained in a rigid, leak proof, puncture resistant container
- Z. Electronics
- AA. Bricks/concrete/asphalt
- BB. Liquid Paint
- CC. Fluorescent bulbs
- DD. Any other materials which may be determined to be hazardous by the Solid Waste Director, state, or federal authorities

Yard Waste Disposal Areas

The yard waste disposal areas shall serve as a primary disposal area for yard waste. Yard waste shall be disposed of in accordance with this ordinance and as authorized by the Solid Waste Director, state and federal authorities.

Disposal Restrictions for Yard Waste

The following items shall not be acceptable for disposal in the yard waste disposal area.

- A. Garbage
- B. Roofing materials
- C. Construction debris
- D. Liquid wastes
- E. Hazardous wastes
- F. Radioactive wastes
- G. Containers containing unacceptable or unidentifiable wastes
- H. Metal
- I. Animal and fowl fecal matter
- J. Animals and fowl, dead or alive
- K. scrap metals and white goods

- L. Large automobile or machinery parts or other items that require specialized handling or processing
- M. Electronics
- N. Bricks/Concrete/Asphalt
- O. Paint
- P. Florescent bulbs
- Q. Wooden pallets
- R. White goods
- S. Aluminum cans
- T. Recyclable corrugated cardboard
- U. Tires
- V. Motor oil/oil filters
- W. Pesticides, herbicides, or poisons of any nature
- X. Lead-acid batteries
- Y. Antifreeze
- Z. Hot ashes
- AA. Explosives of any kind
- BB. Asbestos waste
- CC. Infectious waste
- DD. Untreated regulated medical waste
- EE. Sharps
- FF. Any other materials which may be determined to be hazardous by the Solid Waste Director, state, or federal authorities

Solid Waste and Recycling Collection Sites

Collection sites for solid wastes and recyclable materials shall be provided throughout the County for use by residences and businesses within the unincorporated area of the County only; or by others as may be authorized by the Board of Commissioners.

Disposal Restrictions at Collection Sites

The solid waste and recycling collection sites are not intended for collection of large, bulky items or materials requiring specialized handling. The following items shall not be acceptable for deposit in the containers:

- A. Liquids. Used motor oil and transmission fluid may be accepted in designated containers
- B. Lead-acid batteries except in designated area
- C. Construction debris
- D. Demolition debris
- E. Any waste collected for a fee, charge, tax, or other compensation
- F. Furniture, white goods, or scrap metals except in designated containers
- G. Roofing materials
- H. Commercial, industrial or institutional waste
- I. Aluminum cans except in designated containers
- J. Recyclable corrugated cardboard
- K. Sharps unless contained in a rigid, leak-proof, puncture resistant container
- L. Yard waste
- M. Any item not acceptable at the County Transfer Station
- N. Electronics, except in designated containers

Deposit of Materials in Containers

All solid waste shall be placed inside the appropriate container. Materials deposited in containers such as cardboard boxes and other packaging materials shall be reduced to its smallest volume by bending, breaking and compressing the material before placing it into the containers.

Recyclables

Containers shall be designated for the deposit of acceptable recyclable materials. Recyclable materials shall be placed inside the appropriate container.

Use of Collection Sites

The use of the collection sites will be limited to only those residences and businesses that have paid the current annual availability and disposal fees.

Industrial Wastes

Industrial wastes shall not be deposited at the collection sites. Industrial wastes shall be disposed of at the County Transfer Station or other approved disposal areas.

Contract Collections

No solid waste which has been collected by a contract hauler for a fee, charge, tax, or other compensation shall be accepted at the container site. Such wastes shall be disposed of at the County Transfer Station or other approved solid waste facilities.

Tire Disposal Area—Transfer Station Facility (Landfill) Only

The tire disposal area shall serve as a collection point for discarded automobile tires, truck tires, tractor tires, etc. All tires must be stacked neatly in the collection trailer as to take advantage of the maximum storage capacity of the trailer.

ARTICLE V – FEES

General

The cost of providing solid waste services in the County shall be recovered by disposal fees, availability fees and industrial fees. These fees are intended to recoup the cost of operating solid waste collection, recycling, transfer and disposal facilities. Fees will be in accordance with the current schedule of fees adopted by the Board of Commissioners. As provided by state law, fees can only be utilized for the specific purpose for which they were collected.

Disposal Fees

All solid wastes will be weighed and a disposal fee will be charged based on weight to cover the cost of disposal in the designated area. The amount of the disposal fee will be in accordance with the current schedule of fees adopted by the Board of Commissioners.

Payment of Disposal Fee

Unless prior arrangements have been made with the Solid Waste Director for periodic billing, all haulers must pay applicable disposal fees at the time the solid waste is delivered. Regular billings will be accomplished in a manner as authorized by the Board of Commissioners. Interest in the amount of one percent (1%) per month will be added to unpaid balances. Additional credit will be withheld on delinquent accounts as directed by the board of Commissioners. A fee of twenty-five dollars (\$25.00) will be charged for returned checks.

Recyclable Materials

There will be no fee charged for acceptable recyclable materials that have been properly separated from the municipal solid waste stream by category. The Solid Waste Director or their authorized personnel shall determine the acceptability of recyclable materials.

Tire Disposal Fees

Except as set forth in N.C. Gen. Stat. § 130A-309.58, there will be no fees charged for the disposal of scrap tires.

Annual Household and Business Fees

Annual availability fees and annual disposal fees will be charged to each household and business as directed below.

Annual Availability Fees

An annual availability fee in accordance with the current schedule of fees adopted by the Board of Commissioners shall be charged to each household and business in Duplin County which is located outside the incorporated area of any municipality. Except that households and businesses within incorporated municipalities may be billed upon prior arrangement with the Board of Commissioners.

Purpose of Annual Availability Fee

As authorized by N.C. Gen. Stat. §§ 153A-292 and 293, the annual availability fee is intended to recover the costs of providing and operating the Duplin County solid waste management program.

Exemption to the Annual Availability Fee

There will be no exemption to the annual household and business availability fee except as approved by the Duplin County Board of Commissioners. If the household or business has been vacant for the twelve (12) months preceding January 1 of any year, the annual availability fee may be waived.

Annual Household and Business Disposal Fee

An annual disposal fee in accordance with the current schedule of fees adopted by the Board of Commissioners will be charged to each household and business in Duplin County which is located outside the incorporated area of any municipality and does not have municipal or private garbage collection. Except that households and businesses within incorporated municipalities may be billed upon prior arrangement with the Board of Commissioners.

Purpose of Annual Household and Business Disposal Fee

The annual household and business disposal fee is intended to recover the costs of disposing of solid waste from households and businesses utilizing the County provided Solid Waste and Recycling Collection Sites.

Exemption of Annual Household and Business Disposal Fees

If the owner of the real estate subject to the annual household and business disposal fee produces an official statement from a licensed solid waste hauler certifying that paid solid waste collection service was provided for the period billed then the County Tax Administrator shall issue a release or exemption from the annual disposal fee. The Tax administrator shall maintain records of the number of exemptions due to private collections. The annual disposal fee shall be waived if the household or business has been vacant for the twelve (12) months preceding January 1 of any year.

Billing of Annual Household and Business Fees

The bill for the annual availability and disposal fee shall be directed to and paid by the owner of the residence or business. In the case of apartment units or rental mobile home units the bill shall be directed to and paid by the owner. Fees shall be billed based on the real property tax listings as of January 1 of each year. The Tax Administrator shall prepare and send bills on or about July 1 of each year.

Payment of Annual Household and Business Fees

As authorized by N.C. Gen. Stat. §§ 105-360 and G. S. 153A-293 solid waste fees shall be billed with the annual ad valorem property tax bill. Fees are payable in the same manner as property taxes and become due upon receipt and past due on January 6 of the following year. Solid waste fees may be collected by the Tax Collector in any manner by which delinquent personal or real property taxes can be collected, including garnishment, attachment and foreclosure. Solid waste fees are a lien on the real property described on the bill that includes the fee. Delinquent solid waste fees become a lien upon publication of the legal notice.

Industrial Fees

In accordance with County Policy, the County will provide solid waste transportation service to the County Transfer Facility or disposal site for industrial customers. The fee will be in accordance with the current schedule of fees adopted by the Board of Commissioners. This fee shall be in addition to applicable disposal fees.

ARTICLE VI – SOLID WASTE STORAGEGeneral

No owner, occupant, tenant, or lessee of any property may deposit, store, or permit to accumulate any solid wastes upon his property that is not stored or disposed of in a manner consistent with the requirements of this ordinance.

Storage of Solid Waste

Refuse shall be stored in a manner that will not provide harborage to rodents and vermin and which will not create a fire hazard, health hazard, or public nuisance.

Storage Containers

Garbage shall be stored only in a container which is durable and easily cleaned. Containers shall be kept clean so that no odor or other nuisance condition exists.

Removal of Solid Waste

The owner, occupant, tenant or lessee of any property shall remove or cause to be removed all solid wastes from his property at such intervals so as not to create a fire hazard, health hazard or public nuisance. It shall be unlawful for any person to allow garbage or refuse to accumulate or remain on any premises for longer than is reasonably necessary to remove and properly dispose of same as required herein.

Abandoned Refrigerator Storage

No person shall leave outside of any building or dwelling in any place accessible to children, any abandoned or unattended refrigerator, freezer, ice box or other airtight receptacle without first removing the door or locking the door closed.

