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ARTICLE 1. PURPOSE AND ORGANIZATION

SECTION 101: TITLE

This Ordinance shall be known and may be cited as the Unified Development Ordinance of Duplin County, North Carolina, and may be referred to as the Duplin County UDO.

SECTION 102: PURPOSE

- (A) This Ordinance is intended to consolidate the county's major land development and land use regulations, to include the Airport Land Use and Height Restriction Ordinance, Adult Business Ordinance, Flood Damage Prevention Ordinance, Junkyard and Salvage Yard Ordinance, Manufactured Home & Travel Trailer Park Ordinance, Solar Energy Generating Facilities Ordinance, and Subdivision Regulation.
- (B) 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. They have been made with a view to preserve the existing environment and maintain or enhance quality of life while assuring the greatest possible use and enjoyment of land on individual properties, balanced against the necessary protection and enjoyment of land uses on adjacent properties. All of this with the objective of promoting and protecting public welfare through the regulation of land use and land development activities made in accordance with a comprehensive plan.
- (C) To the extent that the provisions of this Ordinance are the same in substance as the previously adopted provisions that they replace, they shall be considered as continuations thereof and not as new adoptions, enactments, or amendments unless otherwise specifically provided. A situation that did not constitute a lawful, nonconforming situation under the previously adopted code does not achieve lawful nonconforming status under this Ordinance merely by the repeal and replacement of the land development code.

SECTION 103: AUTHORITY

- (A) The provisions of this Ordinance are adopted under authority granted by the General Assembly of North Carolina (General Statutes 160D).

- (B) Whenever any provision of this Ordinance refers to or cites a section of the North Carolina General Statutes (NCGS), and that section is later amended or superseded, this Ordinance shall be deemed amended to refer to the amended section or the section that most nearly corresponds to the superseded section.
- (C) When the requirements of this Ordinance, made under the authority of NCGS 160D, require a greater width or size of yards or courts, or require a lower height of a building or fewer number of stories, or require a greater percentage of a lot to be left unoccupied, or impose other higher standards than are required in any other statute or local ordinance or regulation, the regulations made under authority of NCGS 160D shall govern. When the provisions of any other statute or local ordinance or regulation require a greater width or size of yards or courts, or require a lower height of a building or a fewer number of stories, or require a greater percentage of a lot to be left unoccupied, or impose other higher standards than are required by the regulations made under authority of NCGS 160D, the provisions of that statute or local ordinance or regulation shall govern.

SECTION 104: JURISDICTION

- (A) This Ordinance shall apply within the unincorporated jurisdiction of Duplin County. The jurisdiction of Duplin County shall not include the area within the extraterritorial jurisdiction of any municipality.
- (B) This Ordinance further applies 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. Said maps and amendments thereto and all explanatory matter thereon is hereby made a part of this Ordinance.
- (C) Regardless of the existence of purported copies of the Official Airport Zoning Maps, which may from time to time, be made or published, the Official Airport Zoning Maps shall be maintained for public inspection in the Office of the UDO Administrator and shall bear his signature certifying that the map was prepared by him or under his supervision and is correct, together with the date when it was last amended. Current and prior airport zoning maps may be maintained in paper or a digital format approved by the county.
- (D) This Ordinance may reference or incorporate by reference flood insurance rate maps, watershed boundary maps, or other maps officially adopted or promulgated by state and federal agencies. Where zoning district boundaries are based on these maps, said boundaries are automatically amended to remain consistent with changes in the officially promulgated state or federal maps. A copy of the currently effective version of any incorporated maps shall be maintained for public inspection as provided above.

SECTION 105: EXEMPTIONS

- (A) These regulations shall not apply to any land or structure for which, prior to the effective date hereof, there is a properly approved site-specific plan as required by the requirements previously adopted or previously approved vested rights in accordance with NCGS 160D-108. Any preliminary or final subdivision plat approvals required for such approved or exempted site-specific plans shall be conducted in accordance with the requirements of the previous Ordinance.
- (B) The provisions of this Ordinance shall not apply to existing bona fide farms. A bona fide farm is any tract of land containing at least three acres which is used for the production of, or activities relating to, or incidental to, the production of crops, fruit, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agricultural or forest products having a domestic or foreign market.
- (C) The following are not included within the definition of a subdivision (as provided in Chapter 2), and are not subject to the regulations of this UDO:
- (1) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the municipality as shown on its subdivision regulations.
 - (2) The division of land into parcels greater than ten acres where no street right-of-way dedication is involved.
 - (3) The public acquisition by purchase of strips of land for the widening or opening of streets or for public transportation system corridors.
 - (4) The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the municipality, as shown in its subdivision regulations.
 - (5) The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the General Statutes.

SECTION 106: RELATIONSHIP TO LAND USE PLAN

- (A) Applicability. As a condition of adopting and applying zoning regulations, Duplin County shall adopt and reasonably maintain a comprehensive land use plan that sets forth goals, policies, and programs intended to guide the present and future physical, social, and economic development of the jurisdiction. The County's land use plan is intended to guide coordinated, efficient, and orderly development throughout the County's planning jurisdiction based on an analysis of present and future needs. Planning analysis may address inventories of existing conditions and assess future trends regarding demographics and economic, environmental, and

cultural factors. The planning process included opportunities for citizen engagement in plan preparation and adoption. In addition to the land use plan, the County may prepare and adopt such other plans as deemed appropriate. This may include, but is not limited to, land use plans, small area plans, neighborhood plans, hazard mitigation plans, transportation plans, housing plans, and recreation and open space plans. If adopted pursuant to the process set forth in this section, such plans shall be considered in review of proposed zoning amendments.

(B) Comprehensive Land Use Plan Contents. A Comprehensive Land Use Plan may, among other topics, address any of the following as determined by the county:

- (1) Issues and opportunities facing the county, including consideration of trends, values expressed by citizens, community vision, and guiding principles for growth and development.
- (2) The pattern of desired growth and development and civic design, including the location, distribution, and characteristics of future land uses, urban form, utilities, and transportation networks.
- (3) Employment opportunities, economic development, and community development.
- (4) Acceptable levels of public services and infrastructure to support development, including water, waste disposal, utilities, emergency services, transportation, education, recreation, community facilities, and other public services, including plans and policies for provision of and financing for public infrastructure.
- (5) Housing with a range of types and affordability to accommodate persons and households of all types and income levels.
- (6) Recreation and open spaces.
- (7) Mitigation of natural hazards such as flooding, winds, wildfires, and unstable lands.
- (8) Protection of the environment and natural resources, including agricultural resources, mineral resources, and water and air quality.
- (9) Protection of significant architectural, scenic, cultural, historical, or archaeological resources.
- (10) Analysis and evaluation of implementation measures, including regulations, public investments, and educational programs.

(C) Adoption and Effect of Plans. Plans shall be adopted by the Board of Commissioners with the advice and consultation of the Planning Board. Adoption and amendment of the comprehensive plan is a legislative decision and shall follow the process mandated for zoning text amendments set by Article 4, Part I. Plans adopted under NCGS 160D may be undertaken and adopted as part of or in conjunction with plans required under other statutes, including, but not limited to, the

plans required by GS 113A-110. Plans adopted under NCGS 160D shall be advisory in nature without independent regulatory effect. Plans adopted under NCGS 160D do not expand, diminish, or alter the scope of authority for development regulations adopted under NCGS 160D. Plans adopted under NCGS 160D shall be considered by the Planning Board and Board of Commissioners when considering proposed amendments to zoning regulations as required by Sections 403 and 404.

If a plan is deemed amended by Section 404 by virtue of adoption of a zoning amendment that is inconsistent with the plan, that amendment shall be noted in the plan. However, if the plan is one that requires review and approval subject to GS 113A-110, the plan amendment shall not be effective until that review and approval is completed.

SECTION 107: NORTH CAROLINA STATE BUILDING CODE

The North Carolina State Building Code are incorporated herein by reference, and serve as the basis for Building Inspector authority to regulate building construction. This Ordinance is not intended to conflict with or supersede the North Carolina State Building Code regulations. In addition, the County's minimum housing standards are also incorporated herein by reference. All quasi-judicial procedures prescribed in Article 4, Part VI apply to these codes/ordinances.

SECTION 108: SPLIT JURISDICTION

If a parcel of land lies within the planning and development regulation jurisdiction of more than one local government, the municipal jurisdiction and Duplin County may by mutual agreement and with the written consent of the landowner assign exclusive planning and development regulation jurisdiction for the entire parcel to either the municipality or the county. Such a mutual agreement shall only be applicable to development regulations and shall not affect taxation or other non-regulatory matters. The mutual agreement shall be evidenced by a resolution formally adopted by each governing board and recorded with the Duplin County register of deeds within 14 days of the adoption of the last required resolution.

SECTION 109: PENDING JURISDICTION

After consideration of a change in local government jurisdiction has been formally proposed, the local government that is potentially receiving jurisdiction may receive and process proposals to adopt development regulations and any application for development approvals that would be required in that local government if the jurisdiction is changed. No final decisions shall be made on any development approval prior to the actual transfer of jurisdiction. Acceptance of jurisdiction, adoption of development regulations, and decisions on development approvals may be made concurrently and may have a common effective date.

SECTION 110: NONCONFORMITIES

Upon the effective date of this Ordinance, pre-existing lots, structures, and uses of lots or structures, which do not meet the requirements of this Ordinance, shall be considered as nonconforming and be allowed to legally exist and are to be considered pre-existing nonconformities. Lots, structures, and such uses that were a violation in previous Ordinances that are not considered to be compliant with these standards shall not be granted pre-existing nonconforming status as they were in violation under previous regulations and the adoption of this Ordinance is not the sole reason that they are now considered to be nonconforming. Pre-existing nonconformities are permitted to continue in existence provided that they are not altered or changed in a manner that is inconsistent with the provisions of this Ordinance.

SECTION 111: EFFECTIVE DATE

This Ordinance was originally adopted by the Duplin County Board of Commissioners and became effective on _____, 2024.

Dexter B. Edwards, Chair

Jaime Carr, Clerk to the Board

ARTICLE 2. DEFINITIONS

SECTION 201: MEASUREMENTS

- (A) Fractions. Except as provided by law, when any requirement of this Ordinance results in a fraction of a unit, a fraction of one-half or more shall be considered a whole and a fraction of less than one-half shall be disregarded.
- (B) Rounding. Rounding of numbers shall be done after computations are made. For example, in density computations, a three-acre site with an allowable density of 4.4 units per acre nets 13 units ($3 \times 4.4 = 13.2$) rather than 12 units ($3 \times 4 = 12$) by rounding the fractions after the computation is made.
- (C) Computation of Time.
- (1) Unless otherwise specifically provided, the time within which an act shall be done is computed by excluding the first and including the last day. If the last day is a Saturday, Sunday, or legal holiday, that day shall be excluded.
 - (2) When the period of time prescribed is less than seven days, intermediate Saturdays, Sundays, and holidays shall be excluded.
 - (3) Unless otherwise specifically provided, whenever a person has the right or is required to do some act within a prescribed period after the service of a notice or other paper upon him, and the notice of paper is served by mail, three days shall be added to the prescribed notice period.

SECTION 202: TENSE AND NUMBER

- (A) Words used in the singular in this Ordinance include the plural and words used in the plural include the singular.
- (B) Words used in the present tense include the future tense and the future tense includes the present tense.

SECTION 203: INTERPRETATION

- (A) As used in this Ordinance, words importing the masculine gender include the feminine and neuter.
- (B) The word “person” includes a firm, association, organization, corporation, company, trust, and partnership as well as an individual.
- (C) The words “may” and “should” are permissive.
- (D) The words “shall” and “will” are always mandatory and not merely directive.

- (E) The words “used” or “occupied” shall mean “intended, designed, and arranged to be used or occupied.”
- (F) The word “lot” shall include the words “plot,” “parcel,” “site,” and “premises.”
- (G) The word “structure” shall include the word “building.”
- (H) The word “street” includes the word “alley,” “road,” “cul-de-sac,” “highway,” or “thoroughfare.”
- (I) The word “includes” shall not limit the term to specified examples but is intended to extend its meaning to all other instances or circumstances of like kind or character.
- (J) The word “Commissioner” shall include the Board of Commissioners of Duplin County, North Carolina.
- (K) The words “Zoning Board,” “Zoning Commission,” “Planning Commission,” or “Planning Board” shall mean the Duplin County Planning Board.
- (L) The word “county” shall mean Duplin County, a county of the State of North Carolina.
- (M) The words “map” and “Airport Zoning Map” shall mean the Official Airport Land Use Regulations and Height Restriction Ordinance Maps of Duplin County, North Carolina.
- (N) The words “Comprehensive Plan” shall mean the Duplin County Land Use Plan.
- (O) The words “Board of Adjustment” shall mean the Duplin County Board of Adjustment.
- (P) The words “Register of Deeds” shall mean the Register of Deeds of Duplin County, North Carolina.

SECTION 204: DEFINITIONS AND TERMS

A

Accessory Structure (Appurtenant Structure). A structure located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports, and storage sheds are common urban accessory structures. Pole barns, hay sheds and the like qualify as accessory structures on farms and may or may not be located on the same parcel as the farm dwelling or shop building.

Abandonment. To discontinue, withdraw use, or give up. Any solar energy facility that ceases to produce energy on a continuous basis for 12 months will be considered abandoned. This definition is not exclusive to solar energy facilities.

Addition (to an existing building). An extension or increase in the floor area or height of a building or structure.

Adult Arcade. An establishment where, for any form of consideration, one (1) or more motion picture projectors, slide projectors or similar machines for viewing 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. A bookstore:

- Which receives a majority of its gross income during any calendar month from the sale or rental of publications (including books, magazines, other periodicals, videotapes, compact discs, other photographic, electronic, magnetic, digital, or other imaging medium) which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, as defined in this section; or
- Having as a preponderance (either in terms of the weight and importance of the material or in terms of greater volume of materials) of its publications (including books, magazines, other periodicals, videotapes, compact discs, other photographic, electronic, magnetic, digital, or other imaging medium) which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas.

Adult Establishment. An adult bookstore, adult motion picture theatre, adult mini motion picture theatre, adult live entertainment business, or any business, activity, club, or establishment where for any form of consideration, employees, members, patrons, or guests on its premises exhibit and display any anatomical area before another person or persons.

Adult Live Entertainment. Any performance of or involving the actual presence of real people which exhibits specified sexual activities or specified anatomical areas.

Adult Live Entertainment Business. Any establishment or business wherein adult live entertainment is shown for observation by patrons.

Adult Motion Picture Theatre. An enclosed building or premises used for presenting motion pictures, a preponderance of which are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, for observation by patrons therein. "Adult motion picture theatre" does not include any adult mini motion picture theatre.

Adult Mini Motion Picture Theatre. An enclosed building with viewing booths designed to hold patrons which is used for presenting motion pictures, a preponderance of which are distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, for observations by patrons therein.

Administrative Decision. Decisions made in the implementation, administration, or enforcement of the Duplin County UDO that involve the determination of facts and the application of objective standards set forth in the Duplin County UDO. Administrative Decisions may come from Duplin County staff, the Duplin County Planning Board, or the Duplin County Board of Commissioners.

Administrative Hearing. A proceeding to gather facts needed to make an administrative decision.

Alteration of a Watercourse. A dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification 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. A request for a review of the UDO Administrator's, Planning Board's, or Board of Commissioners' interpretation, as applicable, of any provision of the Duplin County UDO.

Area of Shallow Flooding. A designated Zone AO or AH 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.

Automobile Graveyard/Salvage Yard. Any establishment or place of business which is maintained, used, or operated for storing, keeping, buying, or selling wrecked, scrapped, ruined, dismantled motor vehicles or motor vehicle parts, machinery, appliances, structures, or parts thereof. Any establishment or place of business upon which six or more unlicensed, used motor vehicles which cannot be operated under their own power are kept or stored for a period of 15 days or more shall be deemed to be an "automobile graveyard".

Base Flood. The flood having a one (1) percent chance of being equaled or exceeded in any given year.

Base Flood Elevation (BFE). A determination of the water surface elevations of the base flood as published in the Flood Insurance Study. When the BFE has not been provided in a "Special Flood Hazard Area", it may be obtained from engineering studies available from a Federal, State, or other source using FEMA approved engineering methodologies. This elevation, when combined with the "Freeboard", establishes the "Regulatory Flood Protection Elevation".

Block. A piece of land bounded on one or more sides by streets or roads.

Bona Fide Farm. Agricultural activities as set forth in NCGS 160D-903.

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 spacing which will provide a permanent, continuous, year-round visual screen.

Building. Any structure used or intended for supporting or sheltering any use or occupancy.

Building Setback Line. A line parallel to the property line, no structure shall be built or extend into a designated building setback area. The front setback shall be measured from the edge of the right-of-way.

Chemical Storage Facility. A building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

Comprehensive Plan or Land Use Plan. A comprehensive land use plan that has been officially adopted by the Duplin County Board of Commissioners pursuant to NCGS 160D-501.

Conditional Zoning. A legislative zoning map amendment with site-specific conditions incorporated into the zoning map amendment (this will not apply to Duplin County until Zoning has been adopted in the unincorporated areas of Duplin County).

Construction Permit. A permit issued by the UDO Administrator authorizing the manufactured home park or travel trailer park owner to construct a manufactured home park or travel trailer park in accordance with a plan approved by the Planning Board. This authorizes the commencement of park construction itself provided all applicable state permits have been obtained by the owner.

County. Any one of the counties listed in GS 153A-10.

Decision-making Board. The Duplin County Planning Board, Duplin County Board of Commissioners, Board of Adjustment, or any other Board that is given the power by the Duplin County UDO to make quasi-judicial decisions.

Dedication. A gift, by the owner, or a right to use, of land for a specified purpose or purposes because a transfer of property is entailed, dedication must be made by deed.

Design Flood. See “Regulatory Flood Protection Elevation.”

Determination. A written, final, and binding order, requirement, or determination regarding an administrative decision.

Developer. A person including a redevelopment party or government agency, who undertakes any development and who is the landowner of the property to be developed or who has been authorized by the landowner to undertake development on that property.

Development. Includes any of the following:

- a) The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure.
- b) The excavation, grading, filling, clearing, or alteration of land.
- c) The subdivision of land as defined in NCGS 160D-802.
- d) The initiation or substantial change in the use of land or the intensity of use of land.

This definition does not change the scope of regulatory authority granted by the Duplin County UDO or the North Carolina General Statutes.

Development (Flood). 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. 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.

Development Approval. An administrative or quasi-judicial approval made pursuant to NCGS 160D-102 that is written and that is required prior to the commencement of development or undertaking of a specific activity, project, or development proposal. Development approvals include variances and other specific types of approval that are not applicable to Duplin County at this time due to the lack of county-wide zoning. In the event that Duplin County adopts county-wide zoning, whether that be in whole or in portion, development approvals will include all other types of approval listed in NCGS 160D-102(13). Development approvals also include regulatory approvals such as plat approval, permits, issued, development agreements, and building permits issued.

Development Regulation. The Duplin County Unified Development Ordinance, or any other regulation adopted by the Duplin County Board of Commissioners in accordance with the provisions set forth in NCGS 160D-102 that regulates land use or development.

Digital Flood Insurance Rate Map (DFIRM). 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. 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.

Dwelling. Any building, structure, manufactured home, or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith. For the purposes of Article 12 of NCGS 160D, the term does not include any manufactured home, mobile home, or recreational vehicle, if used solely for a seasonal vacation purpose.

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. There shall be no structure located within the boundary of a recorded easement.

Elevated Building. A non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

Encroachment. 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.

Evidentiary Hearing. A hearing to gather competent, material, and substantial evidence in order to make findings for a quasi-judicial decision required by a development regulation.

Existing Building and Existing Structure. Any building and/or structure for which the “start of construction” commenced before the effective date of the initial FIRM for the community, dated July 4, 1989.

Existing Manufactured Home Park or Manufactured Home Subdivision. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community, dated September 16, 1988.

Fence, Solar Energy Facility. 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 wood, stone, steel, or other metal, or any substance of a similar nature and strength.

Flag Lot. A lot that is connected to a right-of-way or access easement by a narrow portion or strip of land (flagpole) that is a part of a larger parcel of land (flag). Flagpole portions must be a minimum of 35’ in width and flag portions must be a minimum of 2 acres. Subdivisions may only create one flag lot.

Flood or Flooding. 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). An official map of a 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. The insurance coverage provided under the National Flood Insurance Program.

Flood Insurance Rate Map (FIRM). An official map of a 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). 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. 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. Any land area susceptible to being inundated by water from any source.

Floodplain Administrator. The individual appointed to administer and enforce the floodplain management regulations.

Floodplain Development Permit. Any type of permit that is required in conformance with the provisions of this ordinance, prior to the commencement of any development activity.

Floodplain Management. The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including, but not limited to, emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

Floodplain Management Regulations. 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. 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. 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 lumber 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. 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. 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 hydraulic models meeting the minimum requirements of the National Flood Insurance Program.

Freeboard. 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, precipitation exceeding the base flood, and the hydrological effect of urbanization of the watershed. The BFE plus the freeboard establishes the “Regulatory Flood Protection Elevation”.

Functionally Dependent Facility. A facility which cannot be used for its intended purpose unless it is located in close proximity to water, limited to a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

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.

Governing Board. The Duplin County Board of Commissioners.

Half-Street. A street whose centerline coincides with a subdivision plat boundary, within one-half 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.

Hazardous Waste Management Facility. As defined in NCGS 130A, Article 9, a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.

Highest Adjacent Grade (HAG). The highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the structure.

Historic Structure. Any structure that is:

- a) Listed individually in the National Register of Historic Places (a listing maintained by the US Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;
- b) Certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- c) Individually listed on a local inventory of historic landmarks in communities with a “Certified Local Government (CLG) Program”; or
- d) Certified as contributing to the historical significance of a historic district designated by a community with a “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.

Improved Area. An area containing but not limited to or required to have all to be considered improved, perimeter fencing, solar panels, electrical inverters, storage buildings and access roads.

Junk. Old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste, or junked, dismantled, or wrecked automobiles, boats, buses, semi-trucks, airplanes or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material, including dismantled and uninhabitable homes, manufactured homes, recreational vehicles or parts thereof.

Junkyard. An establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for maintenance or operation of an automobile graveyard, and the term shall include garbage dumps and sanitary fills. An establishment or place of business which stores or keeps for a period of 15 days or more materials within the meaning of "junk".

