

# County of Columbus, North Carolina



Code of Ordinances

# County of Columbus, North Carolina

## Code of Ordinances

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## CHAPTER 1 – GENERAL PROVISIONS

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### Section 1. Designation and Citation of Code.

The ordinances embraced in this and the following chapters, parts, articles and sections constitute and shall be designated as the “Columbus County North Carolina Code of Ordinances”, and so recognized by this title or the abbreviated title of the “Code” as may be cited herein.

### Section 2. Rules of Construction and Definitions.

All ordinances, resolutions and this Code shall have the following definitions unless specifically defined within chapters, parts, articles or sections of the Code or any ordinance amending this Code.

***Board of Commissioners*** shall mean the governing body of Columbus County, North Carolina.

***Code*** shall mean the Columbus County North Carolina Code of Ordinances (see Section 1 of this Chapter)

***Computation of time*** shall not include the first full day following the date upon which such notice, proclamation or act is made.

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**County** shall mean Columbus County, North Carolina, a county chartered by the State of North Carolina.

**Day** shall mean any particular calendar day in its entirety.

**Delegation of Authority** means whenever an article, part, section or provision appears to require a department head or other position, office or employee to perform a duty; it shall be construed to authorize said individual to authorize designated individuals the delegated authority to act on their behalf unless such delegation is restricted by law or a provision thereof.

**Following** shall be construed to mean the next immediately after.

**Gender** (he, his, or him) references shall be construed to mean any person, firm or entity. (See **Person**)

**G.S.** shall mean the General Statutes of the State of North Carolina. (Also **N.C.G.S./NCGS**)

**Highway** shall mean any public road within the County regardless of design classification and include the full width of the right-of-way whether dedicated, or designated for the public. (Also **Street**)

**In writing** shall be construed to include any symbolic representations through illustrations, words, letters, numeric characters, including other illustrative means, in the original or reproduction, electronic or upon paper or other form of medium.

**Joint Authority** shall mean authority granted to a simple majority of the persons designated unless otherwise specifically declared.

**May** shall be construed as permissive, when not used in the context of a name.

**Month** shall mean any particular calendar month in its entirety.

**NCAC** shall mean the North Carolina Administrative Code.

**N.C. Admin. Code** shall mean the North Carolina Administrative Code.

**N.C.G.S./NCGS** shall mean the General Statutes of the State of North Carolina. (Also **G.S.**)

**Number** shall include both the singular and plural meaning of the word.

**Oath** shall be construed to include affirmation, affirmed, swear, and sworn.

**Occupant** shall mean any person who occupies the whole or part of such building and/or land, as one or as part of a group, or within a group. (See **Tenant** and **Person**)

**Owner** shall include part owner, partner, joint ownership, joint tenancy, tenant by the entirety of the whole or part, tenant in common, and tenant in partnership of personal or personal property, including any modifications and improvements thereto.

**Person** shall mean any legal person including an association, body politic, corporation, firm, individual, and partnership.

**Precede or preceding** shall be construed to mean the next immediately before.

**Shall** is and means mandatory.

**Sidewalk** shall mean any portion of a public highway or street constructed for pedestrian service.

**Signature** shall mean a mark representative of a person's legal name, whether or not it is legible, accurately spelled or through substitute means such as electronic. (See **Person**)

**State** shall mean the State of North Carolina.

**Street** shall mean any public road within the County regardless of design classification and include the full width of the right-of-way whether dedicated, or designated for the public. (Also **Highway**)

**Subscription** shall mean signature. (See **Signature**)

**Tenant** shall mean any person who occupies the whole or part of such building and/or land, as one or as part of a group, or within a group. (See **Occupant** and **Person**)

**Word Tense** shall include past, present and future as if used to mean each.

**Written** shall be construed to include any symbolic representations through illustrations, words, letters, numeric characters, including other illustrative means, in the original or reproduction, electronic or upon paper or other form of medium.

**Year** shall mean any particular calendar year when used as a reference to an event, occurrence or point in time; however, when used as a measure of time shall mean a period of 365 consecutive days commenced upon the next full calendar day. (See **Computation of Time**)

### Section 3. Headings.

Headings appearing as titles to chapters, parts, articles and sections may indicate part or all of the content of that portion of the Code to which they appear and shall not be construed as part of the Code for purposes of interpretation of laws, meanings, regulations and statute. Headings shall not be construed to mean all provisions applicable to any person or property contained within such portion of the Code.

Section 4. Continuation of Existing Ordinances.