ARTICLE VII – SOLID WASTE COLLECTION AND TRANSPORTATIONGeneral

Solid waste within Duplin County shall be collected and transported according to the following requirements of this ordinance and any applicable state law.

- A. The entry into the County Solid Waste Facilities of any vehicle signifies the consent of the owner and driver of the vehicle for its contents to be searched so that the County can insure that no prohibited substance is brought into the area.
- B. All vehicles used to collect, transport, and deposit waste at the County Solid Waste Facilities may be required to supply information giving the name and address of the owner of the vehicle, the source and type of waste to be deposited, and the weight and size of the vehicle.

- C. All vehicles and containers used for the collection of solid waste or refuse collection shall be leak proof and covered with a canvas or other durable material to assure that there is no spillage of wastes. If spillage should occur, the material shall be picked up immediately by the driver of the vehicle from which it spilled and returned to the vehicle or container and the area properly cleaned. Vehicles and containers in which refuse or solid waste is hauled shall be cleaned to prevent odor or other nuisance condition.
- D. All vehicles which are not self-unloading shall arrive at the County Solid Waste Facilities no later than one-half (1/2) hour before the close of the normal operating day. Vehicles which are not self-unloading will be subject to control by the Solid Waste Director so as to minimize vehicle congestion and provide easy access to the fill site for self-unloading vehicles.
- E. All vehicles, both private and commercial, used for the transportation of solid waste or other items to be disposed of at County Solid Waste Facilities shall be covered or loads secured by some effective means to prevent the spillage or loss of waste while being transported. "Effective means" shall mean durable, heavy plastic or canvas tied down or secured to cover the entire load, front to rear and side to side. Loads consisting of building rubbish, limbs, or bulky items shall be secured with rope or tie downs to assure spillage does not occur.
- F. No vehicle shall be allowed to deposit waste at the County Solid Waste Facilities unless the waste is enclosed in the vehicle or secured by methods stated in this section. The Solid Waste Director or their representative shall determine the adequacy of the covering and their decision shall be final.
- G. It shall be the responsibility of the driver of the vehicle to make arrangements with the Solid Waste Director concerning delivery of items requiring special handling or immediate covering.

ARTICLE VIII – ENFORCEMENT

Enforcement Officer

The rules and regulations prescribed in this Ordinance shall be enforced by the department head or other authorized personnel of the Duplin County Health Department, Solid Waste Department, and Sheriff's Office and any other appropriate agencies having duties and responsibilities in the areas of health, solid waste disposal and law enforcement. These agencies are hereby empowered to issue citations upon a violation of this ordinance.

ARTICLE IX – PENALTIES

General

The County may exercise any of the following remedies as authorized by North Carolina General Statutes.

Refusal of Use of Solid Waste Facilities

The Solid Waste Director may deny use of County collection, disposal, transfer and recycling facilities in the following conditions:

- A. The vehicle is hauling prohibited wastes.
- B. The driver refuses to pay the appropriate fee as established by this ordinance.
- C. There is an unpaid balance of fees due to the County.
- D. The vehicle is hauling mixed solid waste which requires various types of handling or disposal to accommodate a single load.
- E. The vehicle or containers are not properly covered or load secured.
- F. The licensed solid waste hauler violates other provisions of this ordinance.

Restitution for Damages

The County may seek restitution for damages or extra expenses including the cost of cleanup, resulting from any violation of this ordinance. The minimum charge for cleanup will be forty-five dollars (\$45.00). Actual charges will be determined by the Solid Waste Director or authorized personnel.

Fines

The minimum civil penalties for violation of this ordinance shall be as follows:

- A. Scavenging—Unauthorized salvaging of discarded items.
First offense \$50
Second offense \$75
Subsequent offenses \$100
- B. Illegal Dumping—Illegal dumping including dumping prohibited materials or quantities of materials at County Solid Waste Facilities, or dumping in unapproved areas.
First offense \$150
Second offense \$300
Subsequent offenses \$500

- C. Dumping in Waterways—Illegal dumping in waterways including, streams, creeks, rivers, lakes or ponds.
First offense \$300
Second offense \$400
Subsequent offenses \$500
- D. Illegal Burning—Illegal burning of refuse, garbage, rubbish, tires, shingles, asphalt or other petroleum product for the purpose of disposal.
First offense \$250
Second offense \$500
Subsequent offenses \$500
- E. Improper Transportation—Improper transportation, improper vehicles or improper license by contract haulers of solid waste.
First offense \$100
Second offense \$200
Subsequent offenses \$400
- F. Littering Solid Waste Facilities—Littering includes failure to place all solid waste spilled in transferring it from the transport vehicle to the container, or leaving solid waste at a closed facility.
First offense \$150
Second offense \$300
Subsequent offenses \$500
- G. Unauthorized Scrap Tire Collection Site—Operating a scrap tire collection site containing more than 50 tires.
First offense \$150
Second offense \$300
Subsequent offenses \$500
- H. Failure to Remove Solid Waste or Bulky Waste—Failure to remove solid waste or bulky waste with the 30 days allowed under the "Notice of Violation" the following penalties will apply.
First offense \$150
Second offense \$300
Subsequent offenses \$500
- I. Other Violations—Violation of any other provision of this ordinance or the North Carolina Division of Health Services Waste Management rules.
First offense \$150
Second offense \$300
Subsequent offenses \$500

Neglect of Property

It shall be unlawful for any person to intrude on the rights of others through neglect of property by causing or allowing unsightly garbage, accumulated junk and foul odor to remain in public view or in view from adjoining properties for more than 30 days. This would include operating a commercial or non-commercial junkyard and/or salvage yard that has not been given proper authorization. This includes but is not limited to abandoned homes and buildings.

Notice of Violation

At the discretion of the Duplin County Solid Waste Director or Enforcement officer, a "Notice of Violation" may be issued instead of a fine for a period of no more than 30 days for cleanup.

ARTICLE X—LEGAL PROVISIONS

Transfer of Ownership

Upon receipt at County facilities, ownership of all acceptable solid wastes and recyclables passes to the County.

Violations General

It shall be the duty and responsibility of each citizen to dispose of their solid waste as required by this ordinance. It shall be a violation of this ordinance for any person to store, collect, transport, or dispose of any solid waste in a manner inconsistent with the requirements of this ordinance.

Illegal Dumping

If any solid waste disposed of in violation of this ordinance can be identified as having last belonged to, been in the possession of, sent to or received by or to have been the property of any person prior to being disposed of, such identification shall be presumed to be prima facie evidence that such person disposed of or caused to be disposed of such solid waste in violation of this ordinance.

Vandalism

No person shall intentionally cause damage to any County solid waste facility.

Loitering

No person shall loiter, congregate or leave any vehicle unattended on any County-owned solid waste facility.

Prosecution

In addition to or in lieu of the civil penalties described herein, violations of this ordinance may be prosecuted as misdemeanors in accordance with the General Statutes of North Carolina. In the case of criminal violations, each day a violation occurs or continues to occur shall be a separate offense and that person or firm in violation of this ordinance shall be subject to a fine not exceeding fifty dollars (\$50.00) and imprisonment not exceeding thirty (30) days for each offense.

Complaints

Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a written complaint with the enforcement agencies stating the cause and basis for the complaint. The enforcement agency shall record the complaint, investigate and take such action as may be necessary to enforce this ordinance.

Liability

The County provides the solid waste facilities as a public service. However, the County nor its employees shall be liable for any damages to personal property nor personal injury resulting from the use of these facilities.

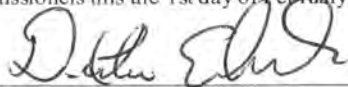
Appeal

The County Commissioners shall hear and decide appeals and review any orders, requirements, decisions, or determinations made as a result of the administration or enforcement of this ordinance.

Effective Date

This ordinance shall become effective and be in full force from and after the 1st day of February, 2021.

Adopted by the Duplin County Board of Commissioners this the 1st day of February, 2021.



Chairman
Duplin County Board of Commissioners



ATTEST:
Clerk to the Board



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GRANT PROJECT ORDINANCE

BE IT ORDAINED by the Board of Commissioners of the County of Duplin, North Carolina, that, pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance is hereby adopted:

Section 1. The project authorized is the Duplin County Detention Center Project in Fund 45

Section 2. The officers of this unit are hereby directed to proceed with the grant project within the terms of the budget contained herein.

Section 3. The following amounts are appropriated for the project:

| Line Item | Description | Appropriation |
|------------|----------------------|---------------|
| 4969-41040 | Engineering Services | \$2,473,000 |
| 4969-41060 | Construction | \$18,807,000 |
| 4969-41979 | Administration | \$20,000 |
| | | |
| Total | | \$21,300,000 |

Section 4. The following revenues are anticipated to be available to complete this project:

| Line Item | Description | Appropriation |
|------------|-------------|---------------|
| 4969-39677 | SCIF Grant | \$21,300,000 |
| | | |
| | | |
| Total | | \$21,300,000 |

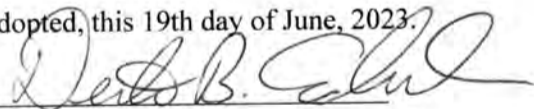
Section 5. The finance officer is hereby directed to maintain within the Grant Project Fund sufficient specific detailed accounting records.