Landowner or Owner. The holder of the title in fee simple. Absent evidence to the contrary, Duplin County may rely on county tax records to determine who is the owner. The landowner may authorize a person holding a valid option, lease, or contract to purchase to act as his or her agent or representative for the purpose of making applications for development approvals.

Letter of Map Change (LOMC). An official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

- 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.

Legislative Decision. The adoption, amendment, or repeal of a regulation under the Duplin County UDO. The term also includes the decision to approve, amend, or rescind a development agreement consistent with the provisions of Article 10 of NCGS Chapter 160D.

Legislative Hearing. A hearing to solicit public comment on a proposed legislative decision.

Light Duty Truck. 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). The lowest elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.

Lowest Floor. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or 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.

Local Government. Duplin County Government.

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 the Duplin County UDO, or a lot described by metes and bounds, the description of which has been so recorded prior to the effective date of the Duplin County UDO.

Lot, Corner. 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 135 degrees.

Lot, Double Frontage. A continuous (through) lot, which is accessible from both streets upon which it fronts.

Lot, Interior. A lot other than a corner lot with only one frontage on a street.

Lot, Nonconforming. A lot which does not meet all dimensional requirements of Article 6, this applies to all lots that legally existed prior to the adoption of the Duplin County Unified Development Ordinance or subsequent amendments, and which continues to exist.

Lot, Reversed Frontage. A lot on which the frontage is at right angles or approximately right angles (interior angles less than 135 degrees) to the general pattern in the area. A reversed frontage lot may also be a corner lot, an interior lot or a through lot.

Lot, Single-Tier. A lot which backs upon a limited access highway, a railroad, and any physical barrier, or any other type of land use and to which access from the rear is usually prohibited.

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 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. The term "manufactured home" does not include a "recreational vehicle". Duplin County requires that Manufactured homes being setup, relocated, or established in the County are required to meet the standards of the National Manufactured Housing Construction and Safety Standards Act of 1976.

Manufactured Home Lot. Any designated lot or area designated upon a site plan designated for the exclusive use of one manufactured home. Manufactured Home Lots are not subdivided lots of record, rather they are surveyed areas meeting minimum size requirements for the use of an individual manufactured home.

Manufactured Home Park. Any place, parcel, area, or tract of land under the ownership of the same person, persons, company, corporation, or entity that is maintained, offered, or used for the parking of more than two manufactured homes, whether the homes are owned by the landowner or by tenants of park lots, used or intended to be used for human habitation purposes. Provided further that this regulation shall not apply to permitted migrant labor camps that may be allowed under NCGS 160D-903. Manufactured Home Parks that desire to divide lots into individual pieces of real property shall go through the subdivision process.

Manufactured Home/Travel Trailer Park 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.

Map Repository. The location of the official flood hazard data to be applied for floodplain management. It is a central location in which flood data is stored and managed; in North Carolina, FEMA has recognized that the application of digital flood hazard data products have the same authority as hard copy products. Therefore, the NCEM's Floodplain Mapping Program websites house current and historical flood hazard data. For effective flood hazard data the NC FRIS website (<http://FRIS.NC.GOV/FRIS>) is the map repository, and for historical flood hazard data the FloodNC website (<http://FLOODNC.GOV/NCFLOOD>) is the map repository.

Market Value. The building value, not including the land value and that of any accessory structures or other improvements on the lot. Market value may be established by independent certified appraisal; replacement cost depreciated for age of building and quality of construction (Actual Cash Value); or adjusted tax assessed values.

Massage. Any manipulation of body muscle or tissue by rubbing, stroking, kneading, or tapping, by hand or mechanical device. Massage does not include any activities specified in the definition specified sexual activities.

Massage Business. Any establishment or business wherein massage is practiced, including establishments commonly known as health clubs, physical culture studios, massage studios or massage parlors. Legally operating massage businesses have absolutely no component of specified sexual activities as defined in the Duplin County UDO taking place upon the premises.

New Construction. Structures for which the "start of construction" commenced on or after the effective date of the initial floodplain management regulations and includes any subsequent improvements to such structures.

Non-Conversion Agreement. A document stating that the owner will not convert or alter what has been constructed and approved. Violation of the agreement is 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.

Nonconforming Structure. Includes structures that legally existed prior to the adoption of the Duplin County Unified Development Ordinance and such structures possess valid permits issued by the Duplin County Building Inspections Department. These structures do not meet the requirements of the UDO which include but are not limited to building height, size, floor area ratio, or setbacks.

Non-Encroachment Area (NEA). 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.

Official Maps or Plans. Any map or plan officially adopted by the Planning Board or Board of Commissioners. Per 160D-105 current and prior maps must be maintained in either paper or digital format.

Opaque Fence, (Solar Energy Facility). 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.

Open Space. A usable area (land/or water), reserved for enjoyment or conservation purposes.

Operator. The person(s), entity or company that engages in the operation and conduction of a business, facility or enterprise, but is not limited to these types of operations.

Operation Permit. A permit issued by the UDO Administrator 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 and for the actual placement and set-up of manufactured homes and travel trailers.

Person. An individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body, the State of North Carolina and its agencies and political subdivisions, or other legal entity.

Permitted Migrant Labor Camp. Any manufactured homes under valid permit by the Duplin County Health Department and other applicable agencies for uses as housing for migrant laborers. Manufactured home parks as defined by the Duplin County UDO will be subject to the requirements of this ordinance when not under valid permit as a migrant labor camp. Migrant Labor Camps must meet the qualifications of NCGS 160D-903.

Planning and Development Regulation Jurisdiction. All unincorporated areas of Duplin County that lie outside of municipal limits and extraterritorial jurisdiction areas. The Duplin County UDO applies to all these areas.

Planning Board. Any board or commission established pursuant to NCGS 160D-301.

Plat. A map or plan of a parcel of land which has been recorded as a plat in the Duplin County Register of Deeds. A plan becomes a plat once it has been legally and officially recorded.

Portable Water Supply Well. A well, used for or intended for, supplying water for human consumption.

Post-FIRM. 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. 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. That at least 51% of the actual cash value of the structure is above ground.

Private Driveway. An easement serving two or fewer lots, building sites or other divisions of land and not intended to be public ingress or egress.

Private Street. A private right-of-way dedicated to a property owner or homeowners association. Private streets are to be built to the same standards as NCDOT rights-of-way.

Property. All real property subject to land-use regulation. The term includes any improvements or structures customarily regarded as part of real property.

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 feet and of such materials and construction which creates a physical barrier.

Public Park. Any publicly owned land which is designated or used as a public park, recreation area, wildlife or waterfowl refuge or historic site.

Public Street. A public right-of-way dedicated and constructed to meet the requirements of the North Carolina Department of Transportation.

Public Safety and/or Nuisance. Anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

Quasi-Judicial Decision. A decision involving the finding of facts regarding a specific application of a development regulation and that requires the exercise of discretion when applying the standards of the regulation. The term includes but is not limited to, decisions involving variances, special use permits, and appeals of administrative decisions. Decisions on the approval of subdivision plats and site plans are quasi-judicial in nature if the regulation authorizes a decision-making board to approve or deny the application based not only upon whether the application complies with specific requirements set forth in the regulation, but also on whether the application complies with one or more generally stated standards requiring a discretionary decision on the finds to be made by the decision making board.

Recreation Area or Park. An area of land or combination of land and water resources that is developed for active or passive recreation pursuits with various man-made features that accommodate such activities.

Recreational Vehicle (RV). 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. 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. 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 (2) feet above the highest adjacent grade.

Remedy a Violation. To bring the structure or other development into compliance with state and community floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.

Reservation. (reserved by owner) 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.

Residence. A building used as a dwelling for one or more families or persons.

Residential Area. Any area within one tenth of a mile of a solar energy facility having twenty-five or more dwellings.

Riverine. Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Salvage Yard. Any non-residential property used for the storage, collection, and/or recycling of any type of equipment, and including but not limited to vehicles, appliances, and related machinery.

Sexually Oriented Business. 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.

School. Institutions of education including public and private schools, daycare centers, colleges, and universities.

Screen Fence (Opaque). A structure 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 such materials and construction which creates a permanent solid, continuous, opaque visual barrier.

Sketch Plan. A drawing showing general area conditions and containing information as required by Duplin County UDO.

Site Plan. A scaled drawing and supporting text showing the relationship between lot lines and the existing or proposed uses, buildings, or structures on the lot. The site plan may include site specific details such as building areas, building height and floor area, setbacks from lot lines, street rights-of-way, intensities, densities, utility lines, and locations, parking, access points, roads, and stormwater control facilities that are depicted to show compliance with all legally required development regulations that are applicable to the project and the site plan review. A site plan approval based solely upon application of objective standards is an administrative decision and a site plan approval based in whole or in part upon the application of standards involving judgement and discretion is a quasi-judicial decision. A site plan may also be approved as part of a conditional zoning decision.

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. This definition does not include dwellings or buildings with ground or roof mounted solar panels who are only generating power to support such structure.

Solid Waste Disposal Facility. Any facility involved in the disposal of solid waste, as defined in NCGS 130A-290(a)(35).

Solid Waste Disposal Site. As defined in NCGS 130A-290(a)(36), any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.

Specified Anatomical Areas. Less than completely and opaquely covered human genitals, pubic regions, buttocks, and female breasts below a point immediately above the top of the areola. Human male genitals in a discernably turbid state, even if completely and opaquely covered.

Special Flood Hazard Area (SFHA). The land in the floodplain subject to a one percent (1%) or greater chance of being flooded in any given year, as determined in Section 1107 of this ordinance.

Specified Sexual Activities:

- a) Human genitals in a state of sexual stimulation or arousal;
- b) Acts of human masturbation, sexual intercourse, sodomy; or
- c) Fondling or other erotic touching of human genitals, pubic regions, buttocks, or female breasts.

Special Use Permit. A permit issued to authorize development or land uses in a particular zoning district upon presentation of competent, material, and substantial evidence establishing compliance with one

or more general standards requiring that judgement and discretion be exercised as well as compliance with specific standards. This permit only applies if Duplin County adopts county-wide zoning in whole or in part, or if Duplin County designates certain types of development as requiring quasi-judicial approval in the UDO.

Subdivision. The division of land for the purpose of sale or development as specified in NCGS 160D-802.

Subdivider. Any person, firm or corporation who subdivides or develops any land deemed to be a subdivision as defined by the Duplin County UDO.

Subdivision Regulation. A subdivision regulation as authorized by Article 8 of NCGS Chapter 160D and the Duplin County UDO.

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. A walled and roofed building, a manufactured home, or a gas, liquid, or liquefied gas storage tank that is principally above ground.

Substantial Damage. Damage of any origin sustained by a structure during any one-year period whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 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. 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 Section 1118 of this ordinance.

Technical Bulletin and Technical Fact Sheet. A FEMA publication that provides guidance concerning the building performance standards of the NFIP, which are contained in Title 44 of the U.S. Code of Federal Regulations at Section 60.3. The bulletins and fact sheets are intended for use primarily by State and local officials responsible for interpreting and enforcing NFIP regulations and by members of the development community, such as design professionals and builders. New bulletins, as well as updates of existing bulletins, are issued periodically as needed. The bulletins do not create regulations; rather they provide specific guidance for complying with the minimum requirements of existing NFIP regulations.

It should be noted that Technical Bulletins and Technical Fact Sheets provide guidance on the minimum requirements of the NFIP regulations. State or community requirements that exceed those of the NFIP take precedence. Design professionals should contact the community officials to determine whether more restrictive State or local regulations apply to the building or site in question. All applicable standards of the State or local building code must also be met for any building in a flood hazard area.

Temperature Controlled. Having the temperature regulated by a heating and/or cooling system, built-in or appliance.

Travel Trailer. A wheeled vehicular portable structure built on a chassis, designated 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. To also include recreational vehicles, RV's.

Travel Trailer Park. Any place, parcel, area, or tract of land upon which is located more than two travel trailer spaces, regardless of whether or not a charge is made for such service.

Travel Trailer Space. An area plot of land within a travel trailer park designed for the accommodation of one travel trailer. The space must be clearly identified on the site plan.

Traveled Way. A portion of a public road intended for movement of vehicles.

UDO Administrator. The Duplin County Planning Director or his designee, in the absence of a Planning Director for the County, the County Manager or his designee shall be the UDO Administrator.

Variance. A grant of relief from the requirements of the Duplin County UDO. Shall only be granted by the Board of Adjustment when they determine that an unnecessary hardship would result from carrying out the strict requirements of the Duplin County UDO. The hardship must result from a strict application, or conditions peculiar to the property such as topography, location, or size. Variances may

also be granted as a reasonable accommodation under the Federal Fair Housing Act for a person with a disability. The variance must be consistent with the spirit, purpose and intent of the Duplin County UDO.

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 six feet in height at maturity.

Violation. The failure of a structure, use, lot, situation, or other development to be fully compliant with the requirements of this Ordinance.

Visible. Capable of being seen without visual aid by a person of normal visual acuity.

Water Surface Elevation (WSE). The height, in relation to NAVD 1988, of floods of various magnitudes and frequencies in the floodplains of riverine areas.

Watercourse. A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

Zoning Map Amendment or Rezoning. This definition only applies if Duplin County adopts county-wide zoning in whole or in part. See NCGS 160D-102(34).

ARTICLE 3. ADMINISTRATIVE MECHANISMS

PART I. PLANNING BOARD

SECTION 301: MEMBERSHIP AND VACANCIES

Per NCGS 160D-301, the Planning Board shall consist of 5 members. All members will serve 2-year terms. The Duplin County Board of Commissioners may appoint *ex-officio* members as they determine needed. Vacancies occurring for reasons other than expiration of terms shall be filled as they occur for the period of the unexpired term. Faithful attendance at the meetings of the board is considered a pre-requisite for the maintenance of membership on the board. A vacancy shall exist on the Board if a member is absent from twenty-five (25) percent or more of the Board's meetings within a twelve (12) month period and said vacancy may be declared and filled by the Board of Commissioners. Before entering their duties, each member must take an oath of office in accordance with NCGS 160D-309.

SECTION 302: ORGANIZATION, RULES, MEETINGS, AND RECORDS

The Planning Board shall elect a chairman and other officer for their board as they deem necessary. The term of the chairman and other officers shall be one year, with eligibility for reelection. The Board shall adopt rules for the transaction of its business and discussions, findings and recommendations, which record shall be a public record, these adopted rules shall be maintained by the UDO Administrator and be posted to the Duplin County Government website per NCGS 160D-308. The Board shall schedule one meeting monthly, and all its meetings shall be open to the public. There shall be a quorum of 3 members for the purpose of taking any official action required by this ordinance.

SECTION 303: DUTIES

The Planning Board has been assigned the following duties per NCGS 160D-301(b):

- (A) To prepare, review, maintain, monitor, and periodically update and recommend to the Board of Commissioners a comprehensive plan, and such other plans as deemed appropriate, and conduct ongoing related research, data collection, mapping, and analysis.
- (B) To facilitate and coordinate citizen engagement and participation in the planning process.
- (C) To develop and recommend policies, ordinances, development regulations, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner.
- (D) To advise the Board of Commissioners concerning the implementation of plans, including, but not limited to, review and comment on all zoning text and map amendments (as applicable) as required by NCGS 160D-604.
- (E) To exercise any functions in the administration and enforcement of various means for carrying out plans that the Board of Commissioners may direct.

- (F) To provide a preliminary forum for review of quasi-judicial decisions, provided that no part of the forum or recommendation may be used as a basis for the decision made by the Board of Adjustment.
- (G) To perform any other related duties that the Board of Commissioners may direct.

SECTION 304: 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 305: LAND USE PLAN

The Land Use Plan, with the accompanying maps, charts, and descriptive matter, shall be and show the Planning Board's recommendations to the Board of Commissioners for the development of the county's planning jurisdiction, 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 ordinances 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 provisions 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 and the improvement of the community social and economic attributes.

SECTION 306: ZONING ORDINANCE

The Planning Board may prepare and submit to the Board of Commissioners for its consideration and possible adoption of a zoning ordinance, in part or in whole, to be made part of the Duplin County UDO, for the control of height, area, bulk, location and use of buildings and premises in the area, in accordance with NCGS 160D-701. Pursuant to NCGS 160D-501, Duplin County must reasonably maintain a comprehensive plan or land-use plan to adopt and enforce zoning.

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

SECTION 307: 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 Commissioners its recommendations, if any, for adoption or revision of said regulations.

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

SECTION 308: PUBLIC FACILITIES

The Planning Board shall review with the county officials and report as recommendations to the Board of 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 Commissioners may if it deems wise, after the expiration of the 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 309: 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 the 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 310: 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 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 Commissioners. It may accept and disburse such contributions for special purposes or projects, subject to any specific conditions in 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 Commissioners in the county’s annual budget.

PART II. BOARD OF ADJUSTMENT

SECTION 311: ESTABLISHMENT

The Board shall consist of five (5) members and two (2) alternate members who shall be citizens and residents of Duplin County, holding no other public office under the county government, and shall be appointed by the Board of County Commissioners.

- (A) All members will be appointed for staggered terms of three years, to serve in accordance with the County Commissioners’ policy on boards and commissions then in effect.
- (B) Alternate members shall be appointed for the same term, at the same time, and in the same manner as regular members. Each alternate member serving on behalf of any regular member has all the powers and duties of a regular member when required to serve.
- (C) All appointments to fill vacancies shall be for the unexpired period of the term.
- (D) All appointed members shall, before entering their duties, qualify by taking an oath of office.

SECTION 312: CHAIRMAN OF THE BOARD

The Board shall elect one (1) of the members as Chairman and another as Vice-Chairman who shall serve for one (1) year, with eligibility for re-election. The UDO Administrator shall serve as secretary to the Board of Adjustment. The Chairman or any member temporarily acting as Chairman may administer oaths to witnesses coming before the Board.

SECTION 313: ORGANIZATION, RULES, MEETING, AND RECORDS

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

- (A) The Board shall hold meetings in accordance with its rules of procedure for the purpose of transacting its duties assigned in this Ordinance and shall maintain a public record of its actions.
- (B) Rules of procedure shall be adopted by the Board for the conduct of its business and for the election of officers. The County Commissioners shall approve the Board’s rules of procedure and any amendments prior to implementation.
- (C) All meetings held by the Board shall be held in accordance with the North Carolina open meetings law.
- (D) The Board shall keep minutes of its proceedings suitable for judicial review showing:
 - (1) The factual evidence presented to the Board by all parties concerned;
 - (2) The findings of fact and the reasons for the determinations by the Board; and
 - (3) The vote of each member or notation of any member absent or failing to vote, all of which shall be public record and filed with the secretary to the Board.

SECTION 314: DUTIES

The Board shall hear and decide all matters upon which it is required to pass under any statute or development regulation.

The concurring vote of four-fifths of the board shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in certiorari. Vacant positions on the Board and members who are disqualified from voting on the quasi-judicial matter shall not be considered members of the board for calculations of the requisite majority if there are no qualified alternates available to take the place of such members.

SECTION 315: COMPENSATION

Members of the Board of Adjustment shall serve without compensation and may be removed by the County Commissioners at any time for any reason.

PART III. ADMINISTRATIVE STAFF

SECTION 316: AUTHORITY

In accordance with NCGS Section 160D-402, the County may appoint administrators, inspectors, enforcement officers, planners, technicians, and other staff to develop, administer, and enforce this Ordinance. The person or persons to whom these functions are assigned shall be referred to in this Ordinance as the UDO Administrator.

SECTION 317: DUTIES

Duties assigned to staff may include, but are not limited to, drafting and implementing plans and development regulations to be adopted pursuant to this Ordinance; determining whether applications for development approvals are complete; receiving and processing applications for development approvals; providing notices of applications and hearings; making decisions and determinations regarding development regulation implementation; determining whether applications for development approvals meet applicable standards as established by law and the Duplin County UDO; conducting inspections; issuing or denying certificates of compliance or occupancy; enforcing development regulations, including issuing notices of violation, orders to correct violations, and recommending bringing judicial actions against actual or threatened violations; keeping adequate records; and any other actions that may be required in order adequately to enforce the laws and development regulations of Duplin County. A development regulation may require that designated staff members take an oath of office. Duplin County shall have the authority to enact ordinances, procedures, and fee schedules relating to the administration and the enforcement of this UDO per NCGS 160D-402(b). The administrative and enforcement provisions related to building permits set forth in Article 11 of Chapter 160D shall be followed for those permits.

PART IV. BOARD OF COMMISSIONERS

SECTION 318: DUTIES

The Board of Commissioners shall have the following powers and duties to be carried out in accordance with these regulations which include, but are not limited to, the following:

- (A) To initiate and make amendments to the text of these regulations.
- (B) To hear, review, and adopt or reject amendments to the text of these regulations.
- (C) To hear matters deferred to them by the Planning Board or as this UDO dictates that they hear them.
- (D) To adopt temporary moratoria on any County development approval required by law, per NCGS 160D-107.

SECTION 319: RULES OF CONDUCT

- (A) The Board of Commissioners, in considering special use permit applications, acts in a quasi-judicial capacity and, accordingly, is required to observe the procedural requirements set forth in this UDO.
- (B) In considering proposed changes in the text of this UDO, the Board of Commissioners acts in its legislative capacity and must proceed in accordance with the requirements set forth in this UDO.
- (C) Unless specifically indicated and written otherwise in this UDO, the Board of Commissioners shall follow the regular voting and other requirements as set forth in this UDO.

PART V. CONFLICTS OF INTEREST

SECTION 320: GOVERNING BOARD

A Duplin County Board of Commissioners member shall not vote on any legislative decision regarding a development regulation adopted pursuant to NCGS 160D where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A Board of Commissioners member shall not vote on any text amendment if the applicant is a person with whom the member has a close familial, business, or other associational relationship.

SECTION 321: APPOINTED BOARDS

Members of appointed boards shall not vote on any advisory or legislative decision regarding a development regulation adopted pursuant to NCGS 160D where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. An appointed board member shall not vote on any text amendment if the applicant is a person with whom the member has a close familial, business, or other associational relationship.

SECTION 322: ADMINISTRATIVE STAFF

- (A) No staff member shall make a final decision on an administrative decision required by this Ordinance if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship. If a staff member has a conflict of interest under this section, the decision shall be assigned to the supervisor of the staff person, or such other staff person as may be designated by this UDO.
- (B) No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under this UDO unless the staff member is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with the County to provide staff support shall engage in any work that is

inconsistent with his or her duties or with the interest of the County, as determined by the County.