Provisions appearing in this Code which are the same as the prior Code of Ordinances shall be construed to be in continuation as if unchanged by the adoption of this Code for the purposes of administration, enforcement, appointment and recognition, and not a re-enactment or new enactment of the identical provisions.

Section 5. Severability.

If any chapter, part, article, section, specific provision or standard of this code is found by a court of competent jurisdiction to be invalid or unenforceable for any reason, the decision of the court shall not affect the validity or enforceability of any other chapter, part, article, section, specific provision or standard of this code except the provision in question. The other portions of these regulations not affected by the decision of the court shall remain in full force and effect.

Should any chapter, part, article, section, specific provision or standard of this code be decided by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect, impair, or invalidate the validity of the Code as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

Should state legislature of the State of North Carolina enact legislation enabling or modifying the authority of any chapter, part, article, section, specific provision or standard of this code the act shall not affect the validity or enforceability of any other chapter, part, article, section, specific provision or standard of this code except the provision or provisions in question.

Section 6. General Penalty; Continuing Violations; Ordinance Enforcement.

- A. Unless otherwise specifically provided, violation of any provision of this Code or any other County ordinance shall subject the offender to the remedies hereinafter provided; except, that where the General Statutes of North Carolina provide specific civil remedies for violations of provisions of this Code adopted pursuant to such statutes, such remedies available to the County for enforcement of this Code shall be in addition to the remedies hereinafter stated; provided that no criminal penalties shall be applicable unless hereinafter stated in this section as being applicable to specific chapters or provisions of this Code.
- B. Violations of any provision of the chapters and sections of this Code shall be a misdemeanor and punishable as provided by G.S. 14-4.
- C. In addition to any civil or criminal penalties set out in this section, any provision of this Code or any other County ordinance may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction. In such cases, the general court of justice

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shall have jurisdiction to issue orders as may be appropriate, and it shall not be a defense to the application of the county for equitable relief that there is an adequate remedy at law.

- D. In addition to any civil or criminal penalties set out in this section, any provision of this Code or any other County ordinance that makes unlawful a condition existing upon or use made of real property may be enforced by injunction and order of abatement, and the general court of justice shall have jurisdiction to issue such orders. When a violation of such provisions occurs, the county may apply to the appropriate division of the general court of justice for a mandatory or prohibitory injunction and order of abatement commanding the defendant to correct the unlawful condition upon or cease the unlawful use of the property. The action shall be governed in all respects by the laws and rules governing civil proceedings, including the rules of civil procedure in general and rule 65 in particular.
- E. In addition to an injunction, the court may enter an order of abatement as part of the judgment in the cause. An order of abatement may direct that:
- 1) Buildings or other structures on the property be closed, demolished or removed;
  - 2) Fixtures, furniture or other movable property be removed from buildings on the property;
  - 3) Grass and weeds be cut;
  - 4) Improvements or repairs be made; or
  - 5) Any other action be taken that is necessary to bring the property into compliance with this Code or such ordinance.
- F. If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, he may be cited for contempt, and the County may execute the order of abatement. The County shall have a lien on the property for the cost of executing an order of abatement in the nature of a mechanic's and materialman's lien. The defendant may secure cancelation of an order of abatement by paying all costs of the proceedings and posting a bond for the compliance with the order. The bond shall be given with sureties approved by the Clerk of Superior Court in an amount approved by the judge before whom the matter is heard and shall be conditioned on the defendant's full compliance with the terms of the order of abatement within a time frame fixed by the judge. Cancellation of an order of abatement shall not suspend or cancel an injunction issued in conjunction therewith.
- G. The provisions of this Code and any other County ordinances may be enforced by one, all or a combination of the remedies authorized and prescribed by this section, except that

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any provision the violation of which incurs a civil penalty shall not be enforced by criminal penalties.

- H. Except as otherwise specifically provided, each day's continuing violation of any provision of this code or any other County ordinance shall be a separate and distinct offense.
- I. Any ordinances hereafter adopted by the Board of Commissioners of the County, the violation of which shall incur a penalty, shall specify whether the enforcement shall be pursuant to the civil penalty or criminal penal provisions of this section.
- J. Upon determination of a violation of any section of this Code, the penalty for which is a civil penalty, the County shall cause a warning citation to be issued to the violator, setting out the nature of the violation, the section violated, the date of the violation and an order to immediately cease the violation or, if the violation is in the nature of an infraction for which an order of abatement would be appropriate in a civil proceeding, stating a reasonable period of time in which the violation must be abated. The warning citation shall specify that a second citation shall incur a civil penalty.
- K. Upon failure of the violator to obey the warning citation, a civil citation shall be issued by the appropriate official of the County and either served directly on the violator or his duly designated agent, or registered agent if a corporation, in person or posted in the United States mail service by first class mail addressed to the last known address of the violator as contained in the records of the County, or obtained from the violator at the time of issuance of the warning citation. The violator shall be deemed to have been served upon the mailing of such citation. The citation shall direct the violator to appear before the Office of the County Treasurer within 15 days of the date of the citation or alternatively to pay the citation by mail. The violation for which the citation is issued must be corrected by the time the citation is paid, otherwise, further citations shall be issued. Citations may be issued for each day the offense continues until the prohibited activity is ceased or abated. If the violator fails to respond to a citation within fifteen (15) days of its issuance and pay the penalty prescribed therein, the County may institute a civil action in the nature of debt in the appropriate division of the North Carolina general court of justice for the cancelation of the penalty.