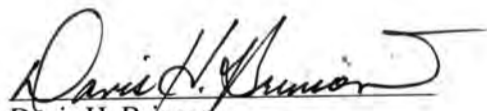
Section 6. The finance officer is directed to report financial status of each project element in Section 3 as directed by the grantor.

Section 7. The budget officer is directed to include project revenue and expenditures in the budget report to the board.

Section 8. Copies of the grant project ordinance shall be made available to the budget officer and the finance officer for direction in carrying out this project.

Adopted, this 19th day of June, 2023.


Dexter B. Edwards
Chairman, Board of Commissioners


Davis H. Brinson
Clerk to the Board
ATTEST:



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CAPITAL PROJECT ORDINANCE

BE IT ORDAINED by the Board of Commissioners of the County of Duplin, North Carolina, that, pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following Capital project ordinance is hereby adopted:

Section 1; The project authorized is the Economic Development Airpark Development for water mains, sewer mains and road extensions in the industrial Expansion Fund (Fund 42)

Section 2; The officers of this unit are hereby directed to proceed with the capital project within the terms of the budget contained herein.

Section 3: The following amounts are appropriated for the project:

| Line Item | Description | Appropriation |
|--------------|-------------------------|-----------------------|
| 4989-41040 | Engineering | \$541,736.00 |
| 4989-41060 | Construction | \$1,600,550.00 |
| 4989-49910 | Contingency | \$359,189.00 |
| 4989-41020 | Preliminary Engineering | \$249,025.00 |
| Total | | \$2,750,500.00 |

Section 4: The following revenues are anticipated to be available to complete this project:

| Line Item | Description | Appropriation |
|--------------|-----------------|-----------------------|
| 4989-32571 | NC Commerce IDF | \$2,750,500.00 |
| Total | | \$2,750,500.00 |

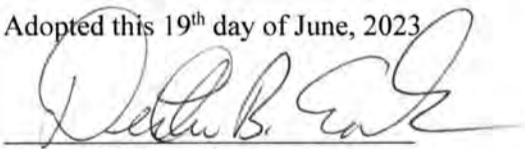
Section 5: The finance officer is hereby directed to maintain within the Capital Project Fund sufficient specific detailed accounting records.

Section 6: Funds may be advanced from the General Fund for the purpose of making payments as due.

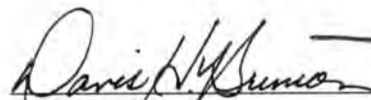
Section 7: The budget officer is directed to Include project revenue and expenditures in the budget report to the board.

Section 8: Copies of the capital project ordinance shall be made available to the budget officer and the finance officer for direction in carrying out this project.

Adopted this 19th day of June, 2023



Dexter B. Edwards
Chairman, Board of Commissioners



Davis H. Brinson
Clerk to the Board

ATTEST: (seal)



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DUPLIN COUNTY

AIRPORT LAND USE AND HEIGHT RESTRICTION ORDINANCE

**Adopted by Duplin County
August 1, 2022**

Effective August 1, 2022

This Ordinance repeals and replaces the Airport Height Restriction Ordinance previously adopted by the Board of Commissioners on 2 June 2003, which became effective 30 June 2003, as well as the Airport Land Use and Height Restriction Ordinance previously adopted by the Board of Commissioners on 6 April 2009, which became effective 1 May 2009.

Prepared by:

**The Duplin County Planning Board
and
The Duplin County Airport Commission**



DUPLIN COUNTY
NORTH CAROLINA

Enactment This is an Ordinance establishing Land Use Regulations Zones for airport safety and Height Restriction Zones within the vicinity of the Duplin County Airport and providing for the administration, enforcement and amendment thereof;

Preamble **Whereas**, in the opinion of the Duplin County Board of Commissioners to further promote the health, safety, and general welfare of the residents of Duplin County, it is necessary and advisable to adopt regulations pertaining to the compatibility of land uses and the height of objects within the vicinity of the Duplin County Airport, and;

Whereas, the Duplin County Planning Board in conjunction with the Duplin County Airport Commission has developed this Ordinance with due consideration and has submitted final recommendations to the Duplin County Commissioners, and;

Whereas, all applicable requirements of the General Statutes of North Carolina (N.C.G.S.) have been met,

Now, Therefore Be It Ordained by the County Commissioners of the County of Duplin as follows:

Article I - Authority

Section 10 The provisions of this Ordinance are adopted under authority granted by North Carolina General Statute 153A-121, pursuant to the authority conferred under Chapter 63 of the North Carolina General Statutes, Article 4.

Article II - Jurisdiction

Section 20 This Ordinance shall be applicable to the area designated within Duplin County in the vicinity of the Duplin County Airport as shown on maps entitled Duplin County Airport Land Use Regulations and Height Restriction Ordinance Maps as maintained by the Duplin County Airport Commission and herein made a part of this Ordinance.

Article III - Title

Section 30 This Ordinance shall be known as and referred to as the **Duplin County Airport Land Use and Height Restriction Ordinance** of Duplin County, North Carolina.

Article IV - Interpretations

Section 40 Tense and Number

- (1) The present tense includes the future tense and the future tense includes the present tense.
- (2) The singular number includes the plural number and the plural number includes the singular number.

Section 41

Word Interpretations

For the purposes of this Ordinance, the following words shall be interpreted as specified below:

- (1) The word "may" is permissive.
- (2) The words "shall" and "will" are mandatory.
- (3) The word "County" shall mean the County of Duplin, North Carolina.
- (4) The words "Airport Commission" shall refer to the Duplin County Airport Commission.
- (5) The words "Planning Board" shall refer to the Duplin County Planning Board.
- (6) The words "County Commissioners" shall refer to the Duplin County Board of Commissioners,
- (7) The words "used" or "occupied" includes intended, designed and arranged.

Section 42

Definitions

For the purpose of this Ordinance, the following words and phrases shall have the meanings respectively ascribed to them by this section:

- (1) *Title 14 CFR - Aeronautics and Space* means the Federal Aviation Regulation.
- (2) *Airport* means the Duplin County Airport (KDPL).
- (3) *Airport Elevation* means the highest point of an airport's usable landing area measured in feet (tenths) from Mean Sea Level (MSL) as published by the Federal Aviation Administration (FAA).
- (4) *Airport Obstruction* means any living or man-made structure or tree, including a mobile object, which exceeds the limiting height restrictions set forth in Article VI of this Ordinance. May be referred to simply as *Obstruction* in this Ordinance.
- (5) *Airport Operation Area* refers to all zones established in this Ordinance.
- (6) *Airport Reference Point* means the center-point of an airport, located at the geometric center of all usable runways, as published by the FAA. The Airport Reference Point (ARP) is computed as a weighted average of the end of runway coordinates
- (7) *Approach Surface* means a surface defined by 14 CFR Part 77 and longitudinally centered on the extended runway centerline, extending outward from the end of the primary surface. The elevation of the inner edge of this approach surface coincides with the elevation of the runway end, and it extends upward at the same slope as the Approach Zone height limitation slope set forth in Article VI of this Ordinance.
- (8) *Approach, Primary, Transitional, Horizontal, And Conical Zones*. These zones are set forth in Article VI of this Ordinance. In plan the perimeter of the zones coincides with the perimeter of the Part 77 imaginary surfaces.

- (9) *Avigation Easement* means ownership of the right of imposition upon such property of overflight, excessive noise, vibration, smoke, dust, vapors, and particulates due to the operation of aircraft to and from the airport. Also includes the right to remove Airport Obstructions on said property.
- (10) *Climb gradient* means an FAA-published sloping surface regulating aircraft on initial departure from a runway.
- (11) *Conical Surface* means a surface defined by 14 CFR Part 77 and extending outward and upward from the periphery of the horizontal surface at a slope of 20 to one (1) for a horizontal distance of 4,000 feet.
- (12) *Decision Altitude (DA)* means the FAA-published altitude expressed in feet MSL at which a decision must be made during either a precision instrument approach or an instrument approach with vertical guidance to either continue the approach or to execute a missed approach.
- (13) *Dimensional Nonconformity* means a situation that occurs when the lot line does not conform to the regulations applicable to the zone in which the property is located.
- (14) *Enforcement Officer* shall mean an individual of the Duplin County Planning Department with authority to enforce this Ordinance.
- (15) *FAA* means the Federal Aviation Administration.
- (16) *Hazard to Air Navigation* means an Airport Obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.
- (17) *Height* means the vertical distance from a reference plane to the highest point of a structure or tree, including any appurtenance. For the purpose of this Ordinance, the reference plane shall be Mean Sea Level (MSL) unless otherwise specified to be Above Ground Level (AGL).
- (18) *Height Limitations* means no structure or tree shall be erected, altered, allowed to grow or maintained in any Airport Height Zone, with a height in excess of the height established for such zone. An area located in more than one of the following zones is considered to be only in the zone with the more restrictive height limitation.
- (19) *Horizontal Surface* means a horizontal plane defined by 14 CFR Part 77 and situated 150 feet above the established airport elevation.
- (20) *Land Use Compatibility* means the use of land adjacent to the Duplin County Airport that does not endanger the health, safety, or welfare of the owners' occupants, or users of the land.
- (21) *Larger Than Utility Runway* means a runway that is constructed for and intended to be used by propeller driven aircraft of greater than 12,500 pounds maximum gross weight and jet powered aircraft.