SECTION 323: QUASI-JUDICIAL DECISIONS

A member of any board exercising quasi-judicial functions pursuant to this Ordinance shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed *ex parte* communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter.

SECTION 324: RESOLUTION OF OBJECTION

If an objection is raised to a board member's participation at or prior to the hearing or vote on that matter, and that member does not recuse himself or herself, the remaining members of the board shall by majority vote rule on the objection.

SECTION 325: FAMILIAL RELATIONSHIP

For purposes of this Part, a close familial relationship means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.

ARTICLE 4. ADMINISTRATIVE REVIEW PROCEDURES

PART I. PROCEDURE FOR ADOPTING, AMENDING, OR REPEALING THIS UDO

SECTION 401: NOTICE OF HEARING ON PROPOSED AMENDMENTS

- (A) Hearing with Published Notice. Before adopting, amending, or repealing any ordinance or development regulation authorized by NCGS Chapter 160D, the County Board of Commissioners shall hold a legislative hearing. A notice of the hearing shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the area. The notice shall be published the first time not less than 10 days nor more than 25 days before the date scheduled for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included.
- (B) A development regulation adopted pursuant to NCGS Chapter 160D shall be adopted by ordinance.
- (C) No amendment to zoning regulations or a zoning map that down-zones property shall be initiated, nor shall it be enforceable without the written consent of all property owners whose property is the subject of the down-zoning amendment, unless the down-zoning amendment is initiated by the County.

SECTION 402: CITIZEN COMMENT

Subject to the limitations of this Ordinance, zoning regulations may from time to time be amended, supplemented, changed, modified, or repealed. If any resident or property owner in the County submits a written statement regarding a proposed amendment, modification, or repeal to a zoning regulation, including a text or map amendment, to the Clerk to the Board at least two business days prior to the proposed vote on such change, the Clerk to the Board shall deliver such written statement to the Board of Commissioners. If the proposed change is the subject of a quasi-judicial proceeding under NCGS Chapter 160D-705 or any other statute, the Clerk to the Board shall provide only the names and addresses of the individuals providing written comment, and the provision of such names and addresses to all members of the Board shall not disqualify any member of the Board from voting.

SECTION 403: PLANNING BOARD REVIEW, COMMENT, AND APPROVAL

- (A) Initial Zoning (NCGS 160D-604). In order to exercise zoning powers conferred by NCGS 160D for the first time, the Planning Board shall prepare or shall review and comment upon a proposed zoning regulation, including the full text of the regulation and maps showing proposed district boundaries. The Planning Board may hold public meetings and legislative hearings in the course of preparing the regulation. Upon completion, the Planning Board shall make a written recommendation regarding adoption of the regulation to the Board of Commissioners. The Board of Commissioners shall not hold its required hearing or take action until it has received a

recommendation regarding the regulation from the Planning Board. Following its required hearing, the Board of Commissioners may refer the regulation back to the Planning Board for any further recommendations that the board may wish to make prior to final action by the Board of Commissioners in adopting, modifying and adopting, or rejecting the regulation.

- (B) Review of Other Ordinances and Actions. Any development regulations other than a zoning regulation that is proposed to be adopted pursuant to NCGS Chapter 160D may be referred to the Planning Board for review and comment. Any development regulation other than a zoning regulation may provide that future proposed amendments of that ordinance be submitted to the Planning Board for review and comment. Any other action proposed to be taken pursuant to NCGS Chapter 160D may be referred to the Planning Board for review and comment.
- (C) Plan Consistency. When conducting a review of proposed zoning text or map amendments pursuant to this section, the Planning Board shall advise and comment on whether the proposed action is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The Planning Board shall provide a written recommendation to the Board of Commissioners that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the Board of Commissioners. If a zoning map amendment qualifies as a “large-scale rezoning” under NCGS 160D-602(b), the Planning Board statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the recommendations made.
- (D) Separate Board Required. Notwithstanding the authority to assign duties of the Planning Board to the Board of Commissioners as provided by this Ordinance, the review and comment required by this section shall not be assigned to the Board of Commissioners and must be performed by a separate board.
- (E) Planning Board Approval. The Planning Board serves as the primary review and approval board for decisions regarding subdivision, manufactured home and travel trailer parks, junkyard and salvage yards, and solar energy generating facilities. The Planning Board may defer to the Board of Commissioners to grant final approval as provided elsewhere in this UDO. The Planning Board may also determine a Special Use Permit is needed as provided in this UDO.

SECTION 404: BOARD OF COMMISSIONERS STATEMENT REQUIRED

- (A) Plan Consistency. When adopting or rejecting any zoning text or map amendment, the Board of Commissioners shall approve a brief statement describing whether its action is consistent or inconsistent with the Duplin County Land Use Plan. The requirement for a plan consistency statement may also be met by a clear indication in the minutes of the Board of Commissioners that at the time of action on the amendment the Board was aware of and considered the Planning Board’s recommendations and any relevant portions of the Duplin County Land Use

Plan. If a zoning map amendment is adopted and the action was deemed inconsistent with the adopted plan, the zoning amendment shall have the effect of also amending any future land use map in the approved plan, and no additional application or fee for a plan amendment shall be required. A plan amendment and a zoning amendment may be considered concurrently. The plan consistency amendment is not subject to judicial review. If a zoning map amendment qualifies as a “large scale rezoning” per NCGS 160D-602(b), the Board of Commissioners statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the action taken.

- (B) Additional Reasonableness Statement for Rezonings. When adopting or rejecting any petition for a zoning map amendment, a statement analyzing the reasonableness of the proposed rezoning shall be approved by the Board of Commissioners. This statement of reasonableness may consider, among other factors, (i) the size, physical condition, and other attributes of the area proposed to be rezoned, (ii) the benefits and detriments to the landowners, the neighbors, and the surrounding community, (iii) the relationship between the current actual and permissible development on the tract and adjoining areas and the development that would be permissible under the proposed amendment, (iv) why the action taken is in the public interest; and (v) any changed conditions warranting the amendment. If a zoning map amendment qualifies as a “large-scale rezoning” per NCGS 160D-602(b), the Board of Commissioners statement on reasonableness may address the overall rezoning.
- (C) Single Statement Permissible. The statement of reasonableness and the plan consistency statement required by this section may be approved as a single statement.

PART II. MORATORIA

SECTION 405: AUTHORITY

In accordance with NCGS 160D-107, Duplin County may adopt temporary moratoria on any development approval required by law, except for the purpose of developing and adopting new or amended plans or development regulations governing residential uses. The duration of any moratorium shall be reasonable in light of the specific conditions that warrant imposition of the moratorium and may not exceed the period of time necessary to correct, modify, or resolve such conditions.

PART III. VESTED RIGHTS AND PERMIT CHOICE

SECTION 406: FINDINGS

County approval of development typically follows significant investment in site evaluation, planning, development costs, consultant fees, and related expenses. Therefore, it is necessary and desirable to provide for the establishment of certain vested rights in order to ensure reasonable certainty, stability, and fairness in the development regulation process, secure reasonable expectations of landowners, and foster cooperation between the public and private sectors in land-use planning and development regulation.

SECTION 407: PERMIT CHOICE

If an application made in accordance with this UDO is submitted for a development approval required pursuant to this Ordinance and a development regulation changes between the time the application was submitted and a decision is made, the applicant may choose which version of the development regulation will apply to the application. If the development permit applicant chooses the version of the rule or ordinance applicable at the time of the permit application, the development permit applicant shall not be required to await the outcome of the amendment to the rule, map, or ordinance prior to acting on the development permit. This section applies to all development approvals issued by the State and by local governments. The duration of vested rights created by development approvals are as set forth in Types and Duration of Statutory Vested Rights.

SECTION 408: PROCESS TO CLAIM VESTED RIGHT

A person claiming a statutory or common law vested right may submit information to substantiate that claim to the UDO Administrator, who shall make an initial determination as to the existence of the vested right. The UDO Administrator's determination may be appealed under NCGS 160D-405. On appeal the existence of a vested right shall be reviewed *de novo*. In lieu of seeking such a determination, a person claiming a vested right may bring an original civil action as provided in NCGS 160D-405(c).

SECTION 409: TYPES AND DURATION OF STATUTORY VESTED RIGHTS

Except as provided by this section and subject to Permit Choice, amendments to this Ordinance shall not be applicable or enforceable with regard to development that has been permitted or approved pursuant to this Ordinance so long as one of the approvals listed in this subsection remains valid and unexpired. Each type of vested right listed below is defined by and is subject to the limitations provided in this section and the cited statutes. Vested rights established under this section are not mutually exclusive. The establishment of vested rights under one subsection does not preclude vesting under one or more other subsections or by common law principles.

- (A) Six Months - Building Permits. Pursuant to NCGS 160D-1110, a building permit expires six (6) months after issuance unless work under the permit has commenced. Building permits also expire if work is discontinued for a period of twelve (12) months after work has commenced.
- (B) One Year - Other Local Development Approvals. Pursuant to NCGS 160D-403(c), unless otherwise specified by this section, statute, or Duplin County UDO, all other local development approvals expire one year after issuance unless work has substantially commenced. Expiration of a local development approval does not affect the duration of a vested right established as a site-specific vesting plan, a multiphase development plan, a development agreement, or vested rights established under common law.

(C) Two to Five Years - Site Specific Vesting Plans.

- (1) Duration. A vested right for a site-specific vesting plan shall remain vested for a period of two years. This vesting shall not be extended by any amendments or modifications to a site-specific vesting plan unless expressly provided by the County. The County may provide that rights regarding a site specific vesting plan shall be vested for a period exceeding two years, but not exceeding five years if warranted by the size and phasing of development, the level of investment, the need for the development, economic cycles, and market conditions or other considerations. This determination shall be made at the discretion of the County and shall be made following the process specified by subsection (3) below for the particular form of a site-specific vesting plan involved.
- (2) Relationship to Building Permits. A right vested as provided in this subsection shall terminate at the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed. Upon issuance of a building permit, the provisions of NCGS 160D-1110 and 160D-1113 shall apply, except that the permit shall not expire or be revoked because of the running of time while a vested rights under this section exists.
- (3) Requirements for Site Specific Vesting Plans. For the purposes of this section, a “site-specific vesting plan” means a plan submitted to the County describing with reasonable certainty the type and intensity of use for a specific parcel or parcels of property. The plan may be in the form of, but not be limited to, any of the following plans or approvals: a planned unit development plan, a subdivision plat, a site plan, a preliminary or general development plan, a special use permit, a conditional zoning, or any other development approval as may be used by the County. Unless otherwise expressly provided by the County, the plan shall include the approximate boundaries of the site; significant topographical and other natural features effecting development of the site; the approximate location on the site of the proposed buildings, structures, and other improvements; the approximate dimensions, including height, of the proposed buildings and other structures; and the approximate location of all existing and proposed infrastructure on the site, including water, sewer, roads, and pedestrian walkways. Duplin County uses existing development approvals, such as a final plat, a preliminary plan, a special use permit, a sketch plan, or a site plan to approve a site-specific vesting plan. A variance shall not constitute a “site specific vesting plan,” and approval of a site-specific vesting plan with the condition that a variance be obtained shall not confer a vested right unless and until the necessary variance is obtained. If a sketch plan or other document fails to describe with reasonable certainty the type and intensity of use for a specified parcel or parcels of property, it may not constitute a site-specific vesting plan.
- (4) Process for Approval and Amendment of Site-Specific Vesting Plans. If a site-specific vesting plan is based on an approval required by the Duplin County UDO, the County shall provide whatever notice and hearing is required for that underlying approval. If the

duration of the underlying approval is less than two years, that shall not affect the duration of the site-specific vesting established by this subsection. If the site-specific vesting plan is not based on such an approval, a legislative hearing with notice as required by NCGS 160D-602 shall be held. The County may approve a site-specific vesting plan upon such terms and conditions as may reasonably be necessary to protect the public health, safety, and welfare. Such conditional approval shall result in a vested right, although failure to abide by such terms and conditions will result in a forfeiture of vested rights. The County shall not require a landowner to waive vested rights as a condition of developmental approval. A site-specific vesting plan shall be deemed approved upon the effective date of the County’s decision approving the plan or such other date as determined by the Board of Commissioners upon approval. An approved site-specific vesting plan and its conditions may be amended with the approval of the owner and the County as follows: Any substantial modification must be reviewed and approved in the same manner as the original approval; minor modifications may be approved by staff if such are defined and authorized by local regulation.

- (D) Seven Years - Multi-phase Developments. A multi-phased development shall be vested for the entire development with the Unified Development Ordinance in place at the time a site plan approval is granted for the initial phase of the multi-phased development. This right shall remain vested for a period of seven years from the time a site plan approval is granted for the initial phase of the multi-phased development. For the purposes of this subsection, “multi-phased development” means a development containing 25 acres or more that (i) is submitted for site plan approval for construction to occur in more than one phase and (ii) is subject to a master development plan with committed elements, including a requirement to offer land for public use as a condition of its master development plan approval.
- (E) Indefinite - Development Agreements. A vested right of reasonable duration may be specified in a development agreement approved under Part IV of this Article.

SECTION 410: CONTINUING REVIEW

Following approval or conditional approval of a statutory vested right, the County may make subsequent reviews and require approvals by the County to ensure compliance with the terms and conditions of the original approval, provided that such reviews and approvals are not inconsistent with the original approval. The County may revoke the original approval for failure to comply with applicable terms and conditions of the original approval or the applicable Duplin County UDO.

SECTION 411: EXCEPTIONS

- (A) A vested right, once established as provided for by this article precludes any action by Duplin County that would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property as set forth in an approved vested right, except:
 - (1) With the written consent of the affected landowner;

- (2) Upon findings, after notice and an evidentiary hearing, that natural or man-made hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, and safety, and welfare if the project were to proceed as contemplated in the approved vested right;
 - (3) To the extent that the affected landowner receives compensation for all costs, expenses, and other losses incurred by the landowner, including, but not limited to, all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and other consultant's fees incurred after approved by the County, together with interest as is provided in this article. Compensation shall not include any diminution in the value of the property that is caused by such action;
 - (4) Upon findings, after notice and an evidentiary hearing, that the landowner or his representative intentionally supplied inaccurate information or made material misrepresentations that made a difference in the approval by the County of the vested right; or
 - (5) Upon the enactment or promulgation of a State or Federal law or regulation that precludes development as contemplated in the approved vested right, in which case the County may modify the affected provisions, upon a finding that the change in State or Federal law has a fundamental effect on the plan, after notice and an evidentiary hearing.
- (B) The establishment of a vested right under this article, shall not preclude the application of overlay zoning or other development regulation that imposes additional requirements but does not affect the allowable type or intensity of use, or ordinances or regulations that are general in nature and are applicable to all property subject to development regulation by the County including, but not limited to, building, fire, plumbing, electrical, and mechanical codes. Otherwise, applicable new regulations shall become effective with respect to property that is subject to a vested right established under this section upon the expiration or termination of the vested rights period provided for in this section.
- (C) Notwithstanding any provision of this section, the establishment of a vested right under this section shall not preclude, change or impair the authority of the County to adopt and enforce development regulation provisions governing nonconforming situations or uses.

SECTION 412: MISCELLANEOUS PROVISIONS

- (A) A vested right obtained under this section is not a personal right but shall attach to and run with the applicable property. After approval of a vested right under this section, all successors to the original landowner shall be entitled to exercise such rights.
- (B) Nothing in this section shall preclude judicial determination, based on common law principles or other statutory provisions, that a vested right exists in a particular case or that a compensable taking has occurred. Except as expressly provided in this section, nothing in this section shall be construed to alter the existing common law.

PART IV. DEVELOPMENT AGREEMENTS

SECTION 413: AUTHORIZATION

- (A) In accordance with NCGS 160D-1001, Duplin County finds:
- (1) Development projects often occur in multiple phases over several years, requiring a long-term commitment of both public and private resources.
 - (2) Such developments often create community impacts and opportunities that are difficult to accommodate within traditional zoning processes and land use regulations.
 - (3) Because of their scale and duration, such projects often require careful coordination of public capital facilities planning, financing, and construction schedules and phasing of the private development.
 - (4) Such projects involve substantial commitments of private capital which developers are usually unwilling to risk without sufficient assurances that development standards will remain stable through the extended period of the development.
 - (5) Such developments often permit communities and developers to experiment with different or nontraditional types of development concepts and standards, while still managing impacts on the surrounding areas.
 - (6) To better structure and manage development approvals for such developments and ensure their proper integration into local capital facilities programs, the County needs flexibility to negotiate such developments.
- (B) The County may enter into development agreements with developers, subject to the procedures of this Part. In entering into such agreements, the County may not exercise any authority or make any commitment not authorized by general or local act and may not impose any tax or fee not authorized by otherwise applicable law.
- (C) This Part is supplemental to the powers conferred upon the County and does not preclude or supersede rights and obligations established pursuant to other law regarding development approvals, site-specific vesting plans, phased vesting plans, or other provisions of law. A development agreement shall not exempt the property owner or developer from compliance with the State Building Code or State or local housing codes that are not part of the County's development regulations. When the Board of Commissioners approves the rezoning of any property associated with a development agreement executed and recorded pursuant to this Part, the provisions of Section 404 apply.
- (D) Development authorized by a development agreement shall comply with all applicable laws, including all ordinances, resolutions, regulations, permits, policies, and laws affecting the development of property, including laws governing permitted uses of the property, density, intensity, design, and improvements.

SECTION 414: DEVELOPMENT AGREEMENT DEFINITIONS

The following definitions apply in this part:

- (A) Development. The planning for or carrying out of a building activity, the making of a material change in the use or appearance of any structure or property, or the dividing of land into two or more parcels. When appropriate to the context, “development” refers to the planning for or the act of developing or to the result of development. Reference to a specific operation is not intended to mean that the operation or activity, when part of other operations or activities, is not development. Reference to particular operations is not intended to limit the generality of this item.
- (B) Public Facilities. Major capital improvements, including, but not limited to, transportation, sanitary sewer, solid waste, drainage, potable water, educational, parks and recreational, and health systems and facilities.

SECTION 415: BOARD OF COMMISSIONERS APPROVAL REQUIRED

- (A) Duplin County may establish procedures and requirements, as provided in this Part, to consider and enter into development agreements with developers. A development agreement must be approved by the Board of Commissioners following the procedures specified in Section 418.
- (B) The development agreement may, by ordinance, be incorporated, in whole or in part, into any development regulation adopted by the County. A development agreement may be considered concurrently with a zoning map or text amendment affecting the property and development subject to the development agreement. A development agreement may be concurrently considered with and incorporated by reference with a sketch plan or preliminary plan required under a subdivision regulation or a site plan or other development approval required under a zoning regulation. If incorporated into a conditional district, the provisions of the development agreement shall be treated as a development regulation in the event of the developer's bankruptcy.

SECTION 416: SIZE AND DURATION

Duplin County may enter into a development agreement with a developer for the development of property as provided in this Part for developable property of any size. Development agreements shall be of a reasonable term specified in the agreement.

SECTION 417: PUBLIC HEARING

Before entering into a development agreement, the County shall conduct a legislative hearing on the proposed agreement. The notice provisions of Section 401(A) shall be followed for this hearing. The notice for the public hearing must specify the location of the property subject to the development

agreement, the development uses proposed on the property, and must specify a place where a copy of the proposed development agreement can be obtained.

SECTION 418: CONTENT & MODIFICATION

- (A) A development agreement shall, at a minimum, include all of the following:
- (1) A description of the property subject to the agreement and the names of its legal and equitable property owners.
 - (2) The duration of the agreement. However, the parties are not precluded from entering into subsequent development agreements that may extend the original duration period.
 - (3) The development uses permitted on the property, including population densities, and building types, intensities, placement on the site, and design.
 - (4) A description of public facilities that will serve the development, including who provides the facilities, the date any new public facilities, if needed, will be constructed, and a schedule to assure public facilities are available concurrent with the impacts of the development. In the event that the development agreement provides that the Town shall provide certain public facilities, the development agreement shall provide that the delivery date of such public facilities will be tied to successful performance by the developer in implementing the proposed development, such as meeting defined completion percentages or other performance standards.
 - (5) A description, where appropriate, of any reservation or dedication of land for public purposes and any provisions agreed to by the developer that exceed existing laws related to protection of environmentally sensitive property.
 - (6) A description, where appropriate, of any conditions, terms, restrictions, or other requirements for the protection of public health, safety, or welfare.
 - (7) A description, where appropriate, of any provisions for the preservation and restoration of historic structures.
- (B) A development agreement may also provide that the entire development or any phase of it be commenced or completed within a specified period of time. If required by ordinance or in the agreement, the development agreement shall provide a development schedule, including commencement dates and interim completion dates at no greater than five-year intervals; provided, however, the failure to meet a commencement or completion date shall not, in and of itself, constitute a material breach of the development agreement pursuant to Section 420 but must be judged based upon the totality of the circumstances. The developer may request a modification in the dates as set forth in the agreement.

- (C) If more than one local government is made party to an agreement, the agreement must specify which local government is responsible for the overall administration of the development agreement. A local or regional utility authority may also be made a party to the development agreement.
- (D) The development agreement also may cover any other matter, including defined performance standards, not inconsistent with this Ordinance. The development agreement may include mutually acceptable terms regarding provision of public facilities and other amenities and the allocation of financial responsibility for their provision, provided any impact mitigation measures offered by the developer beyond those that could be required by the local government pursuant to NCGS 160D-804 shall be expressly enumerated within the agreement, and provided the agreement may not include a tax or impact fee not otherwise authorized by law.
- (E) Consideration of a proposed major modification of the agreement shall follow the same procedures as required for initial approval of a development agreement. What changes constitute a major modification may be determined by ordinance adopted pursuant to Section 415 or as provided for in the development agreement.
- (F) Any performance guarantees under the development agreement shall comply with the Performance Guarantee language located in Article 6, Subdivision Regulations.

SECTION 419: VESTING

- (A) Unless the development agreement specifically provides for the application of subsequently enacted laws, the laws applicable to development of the property subject to a development agreement are those in force at the time of execution of the agreement.
- (B) Except for grounds specified in Section 420, the County may not apply subsequently adopted ordinances or development policies to a development that is subject to a development agreement.
- (C) In the event State or Federal law is changed after a development agreement has been entered into and the change prevents or precludes compliance with one or more provisions of the development agreement, the County may modify the affected provisions, upon a finding that the change in State or Federal law has a fundamental effect on the development agreement.
- (D) This section does not abrogate any vested rights otherwise preserved by law.