### Section 7. Amendments to the Code of Ordinances.

- A. All ordinances passed subsequent to the adoption of this Code which amend, repeal, replace, or in any way modify this Code shall be numbered in accordance with the numbering system herein. Failure to comply with the numbering system shall not

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constitute a violation of this Code, nor shall such failure to number in accordance with this system have any effect on the applicability or validity of the Code or the ordinance. When an ordinance duly adopted by the Board of Commissioners repeal any chapter, part, article, section, provision or standard thereof, such repealed portions may be excluded from this Code by omission from reprinted pages. New ordinances duly adopted, signed and recorded in the Office of the County Clerk shall be prima facie evidence of such subsequent ordinances until such time as this Code, containing the subsequent ordinances, is adopted by the Board of Commissioners.

- B. Amendments to any of the provisions of this Code shall be made by specific reference to the section number of this Code in the following form: “Chapter (*insert chapter number including references to part number, article number and section number if amending portions*) of the Columbus County North Carolina Code of Ordinances is hereby amended to read as follows: (*insert complete language*)”
- C. Any chapter, part, article, or section to be repealed shall be specified in the ordinance repealing such language.
- D. Additional chapters, parts, articles or sections to be added to the Code shall be amended to the Code as specified in section 7.b of this chapter.

### Section 8. Codification of Amendments to the Code.

The County Attorney, or his designee, shall update the Code annually to reflect the ordinances having the effect of permanent changes. He, or his designee, may make necessary modifications to the ordinances amending the Code; however, modifications shall be only to such extent as to modify headings, numbering, correcting references to numbering, replace the word “ordinance” with “chapter”, “part”, “article”, or “section” as appropriate, and insert foot-notes containing any notations or references to clarify amendments to this Code. Such clarifications may include rulings of interpretation by the Board of Adjustment or other appeals body having authority to interpret the meaning of all or part of this Code.

### Section 9. Certain Ordinances not part of this Code.

Ordinances, resolutions, and proclamations affecting the following shall not be deemed a part of this Code unless so ordained therein:

- A. An offense, contract, penalty, right to any penalty or forfeiture incurred, or right established or accruing before the date of this ordinance;

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- B. Ordinances imposing or establishing a tax and other annual budgetary revenue or expense allocations;
- C. Ordinances authorizing contracts, franchise agreements, special events, special recognitions, and capital project ordinances including promises or guarantees of payments;
- D. Ordinances establishing administrative policies for employees or personnel including contracts for salaries of officers;
- E. Ordinances making declaration of public right-of-way purposes or abandonment;
- F. Ordinances amending maps;
- G. Ordinances setting forth development agreements;
- H. Ordinances ordering the removal or demolition of structures;
- I. Ordinances establishing traffic control;
- J. Ordinances establishing rates, fees, or assessments;
- K. Ordinances establishing inter-local agreements with other jurisdictions; and
- L. Ordinances transferring authority between agencies of the state or federal government.

### Section 10. Adoption and Enactment of New Code of Ordinances

- A. The Code entitled "Code of Ordinances, County of Columbus, North Carolina" published by Municipal Code Corporation, consisting of chapters 1 through 82, each inclusive, is adopted.
- B. All ordinances of a general and permanent nature enacted on or before September 4, 2007, and not included in the Code or recognized and continued in force by reference therein, are repealed.
- C. The repeal provided for in Section 2 hereof shall not be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance that is repealed by this ordinance.