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- (22) *Lot* means a portion of a subdivision, plat or parcel with boundaries established as a separate legal entity recorded with the County Register of Deeds prior to the effective date of this Ordinance.
- (23) *Minimum Descent Altitude (MDA)* means the lowest FAA-published altitude, expressed in feet MSL, to which descent is authorized on final approach or during circling-to-land maneuvering in execution of an instrument approach procedure where no vertical guidance is provided.
- (24) *Minimum Obstruction Clearance Altitude (MOCA)* means the lowest FAA-published altitude, expressed in feet MSL, in effect between fixes on VOR airways or en-route segments that meets obstacle clearance requirements for the entire route segment.
- (25) *NCDOA* means the North Carolina Department of Transportation, Division of Aviation
- (26) *Nonconforming Structure* means any structure or tree which does not conform to this Ordinance as of the effective date of these regulations.
- (27) *Nonconforming Use* means any structure or use of land which is inconsistent with the provisions of this Ordinance as of the effective date of these regulations.
- (28) *Non-Precision Instrument Runway* means a runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in non-precision instrument approach procedure has been approved or planned.
- (29) *Open Space* means an area, land or water, generally lacking in manmade structures and reserved for enjoyment in its unaltered state.
- (30) *Permitted Use* means the associated land use groups are at a level of intensity or density, or location, which is not considered to present a significant risk to the safety of persons on the ground or to persons in aircraft over flying the proposed use (refer to 'Y' Permitted Use in Land Use Matrix Table).
- (31) *Person* means an individual, firm, partnership, corporation, company, association, joint stock association, or governmental entity; includes a trustee, a receiver, an assignee, or a similar representative of any of them.
- (32) *Precision Instrument Runway* means a runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS) or a Precision Approach Radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document.
- (33) *Primary Surface* means a surface defined by 14 CFR Part 77 and longitudinally centered on a runway, encompassing the runway pavement and its environment. The width of the primary surface is set forth in Article VI of this Ordinance. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

- (34) *Prohibited Use* means the associated land use groups are at a level of intensity or density, or location, which presents a significant risk to the safety of persons on the ground or to persons in aircraft over flying the proposed use (refer to 'N' Prohibited Use in Land Use Matrix Table).
- (35) *Property Owners* means those listed as owners of property on the records of the Duplin County Tax Office.
- (36) *Runway* means a defined area on an airport prepared for landing and takeoff of aircraft along its length.
- (37) *Runway End* means existing physical end of the hard-surfaced asphalt runway, having a defined coordinate and elevation published by the FAA.
- (38) *Special Use Permit*: A permit issued by the Planning Board that authorizes the recipient to make use of property in accordance with the requirements of this Ordinance as well as any additional requirements imposed by the Planning Board (refer to 'S' Special Use in Land Use Matrix Table).
- (39) *Structure* means any object, including a mobile object, constructed or installed by human labor, including, but without limitation, buildings, towers, smokestacks, and overhead transmission lines. Generally, but not always, refers to the primary structure on a lot, i.e. a building that houses the principal use on a lot.
- (40) *Takeoff Minimum* means the specified ceiling and visibility minima allowing visual avoidance of obstacles during the initial climb at the standard climb gradient.
- (41) *Transitional Surfaces* means surfaces defined by 14 CFR Part 77 that extend upward and outward at 90 degree angles to the runway centerline and the runway centerline extended at a slope of seven (7) feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces, which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at 90 degree angles to the extended runway centerline.
- (42) *Tree* means any object of natural growth.
- (43) *Use* means the principal activity or function that actually takes place or is intended to take place on a parcel.
- (44) *Utility Runway* means a runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight and less.
- (45) *Variance* means a grant of permission by the County Planning Board that authorizes a land use, owing to conditions peculiar to the property, where a literal enforcement of the Ordinance would result in unnecessary and undue hardship, as defined by N.C.G.S. 160D-705(d).

- (46) *Visual Runway* means a runway intended solely for the operation of aircraft using visual approach procedures.
- (47) *Zoning Permit* means a permit issued by the Enforcement Officer that authorizes the recipient to make use of property in accordance with the requirements of the Ordinance.

Article V - Land Use Regulations

Section 50

Land Use Regulations Zones Established

In order to carry out this Ordinance, certain zones are hereby created and established, which include land lying within the Airport Safety Zones as they apply to the Duplin County Airport. Such zones are shown on the plan view of the Duplin County Airport Land Use Regulations Ordinance Map consisting of one (1) sheet, prepared by Duplin County and dated January 2022, and herein made a part of this Ordinance on Page 19. An area located in more than one (1) of the zones described herein is considered to be only in the zone with the more restrictive limitation. There are hereby created and established the following Airport Safety Zones:

- (1) *Airport Safety Zone 1 - Runway Protection Zone (RPZ)*: a trapezoid shaped plane symmetrically centered along the extended runway centerline, flaring outwards from a point 200 feet beyond each runway end. The perimeter of this zone as shown on the Duplin County Airport Land Use Regulations Ordinance Map is as follows:
 - Runway 5:
 - Runway Protection Zone - Inner Width: 1,000 feet
 - Runway Protection Zone - Outer Width: 1,750 feet
 - Runway Protection Zone - Length: 2,500 feet
 - Runway 23:
 - Runway Protection Zone - Inner Width: 1,000 feet
 - Runway Protection Zone - Outer Width: 1,510 feet
 - Runway Protection Zone - Length: 1,700 feet
- (2) *Airport Safety Zone 2 - Sideline Safety Zone*: a rectangular shaped plane symmetrically centered along the runway centerline, extending to the edge of the Inner Turning Zone (Zone 4). The perimeter of this zone, as shown on the Duplin County Airport Land Use Regulations Ordinance Map, is as follows:
 - Sideline Safety Zone - Total Width: 2,000 feet
- (3) *Airport Safety Zone 3 - Inner Safety Zone*: a rectangular shaped plane symmetrically centered along the extended runway centerline, extending from the Runway

Protection Zone (Zone 1) outward to the Inner Turning Zone (Zone 4) and Outer Safety Zone (Zone 5). The perimeter of this zone, as shown on the Duplin County Airport Land Use Regulations Ordinance Map, is as follows:

- Runway 5:
 - Inner Safety Zone - Inner Total Width: 1,000 feet
 - Inner Safety Zone - Length: 2,500 feet
- Runway 23:
 - Inner Safety Zone - Inner Total Width: 1,000 feet
 - Inner Safety Zone - Length: 3,300 feet

(4) *Airport Safety Zone 4 - Inner Turning Zone*: a triangle shaped plane forming a 60-degree sector symmetrically centered along the extended runway centerline, diverging from a point 200 feet beyond the runway end. The perimeter of this zone, as shown on the Duplin County Airport Land Use Regulations Ordinance Map, is as follows:

- Inner Turning Zone - Radius: 5,000 feet
- Inner Turning Zone - Sector Angle: 60 degrees

(5) *Airport Safety Zone 5 - Outer Safety Zone*: a rectangular shaped plane symmetrically centered along the extended runway centerline, extending outward from the Inner Safety Zone (Zone 3) and the outer radius of the Inner Turning Zone (Zone 4). The perimeter of this zone, as shown on the Duplin County Airport Land Use Regulations Ordinance Map, is as follows:

- Outer Safety Zone - Total Width: 2,000 feet
- Outer Safety Zone - Length: 5,000 feet

Section 51

Regulation Limitations

Such applicable land use limitations are hereby established for each of the Airport Safety Zones in order to prevent incompatible land uses which would compromise aeronautical activity at the Duplin County Airport, to protect people and property on the ground in case of an accident, to limit population and building density in the runway approach areas, to create sufficient open space, and to restrict those uses which may be hazardous to the operational safety of aircraft operating to and from the Duplin County Airport, and minimize injury to the occupants of aircraft involved in accidents. The following land use limitations within Zones 1, 2, 3, 4 and 5 shall apply to those portions of a tax parcel contained within the underlying zones as indicated on the attached Duplin County Airport Land Use Regulations Ordinance Map.