SECTION 420: BREACH AND CURE

- (A) Procedures established pursuant to Section 415 may require periodic review by the UDO Administrator, Planning Board, or other appropriate officer of the County, at which time the developer shall demonstrate good-faith compliance with the terms of the development agreement.

- (B) If the County finds and determines that the developer has committed a material breach of the agreement, the County shall notify the developer in writing setting forth with reasonable particularity the nature of the breach and the evidence supporting the finding and determination and providing the developer a reasonable time in which to cure the material breach.
- (C) If the developer fails to cure the material breach within the time given, then the County unilaterally may terminate or modify the development agreement, provided the notice of termination or modification may be appealed to the Board of Adjustment in the manner provided by Section 425.
- (D) An ordinance adopted pursuant to Section 415 or the development agreement may specify other penalties for breach in lieu of termination, including, but not limited to, penalties allowed for violation of a development regulation. Nothing in this Article shall be construed to abrogate or impair the power of the County to enforce applicable law.
- (E) A development agreement shall be enforceable by any party to the agreement notwithstanding any changes in the development regulations made subsequent to the effective date of the development agreement. Any party to the agreement may file an action for injunctive relief to enforce the terms of a development agreement.

SECTION 421: AMENDMENT OR TERMINATION

Subject to the provisions of Section 418(E), a development agreement may be amended or terminated by mutual consent of the parties.

SECTION 422: CHANGE OF JURISDICTION

- (A) Except as otherwise provided by this Article, any development agreement entered into by the County before the effective date of a change of jurisdiction shall be valid for the duration of the agreement or eight years from the effective date of the change in jurisdiction, whichever is earlier. The parties to the development agreement and the County assuming jurisdiction have the same rights and obligations with respect to each other regarding matters addressed in the development agreement as if the property had remained in the previous jurisdiction.
- (B) The County, in assuming jurisdiction, may modify or suspend the provisions of the development agreement if the County determines that the failure of the County to do so would place the residents of the territory subject to the development agreement or the residents of the County, or both, in a condition dangerous to their health or safety, or both.

SECTION 423: RECORDATION

The developer shall record the agreement with the Duplin County Register of Deeds within 14 days after the County and developer execute an approved development agreement. No development approvals may be issued until the development agreement has been recorded. The burdens of the development

agreement are binding upon, and the benefits of the agreement shall inure to, all successors in interest to the parties to the agreement.

SECTION 424: APPLICABILITY OF PROCEEDURES TO APPROVE DEBT

In the event that any of the obligations of the County in the development agreement constitute debt, the County shall comply, at the time of the obligation to incur the debt and before the debt becomes enforceable against the County, with any applicable constitutional and statutory procedures for the approval of this debt.

PART V. APPEALS, VARIANCES, AND INTERPRETATIONS

SECTION 425: APPEALS OF ADMINISTRATIVE DECISIONS (NCGS 160D-405)

- (A) Standing. Any person who has standing under NCGS 160D-1402(c) or the County may appeal an administrative decision to the Board of Adjustment. An appeal is taken by filing a notice of appeal with the UDO Administrator. The notice of appeal shall state the grounds for the appeal. A notice of appeal shall be considered filed with the UDO Administrator when delivered to the Duplin County Planning Department, and the date and time of filing shall be entered on the notice by the county staff.
- (B) Judicial Challenge. A person with standing may bring a separate and original civil action to challenge the constitutionality of the Ordinance or that it is ultra vires, preempted, or otherwise in excess of statutory authority without filing an appeal under subsection (A).
- (C) Notice of Decision. The official who made the decision shall give written notice to the owner of the property that is the subject of the decision and to the party who sought the decision, if different from the owner. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail.
- (D) Time to Appeal. The owner or other party shall have 30 days from receipt of the written notice of the determination within which to file an appeal. Any other person with standing to appeal shall have 30 days from receipt from any source of actual or constructive notice of the determination within which to file an appeal. In the absence of evidence to the contrary, notice pursuant to NCGS Chapter 160D-403(b) given by first class mail shall be deemed received on the third business day following deposit of the notice for mailing with the United States Postal Service.
- (E) Record of Decision. The official who made the decision shall transmit to the Board of Adjustment all documents and exhibits constituting the record upon which the decision appealed from is taken. The official shall also provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner.

- (F) Stays. An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from and accrual of any fines assessed, unless the official who made the decision certifies to the Board of Adjustment after notice of appeal has been filed that because of the facts stated in an affidavit, a stay would cause imminent peril to life or property or because the violation is transitory in nature, a stay would seriously interfere with enforcement of the Ordinance. In that case, enforcement proceedings shall not be stayed except by a restraining order, which may be granted by a court. If enforcement proceedings are not stayed, the appellant may file with the official a request for an expedited hearing of the appeal, and the Board of Adjustment shall meet to hear the appeal within 15 days after such a request is filed. Notwithstanding the foregoing, appeals of decisions granting a development approval or otherwise affirming that a proposed use of property is consistent with the Ordinance shall not stay the further review of an application for development approvals to use such property; in these situations, the appellant or county may request and the Board may grant a stay of a final decision of development approval applications, including building permits affected by the issue being appealed.
- (G) Alternative Dispute Resolution. The parties to an appeal that has been made under this section may agree to mediation or other forms of alternative dispute resolution.
- (H) Subdivision Appeals. Subdivision appeals of Duplin County staff administrative decisions shall be handled in accordance with NCGS 160D-405. Appeals of decisions made by the Planning Board or Board of Commissioners shall be made in accordance with NCGS160D-1403(b)(1).

SECTION 426: VARIANCES

- (A) An application for a variance shall be submitted to the Board of Adjustment by filing a copy of the application with the UDO Administrator. Applications shall be handled in the same manner as applications for development approvals in conformity with the provisions of Part IV Development Approvals.
- (B) When unnecessary hardships would result from carrying out the strict letter of the Ordinance, the Board of Adjustment shall vary any of the provisions of the Ordinance upon a showing of all of the following:
- (1) Unnecessary hardship would result from the strict application of the regulation. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
 - (2) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make reasonable accommodation under the Federal Fair Housing Act for a person with a disability. The Board of Adjustment may develop a

separate set of standards in instances where they are hearing an application for a reasonable accommodation.

- (3) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
 - (4) The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured, and substantial justice is achieved.
- (C) No change in permitted uses may be authorized by variance. Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance. Any other development regulation that regulates land use or development may provide for variances from the provisions of those ordinances consistent with the provisions of this subsection.
- (D) A variance may be issued for an indefinite duration or for a specified duration only.
- (E) The nature of the variance and any conditions attached to it shall be entered on the face of the zoning permit, or the zoning permit may simply note the issuance of the variance and refer to the written record of the variance for further information. All such conditions are enforceable in the same manner as any other applicable requirement of this Ordinance.

SECTION 427: INTERPRETATIONS

Interpretations of the location of floodway and floodplain boundary lines may be made by the Administrator as provided in the Flood Damage Prevention Ordinance.

SECTION 428: REQUESTS TO BE HEARD EXPEDITIOUSLY

The Board shall hear and decide all applications, appeals, variance requests, and requests for interpretations as expeditiously as possible, consistent with the need to follow regularly established agenda procedures, provide notice in accordance with Quasi-Judicial Procedure Notice Requirements, and obtain the necessary information to make sound decisions.

SECTION 429: BURDEN OF PROOF IN APPEALS AND VARIANCES

- (A) When an appeal is taken to the Board of Adjustment in accordance with Section 425, the Administrator shall have the initial burden of presenting to the Board sufficient evidence and argument to justify the order or decision appealed from. The burden of presenting evidence and argument to the contrary then shifts to the appellant, who shall also have the burden of persuasion.

- (B) The burden of presenting evidence sufficient to allow the Board of Adjustment to reach the conclusions set forth in Section 426(B) as well as the burden of persuasion on those issues, remains with the applicant seeking the variance.

PART VI. QUASI-JUDICIAL PROCEDURES

SECTION 430: HEARING REQUIRED ON APPEALS AND APPLICATIONS

- (A) Before making a decision on an appeal or an application for a variance or special use permit, or a petition from the planning staff to revoke a special use permit, the Board of Adjustment shall hold a hearing on the appeal or application.
- (B) Subject to Subsection (C), the hearing shall be open to the public and all persons interested in the outcome of the appeal or application shall be given an opportunity to present evidence and arguments and ask questions of persons who testify. All persons presenting evidence or arguments shall be sworn in by the Chairperson prior to the presentation of any evidence or arguments (see Section 435: Oaths).
- (C) The Board of Adjustment may place reasonable and equitable limitations on the presentation of evidence and arguments and the cross-examination of witnesses so that the matter at issue may be heard and decided without undue delay.
- (D) The Board of Adjustment shall follow quasi-judicial procedures in determining appeals of administrative decisions, special use permits, variances, or any other quasi-judicial decision.

SECTION 431: QUASI-JUDICIAL PROCEDURE NOTICE REQUIREMENTS

The UDO Administrator shall give notice for any quasi-judicial hearing as required:

- (A) Notice of evidentiary hearings conducted pursuant to this Article shall be mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and to any other persons entitled to receive notice as provided by this Ordinance. In the absence of evidence to the contrary, the County must rely on the County tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the County shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way.

The Board may continue an evidentiary hearing that has been convened without further advertisement. If an evidentiary hearing is set for a given date and a quorum of the board is not then present, the hearing shall be continued until the next regular board meeting without further advertisement.

- (B) The notice required by this section shall state the date, time, and place of the hearing, reasonably identify the lot that is the subject of the application or appeal and give a brief description of the action requested or proposed.

SECTION 432: ADMINISTRATIVE MATERIALS

The UDO Administrator shall transmit to the Board all applications, reports, and written materials relevant to the matter being considered. The administrative materials may be distributed to the members of the Board prior to the hearing if at the same time they are distributed to the Board, a copy is also provided to the appellant or applicant and to the landowner if that person is not the appellant or applicant. The administrative materials shall become a part of the hearing record. The administrative materials may be provided in written or electronic form. Objections to inclusion or exclusion of administrative materials may be made before or during the hearing. Rulings on unresolved objections shall be made by the Board at the hearing.

SECTION 433: PRESENTATION OF EVIDENCE

The applicant, the County, and any person who would have standing to appeal the decision as defined in NCGS 160D-1402(c) shall have the right to participate as a party at the evidentiary hearing. Other witnesses may present competent, material, and substantial evidence that is not repetitive as allowed by the Board. Objections regarding jurisdictional and evidentiary hearing issues, including but not limited to, the timeliness of an appeal or the standing of a party, may be made to the Board. The Board Chair shall rule on any objections and the Chair's ruling may be appealed to the full Board. These rulings are also subject to judicial review pursuant to NCGS 160D-1402. Objections based on jurisdictional issues may be raised for the first time on judicial review.

SECTION 434: APPEARANCE OF OFFICIAL, NEW ISSUES

The official who made the decision or the person currently occupying that position if the decision-maker is no longer employed by the County, shall be present at the evidentiary hearing as a witness. The appellant shall not be limited at the hearing to matters stated in a notice of appeal. If any party or the County would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the Board shall continue the hearing.

SECTION 435: OATHS

All persons who intend to present evidence to the permit-issuing board, rather than arguments only, shall be sworn in. The Chairperson of the Board or any member acting as Chairperson and the Clerk to the Board are authorized to administer oaths to witnesses in any matter coming before the Board. Any person who, while under oath during a proceeding before the board determining a quasi-judicial matter, willfully swears falsely is guilty of a Class 1 misdemeanor.

SECTION 436: SUBPOENAS

The Board making a quasi-judicial decision under this Article, through the Chairperson, or in the Chairperson's absence anyone acting as Chairperson, may subpoena witnesses and compel the production of evidence. To request issuance of a subpoena, the applicant, the County, and any person with standing as defined in NCGS 160D-1402(c) may make a written request to the Chairperson explaining why it is necessary for certain witnesses or evidence to be compelled. The Chairperson shall issue requested subpoenas he or she determines to be relevant, reasonable in nature and scope, and not oppressive. The Chairperson shall rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the Chairperson may be immediately appealed to the full Board. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the Board or the party seeking the subpoena may apply to the General Court of Justice for an order requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties.

SECTION 437: MODIFICATION OF APPLICATION AT HEARING

- (A) In response to questions or comments by persons appearing at the hearing or to suggestions or recommendations by the Board of Adjustment, the applicant may agree to modify his application, including the plans and specifications submitted.
- (B) Unless such modifications are so substantial or extensive that the Board cannot reasonably be expected to perceive the nature and impact of the proposed changes without revised plans before it, the Board may approve the application with the stipulation that the permit will not be issued until plans reflecting the agreed upon changes are submitted to the planning staff.

SECTION 438: RECORD

- (A) Accurate minutes shall be kept of all hearings required by Section 430, and such minutes shall be kept for at least two years. A transcript is not required.
- (B) Whenever practicable, all documentary evidence presented at a hearing as well as all other types of physical evidence shall be made a part of the record of the proceedings and shall be kept by the County for at least two years.

SECTION 439: APPEALS IN NATURE OF CERTIORARI

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

SECTION 440: DECISIONS

The Board shall determine contested facts and make its decisions within a reasonable time. When hearing an appeal, the Board may reverse or affirm (wholly or partly) or may modify the decision appealed from and shall make any order, requirement, decision, or determination that ought to be

made. The Board shall have all the powers of the official who made the decision. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Each quasi-judicial decision shall be reduced to writing, reflect the Board's determination of contested facts and their application to the applicable standards, and be approved by the Board and signed by the Chairperson or other duly authorized member of the Board. A quasi-judicial decision is effective upon filing the written decision with the Clerk to the Board or such other office or official as this Ordinance specifies. The decision of the Board shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, landowner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective. The person required to provide notice shall certify to the County that proper notice has been made and the certificate shall be deemed conclusive in the absence of fraud.

SECTION 441: JUDICIAL REVIEW

Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to NCGS 160D-1402. Appeals shall be filed within the times specified in NCGS 160D-1405(d).

PART VII. ENFORCEMENT

SECTION 442: COMPLAINTS, INVESTIGATION, & INSPECTION

- (A) Upon receipt of a complaint or a report that a violation of this UDO exists, the UDO Administrator shall investigate the complaint to make a determination upon its validity. Complaints may be submitted anonymously, or they may be submitted as a written complaint. A written complaint is preferred but not required. Complaints must come from citizens that are a minimum of 18 years of age.
- (B) The UDO Administrator may periodically make inspections and investigations of premises at a reasonable hour per NCGS 160D-403(e) to ensure that the premises is still in compliance with the UDO. As a result of the inspection, if the UDO Administrator finds a violation, he may take appropriate action to bring the property into compliance with the issuance of a Notice of Violation.

SECTION 443: NOTICE OF VIOLATION

- (A) When the UDO Administrator determines work or activity has been undertaken in violation of the Unified Development Ordinance or other local development regulations or any State law delegated to the County for enforcement purposes in lieu of the State or in violation of the terms of a development approval, a written notice of violation may be issued. The notice of violation shall be delivered to the holder of the development approval and to the landowner of the property involved, if the landowner is not the holder of the development approval, by personal delivery, electronic delivery, or first-class mail and may be provided by similar means to the occupant of the property or the person undertaking the work or activity. The notice of

violation shall be posted on the property. The UDO Administrator shall certify to the County that the notice was provided, and the certificate shall be deemed conclusive in the absence of fraud. Except as provided by NCGS 160D-1123 or NCGS 160D-1206 or otherwise provided by law, a notice of violation may be appealed to the Board of Adjustment pursuant to NCGS 160D-405.

(B) Notices of Violation shall include the following:

- (1) Identify the date on which the violation was observed, and the UDO Administrator who observed the violation.
- (2) Identify which section of the UDO has been violated and what the specific violation is.
- (3) State what must take place for the violation to be brought into compliance.
- (4) Include the date on which compliance shall be achieved and any date of scheduled re-inspection.
- (5) Inform the violator of their right to appeal.
- (6) State the County's intent to pursue civil penalties in the event that compliance has not been achieved and disclaim that civil penalties are accruing.
- (7) Include pictures of the violation.

SECTION 444: STOP WORK ORDERS (BUILDING INSPECTIONS)

Whenever any work or activity subject to regulation pursuant to this Ordinance or other applicable local development regulation or any State law delegated to the County for enforcement purposes in lieu of the State is undertaken in substantial violation of any State or local law, or in a manner that endangers life or property, staff may order the specific part of the work or activity that is in violation or presents such a hazard to be immediately stopped. The order shall be in writing, directed to the person doing the work or activity, and shall state the specific work or activity to be stopped, the reasons therefore, and the conditions under which the work or activity may be resumed. A copy of the order shall be delivered to the holder of the development approval and to the owner of the property involved (if that person is not the holder of the development approval) by personal delivery, electronic delivery, or first-class mail. The person or persons delivering the stop work order shall certify to the County that the order was delivered, and that certificate shall be deemed conclusive in the absence of fraud. Except as provided by NCGS 160D-1112 and 160D-1208, a stop work order may be appealed pursuant to NCGS 160D-405. No further work or activity shall take place in violation of a stop work order pending a ruling on the appeal. Violation of a stop work order shall constitute a Class 1 misdemeanor. The Duplin County Chief Building Inspector or authorized representative of the Building Inspections Department shall issue Stop Work Orders.

SECTION 445: REMEDIES & CIVIL PENALTIES

Any development regulation adopted pursuant to NC General Statutes Chapter 160D may be enforced by any remedy provided in NCGS 153A-123. Violations of this Ordinance subject the offender to a civil penalty of \$50 per day that the violation exists. Violations may also be enforced in any manner established in NCGS 153A-123 (c), (d), (e), or (f), but not limited to, as determined by the UDO Administrator. The UDO Administrator is encouraged to have discussions pertaining to Civil Penalties with the County attorney prior to the issuance of a NOV and the commencement of enforcement. Duplin County may bring a civil action to Duplin County District Court to recover penalties as a debt.

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ARTICLE 5. DEVELOPMENT APPROVALS

SECTION 501: APPLICABILITY

The Development Approvals referred to in this Article are applicable to all types of development, subdivision, or use as specified in this UDO. Approval of subdivision, development or use may be referred to as sketch approval, preliminary approval, final approval, construction permit approval, variance approval, special use approval, development agreements, operation permits, site plan approval, and flood permit approval but is not limited to these types of approval as the UDO Administrator may determine additional items that require development approval to be issued.

SECTION 502: DEVELOPMENT APPROVALS

To the extent consistent with the scope of regulatory authority granted by NCGS Chapter 160D-403, no person shall commence or proceed with development without first securing any required development approval from Duplin County. A development approval shall be in writing and may contain a provision that the development shall comply with all applicable State and local laws. The County may issue development approvals in print or electronic form. Any development approval issued exclusively in electronic form shall be protected from further editing once issued. Applications for development approvals must be made by the landowner, a lessee or person holding an option or contract to purchase or lease land, or an authorized agent of the landowner. An easement holder may also apply for development approval for such development as is authorized by the easement.

SECTION 503: DEVELOPMENT APPROVALS RUN WITH THE LAND

Per NCGS 160D-104, unless provided otherwise by law, all rights, privileges, benefits, burdens, and obligations created by development approvals attach to and run with the land.

SECTION 504: DETERMINATIONS AND NOTICE OF DETERMINATIONS

The UDO Administrator or his designee is designated as the staff member charged with making determinations under this Unified Development Ordinance. The UDO Administrator shall give written notice to the owner of the property that is the subject of the determination and to the party who sought the determination, if different from the owner. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail. The notice shall be delivered to the last address listed for the owner of the affected property on the county tax abstract and to the address provided in the application or request for a determination if the party seeking the determination is different from the owner.

It shall be conclusively presumed that all persons with standing to appeal have constructive notice of the determination from the date a sign providing notice that a determination has been made is prominently posted on the property that is the subject of the determination, providing the sign remains on the property for at least ten days. The sign shall contain the words "UDO Decision" or similar language for

other determinations in letters at least six (6) inches high and shall identify the means to contact an official for information about the determination. Posting signs is not the only form of constructive notice. Any such posting shall be the responsibility of the landowner, applicant, or person who sought the determination. Verification of the posting shall be provided to the staff member responsible for the determination. Absent an ordinance provision to the contrary, posting of signs shall not be required.

SECTION 505: DURATION OF DEVELOPMENT APPROVAL

A development approval issued pursuant to this Ordinance shall expire one year after the date of issuance if the work authorized by the development approval has not been substantially commenced. If after commencement, the work or activity is discontinued for a period of 12 months after commencement, the development approval shall immediately expire. The time periods set out in this subsection shall be tolled during the pendency of any appeal. No work or activity authorized by any development approval that has expired shall thereafter be performed until a new development approval has been secured. Nothing in this subsection shall be deemed to limit any vested rights secured under Article 4, Part III. The 12-month period is the standard duration unless explicitly indicated elsewhere in this UDO.

SECTION 506: CHANGES

After a development approval has been issued, no deviations from the terms of the application or the development approval shall be made until written approval of proposed changes or deviations has been obtained. The County shall follow the same development review and approval process required for issuance of the development approval in the review and approval of any modification of that approval.

SECTION 507: INSPECTIONS

The UDO Administrator may inspect work undertaken pursuant to a development approval to assure that the work is being done in accordance with applicable State and local laws and of the terms of the approval. In exercising this power, staff are authorized to enter any premises within the jurisdiction of the County at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials; provided, however, that the appropriate consent has been given for inspection of areas not open to the public or that an appropriate inspection warrant has been secured.

SECTION 508: REVOCATION OF DEVELOPMENT APPROVALS

In addition to initiation of enforcement of enforcement actions under Article 4, Part VII, development approvals may be revoked by the County issuing the development approval by notifying the holder in writing stating the reasons for the revocation. The County shall follow the same development review and approval process required for issuance of the development approval, including any required notice or hearing, in the review and approval of any revocation of that approval. Development approvals shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of any applicable Duplin County development regulation or any State law delegated to the County for enforcement purposes in lieu of the State; or for

false statements or misrepresentations made in securing the approval. Any development approval mistakenly issued in violation of an applicable State or local law may also be revoked. The revocation of a development approval by a staff member may be appealed pursuant to Section 425. If an appeal is filed regarding a development regulation adopted by the County pursuant to NCGS Chapter 160D, the provisions of Section 425 regarding stays shall be applicable.