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- D. Unless another penalty is expressly provided, every person convicted of a violation of any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished in accordance with the general penalty provision, Section 1-6 in chapter 1, unless otherwise stated. Each act of violation and each day upon which any such violation shall continue or occur shall constitute a separate offense. The penalty by this section, unless another penalty is expressly provided, shall apply to the amendment of any Code section, whether or not such penalty is re-enacted in the amendatory ordinance. In addition to the penalty prescribed above, the county may pursue other remedies such as abatement of nuisances, injunctive relief and revocation of licenses or permits.
- E. Additions or amendments to the Code when passed in such form as to indicate the intention of the county to make the same a part of the Code shall be deemed to be incorporated in the Code, so that reference to the Code includes the additions and amendments.
- F. Ordinances adopted after September 4, 2007, that amend or refer to ordinances that have been codified in the Code, shall be construed as if they amend or refer to like provisions of the Code.
- G. This ordinance shall become effective November 17, 2015.

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### **PART 1 – FORM OF GOVERNMENT**

#### Section 1. Purpose.

The intent and purpose of this ordinance is to formally adopt for Columbus County the method of County Administration provided in Part 2 or Article 5 of Chapter 153A of the General Statutes of North Carolina and to ratify and confirm all actions taken pursuant thereto from November 1, 1982, the effective date of the contract of employment of the current County Administrator.

#### Section 2. Adoption of the County Administrator Plan.

The County Administrator plan of administration as provided for in G.S. 153A-82 is hereby adopted and the authorities contained therein shall apply to the County Administrator in Columbus County to the same extent as if set forth fully herein.

#### Section 3. Enactment.

The ordinance establishing the provisions of this Part was passed by the Board of County Commissioners on March 7, 1983, upon motion made by Commissioner Norris, seconded by Commissioner Dew and passed unanimously, and recorded in the minutes of said meeting, Book XVIII, Page 652.

**PART 2 – AMENDING RATES IN SERVICE DISTRICTS**

Section 1. Public Hearing Required.

The Board of County Commissioners shall not at any time in the future amend, change, or increase the rate of taxation for any service district without first holding a public hearing on the same within the district. The notice of the public hearing shall state the date, hour, and place of the hearing and the subject of the said hearing.

Section 2. Notice of Public Hearing.

Notice shall be published at least one week prior to the said public hearing, and in addition thereto, notice shall be mailed at least four weeks prior to the said hearing by United States mail, first class, which is fully paid for the owners as shown on the tax books of Columbus County, North Carolina, for the preceding January 1, of all properties located and taxed within the said districts. The person designated by the Board of County Commissioners to mail the notice shall certify to the Board that the mailing has been completed and that service is conclusive in the absence of fraud.

Section 3. Enactment.

The ordinance establishing the provisions of this Part was adopted on May 15, 1989 upon motion by Commissioner Worley, seconded by Commissioner Norris and passed unanimously, and recorded in the minutes of said meeting, Book 20, Page 345.

**PART 3 - PRE-EMPLOYMENT SEARCH OF  
CRIMINAL HISTORY RECORDS**

Section 1. Purpose.

In order to protect Columbus County from possible conduct which might be detrimental to Columbus County and its property, no person who is known to have been convicted of a misdemeanor or felony crime of theft, burglary, embezzlement, robbery, fraud, wrongful conversion or misappropriation or misuse of property of others may be employed or offered employment with Columbus County in any position.

Section 2. Procedure.

In the event of a vacancy in a County position, the Personnel Officer shall conduct an investigation of each applicant. As a part of that investigation, she/he shall require each applicant for these positions to provide fingerprints and all other necessary personal identification in order that the Emergency Services Director might cause a thorough search to be made of local and state criminal history records to determine if the applicant has a history of criminal conviction for any of the crimes enumerated in the previous paragraph of this subsection. The cost of such search of state criminal records shall be paid by the applicant.

In the event that the Emergency Services Director finds that an applicant for a County position has a criminal history of conviction for one (1) of the crimes named in this Ordinance, he/she shall not divulge to the Personnel Officer or anyone else that such a finding has been made or any particulars thereof, but shall, based upon the requirements of this Ordinance, indicate to the Personnel Officer in writing that he/she does not recommend the particular applicant. Upon receiving such recommendation, the Personnel Officer shall eliminate the particular applicant from further consideration of employment relative to the position offered for employment with the County.

Section 3. Enactment.

The ordinance establishing the provisions of this Part was passed by the Board of County Commissioners on June 5, 2000, upon motion by Commissioner Sammie Jacobs, seconded by Commissioner C.E. Wilson and passed unanimously and recorded in the Minutes of the said meeting, Book 25, page 653.