| Duplin County Airport Land Use Ordinance Regulated Land Use Guidance for Zones 1, 2, 3, 4, 5 * | | | | | |
|---|---------------|---------------|---------------|---------------|---------------|
| | Zone 1 | Zone 2 | Zone 3 | Zone 4 | Zone 5 |
| Agriculture, Farming & Animal Keeping | | | | | |
| Crop Production - Dry and Irrigated Farming | S 1,2 | S 1,2 | Y | Y | Y |
| Specialty Crops, Nurseries/Greenhouses, Landscape Materials | N | N | Y | Y | Y |
| Row-Crop Processing and Packaging, Wineries | N | N | Y | Y | Y |
| Animal Processing and Packaging | N | N | S 2,3 | Y | Y |
| Truck Farming, Roadside Stands, Farmers Markets | N | N | S 2,3 | S 2,4 | S 2,5 |
| Pasture and Rangeland Grazing | N | Y | Y | Y | Y |
| Animal Feed Lots (Commercial Hogs, Dairies) | N | N | Y | Y | Y |
| Animal Feed Lots (Commercial Poultry) | N | N | N | N | N |
| Game Preserves, Fish Farming | N | N | Y | Y | Y |
| Feed Lots, Stockyards, Animal Commodity Sales Yards | N | N | S2 | S2 | S2 |
| Animal Hospital, Veterinary Clinic, Kennels, Pet Boarding | N | N | S3 | S4 | S5 |
| Equestrian Facilities, Exotic Animals | N | N | S3 | S4 | S5 |
| Public Use Facilities, Institutions & Utilities | | | | | |
| Civic-Use Convention Center, Auditorium, Concert Hall | N | N | N | N | N |
| Schools, Hospitals, and Correctional Facilities | N | N | N | N | N |
| Libraries, Museums, Churches, Day-Care, Social/Civic Clubs | N | N | N | N | N |
| Parks, Athletic Fields, Playgrounds, Picnic Areas | N | N | N | N | N |
| Cemeteries | N | N | Y | Y | Y |
| Public Utilities (Excludes Electric Power Plants, Lines) | N | N | S 1,2 | S 1,2 | S 1,2 |
| Electric Power Plants and Overhead Transmission Lines | N | N | S 1,2 | S 1,2 | S 1,2 |
| Solid-Hazardous Waste, Landfills (Excludes Transfer Stations) | N | N | N | N | N |
| Recycling | N | S2 | S 2,3 | S 2,4 | S 2,5 |
| Residential | | | | | |
| Single-Family Residential | N | N | N | S 1,2,3 | Y |
| Multi-Family Residential, Mobile Home Units / Parks | N | N | N | N | N |
| Group Homes, Convalescent Facilities, Nursing / Family Care | N | N | N | N | N |
| Apartments, Duplexes, Townhomes, Condominiums | N | N | N | N | N |
| Temporary Housing | N | N | N | N | N |

* Note: Reference Duplin County Airport Land Use Regulations Ordinance Map for Location of Zones.

| Duplin County Airport Land Use Ordinance Regulated Land Use Guidance for Zones 1, 2, 3, 4, 5 * | | | | | |
|---|--------|--------|--------|--------|--------|
| | Zone 1 | Zone 2 | Zone 3 | Zone 4 | Zone 5 |
| Commercial Recreational | | | | | |
| Swimming Pools, Water Park, Water Slides | N | N | N | Y | Y |
| Gyms, Health Spas, Indoor Theaters, Auditoriums | N | N | N | N | S5 |
| Bowling Alleys, Skating Rinks, Dance and Pool Halls, Arcades | N | N | N | N | S5 |
| Outdoor Theaters, Amusement Parks, Carnivals, Fairs | N | N | N | N | N |
| Golf Courses, Tennis Courts | N | N | N | Y | Y |
| Commercial Business, Retail & Services | | | | | |
| Aeronautical Businesses | N | Y | N | S 1,2 | Y |
| General Retail Stores/Complexes, Restaurants, Convenient Stores | N | N | N | S4 | Y |
| General Offices, Executive Offices, Research Facilities | N | S4 | S3 | S4 | S5 |
| Vehicle Sales, Building & Lumber Materials, Food-Beverage Sales | N | N | N | S4 | S5 |
| Appliance-Equipment Repair Facilities, Vehicle Wash | N | S4 | S3 | S4 | S5 |
| Shopping Malls, Shopping Centers, Home Improvement Centers | N | N | N | S4 | S5 |
| Banks, Financial Institutions | N | N | N | S4 | S5 |
| Gasoline Service Stations | N | N | N | N | Y |
| Modular Self-Storage Facilities, Mini Storage Units | N | S2 | S3 | S4 | S5 |
| Personal Health Clinics, Well-Being & Care Facilities | N | N | N | S4 | S5 |
| Motels, Hotels, Bed & Breakfast | N | N | N | S3 | S4 |
| RV Parks, Camping Areas | N | N | N | S3 | S4 |
| Mass Transit Facility / Depot | N | Y | N | S5 | S5 |
| Broadcast Studios | N | N | N | N | Y |
| Commercial Industrial, Manufacturing & Warehousing | | | | | |
| Manufacturing Facilities, Industrial Plants, Warehousing | N | S4 | N | N | S5 |
| Warehouse, Wholesale, Distribution | N | S4 | S3 | S4 | S5 |
| Heavy Industrial/Manufacturing | N | N | N | N | S5 |
| Light Industrial/Manufacturing | N | S4 | S3 | S4 | S5 |
| Petroleum and Chemical Product Dealers-Bulk Storage | N | N | S3 | S4 | S5 |
| Mining- Sand, Gravel, Fill Dirt | N | N | N | S 1,2 | S 1,2 |

* Note: Reference Duplin County Airport Land Use Regulations Ordinance Map for Location of Zones.

| Table Key (Abbreviations) |
|--|
| <p>(Y) Permitted Use: The associated land use groups are at a level of intensity or density, or location, which is not considered to present a significant risk to the safety of persons on the ground or to persons in aircraft over flying the proposed use.</p> |
| <p>(S) Special Use: The associated land use groups are at a level of intensity or density, or location, which is not considered to present a significant risk to the safety of persons on the ground or to persons in aircraft over flying the proposed use, contingent upon attainment of conditions presented (See Special Uses Below).</p> <p>1 - Allowed only if use does not interfere with normal Airport operations (as defined by the FAA/NCDQA).</p> <p>2 - Prohibits uses that constitute a hazard to flight, including but not limited to tall physical objects, glare, dust, or other visual or electric interference to a pilot and aircraft, and uses that may attract hazardous wildlife.</p> <p>3 - Use intensity restricted to 5 or less persons per acre; or equivalent per household.</p> <p>4 - Use intensity restricted to 15 or less persons per acre; or equivalent per household.</p> <p>5 - Use intensity restricted to 15 or less persons per acre in structures/buildings; and 50 or less persons per acre outdoors.</p> |
| <p>(N) Prohibited Use: The associated land use groups are at a level of intensity or density, or location, which presents a significant risk to the safety of persons on the ground or to persons in aircraft over flying the proposed use.</p> |

Article VI - Height Restrictions

Section 60

Height Restrictions Zones Established

In order to carry out this Ordinance, certain zones are hereby created and established, which include all of the land lying beneath the approach surfaces, primary surface, transitional surfaces, horizontal surface, and conical surface as defined by 14 CFR Part 77 and as they apply to the Duplin County Airport. Such zones are shown in plan and profile view on the Duplin County Airport Height Restriction Ordinance Map consisting of one (1) sheet, prepared by Duplin County dated January 2022, and herein made a part of this Ordinance on Page 20. An area located in more than one (1) of the following zones is considered to be only in the zone with the more restrictive height limitation. There are hereby created and established the following Airport Height Zones:

- (1) *Airport Height Zone A - Runway With a Visibility Minimum as Low as 3/4 Mile Non-Precision Instrument Approach Zone:* The approach zone is the area beneath the approach surface defined by 14 CFR Part 77 as it applies to the Duplin County Airport. This surface is runway-end specific; however, both runway ends at the Duplin County Airport share an identical criteria defined hereinafter. The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly at a slope of 34 feet horizontally for every 1 foot vertically for a horizontal distance of 10,000 feet from the primary surface to a width of 4,000 feet. Its centerline is the continuation of the centerline of the runway.
- (2) *Airport Height Zone B - Primary Zone:* The primary zone is the area beneath the primary surface defined by 14 CFR Part 77 as it applies to the Duplin County Airport.

This zone extends 200 feet beyond each end of the runway, has a width of 1,000 feet, and is centered on the runway centerline.

- (3) *Airport Height Zone C - Transitional Zone:* The transitional zones are the areas beneath the 7 foot horizontal to 1 foot vertical transitional surfaces defined by 14 CFR Part 77 as they apply to the Duplin County Airport.
- (4) *Airport Height Zone D - Horizontal Zone:* The horizontal zone is the area beneath the horizontal surface defined by 14 CFR Part 77 as it applies to the Duplin County Airport. The horizontal zone is established by swinging arcs of 10,000 feet radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones in those areas where the approach and transitional surfaces are below the horizontal surface, i.e. in those areas where the height limitation of the approach and transitional zones is more restrictive than the height imitation of the horizontal zone.
- (5) *Airport Height Zone E - Conical Zone:* The conical zone is the area beneath the conical surface defined by 14 CFR Part 77 as it applies to the Duplin County Airport. The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward therefrom for a horizontal distance of 4,000 feet at a slope of 20 horizontally for every 1 foot vertically.

Section 61

Supplemental Provisions

Notwithstanding any other provision of this article, any structure or tree that exceeds the following height limitations within the jurisdictional limits of the County of Duplin shall be considered an obstruction:

- (1) A height of 499 feet AGL at the site of the object.
- (2) A height that is 200 feet AGL, or above the established Airport Elevation, whichever is higher, within 3 nautical miles of the established Airport Reference Point of the Duplin County Airport, and that height increases in the proportion of 100 feet for each additional nautical mile from the airport up to a maximum of 499 feet.
- (3) Any structure or tree that would either cause a Minimum Obstruction Clearance Altitude to be raised, or a Minimum Descent Altitude, a Decision Altitude, or Takeoff Minimums to be raised, or create a non-standard departure climb gradient for the Duplin County Airport.

Section 62

Restriction Limitations

No structure or tree shall be erected, altered, allowed to grow or maintained in the airport zones to a height in excess of the height limit as determined by the aerial contours appearing on the Duplin County Airport Height Restriction Ordinance Map or referred to in *Section 60* or *Section 61* of this Ordinance. The property owner of a tree, determined to

be an airport obstruction, shall be responsible for bringing such tree into conformance with this Ordinance.