SECTION 509: CERTIFICATE OF OCCUPANCY

Duplin County may, upon completion of work or activity undertaken pursuant to a development approval, make final inspections and issue a certificate of compliance or occupancy as applicable if staff finds that the completed work complies with all applicable State and local laws and with the terms of the approval. No building, structure, or use of land that is subject to a building permit required by Article 11 of Chapter 160D shall be occupied or used until a certificate of occupancy or temporary certificate pursuant to NCGS 160D-1114 has been issued.

SECTION 510: NO OCCUPANCY, USE, OR SALE OF LOTS UNTIL REQUIREMENTS FULFILLED

Issuance of a development permit authorizes the recipient to commence the activity resulting in a change in use of the land or (subject to obtaining a building permit) to commence work designed to construct, erect, move, or substantially alter building or other substantial structures or to make necessary improvements to a subdivision. However, the intended use may not be commenced, no building may be occupied, and in the case of subdivisions, no lots may be sold until all of the requirements of this Ordinance and all additional requirements imposed pursuant to the issuance of a special use permit have been complied with.

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ARTICLE 6. SUBDIVISION REGULATIONS

PART I. DUTIES, GENERAL RULES, AND PROCEDURES

SECTION 601: PURPOSE

The purpose of this Article 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 Article is designed to further facilitate adequate provision of water, sewerage, parks, schools, and playgrounds, and also to facilitate the further subdivision of larger tracts into smaller parcels.

SECTION 602: PLAT RECORDATION REQUIREMENTS

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 Article.

SECTION 603: ZONING AND OTHER PLANS

Subdivisions must comply in all respects with the requirements of this Article and any zoning ordinance regulations or overlay district that may be in effect in the area to be subdivided, and any other officially adopted plans.

SECTION 604: GENERAL PROCEDURE FOR PLAT APPROVAL

No subdivision plat of land within the county's jurisdiction shall be filed or recorded with the Duplin County Register of Deeds until it has been submitted to and approved by the Planning Board unless otherwise allowed by this Article. The UDO Administrator shall not certify a plat for recording that has not been approved in accordance with this Article. The Clerk of Superior Court may not order or direct the recording of a plat if the recording would be in conflict with this Article.

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 605: EFFECT OF PLAT APPROVAL ON DEDICATIONS

Per NCGS 160D-806, the approval of a plat does not constitute acceptance by Duplin County of any street, utilities, or other improvements shown on the plat. However, Duplin County may by resolution accept any dedication made to the public of lands or facilities for streets, parks, public utility lines, or

other public purposes, when the lands or facilities are located outside of a municipal limit or ETJ within the unincorporated areas of Duplin County.

SECTION 606: LOT TRANSFER IN UNAPPROVED SUBDIVISIONS

- (A) Any person who, being the owner or agent of the owner of any land located within the planning and development regulation jurisdiction of Duplin County, thereafter, subdivides his land in violation of the regulation 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 such regulation and recorded in the office of the Duplin County Register of Deeds, shall be guilty of a Class 1 misdemeanor. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this penalty. The County may bring an action for injunction of any illegal subdivision, transfer, conveyance, or sale of land, and the court shall, upon appropriate findings, issue an injunction and order requiring the offending party to comply with the subdivision regulations. Building permits required pursuant to NCGS 160D-1108 may be denied for lots that have been illegally subdivided. In addition to other remedies, the County may institute any appropriate action or proceedings to prevent the unlawful subdivision of land, to restrain, correct, or abate the violation, or to prevent any illegal act or conduct.
- (B) The provisions of this section shall not prohibit any owner or its agent from entering into contracts to sell or lease by reference to an approved preliminary plat for which a final plat has not yet been properly approved under the subdivision regulation or recorded with the Duplin County Register of Deeds, provided the contract does all of the following:
- (1) Incorporates as an attachment a copy of the preliminary plat referenced in the contract and obligates the owner to deliver to the buyer a copy of the recorded plat prior to closing and conveyance.
 - (2) Plainly and conspicuously notifies the prospective buyer or lessee that a final subdivision plat has not been approved or recorded at the time of the contract, that no governmental body will incur any obligation to the prospective buyer or lessee with respect to the approval of the final subdivision plat, that changes between the preliminary and final plats are possible, and that the contract or lease may be terminated without breach by the buyer or lessee if the final recorded plat differs in any material respect from the preliminary plat.
 - (3) Provides that if the approved and recorded final plat does to differ in any material respect from the plat referred to in the contract, the buyer or lessee may not be required by the seller or lessor to close any earlier than five days after the delivery of a copy of the final recorded plat.
 - (4) Provides that if the approved and recorded final plat differs in any material respect from the preliminary plat referred to in the contract, the buyer or lessee may not be required

by the seller or lessor to close any earlier than 15 days after the delivery of the final recorded plat, during which 15-day period the buyer or lessee may terminate the contract without breach or any further obligation and may receive a refund of all earnest money or prepaid purchase price.

- (C) The provisions of this section shall not prohibit any owner or its agent from entering into contracts to sell or lease land by reference to an approved preliminary plat for which a final plat has not been properly approved under the subdivision regulation or recorded with the Duplin County Register of Deeds where the buyer or lessee is any person who has contracted to acquire or lease the land for the purpose of engaging in the business of construction of residential, commercial, or industrial buildings on the land, or for the purpose of resale or lease of the land to persons engaged in that kind of business, provided that no conveyance of that land may occur and no contract to lease it may become effective until after the final plat has been properly approved under the subdivision regulation and recorded with the Duplin County Register of Deeds.

PART II. PLAT APPROVAL PROCEDURES

SECTION 607: PLAT REQUIRED FOR SUBDIVISION OF LAND

A final plat shall be prepared, approved, and recorded in accordance with the provisions of this Article whenever any subdivision of land takes place, per NCGS 160D-804. Exemptions shall be reviewed by the UDO Administrator to verify that the plat qualifies as one of the identified exemptions listed in NCGS 160D-802 and Part III, Section 609 of this Article.

SECTION 608: APPROVAL PREREQUISITE TO PLAT RECORDATION

No final plat of a subdivision within the jurisdiction of Duplin County as established in this Article shall be recorded by the Duplin County Register of Deeds until it has been approved as provided herein, per NCGS 160D-801. To secure such approval of a final plat, the subdivider shall follow the procedures established in this Article.

PART III. SUBDIVISION TYPES

SECTION 609: EXEMPTIONS

The following types of division shall not be subject to the regulations authorized by this Article and shall only be subject to what is specifically required by the individual exemption type. These exemptions shall be administratively approved by the UDO Administrator.

- (A) Combination/Recombination Exemption. 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 Duplin County as shown in these subdivision regulations.

- (B) 10 Acre Exemption. The division of land into parcels greater than 10-acres where no street right-of-way dedication is involved.
- (C) Public Acquisition Exemption. The public acquisition by purchase of strips of land for the widening or opening of streets or for public transportation system corridors.
- (D) Single Ownership (2 to 3 Exemption). The division of a tract in single-ownership whose entire area is no greater than 2 acres into not more than 3 lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of Duplin County, as shown in these subdivision regulations.
- (E) Probated Will Exemption. The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the NCGS.

SECTION 610: PRIVATE EASEMENT EXEMPTION

Divisions that qualify for this exemption shall follow procedural requirements for a Minor Subdivision. In order to qualify for this exemption, the following requirements must be met:

- (A) All parcels created, and resultant portions of parcels, must abut a private ingress or egress easement and the easement must be a minimum width of 50 feet.
- (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 square feet (1/2 acre lots) in area and have a minimum of 20 feet of frontage along the ingress and egress easement.
- (D) It shall be noted on the plat that Duplin County is not responsible for maintenance of the easement and that the property owners who benefit from the easement are responsible for maintenance and upkeep. Documentation that supports this fact shall be submitted with the plat. Adequate documentation is an Easement Maintenance Agreement recorded with the Duplin County Register of Deeds.
- (E) This division may only be used one time, and the resulting parcels may not be subdivided in this manner.

SECTION 611: SERVICE SUBDIVISION

A subdivision of land where the resultant lot(s) are restricted for specially identified purposes to include, but not limited to, well sites, communication towers, off-site septic systems, private cemeteries, cluster box mail units, and utility substations. The lot has no minimum dimensional standards but shall be provided with an easement for access of a size that is 25 feet.

Such divisions shall have restrictive covenants recorded at the time of plat recordation and the plat shall include a specific notation indicating that the lot is to not be used for any purpose other than the specific service it provides and that no building permits will ever be issued for residential, commercial, or industrial use of the lot.

SECTION 612: TYPE A EXPEDITED MINOR SUBDIVISION

Per NCGS 160D-802, Duplin County will allow for expedited review for Type A expedited minor subdivisions if all requirements are met. Only a plat for recordation is required for these types of minor subdivisions if all criteria listed below is met. These types of divisions are reviewed administratively and approved by the UDO Administrator.

- (A) The tract or parcel to be divided is not considered to be one of the five identified exemptions in Section 609 of this Article.
- (B) No part of the tract or parcel to be divided has been divided under this subsection in the past 10 years.
- (C) The entire area of the tract or parcel to be divided is greater than five (5) acres.
- (D) After division, there shall be no more than three lots.
- (E) After division, all resultant lots comply with all the following:
 - (1) Lots must meet the lot size requirements and all other applicable dimensional requirements set forth in this Article.
 - (2) A permanent means of ingress and egress is recorded for each lot. An Easement Maintenance agreement must be recorded with the Duplin County Register of Deeds.

SECTION 613: TYPE B EXPEDITED MINOR SUBDIVISION

The intent of this Type B Expedited review is to allow for administrative review and approval for subdivisions that meet all of the following requirements:

- (A) The proposed division shall abut a state-maintained road.
- (B) The proposed division shall create only five new parcels.
- (C) The minimum dimensions of all resulting new parcels shall be no less than 21,780 square feet (1/2-acre lot) in area and shall have no less than 120 feet of road frontage abutting a state-maintained road.
- (D) There shall be a minimum waiting period of 5 years before any further subdivision may take place upon lots that were subdivided or created in the initial Type B division.

SECTION 614: MINOR SUBDIVISIONS

A subdivision of land consisting of 10 or fewer lots with each lot being a minimum of 21,780 square feet (1/2-acre) and having a minimum of 120' of frontage abutting on an existing state-maintained road. Minor subdivisions shall not include any new streets or road or utility extensions and may not conflict

with any provision or portion of the Duplin County Land Use Plan. Minor Subdivisions not otherwise exempt require approval from the Duplin County Planning Board prior to recordation of a final plat.

SECTION 615: MAJOR SUBDIVISIONS

A subdivision that does not meet the requirements to be an exemption or any type of identified minor subdivision included in this Article. Major Subdivisions require Sketch, Preliminary and Final approval from the Duplin County Planning Board.

PART IV. SUBDIVISION REVIEW PROCEDURES

SECTION 616: MINOR SUBDIVISION & SERVICE SUBDIVISION REVIEW

The developer may receive final approval for any minor or service subdivision through procedures expressed herein. The procedural requirements for procuring receiving minor or service final subdivision plat approvals are as follows:

- (A) The subdivider shall submit to the UDO Administrator two (2) mylar reproducible copies, and six (6) blue line prints of the proposed subdivision in order that copies thereof may be distributed to a representative of the environmental health department, tax office, water department and NCDOT for perusal and compliance with other applicable standards.
- (B) The subdivider shall submit the final plat so labeled to the UDO administrator not less than 7 days prior to the Planning Board meeting at which it will be reviewed.
- (C) A review fee, in accordance with the County's adopted fee schedule, shall accompany submission of the final plat for any subdivision.

SECTION 617: SKETCH PLAN (MAJOR SUBDIVISION)

- (A) Sketch Plan Requirements. 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:
 - (1) Sketch vicinity map showing the location of the subdivision in relation to neighboring tracts, subdivisions, roads, and waterways.
 - (2) The boundaries of the tract and the portion of the tract to be subdivided.
 - (3) The total acreage to be subdivided.
 - (4) The existing and proposed uses of the land within the subdivision and the existing uses of land adjoining it.
 - (5) The proposed street layout with approximate pavement and right-of-way width, lot layout and size of lots.

- (6) The name, address, and telephone number of the owner.
 - (7) The name of the proposed subdivision.
 - (8) Streets and lots of adjacent developed or platted properties.
 - (9) Notation of any adjacent zoning districts in municipalities or ETJ and overlay districts.
 - (10) Topographic information with contours on at least 2' interval showing existing and proposed surface and subsurface drainage, ditches, ponds, wooded areas, wetlands, etc.
 - (11) Area of 100-year flood and areas of environmental concern.
- (B) Sketch Plan 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 Article and any other applicable portions of the Duplin County UDO. 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.

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 subdivider or his authorized agent. Sketch plan approval is valid for a period of 12-months.

SECTION 618: PRELIMINARY PLAN (MAJOR SUBDIVISION)

- (A) Preliminary Plan Requirements. Six copies of the preliminary plan (as well as any additional copies which the UDO Administrator determines are needed to be sent to other agencies) shall be submitted to UDO Administrator. After the UDO Administrator has distributed the preliminary plans to the review agencies and received comments, the UDO Administrator shall place the plan on the Planning Board meeting agenda and schedule for Planning Board to review the preliminary plan. Review agencies will have a time specified by the Duplin County Planning Department in their annual adopted department review schedule to review and provide comment on preliminary plans. Preliminary plan approval and any applicable state/federal permits are required to be obtained by the applicant prior to any construction or installation of improvements may begin. Preliminary plans shall contain the following information.
- (1) Title Block Requirements.
 - (a) Property Designation.
 - (b) Name of Owner.
 - (c) Location (including county, township, and state).

- (d) Date(s) survey was conducted and plat prepared.
- (e) Scale drawing in feet per inch in words or figures and a bar graph.
- (f) Name, address, registration number, and seal of the registered land surveyor who prepared the plat.
- (g) Sketch vicinity map showing the relationship between the proposed subdivision and surrounding area.

(2) General Requirements Shown on Plan.

- (a) Corporate limits, township boundaries, county lines if applicable to subdivision tract.
- (b) The names, addresses, and telephone numbers of all owners, registered land surveyors, land planner, architects, landscape architects, and professional engineers responsible for the subdivision.
- (c) The registration numbers and seals of the professional engineers.
- (d) North arrow and orientation.
- (e) The boundaries of the tract or portion thereof to be subdivided distinctly and accurately represented with all bearings and distances shown.
- (f) Names of adjoining property owners.
- (g) The name of any adjoining subdivision of record or those under review.
- (h) Minimum building setback lines.
- (i) The zoning classifications of the tract to be subdivided and adjoining properties if applicable.
- (j) Existing property lines on the tract to be subdivided.
- (k) Existing buildings or other structures, watercourses, railroads, bridges.
- (l) Proposed lot lines, lot and block numbers and approximate dimensions.
- (m) Lots numbered consecutively throughout the subdivision.
- (n) Wooded areas, marshes, swamps, out-crops, ponds or lakes, streams or stream beds, and other natural features affecting the site.
- (o) The exact location of SFHA from FEMA maps.
- (p) Base flood elevations.

- (q) 404 Wetlands delineated.
- (3) Street Requirements Shown on Plat.
- (a) Proposed streets with names.
 - (b) Existing and platted streets on adjoining properties.
 - (c) Right-of-way locations and dimensions.
 - (d) Pavement widths.
 - (e) Approximate grades.
 - (f) Design engineering data for all corners and curves.
 - (g) Typical street cross sections.
 - (h) Utility and other types of easements.
 - (i) Trails, if applicable.
 - (j) Natural buffers.
 - (k) Bike/pedestrian pathways.
 - (l) Open space areas.
 - (m) Reserved by owner areas.
- (4) Utility Plans.
- (a) Sanitary sewer.
 - (b) Storm sewer.
 - (c) Other drainage facilities, if any.
 - (d) Water distribution lines.
 - (e) Natural gas lines.
 - (f) Telephone lines.
 - (g) Electric lines.
 - (h) Illustration of connections to existing systems, showing line sizes, the location of fire hydrants, blowoffs, manholes, force mains and gate valves.

- (i) Profiles based upon mean sea level datum for sanitary sewers and storm sewers.

(5) Site Calculations.

- (a) Acreage in total tract to be subdivided.
- (b) Acreage in parks and recreation areas and other nonresidential uses.
- (c) Total number of parks created.
- (d) Size of the smallest lot in the subdivision.
- (e) Linear feet in streets.
- (f) The name or location of any buildings within the proposed subdivision or within any contiguous property that is located on the US Department of Interior National Register of Historic Places.
- (g) Topographic map with contour intervals if required by the UDO Administrator.
- (h) Building envelopes if required by the UDO Administrator.

(B) Preliminary Plan Review Procedure. The Planning Board shall review the preliminary plan once the UDO Administrator has distributed plans and received all comments. The Planning Board shall, in writing, approve, conditionally approve, or disapprove the preliminary plan within 60 days of its first consideration of the plan. If the Planning Board recommends approval of the preliminary plan, it shall retain one (1) copy of the plan for its minutes and transmit two (2) copies of the plan to the owner with its determination. The UDO Administrator shall assist the Planning Board in issuing this determination in accordance with the Development Approval standards set forth in NCGS 160D-403(a). An approval for the preliminary plan runs with the land show on the plan per NCGS 160D-104. Preliminary plans are approved for a time period of 12-months, the Planning Board may grant one 12-month extension.

If the Planning Board grants conditional approval of the preliminary plan it shall keep one (1) copy of the plan for its minutes and return one copy of the plan and the reasons for granting conditional approval to the subdivider. If the Planning Board disapproves the preliminary plan, it shall retain one (1) copy of the plan for its minutes and return one copy of the plat and its recommendation to the subdivider.

If the preliminary plan is disapproved, the subdivider may make the recommended changes and submit a revised preliminary plan or appeal in the manner established by NCGS 160D-1403.

If the Planning Board does not make a written recommendation within 60 days after its first consideration of the plan, the plan will be placed back on the Planning Board agenda and the Planning Board will be required to make a written recommendation.

SECTION 619: FINAL PLAT

(A) Final Plat Requirements. Upon approval of the preliminary plan 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 plan and the requirements of this Article. Prior to approval of a final plat, the subdivider shall have installed the improvements specified in this Article or guaranteed their installation as provided in this Article. The Planning Board will accept no final plat for review unless accompanied by written notice by the UDO Administrator acknowledging compliance with the performance 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 Article. Final plats shall contain the following information:

(1) Title Block Requirements.

- (a) Property designation.
- (b) Name of owner.
- (c) Location (including county, township, and state).
- (d) Date(s) survey was conducted and plat prepared.
- (e) Scale drawing in feet per inch in words or figures and a bar graph.
- (f) Name, address, registration number, and seal of the registered land surveyor who prepared the plat.
- (g) Sketch vicinity map showing the relationship between the proposed subdivision and surrounding area.

(2) General Requirements Shown on Plan.

- (a) Corporate limits, township boundaries, county lines if applicable to subdivision tract.
- (b) The names, addresses, and telephone numbers of all owners, registered land surveyors, land planner, architects, landscape architects, and professional engineers responsible for the subdivision.
- (c) The registration numbers and seals of the professional engineers.
- (d) North arrow and orientation.
- (e) The boundaries of the tract or portion thereof to be subdivided distinctly and accurately represented with all bearings and distances shown.

- (f) 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 parcels.
 - (g) Names of adjoining property owners.
 - (h) The name of any adjoining subdivision of record or those under review.
 - (i) Minimum building setback lines.
 - (j) The zoning classifications of the tract to be subdivided and adjoining properties, if applicable.
 - (k) Existing property lines on the tract to be subdivided.
 - (l) Lots numbered consecutively throughout the subdivision.
 - (m) The exact location of SFHA from FEMA maps.
 - (n) Base flood elevations.
 - (o) 404 Wetlands delineated.
- (3) Street Requirements Shown on Plat.
- (a) Proposed streets with names.
 - (b) Existing and platted streets on adjoining properties.
 - (c) Right-of-way locations and dimensions.
 - (d) Pavement widths.
 - (e) Design engineering data for all corners and curves.
 - (f) Street names.
 - (g) Street maintenance agreements.
 - (h) Evidence of NCDOT approval of proposed streets.
 - (i) Utility and other types of easements.
 - (j) Trails, if applicable.
 - (k) Natural buffers.
 - (l) Bike/pedestrian pathways.
 - (m) Open space areas.
 - (n) Reserved by owner areas.

- (4) Site Calculations.
- (a) Acreage in total tract to be subdivided.
 - (b) Acreage in parks and recreation areas and other nonresidential uses.
 - (c) Total number of parks created.
 - (d) Size of the smallest lot in the subdivision.
 - (e) Linear feet in streets.
 - (f) The name or location of any buildings within the proposed subdivision or within any contiguous property that is located on the US Department of Interior National Register of Historic Places.
 - (g) Topographic map with contour intervals if required by the UDO Administrator.
 - (h) Building envelopes if required by the UDO Administrator.
- (B) Final Plat Review Procedures. The subdivider shall submit the final plat, so marked, to the UDO Administrator prior to the Planning Board meeting at which it will be reviewed. The submittal schedule is to be determined by the Duplin County Planning Department and identified in their annual adopted department review schedule. 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.

The final plat shall be prepared by a Professional Land Surveyor 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 Planning Board shall review the final plat at or before its next regularly scheduled meeting. The UDO Administrator shall determine which meeting that the Planning Board will review the Final Plat based on the departmental submittal schedule and when the plat was received by the UDO Administrator. The Planning Board shall approve, conditionally approve, or disapprove the final plat. The UDO Administrator shall notify the applicant of 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 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 or Board of Commissioners approves the final plat, the Planning Board Chairman or Commissioner Chair shall sign the Certificate of Approval for Recording on each plat.

If the final plat is disapproved by the Planning Board or Board of Commissioners in cases of failure to act appeals, 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 or Board of Commissioners 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 or Board of Commissioners if disapproved by the Board of Commissioners, or the subdivider may appeal the disapproval in the manner set forth by NCGS 160D-1403.

If the final plat is approved by the Planning Board or Board of Commissioners, the original and one print shall be returned to the subdivider. One (1) reproducible copy and one (1) print shall be retained by the UDO Administrator.

The subdivider shall file the approved final plat with the Register of Deeds of Duplin County within six (6) months of Planning Board approval; otherwise such approval shall be null and void.

The final plat shall be of size suitable for recording with the Duplin County Register of Deeds. A filing fee in accordance with the County's adopted fee schedule shall accompany submissions of the final plat.