## CHAPTER 3 – ANIMALS AND HUNTING

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**PART 1 – ANIMALS**

**Section 1. Definitions.**

The following words, terms and phrases appearing in this Chapter shall have the meanings appearing below, unless the context establishes a different meaning:

***Animal*** means every living creature, domestic or non-domestic, but does not include humans.

***Animal Shelter*** means any premises designated by the Columbus County Board of Commissioners for the purpose of impounding and caring for the animals.

***At Large*** - An animal shall be deemed to be at large when it is off the physical property of its owner or keeper and not under physical restraint.

***Board of Health*** means the Board of Health of the Columbus County Health Department.

***Commercial Animal Establishment*** means any pet shop, grooming shop, auction, riding school or stable.

***Health Department*** means the Health Department of Columbus County.

***Health Director*** means the Health Director of the Health Department.

***Dangerous dog*** means:

1. A dog that without provocation has killed or inflicted severe injury on a person; or
2. Any dog owned or harbored primarily or in part for the purpose of dog fighting, or any dog trained for dog fighting.

***Exposed to Rabies*** means an animal shall be deemed to have been exposed to rabies if it has been bitten by, or been in the presence of, any animal known or suspected to have been.

***Grooming Shop*** means any establishment, whether operated separately or in connection with another business enterprise, which provides hair and nail clipping, bathing, or any other cosmetic services for animals.

***Impoundment*** means any animal in custody of a person or animal shelter duly authorized by the Columbus County Commissioners.

***Keeper*** means a person having custody of an animal or who keeps or harbors an animal or who knowingly permits an animal to remain on or about any premises occupied or controlled by such person.

***Kennel*** means any premises wherein a person boards, lets for hire, trains for a fee, breeds, buys or sells dogs or cats. This shall not include the ownership of dogs which are part of the

household or which are maintained adjoining a private residence for hunting, tracking practice, exhibition, or the guarding or protection of the owner's property when no more than five (5) dogs per year are sold by such owner.

**Nuisance animal** means an animal or group of animals shall be considered a nuisance if it:

1. Damages, soils, or defiles private or public property;
2. Interferes with, molests, or attacks persons or other animals,
3. Is repeatedly at large;
4. Causes unsanitary, dangerous, or offensive conditions including fouling of the air by odors;
5. Chases, snaps at, harasses, or impedes pedestrians, bicyclists, or vehicles;
6. By virtue of number or type is offensive or dangerous to the public health, safety or welfare;
7. Is diseased or dangerous to the public health.

**Owner** means a person having the right of property in an animal.

**Owner's real property** means any real property owned or leased by the owner of the dog, but does not include any public right-of-way or a common area of a condominium, apartment complex or townhouse development.

**Person** as defined in Chapter 1.

**Pet** means any animal kept for pleasure rather than utility.

**Pet Shop** means any commercial establishment whether operated separately or in connection with another business enterprise, except for a licensed kennel, that buys, sells or boards any species of animal.

**Potentially dangerous dog** means a dog that:

1. Inflicted a bite on a person that resulted in broken bones or broken skin or required cosmetic surgery or hospitalization;
2. Killed or inflicted severe injury upon a domestic animal when not on the owner's real property; or
3. Approached a person when not on the owner's property in a vicious or terrorizing manner in an apparent attitude of attack.

Exclusions: the provisions of this Chapter do not apply to:

1. A dog being used by a law enforcement officer to carry out the law enforcement officer's official duties;

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2. A dog where the injury or damage inflicted by the dog was sustained by a domestic animal while the dog was working as a lawful hunting dog, herding dog or predator control dog on the property of or under the control of its owner or keeper, and the damage or injury was to a species or type of domestic animal appropriate to the work of the dog; or
3. A dog where the injury was inflicted by the dog was sustained by a person who, at the time of the injury, was committing a willful trespass or other tort; was tormenting, abusing or assaulting the dog; or had tormented, abused or assaulted the dog; or was committing or attempting to commit a crime.

***Severe injury*** means any physical injury that results in broken bones or lacerations or requires cosmetic surgery or hospitalization, the cost of such medical treatment exceeding \$100.00.

***Riding School or Stable*** means any place that has available for hire, boarding and/or riding instruction any horse, pony, donkey, or burro.

***Restraint*** means any animal shall be considered under restraint if it is within the real property limits of its owner, or secured by a leash or lead, or confined.

***Security Dog*** means a dog that is trained or conditioned to attack or otherwise respond aggressively, but only upon command from a handler either off or on lead.

***Stray*** means any domestic animal not wearing a tag and collar.

***Suspected of having Rabies*** means an animal that has bitten a person will be confined for ten (10) days according to state statutes regarding rabies bites.

***Veterinary Hospital*** means any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis and treatment of diseases and injuries of animals.