Article VII - Nonconformities

Section 70

Regulations Not Retroactive

This regulation shall not be construed to require the alteration of any lot or removal, lowering, or other change or alteration of any structure or tree not conforming to the land use regulations or height restrictions as of the effective date of this Ordinance, or otherwise interfere with the continuance of a nonconforming use. Nothing contained herein shall require any change in the construction, or intended use of any property or structure for which the construction or alteration was started or for which a building permit was acquired prior to the effective date of this Ordinance.

Section 71

Existing Structures

Except as specifically provided in this section, it is not permissible for any person to engage in any activity that causes an increase in the extent of nonconformity of a nonconforming situation. Physical alteration of structures or the placement of new structures on open land is unlawful if they result in an increase in the total amount of space devoted to a nonconforming use or greater nonconformity with respect to land use limitation or height limitation.

Section 72

Abandoned or Destroyed Structures

Whenever the Duplin County Building Inspector determines that a nonconforming structure has been abandoned or more than 80 percent torn down (or damaged more than 80 percent of the current County tax value), physically deteriorated, or decayed, no permit shall be granted that would allow such structure to otherwise deviate from the zoning regulations.

Section 73

Temporary Structures

Temporary structures constructed or erected incidental to a development, and solely used for the designated purpose, can only remain while needed and for a maximum of one year.

Section 74

Marking and Lighting

Notwithstanding the preceding provision of this section, the owner of any existing nonconforming structure or tree is hereby required to allow the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the Duplin County Airport Commission to indicate to the operators of aircraft in the vicinity of the airport the presence of such obstruction. Such markers and lights shall be installed, operated and maintained at the expense of the Duplin County Airport. Reference the most current publication of FAA Advisory Circular 70/7460-1 for further guidance.

Article VIII - Permit Requirements

Section 80

Permits Required - Existing Uses

Before any existing use or structure may be replaced or substantially altered within any area of the Airport Safety Zones or Height Zones, a permit shall be secured authorizing such replacement, change or repair. No such permit shall be granted that would allow the establishment or creation of an airport obstruction or that would permit a nonconforming use, structure, or tree to become a greater hazard to air navigation than it was on the effective date of this Ordinance or any amendments thereto or than it is when the application for a permit is made. Except as indicated, all applications for a permit for replacement, change, or repair of an existing structure shall be granted.

Section 81

Permits Required - Future Uses

No change shall be made in the use of land, no structure shall be erected or otherwise established, and no tree shall be planted within any area of the Airport Safety Zones or Height Zones unless a permit in accordance with the provisions of this article has been applied for and granted by the Duplin County Planning Department. Each application shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use or structure would conform to the regulations prescribed in this article.

No permit for a use inconsistent with the provisions of this Ordinance shall be granted unless a variance has been approved in accordance with *Section 96*.

The Duplin County Building Inspector shall not issue a building permit for the construction of any new structure within the Airport Safety Zones established in *Section 50* or Airport Height Zones established in *Section 60*, and as depicted on the Duplin County Airport Land Use Regulations or Height Restriction Ordinance Maps unless approved by the Duplin County Airport Commission and the Enforcement Officer.

No permit of any type shall be issued for any development, building permit or activity subject to tax parcel areas underlying Airport Safety Zones Zone #1 and Zone #2 herein defined, until the Duplin County Airport has an opportunity to be awarded an aviation easement by the property owner(s) in a form prescribed by the Airport Commissioners, and as recorded in a form acceptable to the Duplin County Planning Board.

Section 82

Permit Applications

A permit application, as required per *Section 80* or *Section 81*, shall accompany a preliminary plat to contain the information as indicated by the Duplin County Subdivision Regulation. A non-refundable application fee of \$100 shall be submitted with the permit application.

Section 83 Review by Airport Commission

No permit regulated by this Ordinance shall be issued by the Enforcement Officer unless approved by the Duplin County Airport Commission, or its designee.

Section 84 Violations and Penalties

Permits shall be valid until revoked. The Enforcement Officer may periodically inspect the structure(s), trees and land use to determine continued compliance with this Ordinance. If the land use or obstruction is in violation, the Enforcement Officer shall advise the owner in writing of the violations and of action necessary to bring the obstruction or land use into compliance. Failure by the owner to correct violations within 120 days of notification shall constitute grounds for revocation of the permit.

Section 85 Revocation of Permit

Valid permits may be revoked by the Enforcement Officer for any of the following reasons:

- (1) Incorrect or misrepresented information on the permit application.
- (2) Failure to construct structure in accordance with application and permit.
- (3) Any other violation of this Ordinance.

In the event the permit is revoked, the Enforcement Officer shall advise the owner in writing of the status of the permit, the action necessary to correct the violation and of the enforcement techniques available to the County to remedy continued violation. When the Enforcement Officer determines that the structure or land use has been brought back into compliance with this Ordinance, the Enforcement Officer shall reinstate the permit.

Article IX - Legal Provisions

Section 90 Enforcement

This Ordinance may be enforced by any one or more of the remedies authorized by common law or statute, including but not limited to those as set forth in N.C.G.S. 160D-404 and N.C.G.S. 153A-123, in order to prevent, correct, or abate a violation. Each day that this Ordinance is violated is a separate and distinct offense, such that civil penalties issued for violation of this Ordinance may accrue, with separate charges for each day of noncompliance. Any unpaid civil penalties issued for violation of this Ordinance may be recovered by the County in a civil action seeking payment of a debt owed by the violator. In the case that an injunction or abatement order is entered, the County shall have a lien on the property on which the violation occurred to recover the costs of abatement, pursuant to the provisions of N.C.G.S. 153A-123. The Enforcement Officer may also condition a permit, certificate, or authorization on the correction of a violation, payment of a civil penalty, and/or posting of a compliance security. In addition to the above-referenced remedies and penalties, the County may institute any other appropriate

equitable action or proceeding in a court of competent jurisdiction to prevent, correct, or abate a violation of this Ordinance.

Section 91 Complaints

Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written complaint with the Enforcement Officer stating the cause and basis for the complaint. The Enforcement Officer shall record the complaint, investigate and take such action as may be necessary to enforce this Ordinance.

Section 92 Conflicting Regulations

Where there exists a conflict between any of the regulations or limitations prescribed in this Ordinance and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, and the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail.

Section 93 Severability

Should any section or provision of this Ordinance be declared by the courts to be invalid for any reason, such declaration shall not affect the Ordinance as a whole, or any part thereof other than the part so declared to be invalid.

Section 94 Amendment

Petitions for amendment may be filed with the Duplin County Planning Department by any citizen of the County, any county department or agency, the Duplin County Planning Board or Board of Commissioners.

Section 95 County Commissioners Review

The provisions and requirements of this Ordinance may be amended by the County Commissioners according to the procedure set forth:

- (1) *County Planning Board Review* - No amendment shall become effective unless it shall have been proposed by or shall have been reviewed by the Planning Board. The Planning Board shall have 45 days in which to review the proposed amendment and to make recommendation to the County Commissioners. If the Planning Board, or designee, fails to report to the Commissioners within 45 days, it shall be deemed to have approved the proposed amendment.
- (2) *Airport Commission Review* - No amendment shall become effective unless it shall have been proposed by or reviewed and recommended for approval by the Airport Commission.
- (3) *Commissioners Review* - No amendment shall become effective until after being adopted by the County Commissioners.

Section 96Variance and Exception

Upon advisement of the Enforcement Officer and Airport Commission, the Board of Adjustment, (as may be established and appointed by the Duplin County, NC Board of Commissioners pursuant to NCGS 160D-302) may issue variances and exceptions from the requirements of this Ordinance such that would not be contrary to the public interest, or the spirit and intent of this Ordinance, and where due to special conditions, a literal enforcement of the provisions of this Ordinance would result in an unnecessary hardship, as defined by N.C.G.S. 160D-705(d). In granting a variance, the Board of Adjustment may prescribe appropriate conditions and safeguards as it deems necessary to preserve the intent of this Ordinance. In granting a variance or exception to this Ordinance, the Planning Board must determine the following:

- (1) Special conditions and circumstances exist which are peculiar to the land or buildings involved and which are not applicable to other lands or buildings.
- (2) The literal interpretations of the provision of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties.
- (3) Special conditions and circumstances do not result from the actions of the applicant.
- (4) Granting the variance required will not confer on the applicant any special privilege that is denied by this Ordinance to other lands or buildings.
- (5) Any request for a variance to Article VI of this Ordinance shall be accompanied by a determination from the Federal Aviation Administration (FAA) stating whether the proposed construction or alteration would have a substantial adverse effect on the safe and efficient utilization of the navigable airspace. The FAA issues a Determination of Hazard to Air Navigation when the aeronautical study conducted by the FAA concludes that the proposed construction or alteration will exceed an obstruction standard and would have a substantial aeronautical impact. Determination of No Hazard to Air Navigation will be issued when the aeronautical study concludes that the proposed construction or alteration will exceed an obstruction standard but would not have a substantial aeronautical impact to air navigation.

Issuance of a variance shall not set precedence and each case shall be reviewed independently of others.