PART V: IMPROVEMENTS AND PERFORMANCE GUARANTEES

SECTION 620: GENERAL PROVISIONS

Final plats for all subdivisions shall not be approved until all the required improvements listed in this Article have been installed or the subdivider has guaranteed to the satisfaction of the Duplin County Planning Board that such improvements will be installed.

All improvements shall be made in conformity with the requirements and standards set forth in this Regulation and other specifications and policies of Duplin County. All improvements shall be inspected and approved by the UDO Administrator as conforming to the requirements of the Duplin County UDO.

SECTION 621: PERFORMANCE GUARANTEES

- (A) Performance Guarantees. In lieu of requiring the completion, installation, and dedication of all improvements prior to final plat approval, Duplin County may enter into an agreement with the subdivider whereby the subdivider shall agree to complete any remaining required improvements as specified by the approved preliminary plat for that portion of the subdivision to be shown on the final plat within a mutually agreed upon specified time period. Once agreed upon by both parties and the security required herein is provided, the final plat may be approved by the Planning Board or Board of Commissioners, if all other requirements of these regulations and UDO are met. Duplin County shall require a certified cost estimate from a licensed contractor or engineer for the cost of completion of such improvements.
- (1) Type. The subdivider shall provide one of the following Performance Guarantees, elected at the subdivider's discretion, in lieu of installation:
- (a) Surety bond issued by any company authorized to do business in this State.
 - (b) Letter of credit issued by any financial institution licensed to do business in this State.
 - (c) Other form of guarantee that provides equivalent security to a surety bond or letter of credit.
- (2) Duration. The duration of the performance guarantee shall initially be one year, unless the subdivider determines that the scope of work for the required improvements necessitates a longer duration. In the case of a bonded obligation, the completion date shall be set one year from the date the bond is issued, unless the subdivider determines that the scope of work for the required improvements necessitates a longer duration.
- (3) Extension. A developer shall demonstrate reasonable, good-faith progress toward completion of the required improvements that are secured by the performance guarantee or any extension. If the improvements are not completed to the specifications of Duplin County, and the current performance guarantee is likely to expire prior to completion of the required improvements, the performance guarantee shall be extended, or a new performance guarantee issued, for an additional period; provided, however, that the extension shall only be for a duration necessary to complete the required improvements. If a new performance guarantee is issued, the amount shall be determined by the procedure provided in subdivision (5) of this subsection and shall include the total cost of all incomplete improvements.
- (4) Release. The performance guarantee shall be returned or released, as appropriate, in a timely manner upon the acknowledgment by Duplin County that the improvements for which the performance guarantee is being required are complete. Duplin County shall return letters of credit or escrowed funds upon completion of the required

improvements to the specifications of the County, or upon acceptance of the required improvements, if the required improvements are subject to County acceptance. When required improvements that are secured by a bond are completed to the specifications of the County, or are accepted by the County if subject to County acceptance, upon request by the developer, the County shall timely provide written acknowledgment that the required improvements have been completed, if applicable.

- (5) Amount. The amount of the performance guarantee shall not exceed one hundred twenty-five percent (125%) of the reasonably estimated cost of completion at the time the performance guarantee is issued. Duplin County may determine the amount of the performance guarantee or use a cost estimate determined by the developer. The reasonably estimated cost of completion shall include 100% of the costs for labor and materials necessary for completion of the required improvements. Where applicable, the costs shall be based on unit pricing. The additional 25% allowed under this subdivision includes inflation and all costs of administration regardless of how such fees or charges are denominated. The amount of any extension of any performance guarantee shall be determined according to the procedures for determining the initial guarantee and shall not exceed 125% of the reasonably estimated cost of completion of the remaining incomplete improvements still outstanding at the time the extension is obtained.
- (6) Timing. Duplin County, at its discretion, may require the performance guarantee to be posted either at the time the plat is recorded or at a time subsequent to plat recordation.
- (7) Coverage. The performance guarantee shall only be used for completion of the required improvements and not for repairs or maintenance after completion.
- (8) Legal Responsibilities. No person shall have or may claim any rights under or to any performance guarantee provided pursuant to this subsection or in the proceeds of any such performance guarantee other than the following:
 - (a) The County to whom such performance guarantee is provided.
 - (b) The subdivider at whose request or for whose benefit such performance guarantee is given.
 - (c) The person or entity issuing or providing such performance guarantee at the request of or for the benefit of the developer.
- (9) The County may release a portion of any security posted as the improvements are completed and recommended for approval by the UDO Administrator. Within thirty (30) days after receiving the UDO Administrator’s recommendation, the Planning Board shall

approve or not approve said improvements. If the Planning Board approves said improvements, then it shall immediately release any security posted.

- (10) For subdivisions which are underwritten or constructed with federal funds and for which the specifications for facilities or improvements are equal to or of a higher standard than those required by the County, the bond-posting requirement may be waived and the final plat approved prior to completion of facilities or improvements.
 - (11) Multiple Guarantees. The subdivider shall have the option to post one type of a performance guarantee as provided for in subdivision (1) of this subsection, in lieu of multiple bonds, letters of credit, or other equivalent security, for all development matters related to the same project requiring performance guarantees. Performance guarantees associated with erosion control and stormwater control measures are not subject to the provisions of this section.
- (B) Defects Guarantees. The owner of the subdivision shall require the contractor constructing streets, curbs, gutters, sidewalks, drainage facilities, and/or water and sewer lines to give bond guaranteeing the work against defects. This bond shall be 20% of the initial cost estimate provided for the performance guarantee.
- (C) Claims. No person shall have or may claim any rights under or to any performance guarantee provided pursuant to this section or in the proceeds of any such performance guarantee other than the following:
- (1) The local government to whom such performance guarantee is provided.
 - (2) The developer at whose request or for whose benefit such performance guarantee is given.
 - (3) The person or entity issuing or providing such performance guarantee at the request of or for the benefit of the developer.

SECTION 622: IMPROVEMENTS

- (A) Permanent Survey Reference Markers. Permanent survey reference markers shall be installed in all subdivisions in accordance with North Carolina General Statutes 160D and the following requirements.
- (B) Permanent Concrete Monuments. Permanent concrete monuments four (4) inches in diameter or square, three (3) feet long, shall be placed at not less than two (2) corners of the subdivision, provided that additional monuments shall be placed where necessary so that no point within the subdivision lies more than five hundred (500) feet from a monument. Two or more of the required monuments shall be designated as control corners. The top of each monument shall have an indented cross metal pin, or metal plate to identify the location of the point. All monuments shall be shown on the final plat.

- (C) Steel or Iron Markers. Steel or iron markers shall be set at all lot and property corners and at all other survey points not marked by monuments. Such markers shall be set at points of curve, points of tangency, reference points, and points of intersection. Survey markers shall be at least three-fourths (3/4) inches in diameter, and shall be sunk vertically into the ground until the top is approximately four (4) inches above the finished grade, except in sidewalks, streets, and other similar surfaces where the markers shall be flush with such surface.

PART VI. SPECIFIC DEVELOPMENT TYPE AND SUBDIVISION DESIGN STANDARDS & REQUIREMENTS

SECTION 623: GENERAL

Each subdivision shall contain the improvements specified in this article, which shall be installed in accordance with the requirements of this ordinance Article and paid for by the subdivider, unless another means of financing is specifically stated in this ordinance Article. 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 624: MULTI-FAMILY DEVELOPMENTS

For condominiums, multi-family developments and townhouse subdivisions, all information as requested in this Article shall be submitted. In addition, the following shall be required prior to Planning Board approval:

- (A) All documents as required by law (NC 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 625: TOWNHOUSE SUBDIVISIONS (EXCEPT DUPLEX SUBDIVISIONS)

For townhouse lots with individual septic tanks, all shall comply with the minimum lot area requirements for townhomes identified in this Article or by a combination of lot area and contiguous open space. No townhouse shall be placed on a lot of less than fifteen hundred (1,500) 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 principal structure). This shall be less than one-half the front yard setback.
- (E) Five-foot access easements shall be reserved in each yard and ten-foot access easements shall be located between each principal building.
- (F) No dwelling shall be connected on more than two (2) sides by the common wall.
- (G) Each townhouse shall be provided with at least two (2) eight-foot by twenty-foot parking spaces.

SECTION 626: HOMEOWNERS/PROPERTY OWNERS ASSOCIATION & OPEN SPACE OR COMMON AREAS

A homeowners'/property owners' association shall be established for each subdivision containing common areas or open space. 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 or open space 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/open space or RBO reserved by owner, the fee simple title to which shall be conveyed by the developer to the homeowner's association. All common areas or open space 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.

SECTION 627: LAND SUITABILITY

- (A) 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.
- (B) 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.

- (C) All subdivision proposals shall be consistent with the need to minimize flood damage and shall conform with the Duplin County Flood Damage Prevention Ordinance.
- (D) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- (E) Applicants for subdivisions adjoining public trust waters and other publicly owned water bodies are encouraged to provide for public access to the water.

SECTION 628: NAME DUPLICATION

The name of the subdivision shall not duplicate nor closely approximate the name of an existing subdivision within the incorporated or unincorporated areas of Duplin County.

SECTION 629: SUBDIVISION DESIGN

(A) **Block.**

- (1) 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 if any exist; needs for vehicular and pedestrian circulation; control and safety of street traffic; limitations and opportunities of topography; and convenient access to water areas.
- (2) Blocks shall not be less than 400 feet or more than 1,000 feet.
- (3) 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.
- (4) 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.

(B) **Lots.**

- (1) 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	Public Water No Public Sewer
Minimum Lot Area in Square Feet	12,000	21,870	21,780
Minimum Lot Width in Feet	85	120	120
Minimum Lot Depth in Feet	100	150	150

	Public Water and Sewer	No Public Water No Public Sewer	Public Water No Public Sewer
Minimum Setback Lines in Feet – Front	20	30	30
Side	15	20	20
Side Abutting Street	15	20	20
Rear	15	20	20

- (2) Lots shall meet any applicable Duplin County Health Department Requirements.
- (3) Double frontage lots shall be avoided wherever possible.
- (4) Side lot lines shall be substantially at right angles to or radial to street lines.
- (5) 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.
- (6) Lot size shall be calculated by the area that is inside of the required setbacks, you may not use square footage within a designated setback area to count towards total lot size.

(C) Easements. Easements shall be provided as follows:

- (1) 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.

- (2) 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.
- (3) Access Easements. Easements used for access that are legally created under the provisions of this Article shall have no structure located within them. Structures shall observe the same setbacks from the edge of the boundary of the easement as they would from a public or private right-of-way.

- (D) 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 630: STREETS

- (A) Public Streets (including Private Streets). Except as expressly allowed elsewhere in this Article, all subdivision lots shall abut on a public street. All streets shall be built to the standards of the North Carolina Department of Transportation, regardless of whether they are public or private. Public streets which are eligible for acceptance into the State Highway System shall be constructed to the standards necessary to be added to the State Highway System or the standards in this Article, whichever is stricter in regard to each particular item, and shall be added to 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 Article 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. It is the responsibility of the developer to actively pursue the addition of public rights-of-way into the state maintenance system. It is the responsibility of the developer to maintain private rights-of-way until a property owners/homeowners association is deeded maintenance of the private rights-of-way.
- (B) 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.
- (C) Half-Streets. The dedication of half streets of less than the NC 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.
- (D) Driveway Access. Where a tract of land 5 acres or more abuts a state-maintained road, the subdivision shall be forwarded to the NC Department of Transportation for review prior to approval by the Planning Board.
- (E) Adjacent Property Access. 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 cul-de-sac provided.
- (F) Nonresidential Streets. The subdivider of a nonresidential subdivision shall provide streets in accordance with NCDOT standards for nonresidential roads.

- (G) Design Standards. Except as allowed otherwise by this Article, the design of all streets and roads within the jurisdiction of the Duplin County Unified Development Ordinance shall be in accordance with the NC Department of Transportation, Division of Highways' Subdivision Roads Minimum Construction standards.
- (H) Intersections.
- (1) 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.
 - (2) 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.
 - (3) Offset intersections are to be avoided unless exception is granted by NCDOT. A minimum length of 200 feet should separate intersections, which cannot be aligned, between survey centerlines.
 - (4) Intersections with arterials, collectors, and thoroughfares shall be at least one thousand (1,000) feet from centerline to centerline, or more if required by the NC Department of Transportation.
- (I) Cul-De-Sacs. Permanent dead-end streets should not exceed one thousand (1,000) feet in length unless necessitated by topography, or property accessibility. Suitable provisions for emergency vehicles to turn around shall be provided every 2,500 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 shall not be used to avoid connection with an existing street or to avoid the extension of an important street.
- (J) Alleys.
- (1) 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.
 - (2) The width of an alley shall be at least twenty (20) feet.
 - (3) 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.

- (4) Sharp changes in alignment and grade shall be avoided.
 - (5) All alleys shall be designed in accordance with NC Department of Transportation Standards.
- (K) Other Requirements.
- (1) 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.
 - (2) 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 may be placed in a right-of-way if allowed by NCDOT, 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.
 - (3) Street Names. 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.
 - (4) Street Name Signs. The subdivider shall be required to provide and erect street name signs to county standards at all intersections within the subdivision. A certificate of occupancy will not be issued until the UDO Administrator has verified all signs have been erected within the subdivision.
 - (5) 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. These NCDOT driveway permits shall be provided to the UDO Administrator prior to the issuance of a certificate of occupancy.
 - (6) Offsets to Utility Poles. No utility poles shall be located within the road right-of-way.
 - (7) 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 631: UTILITIES

(A) Water/Sewer Systems.

- (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.
- (3) 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.
- (4) 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.

(B) Stormwater Drainage System. The subdivider shall provide a surface water drainage system constructed to the standards of NCDOT.

- (1) No surface water shall be channeled or directed into a sanitary sewer.
- (2) Where feasible, the subdivider shall connect an existing storm drainage system.
- (3) 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.
- (4) 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 NC Administrative Code Title 15, Chapter 4, and any locally adopted erosion and sedimentation control ordinances.
- (5) 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.
- (6) 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.

- (7) 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.
- (8) In all areas of special flood hazards, all subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
- (C) 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.
- (D) 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.
- (E) 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 for a lot or a group of lots. The development of suitable restrictions shall be encouraged by the Planning Board.
- (F) 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. Shared driveway easements shall be show on the plat in instances where they are utilized and it shall be noted that it is the responsibility of the developer for the installation of the shared driveway and responsibility of the property owners for the maintenance of the shared driveway.
- (G) 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.
- (H) 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.

- (I) Cautions and Certifications. The Planning Board may require that cautions and other specialized certifications be affixed to the final plat prior to approval.

SECTION 632: PLANNED UNIT DEVELOPMENTS

A planned unit development is intended to encourage unified development of property in an innovative manner using contemporary design patterns and sound engineering principals. A PUD must be a minimum of 25 acres.

(A) Objectives of Planned Unit Developments.

- (1) To provide for necessary commercial, recreational and educational facilities located conveniently to housing;
- (2) To provide well-located, clean, safe and pleasant industrial sites;
- (3) To encourage innovations in residential, commercial and industrial development;
- (4) To encourage a more efficient use of land and of public services , or private services in lieu thereof
- (5) To minimize the impact of traffic on streets and highways;
- (6) To conserve the value of land;
- (7) 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
- (8) To encourage integrated planning in order to achieve the purposes of the development.

- (B) Planned Unit Development Approval. In order to be approved, the Planning Board is encouraged to find that the proposal aligns with the Duplin County Land Use Plan. When reviewing planned unit developments, land use compatibility should be a main factor in the Planning Board's decision to approve or deny, all components of the planned unit development shall align with the standards set forth in this section.

- (C) Site Plan Requirements. Planned Unit Developments shall meet the following site plan criteria, depicted on a site plan furnished by the developer, unless the applicant can demonstrate that one or more of them is not applicable or that another practical solution has been otherwise achieved. This may be determined by the UDO Administrator or deferred to the Planning Board for their determination.

- (1) The PUD shall have an appropriate relationship to the surrounding area, with adverse effects on the surrounding area being minimized.

- (2) The PUD shall provide an adequate internal street circulation system designed for the type of traffic generated, safety, convenience, and access.
 - (3) Streets shall be designed in a manner that provides adequate access for police and emergency services and be designed in a logical user-friendly manner.
 - (4) The PUD shall provide parking areas adequate in terms of location, area, circulation, safety, convenience, separation, and screening.
 - (5) The PUD shall provide common open space adequate in terms of location, area, and type of the common open space, and in the terms of the uses permitted in the PUD. The PUD shall provide for preservation of natural features of terrain. Common open space shall not be isolated unusable areas.
 - (6) The PUD shall provide for a variety of housing types and densities, other types of facilities and common open space.
 - (7) The PUD shall provide pedestrian ways adequate in terms of safety, separation, convenience, and logical interconnection points.
- (D) Off-Street Parking. The number of off-street parking spaces for each use in the PUD shall be determined by the Planning Board through consideration of the following factors.
- (1) Estimated number of cars to be used by occupants of the dwelling units in the PUD. Planning Board may require a Traffic Impact Analysis to be conducted but is not required to.
 - (2) Parking needs for the non-residential uses.
 - (3) Consideration of shared parking between certain uses based off of hours of operation, frequency of use, peak business times, etc.
 - (4) Parking and storage needs for recreational vehicles including but not limited to boats, travel trailers, utility vehicles, etc.
- (E) Minimum Lot Area and Setbacks. The minimum lot area and the minimum setback restrictions may be 30% less than the identified minimums in this Article. Each lot must still provide sufficient areas to be built upon. Cluster residential development is encouraged to provide areas of common open space to be enjoyed by the residents of the PUD and to minimize costs for the developer. Such clustering is also intended to accommodate residential units that are separated by party walls and exist as a singular unit of real property, with all remaining area being common open space.
- (F) Residential Density. The overall average residential density shall be no greater than the maximum density for the particular area in the Duplin County Land Use Plan.

(G) Planned Unit Development Permitted Uses. Provided that the proposed uses are deemed to be in overall compatibility with the Duplin County Land Use Plan, the following uses are identified as permitted.

- Single-family & Multi-family dwelling units (attached or detached)
- Sale or rental of goods or services
- Recreation facilities
- Public or private offices
- Convention facilities
- Restaurants
- Lodging places, hotels, motels, dormitories
- Schools and other education institutions
- Churches
- Hospitals
- Business & commercial use
- Industrial use
- Any other use shown to be appropriate.

Due to the broad categories of permitted uses, the Planning Board may determine that certain uses, due to their nature, are required to undergo quasi-judicial review and receive a Special Use Permit in order to operate within the PUD. If the Planning Board elects to take this route and defer a certain use to be reviewed by the Board of Adjustment as a Special Use, the Planning Board must only have preliminary discussion of the matter and make no recommendation for approval or denial of such use. The Board of Adjustment is to use only evidence presented at its hearing when making a decision on such uses that have been deferred, per NCGS 160D-301.

All uses in the PUD must be approved in the PUD shall be included in the initial PUD plan. New uses in the PUD after approval are required to be approved by the Planning Board.

(H) 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. The Planning Board is encouraged to only allow for this reduction under special circumstances.

(I) Planned Unit Development Application 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:

- (1) 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 acceptable to the board
- (2) A plan indicating the broad concept of the proposed development. Such plan shall include:
 - (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 types of uses proposed and the acreage devoted to each use.
 - (d) Vehicle traffic flow diagram.
 - (e) Acreage 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) Common space maintenance and ownership identified.
 - (j) A location map, on a scale of one inch equaling not more than 400 feet, illustrating site boundaries, acreage, existing structures and adjacent property owners and land uses.
 - (k) A map on a scale of one inch equaling not more than one hundred feet, depicting site plan criteria.
 - (l) A topographic map of the site or phase, showing at a scale of one inch equaling not more than 100 feet showing streams, rivers, ditches, and areas subject to 100-year flooding.

- (m) An explanation of the objectives to be achieved by the PUD and an agreement to abide by the provisions of the Duplin County Unified Development Ordinance.
 - (n) A development schedule indicating the approximate dates when construction of the various stages of the PUD can be expected to begin and be completed.
 - (o) 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.
 - (p) A statement of findings by a Professional Engineer which shall provide evidence of the following as adequate to service the PUD.
 - (i) The proposed water distribution system;
 - (ii) The proposed method of sewage collection;
 - (iii) The general manner in which storm drainage will be handled; and
 - (iv) The general manner in which provisions will be made for any potential natural hazards in the area.
 - (q) Easement showing vested legal access for ingress and egress, if applicable.
 - (r) 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 historic features
 - (s) A statement of financial capability.
 - (t) Any other information deemed necessary by the applicant for thorough review of the proposed PUD.
- (J) Planning Board PUD Approval. 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 Article. 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.

If the Planning Board denies, appeals may be made per NCGS 160D-1403.

PART VII. REQUIRED PLAT SIGNATURE BLOCKS & NOTES

SECTION 633: MINOR SUBDIVISION (TYPE A, TYPE B, PRIVATE EASEMENT EXEMPTION, SERVICE SUBDIVISION, OTHER EXEMPT DIVISIONS)

- (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 the Duplin County Unified Development Ordinance. I also accept responsibility for maintenance, ownership, or dedication of any easements created by this plat unless responsibility of such is deeded to a new party. *INSERT OWNER SIGNATURE LINE.*
- (B) Certificate of Survey and Accuracy. *INSERT SIGNATURE LINE*, certify that this map was drawn under my direction (or by me) and supervision (or by my supervision) from an actual survey of land (deed description in book, page, etc.), that the error of closure as calculated by latitudes and departures is 1: *INSERT LINE*; that the boundaries not surveyed are shown as broken lines plotted from information found in Book *INSERT LINE* Page *INSERT LINE*; that this plat was prepared in accordance with GS 47-30 as amended. Witness my hand and seal this DATE AND YEAR. *INSERT SURVEYOR SIGNATURE LINE.*
- (C) Certificate of Approval for Recording. I hereby certify that the subdivision plat shown hereon has been found to comply with *INSERT APPLICABLE SECTION OF REFERENCE TO UDO (DETERMINED BY SUBDIVISION ADMINISTRATOR)* and is hereby approved for recording in the Office of the Register of Deeds of Duplin County. *INSERT UDO ADMINISTRATOR SIGNATURE LINE.*
- (D) Certificate of Approval for Recording (Exemptions). I hereby certify that the subdivision plat shown hereon has been found to be exempt from the Duplin County Unified Development Ordinance per section *INSERT APPLICABLE SECTION OF REFERENCE TO UDO (DETERMINED BY UDO ADMINISTRATOR)* and is hereby approved for recording in the Office of the Register of Deeds of Duplin County. *INSERT UDO ADMINISTRATOR SIGNATURE LINE.*
- (1) Recombination Note. In order for this recombination to be complete, a deed of recombination must be recorded with the Duplin County Register of Deeds.
 - (2) Easement Note. Property owners are responsible for maintenance and upkeep of any easements created by this plat, Duplin County is not responsible or liable for any easements show upon this plat unless expressly accepted by the County.
 - (3) Approval Note. Note that dates of approval from Planning Board, Board of County Commissioners as applicable to the plat.