***Vicious Animal*** means an animal that constitutes a physical threat to humans or other domestic animals.

Section 2. Agency Authority and Responsibility.

Authority is hereby granted to the Columbus County Board of Commissioners to establish and maintain an animal control program, to employ animal control officers and such other employees as shall be determined necessary, and to appoint and compensate animal control officers and such other employees in accordance with policies of Columbus County. The employees of the animal control program shall:

1. Shall enforce all ordinances of the County pertaining to animals and shall cooperate with all law enforcement officers within Columbus County in fulfilling this duty.
2. Enforce and carry out all laws of North Carolina and ordinances of Columbus County pertaining to rabies control.
3. Be responsible for the investigation of all reported animal bites, for the quarantine of any dog or cat involved and suspected of having rabies, for a period of not less than ten (10) days, and for reporting to the Health Director as soon as practical the occurrence of any such animal bite and the condition of any quarantined animal.
4. Be responsible for the operation of the animal shelter.
5. Be responsible for the seizure and impoundment, where deemed necessary, of any dog or other animal in Columbus County involved in a violation of this or any other ordinance or state law.
6. Investigate cruelty or abuse with regard to animals.
7. Make such canvasses of the county, including the homes in the county, as necessary for the purpose of ascertaining compliance with the ordinance or state statute.
8. Keep, or cause to be kept, accurate and detailed records of:
  - a) Seizure, impoundment, and disposition of all animals coming into the custody of the animal control programs.
  - b) Bite cases, violations and complaints, and investigation, of it.
  - c) All monies belonging to Columbus County which were derived from fees, penalties, license tags, sales of animals, or other sources.
  - d) Any other matters deemed necessary by the Health Directors and County Manager/Administrator.
9. Be empowered to issue notice of violations of this ordinance in such form as the Columbus County Commissioners and Health Director deemed necessary.
10. Animal Control officers shall not be authorized to carry on their person any firearms of any kind unless otherwise authorized by the Animal Control Director. Animal Control Officers may store at the animal shelter or carry in departmental vehicles firearms approved for use and use such firearms when necessary to enforce sections of this chapter or under applicable laws for the control of wild, dangerous, vicious or diseased animals.

11. An advisory committee is created to advise the Board of Commissioners and, the animal control director with respect to animal control matters. The advisory committee shall be composed of members appointed by the Board of Commissioners and shall serve at the pleasure of the Board. Members will include but are not limited to interested citizens and persons representing animal care, welfare or similar organizations.

Section 3. Cruelty to Animals.

- A. It shall be unlawful for any person to molest, torture, torment, deprive of necessary sustenance, cruelly beat, needlessly mutilate or kill, wound, injure, poison, abandon or subject to conditions detrimental to its health or general welfare any animal, or to cause or procure such action. The words "torture" and "torment" shall be held to include every act, omission or neglect whereby unjustifiable physical pain, suffering or death is construed to prohibit lawful taking of animals under the jurisdiction and regulation of the Animal Control officers or persons duly authorized by the County Commissioners or Veterinarians from destroying dangerous, unwanted, or injured animals in scientific research.
- B. It shall be unlawful for any owner or keeper to fail to provide his animal or animals with proper shelter and protection from the weather, sufficient and wholesome food and water to keep his animal or animals in good health and comfort; the opportunity for vigorous daily exercise, veterinary care when needed to prevent suffering, and humane care and treatment.
- C. It shall be unlawful for any person to sell or offer for sale, barter, or give away within the county baby chickens, baby ducklings, or other fowl under six (6) weeks of age or rabbits under eight (8) weeks of age as pets, toys, premiums, or novelties; provided, however, that this section shall not be construed to prohibit the sale or display of such baby chickens, ducklings or other fowl, or such rabbits in proper facilities by breeders, or stores engaged in the business of selling for purposes other than for pet or novelties.
- D. It shall be unlawful to color, dye stain or otherwise change the natural color of baby chickens or other fowl or rabbits.
- E. It shall be unlawful for any person to tether any fowl.

Section 4. Animals Creating Nuisance Prohibited.

- A. It shall be unlawful for an owner or keeper to permit an animal or animals to create a nuisance, or to maintain a nuisance created by an animal or animals.