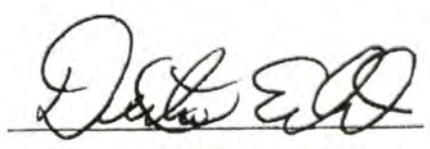
Section 97Appeal

Any person aggrieved, or any taxpayer affected, by any decision of the Enforcement Officer made in the administration of the Ordinance, may appeal. The Airport Commission shall hear and decide appeals and review any orders, requirements, decisions or determinations made by the Enforcement Officer responsible for administration or enforcement of this Ordinance. The Airport Commission decision is subject to review by the Duplin County Board of Commissioners.

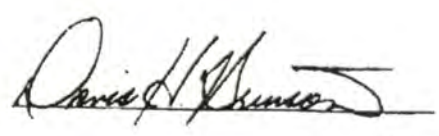
Section 98

Effective Date

This Ordinance shall become effective and be in full force from and after the First day of August 2022. Adopted by the Duplin County Board of County Commissioners on the First day of August 2022.



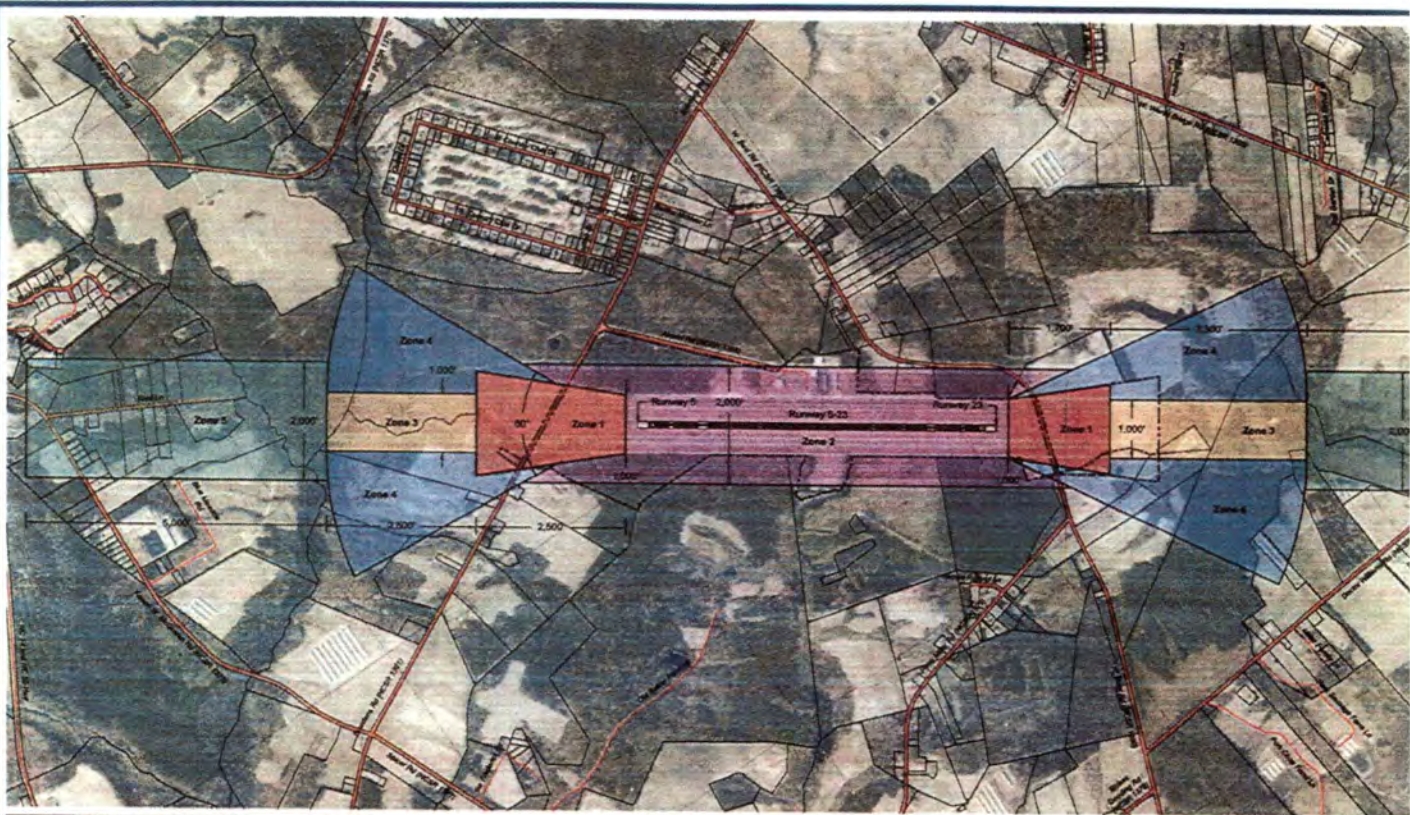
Chairman, Duplin County
Board of Commissioners



Attest:
Clerk

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This Ordinance was amended to reflect the establishment of a County Board of Adjustment, as approved by the Duplin County Board of Commissioners following public hearing on March 6, 2023.



Durham County Airport Land Use Ordinance
Regulated Land Use Guidance for Zones 1, 2, 3, 4, 5

| | Zone 1 | Zone 2 | Zone 3 | Zone 4 | Zone 5 |
|---|--------|--------|--------|---------|--------|
| Agriculture, Farming & Animal Keeping | | | | | |
| Crop Production - Dry and Irrigated Farming | S 1,2 | S 1,2 | Y | Y | Y |
| Specialty Crops, Nurseries/Greenhouses, Landscape Materials | N | N | Y | Y | Y |
| Row-Crop Processing and Packaging, Wineries | N | N | Y | Y | Y |
| Animal Processing and Packaging | N | N | S 2,3 | Y | Y |
| Truck Farming, Roadside Stands, Farmers Markets | N | N | S 2,3 | S 2,4 | S 2,5 |
| Pasture and Rangeland Grazing | N | Y | Y | Y | Y |
| Animal Feed Lots (Commercial Hogs, Dairies) | N | N | Y | Y | Y |
| Animal Feed Lots (Commercial Poultry) | N | N | N | N | N |
| Game Preserves, Fish Farming | N | N | Y | Y | Y |
| Feed Lots, Stockyards, Animal Commodity Sales Yards | N | N | S 2 | S 2 | S 2 |
| Animal Hospital, Veterinary Clinic, Kennels, Pet Boarding | N | N | S 3 | S 4 | S 5 |
| Equestrian Facilities, Exotic Animals | N | N | S 3 | S 4 | S 5 |
| Public Use Facilities, Institutions & Utilities | | | | | |
| Civic-Use Convention Center, Auditorium, Concert Hall | N | N | N | N | N |
| Schools, Hospitals, and Correctional Facilities | N | N | N | N | N |
| Libraries, Museums, Churches, Day-Care, Social/Civic Clubs | N | N | N | N | N |
| Parks, Athletic Fields, Playgrounds, Picnic Areas | N | N | N | N | N |
| Cemeteries | N | N | Y | Y | Y |
| Public Utilities (Excludes Electric Power Plants, Lines) | N | N | S 1,2 | S 1,2 | S 1,2 |
| Electric Power Plants and Overhead Transmission Lines | N | N | S 1,2 | S 1,2 | S 1,2 |
| Solid-Hazardous Waste, Landfills (Excludes Transfer Stations) | N | N | N | N | N |
| Recycling | N | S 2 | S 2,3 | S 2,4 | S 2,5 |
| Residential | | | | | |
| Single-Family Residential | N | N | N | S 1,2,3 | Y |
| Multi-Family Residential, Mobile Home Units / Parks | N | N | N | N | N |
| Group Homes, Convalescent Facilities, Nursing / Family Care | N | N | N | N | N |
| Apartments, Duplexes, Townhomes, Condominiums | N | N | N | N | N |
| Temporary Housing | N | N | N | N | N |

Durham County Airport Land Use Ordinance
Regulated Land Use Guidance for Zones 1, 2, 3, 4, 5

| | Zone 1 | Zone 2 | Zone 3 | Zone 4 | Zone 5 |
|--|--------|--------|--------|--------|--------|
| Commercial Recreational | | | | | |
| Swimming Pools, Water Park, Water Slides | N | N | N | Y | Y |
| Gyms, Health Spas, Indoor Theaters, Auditoriums | N | N | N | N | S 5 |
| Bowling Alleys, Skating Rinks, Dance and Pool Halls, Arcades | N | N | N | N | S 5 |
| Outdoor Theaters, Amusement Parks, Carnivals, Fairs | N | N | N | N | N |
| Golf Courses, Tennis Courts | N | N | N | Y | Y |
| Commercial Business, Retail & Services | | | | | |
| Aeronautical Businesses | N | Y | N | S 1,2 | Y |
| General Retail Stores/Complexes, Restaurants, Convenience Stores | N | N | N | S 4 | Y |
| General Offices, Executive Offices, Research Facilities | N | S 4 | S 3 | S 4 | S 5 |
| Vehicle Sales, Building & Lumber Materials, Food-Beverage Sales | N | N | N | S 4 | S 5 |
| Appliance-Equipment Repair Facilities, Vehicle Wash | N | S 4 | S 3 | S 4 | S 5 |
| Shopping Malls, Shopping Centers, Home Improvement Centers | N | N | N | S 4 | S 5 |
| Banks, Financial Institutions | N | N | N | S 4 | S 5 |
| Gasoline Service Stations | N | N | N | N | Y |
| Modular Self-Storage Facilities, Mini Storage Units | N | S 2 | S 3 | S 4 | S 5 |
| Personal Health Clinics, Well-Being & Care Facilities | N | N | N | S 4 | S 5 |
| Hotels, Motels, Bed & Breakfast | N | N | N | S 3 | S 4 |
| RV Parks, Camping Areas | N | N | N | S 3 | S 4 |
| Mass Transit Facility / Depot | N | Y | N | S 5 | S 5 |
| Broadcast Studios | N | N | N | N | Y |
| Commercial Industrial, Manufacturing & Warehousing | | | | | |
| Manufacturing Facilities, Industrial Plants, Warehousing | N | S 4 | N | N | S 5 |
| Warehouse, Wholesale Distribution | N | S 4 | S 3 | S 4 | S 5 |
| Heavy Industrial/Manufacturing | N | N | N | N | S 5 |
| Light Industrial/Manufacturing | N | S 4 | S 3 | S 4 | S 5 |
| Petroleum and Chemical Product Dealers-Bulk Storage | N | N | S 3 | S 4 | S 5 |
| Mining-Sand, Gravel, F&G Drift | N | N | N | S 1,2 | S 1,2 |