SECTION 634: MAJOR SUBDIVISION 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 the Duplin County Unified Development Ordinance. I also accept responsibility for maintenance, ownership, or dedication of any easements created by this plat unless responsibility of such is deeded to a new party. *INSERT OWNER SIGNATURE LINE.*
- (B) Certificate of Survey and Accuracy. *INSERT SIGNATURE LINE*, certify that this map was drawn under my direction (or by me) and supervision (or by my supervision) from an actual survey of land (deed description in book, page, etc.), that the error of closure as calculated by latitudes and departures is 1: *INSERT LINE*; that the boundaries not surveyed are shown as broken lines plotted from information found in Book *INSERT LINE* Page *INSERT LINE*; that this plat was prepared in accordance with GS 47-30 as amended. Witness my hand and seal this DATE AND YEAR. *INSERT SURVEYOR SIGNATURE LINE.*
- (C) NCDOT Street Disclosure Statement. All streets depicted in this subdivision have been offered to the State of North Carolina for dedication to public use, but these streets have not been accepted into the NCDOT road maintenance system. The streets in this subdivision must meet NCDOT residency requirements to be included in the NCDOT road maintenance system. Following the construction of the streets shown in this subdivision, the developer is responsible for petitioning NCDOT for the addition and acceptance of streets shown upon this plat. I certify the streets shown upon this plat have been designed in an acceptable manner according to the current NCDOT Minimum Construction Standards for Subdivision Roads. *INSERT NCDOT DISTRICT ENGINEER SIGNATURE LINE.*
- (D) Private Street Statement. All streets shown hereon are intended for private use and have been identified for conveyance to a homeowners or property owners association for the subdivision. The developer shall be responsible for maintenance until such streets are conveyed to the homeowners or property owners association in a recorded deed. In the event that the homeowners or property owners association becomes inactive or dissolves, Duplin County nor NCDOT assumes no responsibility or ownership of the private streets shown in this subdivision. *INSERT OWNER/DEVELOPER SIGNATURE LINE.*
- (E) Drainage Facility Certification. Artificial drainage has been installed in this subdivision according to plans and specifications prepared by *INSERT NAME* and based upon the requirements of the Duplin County Health Department to keep the seasonal high-water table a minimum of 12 inches below the septic tank nitrification lines. Proper landscaping and maintenance of these drainage facilities are the responsibility of the property owners to ensure 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. *INSERT DRAINAGE FACILITY CERTIFIER SIGNATURE LINE AND HEALTH DEPARTMENT SIGNATURE LINE.*

- (F) Certificate of Approval for Recording. I hereby certify that this subdivision plat shown hereon has been found to comply with the Major Subdivision Regulations in the Duplin County Unified Development Ordinance (*REFERENCE SECTION OF UDO*) and that this plat has been approved by the Duplin County Planning Board (*INSERT APPROVAL DATE*) for recording in the Office of the Register of Deeds of Duplin County. *INSERT UDO ADMINISTRATOR SIGNATURE LINE.*

- (G) Soil Scientist Certification. I hereby certify that I am a licensed soil scientist in the Stat of North Carolina and have evaluated this subdivision and found that the soils within this subdivision are suitable to accommodate the subsurface wastewater disposal system needs of each of the lots depicted hereon. *INSERT SOIL SCIENTIST SIGNATURE LINE.*

ARTICLE 7. MANUFACTURED HOME AND TRAVEL TRAILER PARK ORDINANCE

SECTION 701: GENERALLY

After the effective date of this UDO, it shall be unlawful for any person to establish or expand an existing manufactured home park or travel trailer park in a manner which is inconsistent with the provisions and requirements of this Article. Any site plan approved prior to the adoption of this UDO must complete construction within twelve (12) months of the effective date of the adoption of the Duplin County Unified Development Ordinance, otherwise the plan approval shall become null and void.

SECTION 702: MANUFACTURED HOME PARK DESIGN STANDARDS

- (A) 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, avoided or properly mitigated.
- (B) General Requirements.
- (1) The owner/operator of a manufactured home park may sell manufactured homes within a manufactured home park under owner/operator ownership to persons or tenants. The owner/operator shall not sell manufactured home lots that have not been legally subdivided. For owners/operators who wish to sell lots of record within the manufactured home park, all lots must be subdivided, and the park will begin the process of becoming a manufactured home subdivision which is required to meet all subdivision standards of Article 6. An individual owner of a manufactured home 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, unless the lot has been legally subdivided under the provisions of Article 6 and the manufactured home park is being converted from a park into a manufactured home subdivision which includes a homeowners association for maintenance of infrastructure or the infrastructure has been constructed, dedicated and accepted by the appropriate state agency.
 - (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) inches in length 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 manufactured home.
- (7) The separation requirement of the article 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, travel trailer park, school, church, or residence.
- (8) Postal mailboxes or receptacles for each lot shall be grouped near the park entrance, at the park office or in any other location as directed by the Post Master.
- (9) 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 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. Any portion of any manufactured home or travel trailer park boundary which is BOTH within 1,200 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 school, church, or residence. 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, the UDO Administrator shall determine if existing vegetation will adequately satisfy the requirements.
 - (a) No 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 article.
 - (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. The typical planting season is outside of the months of May-September.
- (10) Within a manufactured home park, one manufactured home may be used as an administrative office, provided building code requirements have been met.
- (11) 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.
 - (f) All applicable building code requirements shall be met for the use.
 - (g) Manufactured homes may be located in the park regardless of the age of the home per NCGS 160D-910(c).
- (C) 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 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) Lots need to be surveyed and clearly shown to provide adequate space on the site plan. Lots are not subdivided lots of record unless the manufactured home park is designed to the Subdivision standards of the Duplin County UDO.

(4) Minimum lot areas as specified below:

Water and Sewer Service	Minimum Lot Area	Minimum Lot Width
Lots served by <u>both</u> off-site water supply and off-site sewage disposal	10,000 square feet	60 feet
Lots served by off-site water supply and on-site sewage disposal	21,780 square feet	120 feet
Lots served by on-site water supply and on-site sewage disposal	21,780 square feet	120 feet

(5) Manufactured home minimum setbacks on the lots shall be as follows:

- (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 feet of an established adjoining residential property line.
- (c) 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.
- (d) 15 feet from any interior street-right-of-way line.
- (e) 20 feet from any building, other manufactured home, or manufactured home park identification sign.
- (f) No portion of any setback shall be within the required buffer strip.

(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 have a minimum road frontage of thirty (30) feet.

(8) 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.

(D) 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 shown as forty (40) feet wide access easements on site plans and dedicated and recorded as such.
 - (5) Manufactured home parks with more than twenty (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.
- (E) Utilities.
- (1) Each manufactured 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 "public water system: and must be listed with the Public Water Supply Section, division of Environmental Health. 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. Streetlamps 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. Trash collection areas shall be well maintained and kept free of debris.

(F) Recreation Area.

- (1) Manufactured home parks with more than 20 lots shall provide 400 sq. ft. of suitable recreation area for each lot above 20.
- (2) No recreation area shall be less than 2,500 square feet in area.
- (3) Maintenance of any recreation areas will be the responsibility of the manufactured home park owner/operator.

SECTION 703: TRAVEL TRAILER PARK DESIGN STANDARDS

(A) 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, avoided, or properly mitigated.

(B) 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) manufactured 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, if Building Code requirements have been met.
- (2) Travel trailer park identification signs shall not exceed thirty-two (32) inches in length per side.
- (3) Postal mailboxes or receptacles for each lot shall be grouped near the park entrance, at the park office or in any other location as directed by the Post Master.

(4) Buffers shall be in accordance with Section 702(B)(9).

(C) 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) 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 that 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.

(D) 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 about 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.

(E) 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 waste from each park, including waste 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 if direct connection to sewage or septic is not available at all lots in the park.
 - (4) All toilets, shower, lavatory, and laundry facilities shall be provided and maintained in a clean and sanitary condition and always kept in good repair. 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.
- (F) 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.

SECTION 704: MANUFACTURED HOME AND TRAVEL TRAILER PARK OPERATION

- (A) 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 ensure 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.
- (B) 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.
- (C) Existing Parks. Existing manufactured home and travel trailer parks that do not comply with the requirements of this article 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 article; provided, however, that existing manufactured home parks where the park owner is also the owner of the manufactured home(s) within the park may replace manufactured homes in the park with new or improved manufactured home(s) on existing lots with established water,

electric, and sewer/septic connections, subject to septic tank inspection and permitting by the Duplin County Health Department.

SECTION 705: ADMINISTRATION

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.

- (A) Review Fees. The plan submittal shall include payment of a park review fee as established by the County's adopted fee schedule.
- (B) Technical Review Committee. The UDO Administrator 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 UDO Administrator shall advise the developer of any plan deficiencies and of the findings and recommendations of the Technical Review Committee.
- (C) Plan Submittal. The developer shall submit the site plan in accordance with the adopted departmental submittal schedule. The site plan shall be prepared by a Professional Land Surveyor, Professional Engineer, or Registered Landscape Architect for plans to be drawn to scale.
- (D) 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 developers, owner/operator.
 - (3) Name, address, and telephone number of designers, 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 two-foot intervals, existing and proposed ditches, streams, ponds and wooded areas.
 - (12) Existing and proposed easements or other rights-of-ways.
 - (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.
- (E) 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. Appeals may be made in the manner set forth by NCGS 160D-405.

- (F) Construction Permit. Upon Planning Board approval of the site plan, the UDO Administrator shall issue a construction permit.
- (1) 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.
 - (2) 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.
 - (3) The construction permit will be valid for six (6) months.
 - (4) If construction has not commenced within six (6) months, Planning Board approval shall become null and void.
 - (5) The Planning Board, at its discretion, may grant a six (6) month extension to the original approval.
 - (6) The UDO Administrator may shall periodically observe construction during progress to determine if construction is in compliance with approved plans.
 - (7) A lot within a manufactured home park is considered fully constructed once the lot has on-site connections to water, electricity, and sewer/septic.
 - (8) A lot within a travel trailer park is considered fully constructed once the lot has on-site connections to water, electricity, and either direct connection to sewer/septic OR access to a dumping station within the travel trailer park.
- (G) Operation Permit. After construction is completed, the developer should inform the UDO Administrator that development is complete. The UDO Administrator shall visit the park to determine if the 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 UDO Administrator 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. This allows for the manufactured homes or travel trailers to be set-up for occupancy within the park.

- (H) Violation. The operation permit shall be valid until revoked. The UDO Administrator may periodically visit the park to determine continued compliance with this article ordinance and other applicable regulations. If the park is determined to be in violation the UDO Administrator shall notify the owner/operator as provided by Article 4, Part VII.

- (I) Transfer of Permits. Construction permits are issued to the manufactured home/travel trailer park owner and are not transferable. Operation permits are issued to the manufactured home/travel trailer park owner and are transferable to subsequent park owners. The park owner shall notify the UDO Administrator of any transfer in park ownership within thirty (30) days of transfer. The UDO Administrator may schedule a compliance visit with the new owner after any ownership transfer takes place.

- (J) 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 8. ADULT BUSINESS REGULATIONS

SECTION 801: ADULT ESTABLISHMENT & SEXUALLY ORIENTED BUSINESS

No adult establishment or sexually oriented business shall be permitted in any building or on any premises or property:

- (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 establishment 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.
- (F) Special Use Permit approval from the Duplin County Board of Commissioners must be granted for the establishment of such use.

SECTION 802: NONCONFORMING ADULT ESTABLISHMENTS AND SEXUALLY ORIENTED ADULT BUSINESS

Any adult establishment or sexually oriented business lawfully operating on 08/01/1996, 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 establishment 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 establishment 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, playground, public swimming pool or public park within two thousand (2,000) feet of the adult establishment or sexually oriented business.

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ARTICLE 9. JUNKYARD AND SALVAGE YARD ORDINANCE

SECTION 901: GENERALLY

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 article. Junkyards shall also fully comply with all requirements established by Chapter 136, Article 12 and obtain any applicable permits from the North Carolina Department of Transportation. Proof of compliance with NCDOT requirements may be required to be provided to the UDO Administrator depending upon the location of the junkyard and the applicability of Chapter 136, Article 12.

SECTION 902: LOCATION

No new junkyard or salvage yard shall be located:

- (A) Within 50 feet of the right-of-way line of any public road.
- (B) Within 500 feet of any residence owned by persons other than those owning the junkyard or salvage yard.
- (C) Within 500 feet of any school, church, public park, public library, nursing home, rest home, airport, cemetery, or other place of public assembly.
- (D) Within 100 feet of any potable water supply well.
- (E) Within a Special Flood Hazard Area.

SECTION 903: FENCING/SCREENING COMBINATION

If the protective fencing is designed in a manner that it satisfies screening standards and fencing standards, the Planning Board may determine that the protective fencing is sufficient and additional screening as described further in this article may not be required. If this method of compliance is chosen, the fencing/screening shall be of a uniform color scheme and geometric design. However, the Planning Board may, at its discretion, approve other combinations if it finds the intent of this article is satisfied.

SECTION 904: FENCING

Protective perimeter fencing shall be provided around all junkyards and salvage yards as described below. Protective fencing is required in addition to any applicable screening requirements.

- (A) A fence or 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.

- (B) Gates for ingress and egress shall be of sufficient materials and construction to provide the minimum degree of security required for fencing.
- (C) 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 1,000 linear feet of perimeter fencing.

SECTION 905: 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.

- (A) Types of Screening.
 - (1) Screen Fence. The screening requirement may be satisfied by fencing specified in this article, which is ALSO of such design and construction as to provide a permanent, solid, continuous, opaque screen extending a minimum of six 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 spacing which will provide a permanent, solid, continuous, year-round, opaque screen extending from the surface of the ground to a minimum height of six feet at maturity. (See Section 910 for example of vegetative screen.) Upon inspection, the UDO Administrator may determine vegetative screening to be insufficient and shall provide the junkyard or salvage yard owner with the option to either construct a screen fence or allow for the Planning Board to determine a method of screening to achieve compliance.
 - (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.
- (B) Screening Required. Screening to the specifications required in subsection (A) above 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 public view.
 - (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.

SECTION 906: ADDITIONAL REQUIREMENTS

- (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 A for a chart of recommended plant materials and spacing.)
- (B) Plant materials shall average a minimum of 12" in height at the time of planting.
- (C) 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.
- (D) Diseased, dead, or damaged plant materials shall be replaced at the earliest appropriate planting time.
- (E) Protective fencing shall be maintained in a safe sound condition.
- (F) 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.
- (G) Where practical, gates for access shall be located to minimize visual exposure to adjacent properties and public roads.
- (H) Because vegetative screening cannot be established in access driveways and gateways when a vegetative screen is used to satisfy the screening requirement, gates shall meet the requirements for screen fencing.

SECTION 907: OPERATIONS

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.

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

SECTION 908: 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 this article. Preexisting junkyards and salvage yards that do not comply with the provisions of this article shall be considered "nonconforming".

Nonconforming facilities shall be brought into compliance with this article within 24 months of the effective date of this UDO.

SECTION 909: ADMINISTRATION

(A) 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 three copies of a sketch plan for approval by the Planning Board. The sketch plan shall be submitted to the UDO Administrator in accordance with the submittal schedule adopted by the Duplin County Planning Department. The required sketch plan shall show or be accompanied by the following:

- (1) Title of Plan.
- (2) Name, address, and telephone number of owner/operators.
- (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. Distance needs to be clearly shown and indicated in feet on the site plan.
- (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.

- (B) Construction Permit Required. Construction or expansion of a junkyard or salvage yard shall not begin until authorized by the UDO Administrator of this ordinance. Upon Planning Board approval of the sketch plan, the UDO Administrator 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.
- (C) Duties of UDO Administrator. Upon receipt of a sketch plan containing sufficient information, the UDO Administrator shall submit the plan to the Planning Board for consideration based of the submittal schedule adopted by the Duplin County Planning Department. The UDO Administrator shall review the proposed plan and advise the owner of any deficiencies. The UDO Administrator shall make a recommendation to the Planning Board regarding the plan's compliance with the ordinance.
- (D) 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 UDO Administrator.
- (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 UDO Administrator 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 UDO Administrator and one copy will be returned to the owner with a letter stating the reasons for disapproval and outlining resubmittal and appeal options. Appeals shall be made in accordance with NCGS 160D-405.
- (E) Duties of UDO Administrator. The UDO Administrator of this ordinance upon Planning Board approval and upon application by the owner, shall be authorized to issue a construction permit. The UDO Administrator shall upon completion of construction periodically monitor the operation of the facility to determine continued compliance with this ordinance. The regulations prescribed in this ordinance shall be enforced by the UDO Administrator.

SECTION 910: RECOMMENDED PLAT 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' (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

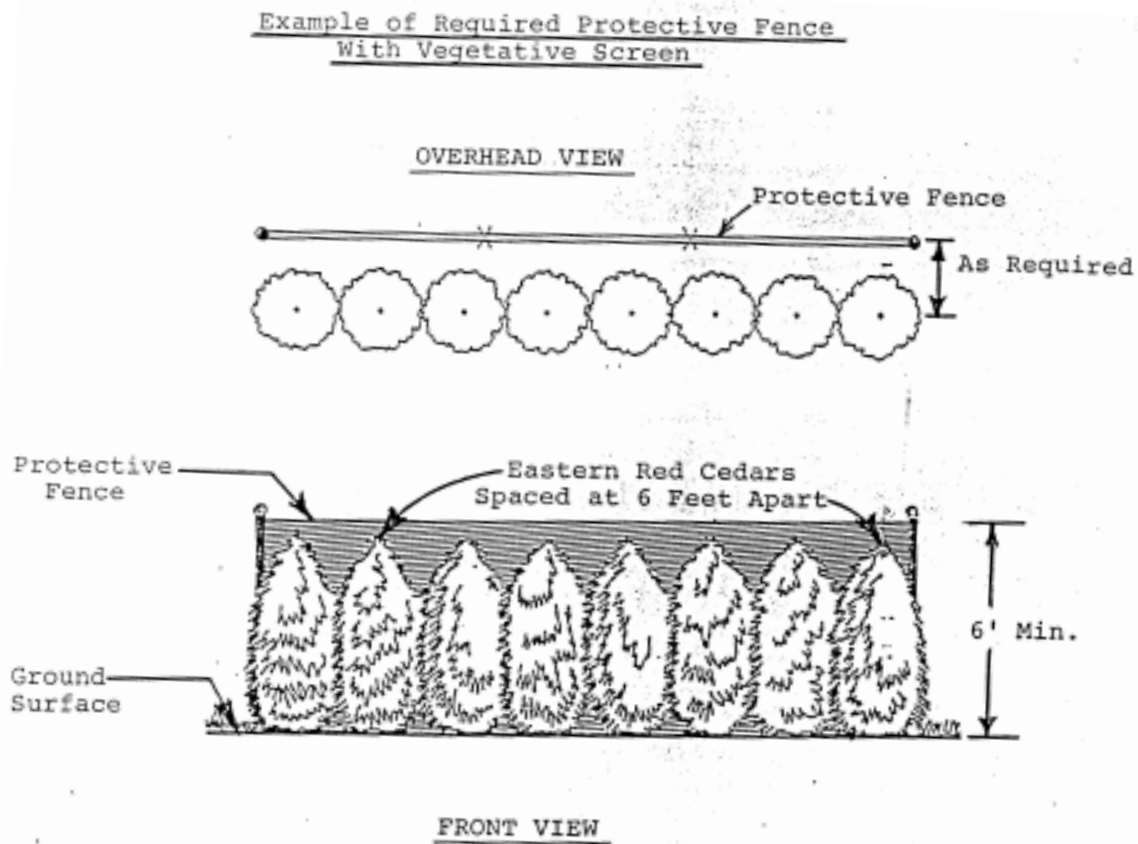


Figure VIII-1

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ARTICLE 10. SOLAR ENERGY FACILITIES REGULATIONS

SECTION 1001: GENERALLY

The purpose of this article is to facilitate the siting, construction, installation, and operation of solar energy generating facilities in Duplin County in a manner that promotes economic development and safeguards the protection of the health, safety and general welfare of the citizens while also avoiding adverse impacts to adjacent land uses and property owners.

SECTION 1002: 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. Modification of an existing solar facility that increases the area by more than 10% of the original footprint shall be subject to this article.

SECTION 1003: LOCATION AND BUFFERS

- (A) All improved areas, including disposal areas, shall be at least 60 feet from a public road right-of-way.
- (B) 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.
- (C) All access roads and storage areas shall be established on a 30 feet minimum easement to a public right-of-way.
- (D) 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 reach 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.

- (E) All solar energy facilities proposed to be located in areas where development is regulated by the Duplin County Airport Land Use and Height Restriction Article Ordinance must be permitted by the Duplin County Planning Department in accordance with said article ordinance.

SECTION 1004: SECURITY

- (A) All solar energy facilities shall be completely fenced to restrict unauthorized access, forming 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 wood, stone, steel, or other metal, or any substance. of a similar nature and strength.
- (B) An information sign shall be posted and maintained at the entrance(s) listing the name and phone number of the operator to be contacted in case of emergency.

SECTION 1005: SUPPLEMENTAL REGULATIONS

- (A) The manufacturers or installers' 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 if access to the site is located on a state road.
- (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 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, numbers of panels, and angles of orientation.