B. Compliance shall be required as follows:

1. When an animal control officer, law enforcement officer, or person duly authorized by the Columbus County Commissioners serve a violation, the owner or keeper will be provided written notice of such violation and be given 48 hours from time of notification to abate the nuisance.
2. Upon receipt of a written detailed and signed complaint being made to the Columbus County Animal Control Officer by any person or persons that any other person is maintaining a nuisance as defined in this ordinance, the Columbus County Animal Control Officer shall cause the owner or keeper of the animal or animals in question to be notified that a complaint has been received, and shall cause the situation complained of to be investigated and a report and findings thereon to be reduced to writing.
3. If the written findings indicated that the complaint is justified, the Columbus County Commissioners or designee duly authorized by the Commissioners, shall cause the owner or keeper of the animal(s) in questions to be so notified in writing, and ordered to abate such nuisance within forty-eight (48) hours by whatever means necessary.
4. In the event the owner or keeper of the animal(s) is unknown and cannot be ascertained, the notice and order, along with a general description of the animal(s) be posted for forty-eight (48) hours at the animal shelter and the county courthouse.

C. It shall be unlawful for a person to fail or refuse to abate the nuisance as required by this ordinance.

Section 5. Luring, Enticing, Seizing, Molesting or Teasing an Animal.

It shall be unlawful of any person to entice or lure any animal out of an enclosure or off the property of its owner or keeping, or to seize, molest or tease any animal while the animal is held or controlled by its owner or keeper or while the animal is on the property of its owner or keeper.

Section 6. Compliance with State Rabies Law-Supplemental to State Rabies Laws.

- A. It shall be unlawful for any animal owner or other person to fail to comply with the state and county laws relating to the control of rabies.
- B. It is the purpose of this ordinance to supplement the state laws by providing a procedure for the enforcement of state laws relating to rabies control, in addition to the criminal penalties provided by state law.

Section 7. Vaccination of Dogs, Cats and Other Pets.

- A. It shall be unlawful for an owner or keeper to fail to provide current vaccination against rabies (hydrophobia) for any dog or cat four (4) months or older. Should it be deemed necessary by the Health Director or the Board of County Commissioners that other pets be vaccinated in order to prevent a threatened epidemic or to control an existing epidemic, it shall be unlawful for an owner or keeper to fail to provide current vaccination against rabies for that pet.
- B. A rabies vaccination shall be deemed "current" for a dog and cat if two vaccinations have been given one year apart and booster doses of rabies vaccine administered every 3 years thereafter.
- C. All antirabic vaccine shall be administered by a licensed veterinarian.

Section 8. Vaccination Tag and Certificate.

- A. Upon complying with the provisions of Section 9 of this ordinance, there shall be issued to the owner or keeper of the dog or cat vaccinated a rabies tag, stamped with a number and the year for which issued, and a rabies vaccination certificate.
- B. It shall be unlawful for any dog owner or keeper to fail to provide the dog or cat with a collar or harness to which a current rabies tag issued under this section is securely attached. The collar or harness, with attached tag, must be worn at all times.
- C. In addition to all other penalties as prescribed by law, a dog or cat is subject to impoundment in accordance with the provisions of this ordinance if the dog or cat is found not to be wearing a currently valid rabies tag.
- D. It shall be unlawful for any person to sue for any animal a rabies vaccination tag for an animal other than the one using the tag.
- E. All dogs or cats shipped or otherwise brought into this county, except for exhibition purposes where the dogs or cats are confined and not permitted to run at large, shall be securely confined and vaccinated within one week after entry, and shall remain confined for two additional weeks after vaccination unless accompanied by a certificate issued by a licensed veterinarian showing that said dog or cat is apparently free from rabies and has not been exposed to same and that said dog or cat has received a proper dose of rabies vaccine not more than six months prior to the date of issuing the certificate.

Section 9. Notice to Health Director When Person Bitten: Confinement Of Animal.

- A. When a person has been bitten by an animal having rabies or suspected of having rabies, it shall be the duty of such person, or his parent or guardian if such person is a minor, and the person owning such animal or having the same in his possession or under his control; to notify the Health Director or person duly authorized by the Health Director and give their names and addresses; or under his control shall immediately securely confine the animal for ten (10) days at the expense of the owner in such place as may be designated by the Health Director. It shall be the duty of every physician, after his first professional attendance upon a person bitten by any animal having rabies or suspected of having rabies, to report to the Health Director the name, age, and sex of the person bitten, and precise location of the bite wound, within twenty-four (24) hours after first having knowledge that the person was bitten. If the owner of or a person who has in his possession or under his control an animal having rabies or suspected of having rabies refuses to confine the animal as required by this ordinance or by G.S. 106-378, the Health Director or designee may order seizure of the animal and its confinement for ten (10) days in such place as the Health Director or designee deems appropriate.
- B. Law enforcement agencies investigating animal bites, shall report such bites immediately to the Health Director or person duly authorized by the Health Director and give the names and addresses of persons bitten and owner of animal.
- C. Animals confined per "Section A" above shall be confined at the expense of the owner or keeper.
- D. In the case of an animal whose owner or keeper is not known, the animal shall be kept for the supervised confinement period required by this ordinance at the animal shelter.
- E. Badly wounded, diseased, or suffering animals, which are suspected of having rabies may be humanely destroyed immediately and the head forwarded for examination.