Table Key (Y)
(Y) Permitted Use: The associated land use location, which is not considered to present a hazard to persons in aircraft over flying the ground or to persons in aircraft over flying the ground.

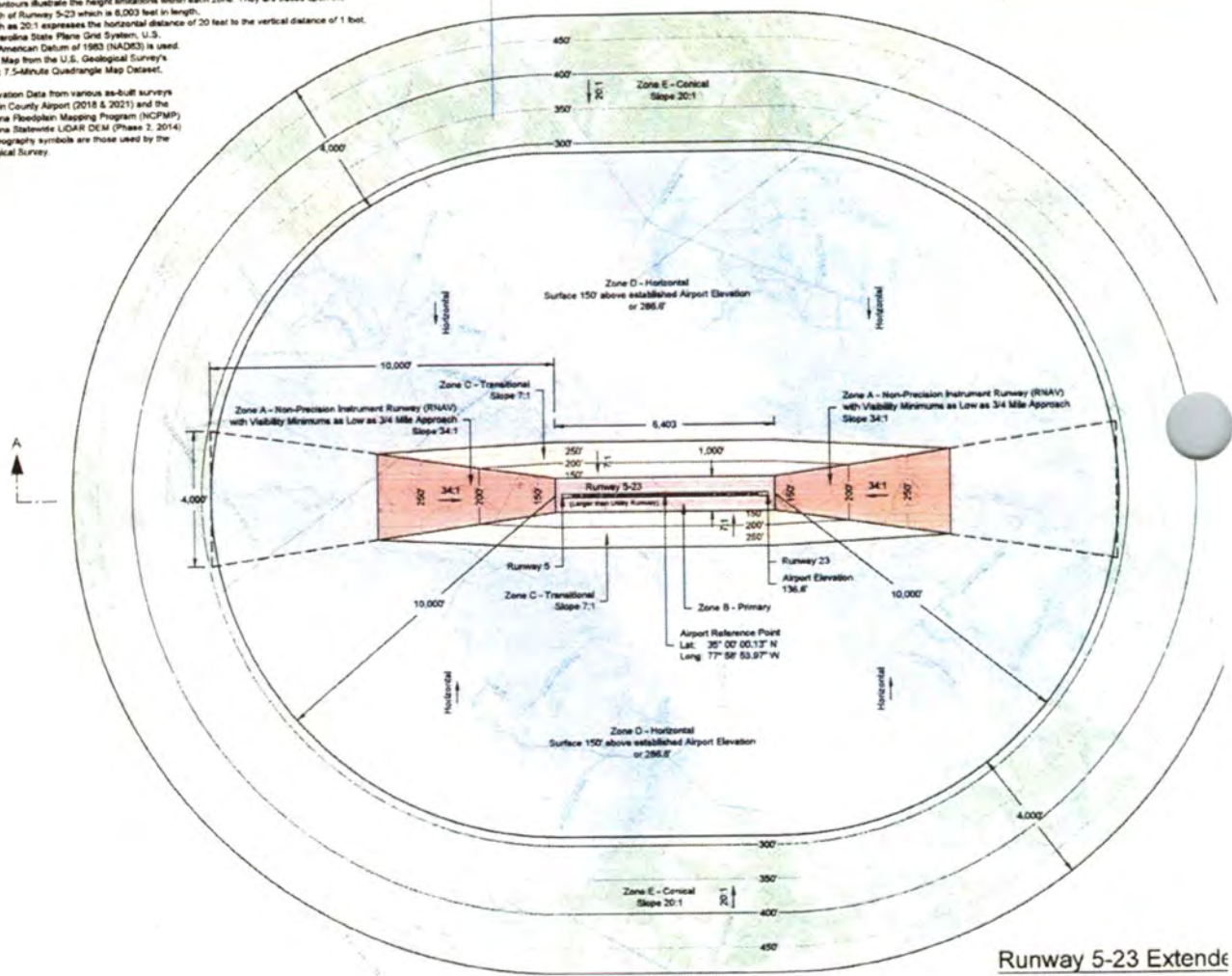
(S) Special Use: The associated land use is permitted, which is not considered to present a hazard to persons in aircraft over flying the ground or to persons in aircraft over flying the ground, provided that the applicant obtains a special use permit in accordance with the conditions presented (See Special Use Permit Application Form).

1 - Allowed only if use does not interfere with FAA/NOAA.
2 - Prohibits uses that constitute a hazard to objects, glare, dust, or other visual or electric that may attract hazardous wildlife.
3 - Use intensity restricted to 5 or less persons per acre outdoors.
4 - Use intensity restricted to 15 or less persons per acre outdoors.
5 - Use intensity restricted to 15 or less persons per acre outdoors.

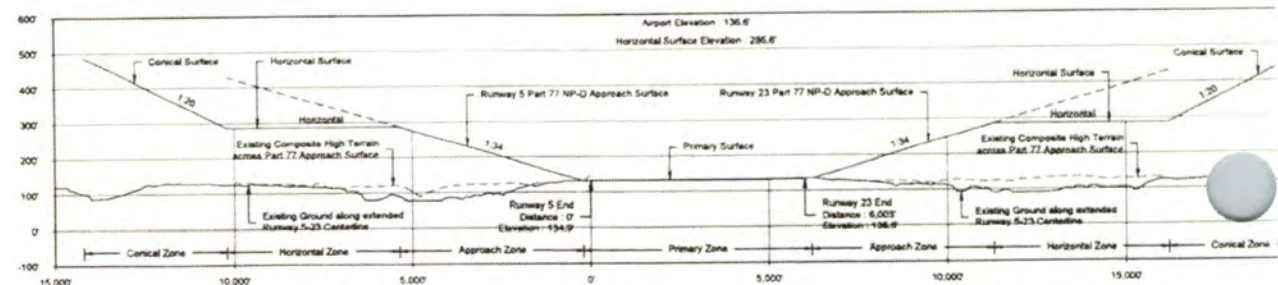
(N) Prohibited Use: The associated land use location, which presents a significant risk to persons in aircraft over flying the proposed use.

Notes: 1. The North Carolina State Plane Datum of 1983 (NAVD83) is used.
2. Background Imagery, Top Plan GIS, 2020.

- Notes**
1. The aerial contours illustrate the height limitations within each zone. They are based upon the current length of Runway 5-23 which is 6,003 feet in length.
 2. A slope, such as 20:1, expresses the horizontal distance of 20 feet to the vertical distance of 1 foot.
 3. The North Carolina State Plane Grid System, U.S. Feet, North American Datum of 1983 (NAD83) is used.
 4. Background Map from the U.S. Geological Survey's Topographic 7.5-Minute Quadrangle Map Dataset, 2018.
 5. Existing Elevation Data from various as-built surveys for the Duplin County Airport (2018 & 2021) and the North Carolina Floodplain Mapping Program (NCFMP), North Carolina Statewide LIDAR DEM (Phase 2, 2014).
 6. Existing Topography symbols are those used by the U.S. Geological Survey.



Runway 5-23 Extended
Horizontal Scale



Runway 5-23 Extended Centerline Profile (Section A - A)
Horizontal Scale: 1" = 2,500'
Vertical Scale: 1" = 250'



Duplin County, North Carolina Airport Land Use and Height Restriction Ordinance

Variance Application Checklist

Applicant _____

File Number _____

Date Submitted _____

Date Approved _____

Approval Signature _____

Title _____

Please submit the following items where relevant.

| Item | Complete | Incomplete | Waiver Requested | Not Applicable |
|---|----------|------------|------------------|----------------|
| 1. A professionally prepared survey of the property showing lot dimensions and all existing and proposed dimensions between all structures, property lines and elevations of all structures. | | | | |
| 2. A detailed description of the intended land use. | | | | |
| 3. A statement identifying the specific reason(s) why the intended Land Use and Height Restriction Ordinance applied is an unnecessary hardship. | | | | |
| 4. An approved FAA Form 7460-1 stating the impact an intended variance may have on the safe, efficient use of the Airport and its Airspace. (Only required for Variance Application of Height Restriction Ordinance portion.) | | | | |

Note: Please submit this checklist with your package.

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