SECTION 1006: SITE PLAN / ELECTRICAL & STRUCTURAL DRAWINGS

- (A) Owners or operators of solar energy facilities shall present three copies of a site plan which conform to the standards of this article to the UDO Administrator. The site plan shall depict and include improved areas, setbacks, panel sizes, location of property lines, buildings, and road rights-of-way.
- (B) The Planning Board shall review the site plan to ensure conformity with the requirements of this article. No new solar energy facility shall be operated until the site plan has been approved by the Duplin County Planning Board; provided, however, 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) Applications for variance from the standards of this article must be made in the manner established by the Duplin County UDO and NCGS 160D-705 and NCGS 160D-406.
- (D) Appeals of a Planning Board decision shall be made in accordance with the provisions established by NCGS 160D-405.
- (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 according 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 1007: DECOMMISSIONING AND ABANDONMENT

Responsible parties shall comply with all North Carolina Department of Environmental Quality decommissioning requirements as set forth in Session Law 2023-58, House Bill 130. The responsible party shall provide Duplin County Planning with the same notice they provide to NCDEQ once the solar energy facility is being decommissioned and provide copies of correspondence with NCDEQ to the County to ensure compliance.

- (A) Decommissioning. A decommissioning plan signed by the party responsible for decommissioning and the landowner (if different) addressing the following shall be submitted prior to the issuance of the development permit.
 - (1) Defined conditions upon which decommissioning will be initiated (i.e., end of land lease, no power production for 12 months, abandonment, etc.)

- (2) Removal of all non-utility owned equipment, conduit, structures, fencing, roads, solar panels, and foundations.
- (3) Restoration of property to condition prior to development of the solar energy facility.
- (4) The timeframe for completion of decommissioning activities.
- (5) Description of any agreement (e.g., lease) with landowner regarding decommissioning.
- (6) The party currently responsible for decommissioning.
- (7) Plans for updating the decommissioning plan.

(B) Abandonment. A solar facility that ceases to produce energy on a continuous basis for 12 months will be considered abandoned unless the current responsible party (or parties) with ownership interest in the facility provides substantial evidence to the UDO Administrator of the intent to maintain and reinstate the operation of that facility. It is the responsibility of the responsible party (or parties) identified in the Decommissioning Plan to remove all equipment and facilities and restore the parcel to its condition prior to development of the solar facility. For any solar facility developed prior to the adoption of this ordinance, it is the responsibility of landowner to remove all equipment and facilities and restore the parcel to its condition prior to development of the solar facility. The UDO Administrator shall be notified prior to cessation of operations.

- (1) Upon determination of abandonment, the UDO Administrator shall notify the party (or parties) responsible they must remove the equipment and restore the site to its condition prior to development of the solar facility within three hundred and sixty-five (365) days of notice by the UDO Administrator.
- (2) If the responsible party (or parties) fails to comply, the UDO Administrator may remove the equipment, sell any removed materials, and initiate judicial proceedings or take any other steps legally authorized against the responsible parties to recover the costs required to remove the solar facility and restore the site to a nonhazardous pre-development condition.

ARTICLE 11. FLOOD DAMAGE PREVENTION ORDINANCE

PART I. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE, & OBJECTIVES

SECTION 1101: STATUTORY AUTHORIZATION

The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Article 6 of Chapter 153A; Article 8 of Chapter 160A; and Article 7, 9, and 11 of Chapter 160D of the North Carolina General Statutes, delegated to local governmental units the authority to adopt regulations designed to promote the public health, safety, and general welfare. Therefore, the Board of County Commissioners of Duplin County, North Carolina, does ordain as follows.

SECTION 1102: FINDINGS OF FACT

- (A) 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.
- (B) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities and by the occupancy in flood prone areas of uses vulnerable to floods or other hazards.

SECTION 1103: 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:

- (A) Restrict or prohibit uses that are dangerous to health, safety, and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights or velocities;
- (B) Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;
- (C) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;
- (D) Control filling, grading, dredging, and all other development that may increase erosion or flood damage; and
- (E) Prevent or regulate the construction of flood barriers that will unnaturally divert flood waters, or which may increase flood hazards to other lands.

SECTION 1104: OBJECTIVES

The objectives of this ordinance are to:

- (A) Protect human life, safety, and health;
- (B) Minimize expenditure of public money for costly flood control projects;
- (C) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (D) Minimize prolonged business losses and interruptions;
- (E) Minimize damage to public facilities and utilities (i.e. water and gas mains, electric, telephone, cable and sewer lines, streets, and bridges) that are located in flood prone areas;
- (F) Minimize damage to private and public property due to flooding;
- (G) Make flood insurance available to the community through the National Flood Insurance Program;
- (H) Maintain the natural and beneficial functions of floodplains;
- (I) Help maintain a stable tax base by providing for the sound use and development of flood prone areas; and
- (J) Ensure that potential buyers are aware that property is in a Special Flood Hazard Area.

PART II. DEFINITIONS

SECTION 1105: DEFINITION OF BASIC TERMS

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.

“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 Shallow Flooding” means a designated Zone AO or AH 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)”.

“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 the effective date of the initial FIRM for the community, dated July 4, 1989.

“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) is completed before the effective date of the floodplain management regulations adopted by a community, dated September 16, 1988.

“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 a 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 a 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 lumbers 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 hydraulic models meeting the minimum requirements of the National Flood Insurance Program.

“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, precipitation exceeding the base flood, 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 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.

“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.

“Map Repository” means the location of the official flood hazard data to be applied for floodplain management. It is a central location in which flood data is stored and managed; in North Carolina, FEMA has recognized that the application of digital flood hazard data products have the same authority as hard copy products. Therefore, the NCEM’s Floodplain Mapping Program websites house current and historical flood hazard data. For effective flood hazard data the NC FRIS website (<http://FRIS.NC.GOV/FRIS>) is the map repository, and for historical flood hazard data the FloodNC website (<http://FLOODNC.GOV/NCFLOOD>) is the map repository.

“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 (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 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 Section 1107 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 Section 1118 of this ordinance.

“Technical Bulletin and Technical Fact Sheet” means a FEMA publication that provides guidance concerning the building performance standards of the NFIP, which are contained in Title 44 of the U.S. Code of Federal Regulations at Section 60.3. The bulletins and fact sheets are intended for use primarily by State and local officials responsible for interpreting and enforcing NFIP regulations and by members of the development community, such as design professionals and builders. New bulletins, as well as updates of existing bulletins, are issued periodically as needed. The bulletins do not create regulations; rather they provide specific guidance for complying with the minimum requirements of existing NFIP regulations.

It should be noted that Technical Bulletins and Technical Fact Sheets provide guidance on the minimum requirements of the NFIP regulations. State or community requirements that exceed those of the NFIP take precedence. Design professionals should contact the community officials to determine whether more restrictive State or local regulations apply to the building or site in question. All applicable standards of the State or local building code must also be met for any building in a flood hazard area.

“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 Article 11, Parts IV and V 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.

PART III. GENERAL PROVISIONS

SECTION 1106: LANDS TO WHICH THIS ORDINANCE APPLIES

This ordinance shall apply to all Special Flood Hazard Areas within the jurisdiction of Duplin County.

SECTION 1107: 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 19, 2020, 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, and all revisions thereto. 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 for reference and declared a part of this Ordinance. Subsequent Letter of Map Revisions (LOMR) and/or Physical Map Revisions (PMRs) shall be adopted within 3 months.

SECTION 1108: ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT

A Floodplain Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities within Special Flood Hazard Areas determined in accordance with the provisions of Section 1106 of this ordinance.

SECTION 1109: 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 1110: 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 1111: 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 1112: 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 1113: 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 Class 1 misdemeanor pursuant to NC G.S. § 143-215.58. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$100.00 or imprisoned for not more than thirty (30) days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent Duplin County from taking such other lawful action as is necessary to prevent or remedy any violation.

PART IV. ADMINISTRATION

SECTION 1114: DESIGNATION OF FLOODPLAIN ADMINISTRATOR

The UDO Administrator, 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 County’s overall compliance with the National Flood Insurance Program and the provisions of this ordinance.

SECTION 1115: FLOODPLAIN DEVELOPMENT APPLICATION, PERMIT AND CERTIFICATION REQUIREMENTS.

- (A) Application Requirements. Application for a Floodplain Development Permit shall be made to the Floodplain Administrator prior to any development activities located within Special Flood Hazard Areas. The following items shall be presented to the Floodplain Administrator to apply for a floodplain development permit:
- (1) A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:
 - (a) The nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;
 - (b) The boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in Section 1107, or a statement that the entire lot is within the Special Flood Hazard Area.
 - (c) Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in Section 1107;
 - (d) The boundary of the floodway(s) or non-encroachment area(s) as determined in Section 1107;
 - (e) The Base Flood Elevation (BFE) where provided as set forth in Section 1107; Section 1116; or Section 1122;
 - (f) The old and new location of any watercourse that will be altered or relocated as a result of proposed development; and
 - (g) The certification of the plot plan by a registered land surveyor or professional engineer.

- (2) Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to:
 - (a) Elevation in relation to NAVD 1988 of the proposed reference level (including basement) of all structures;
 - (b) Elevation in relation to NAVD 1988 to which any non-residential structure in Zones A, AE, AH, AO, A99 will be floodproofed; and
 - (c) Elevation in relation to NAVD 1988 to which any proposed utility systems will be elevated or floodproofed.
- (3) If floodproofing, a Floodproofing Certificate (FEMA Form 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.
- (4) 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:
 - (a) 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
 - (b) Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with Section 1120(D)(4) when solid foundation perimeter walls are used in Zones A, AE, AH, AO, A99.
- (5) Usage details of any enclosed areas below the lowest floor.
- (6) Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage.
- (7) Certification that all other Local, State and Federal permits required prior to floodplain development permit issuance have been received.
- (8) Documentation for placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure that the provisions of Section 1120(F) and (G) of this ordinance are met.
- (9) A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.

(B) Permit Requirements. The Floodplain Development Permit shall include, but not be limited to:

- (1) A complete description of all the development to be permitted under the floodplain development permit (e.g., house, garage, pool, septic, bulkhead, cabana, pier, bridge, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials, etc.).
- (2) The Special Flood Hazard Area determination for the proposed development in accordance with available data specified in Section 1107.
- (3) The Regulatory Flood Protection Elevation required for the reference level and all attendant utilities.
- (4) The Regulatory Flood Protection Elevation required for the protection of all public utilities.
- (5) All certification submittal requirements with timelines.
- (6) A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse, as applicable.
- (7) The flood openings requirements.
- (8) Limitations of below BFE enclosure uses (i.e., parking, building access and limited storage only).
- (9) A statement, that all materials below BFE/RFPE must be flood resistant materials.

(C) Certification Requirements.

- (1) Elevation Certificates.
 - (a) An Elevation Certificate (FEMA Form 086-0-33) is required prior to the actual start of any new construction. 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.
 - (b) 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.

- (c) 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.

(2) Floodproofing Certificate.

- (a) 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.

- (b) A final Finished Construction Floodproofing Certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the issuance of a Certificate of Compliance/Occupancy. 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.
- (3) 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 Section 1120(C)(2).
- (4) If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; a professional engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.
- (5) 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 (1) and (2) of this subsection:
 - (a) Recreational Vehicles meeting requirements of Section 1120(F)(1); Recreational Vehicles must be moved every 180 days.
 - (b) Temporary Structures meeting requirements of Section 1120(G); and
 - (c) Accessory Structures that are 150 square feet or less or \$3,000 or less and meeting requirements of Section 1120(H).

- (D) Determinations for Existing Buildings and Structures. For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, shall:
- (1) Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;
 - (2) Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;
 - (3) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and
 - (4) Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the NC Building Code and this ordinance is required.

SECTION 1116: DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR

The Floodplain Administrator shall perform, but not be limited to, the following duties:

- (A) 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.
- (B) 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.
- (C) 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).
- (D) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained.

- (E) Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of Section 1124 are met.
- (F) 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 Section 1115(C).
- (G) 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 Section 1115(C).
- (H) Obtain actual elevation (in relation to NAVD 1988) of all public utilities in accordance with the provisions of Section 1115(C).
- (I) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the provisions of Section 1115(C) and Section 1120(B).
- (J) 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.
- (K) When BFE data has not been provided in accordance with the provisions of Section 1107, obtain, review, and reasonably utilize any BFE data, along with floodway data or non-encroachment area data available from a federal, state, or other source, including data developed pursuant to Section 1122(B)(3), in order to administer the provisions of this ordinance.
- (L) When BFE data is provided but no floodway or non-encroachment area data has been provided in accordance with the provisions of Section 1107, 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.
- (M) 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.
- (N) 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.

- (O) 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.
- (P) 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.
- (Q) 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.
- (R) Follow through with corrective procedures of Section 1117.
- (S) Review, provide input, and make recommendations for variance requests.
- (T) 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 Section 1107 of this ordinance, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify State and FEMA of mapping needs.
- (U) Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-Fs) and Letters of Map Revision (LOMRs).

SECTION 1117: CORRECTIVE PROCEDURES

- (A) 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.
- (B) 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:

- (1) That the building or property is in violation of the floodplain management regulations;
 - (2) That a hearing will be held before the Floodplain Administrator at a designated place and time, not later than ten (10) days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and
 - (3) That following the hearing, the Floodplain Administrator may issue an order to alter, vacate, or demolish the building; or to remove fill as applicable.
- (C) 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 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.
- (D) 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.
- (E) 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 1118: VARIANCE PROCEDURES

- (A) 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.
- (B) 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.

(C) Variances may be issued for:

- (1) The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure;
- (2) Functionally dependent facilities if determined to meet the definition as stated in Article 11, Part II of this ordinance, provided provisions of Section 1118(I)(2), (3), and (5) 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
- (3) Any other type of development provided it meets the requirements of this Section.

(D) 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:

- (1) The danger that materials may be swept onto other lands to the injury of others;
- (2) The danger to life and property due to flooding or erosion damage;
- (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (4) The importance of the services provided by the proposed facility to the community;
- (5) The necessity to the facility of a waterfront location as defined under Article 11, Part II of this ordinance as a functionally dependent facility, where applicable;
- (6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- (7) The compatibility of the proposed use with existing and anticipated development;
- (8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- (9) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (10) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
- (11) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

- (E) A written report addressing each of the above factors shall be submitted with the application for a variance.
- (F) 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.
- (G) 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.
- (H) 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.
- (I) Conditions for Variances:
 - (1) Variances shall not be issued when the variance will make the structure in violation of other federal, state, or local laws, regulations, or ordinances.
 - (2) Variances shall not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge.
 - (3) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - (4) Variances shall only be issued prior to development permit approval.
 - (5) Variances shall only be issued upon:
 - (a) A showing of good and sufficient cause;
 - (b) A determination that failure to grant the variance would result in exceptional hardship; and
 - (c) 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.
- (J) A variance may be issued for solid waste disposal facilities or sites, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in Special Flood Hazard Areas provided that all of the following conditions are met.

- (1) The use serves a critical need in the community.
- (2) No feasible location exists for the use outside the Special Flood Hazard Area.
- (3) The reference level of any structure is elevated or floodproofed to at least the Regulatory Flood Protection Elevation.
- (4) The use complies with all other applicable federal, state and local laws.
- (5) Duplin County has notified the Secretary of the North Carolina Department of Public Safety of its intention to grant a variance at least thirty (30) calendar days prior to granting the variance.

PART V. PROVISIONS FOR FLOOD HAZARD REDUCTION

SECTION 1119: GENERAL STANDARDS

In all Special Flood Hazard Areas, the following provisions are required:

- (A) All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.
- (B) 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.
- (C) All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.
- (D) 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, hot water heaters, and electric outlets/switches.
 - (1) Replacements part of a substantial improvement, electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall also meet the above provisions.
 - (2) Replacements that are for maintenance and not part of a substantial improvement, may be installed at the original location provided the addition and/or improvements only comply with the standards for new construction consistent with the code and requirements for the original structure.

- (E) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (F) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into flood waters.
- (G) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- (H) 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.
- (I) New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted, except by variance as specified in Section 1118(J). A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated or floodproofed to at least the Regulatory Flood Protection Elevation and certified in accordance with the provisions of Section 1115(C).
- (J) All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.
- (K) All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- (L) All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- (M) 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.
- (N) 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.
- (O) When a structure is located 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.

- (P) Buildings and structures that are located in more than one flood hazard area shall comply with the provisions associated with the most restrictive flood hazard area.

SECTION 1120: SPECIFIC STANDARDS

In all Special Flood Hazard Areas where BFE data has been provided, as set forth in Section 1107 or Section 1122, the following provisions, in addition to the provisions of Section 1119 are required:

- (A) 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 11, Part II of this ordinance.
- (B) 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 11, Part II 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.
- (C) Manufactured Homes.
- (1) New and replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the Regulatory Flood Protection Elevation, as defined in Article 11, Part II of this ordinance.
 - (2) Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by certified engineered foundation system, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance pursuant to NCGS 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis thirty-six (36) inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above thirty-six (36) inches in height, an engineering certification is required.
 - (3) All enclosures or skirting below the lowest floor shall meet the requirements of Section 1120(D).
 - (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.

- (D) Elevated Buildings. Fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor:
- (1) Shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. 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;
 - (2) Shall not be temperature-controlled or conditioned.
 - (3) Shall be constructed entirely of flood resistant materials at least to the Regulatory Flood Protection Elevation; and
 - (4) Shall include flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria:
 - (a) A minimum of two flood openings on different sides of each enclosed area subject to flooding;
 - (b) The total net area of all flood openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding;
 - (c) If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;
 - (d) The bottom of all required flood openings shall be no higher than one (1) foot above the higher of the interior or exterior adjacent grade;
 - (e) 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
 - (f) Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.

- (5) 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 will 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.

(E) Additions/Improvements.

- (1) Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
 - (a) Not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure.
 - (b) A substantial improvement, 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.
- (2) 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.
- (3) Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
 - (a) Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction consistent with the code and requirements for the original structure.
 - (b) A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
- (4) Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a one (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 one (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:

- (a) 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.
- (b) Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

(F) Recreational Vehicles. Recreational vehicles shall either:

(1) Temporary Placement.

- (a) Be on site for fewer than 180 consecutive days; or
- (b) Be fully licensed and ready for highway use. (A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and has no permanently attached additions.)

(2) Permanent Placement. Recreational vehicles that do not meet the limitations of Temporary Placement shall meet all the requirements for new construction.

(G) 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:

- (1) A specified time period for which the temporary use will be permitted. Time specified may not exceed three (3) months, renewable up to one (1) year;
- (2) The name, address, and phone number of the individual responsible for the removal of the temporary structure;
- (3) The time frame prior to the event at which a structure will be removed (i.e., minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);
- (4) A copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and

- (5) Designation, accompanied by documentation, of a location outside the Special Flood Hazard Area, to which the temporary structure will be moved.
- (H) 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:
- (1) Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);
 - (2) Accessory structures shall not be temperature-controlled;
 - (3) Accessory structures shall be designed to have low flood damage potential;
 - (4) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
 - (5) Accessory structures shall be firmly anchored in accordance with the provisions of Section 1119(A);
 - (6) All service facilities such as electrical shall be installed in accordance with the provisions of Section 1119(D); and
 - (7) Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below Regulatory Flood Protection Elevation in conformance with the provisions of Section 1120(D)(4).

An accessory structure with a footprint less than 150 square feet or that is a minimal investment of \$5,000 or less and satisfies the criteria outlined above is not required to meet the elevation or floodproofing standards of Section 1120(B). Elevation or floodproofing certifications are required for all other accessory structures in accordance with Section 1115(C).

- (I) Tanks. When gas and liquid storage tanks are to be placed within a Special Flood Hazard Area, the following criteria shall be met:
- (1) 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;
 - (2) 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;

- (3) Above-ground Tanks, Not Elevated. Above-ground tanks that do not meet the elevation requirements of Section 1120(B) 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.
 - (4) Tank Inlets and Vents. Tanks inlets, fill openings, outlets and vents shall be:
 - (a) At or above the Regulatory Flood Protection Elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and
 - (b) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.
- (J) Other Development.
- (1) 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 Section 1124 of this ordinance.
 - (2) 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 Section 1124 of this ordinance.
 - (3) Roads and watercourse crossings in regulated floodways and NEAs. Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of Section 1124 of this ordinance.
 - (4) Commercial storage facilities are not considered “limited storage” as noted in this ordinance and shall be protected to the Regulatory Flood Protection Elevation as required for commercial structures.

SECTION 1121: RESERVED

SECTION 1122: STANDARDS FOR FLOODPLAINS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS

Within the Special Flood Hazard Areas designated as Approximate Zone A and established in Section 1107, where no BFE data has been provided by FEMA, the following provisions, in addition to the provisions of Section 1119, shall apply:

- (A) 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.
- (B) The BFE used in determining the Regulatory Flood Protection Elevation shall be determined based on the following criteria:
 - (1) When BFE data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this ordinance and shall be elevated or floodproofed in accordance with standards in Sections 1119 and 1120.
 - (2) When floodway or non-encroachment data is available from a Federal, State, or other source, all new construction and substantial improvements within floodway and non-encroachment areas shall also comply with the requirements of Sections 1120 and 1124.
 - (3) 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 Section 1107 and utilized in implementing this ordinance.
 - (4) When BFE data is not available from a Federal, State, or other source as outlined above, the reference level shall be elevated or floodproofed (nonresidential) to or above the Regulatory Flood Protection Elevation, as defined in Section 1105. All other applicable provisions of Section 1120 shall also apply.

SECTION 1123: 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:

- (A) Standards of Section 1119 and 1120; and
- (B) 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.

SECTION 1124: FLOODWAYS AND NON-ENCROACHMENT AREAS

Areas designated as floodways or non-encroachment areas are located within the Special Flood Hazard Areas established in Section 1107. 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 Sections 1119 and 1120, shall apply to all development within such areas:

- (A) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless:
 - (1) It is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood 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
 - (2) 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.
- (B) If Section 1124(A) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this ordinance.
- (C) Manufactured homes may be permitted provided the following provisions are met:
 - (1) The anchoring and the elevation standards of Section 1120(C); and
 - (2) The encroachment standards of Section 1124(A).

PART VI. LEGAL STATUS PROVISIONS

SECTION 1125: 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	September 16, 1988
Calypso	June 27, 2005
Faison	May 7, 1997
Greenevers	June 13, 2005
Kenansville	June 1, 1987
Magnolia	September 16, 1988
Rose Hill	May 12, 1998
Teachey	January 5, 2004
Wallace	January 8, 1987
Warsaw	August 15, 2005

SECTION 1126: 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 1127: 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 1128: EFFECTIVE DATE

This ordinance shall become effective August 16, 2021.

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ARTICLE 12. AIRPORT LAND USE AND HEIGHT RESTRICTION ORDINANCE

The Duplin County Airport Land Use and Height Restriction Ordinance adopted by the Duplin County Board of Commissioners on August 1, 2022, and as amended, is hereby incorporated herein by reference. A copy