Section 10. Destruction or Confinement of Animal Bitten by a Known Rabid Animal

Animals not vaccinated against rabies, which are bitten, by a known rabid animal shall be immediately destroyed, unless the owner or keeper agrees to strict isolation of the animal at a veterinary hospital for a period of six (6) month at the owner's expense. If the animal has a current rabies vaccination, it shall be revaccinated within 72 hours and returned to the owner or keeper. If the owner or keeper refuses to vaccinate the animal, then a release must be completed and signed by the Animal Control Officer and the owner or keeper of said pet.

Section 11. Area-Wide Emergency Quarantine.

- A. When reports indicate a positive diagnosis of rabies to the extent that lives or persons are endangered, the Health Director may declare an area-wide quarantine for such period, as he/she deems necessary. Upon invoking of such emergency quarantine, no dogs or cats may be taken or shipped from the county without written permission of the Health Director. During such quarantine the Health Director, Law Enforcement Officer or persons duly authorized by the Health Director may seize and impound any dog or cat found running at large in the county. During the quarantine period the Health Director shall be empowered to provide for a program of mass immunization by the establishment of temporary emergency rabies facilities strategically located throughout the county.
- B. In the event there are additional positive cases of rabies occurring during the period of quarantine, such period of quarantine may be extended at the discretion of the Health Director.

Section 12. Post Mortem Diagnosis.

- A. If an animal dies under observation for rabies, the head of such animal shall be submitted to the District Health Department for shipment to the laboratory section of the North Carolina Division of Health Services for rabies diagnosis.
- B. The carcass of any animal suspected of dying of rabies shall be surrendered to the Health Department Animal Control Division. The head of such animal shall be shipped to the laboratory Section of the North Carolina Department of Environment, Health and Natural Resources.

Section 13. Unlawful Killing or Releasing of Certain Animals.

It shall be unlawful for any person to kill or release any animal under observation for rabies, or any animal under observation for biting a human, or to remove such animal from the county without written permission from the Health Director, or persons duly authorized by the Health Director. The Health Director, or persons(s) duly authorized by the health Director, may authorize any animal to be killed for rabies diagnosis.

Section 14. Failure to Surrender Animal for Confinement or Destruction.

It shall be unlawful for any person to fail or refuse to surrender any animal for confinement or destruction as required in this ordinance, when the Health Director makes demand therefor.

Section 15. Impoundment.

- A. Any animal, which appears to be lost, stray or unwanted, or not wearing a current valid rabies vaccination tag, as required by the state law of this ordinance, may be seized, impounded, and confined in a humane manner in animal shelter.
- B. Impoundment of such an animal shall not relieve the owner or keeper thereof from any penalty, which may be imposed for violation of this ordinance.

Section 16. Notice to Owner or Keeper.

- A. Upon impounding an animal, notice of such impoundment shall be posted for a minimum of seventy-two (72) hours, beginning with the time the animal enters the animal shelter, or until the animal is disposed of. Reasonable effort shall be made to identify the owner or keeper of the conditions whereby the animal may be redeemed.
- B. Such notice shall be prominently displayed on a bulletin board at the animal shelter and the time and place of the taking of such animal, together with the time and place of posting the notice shall be stated therein.

Section 17. Redemption by Owner or Keeper.

- A. The owner or keeper of an animal impounded under this ordinance may redeem the animal and regain possession thereof within seventy-two (72) hours after notice of impoundment is posted as required by this ordinance by paying any applicable fees as determined by the Board of County Commissioners.
- B. No animal owner or keeper may be permitted to adopt his own animal under the provisions of this ordinance, but he must comply with the provisions of this ordinance in order to reclaim an animal that has been impounded pursuant to state law or this ordinance.
- C. The provisions of this section shall have no application with respect to animal surrendered by the owner or keeper to the Columbus County Animal Shelter for immediate adoption or destruction as provided for in Section 20.

Section 18. Destruction or Adoption of Unredeemed Animal.

- A. If an impounded animal is not redeemed by the owner or keeper within the period prescribed in Section 17, it may be destroyed in a humane manner or shall become the property of the animal shelter(s) and offered for adoption to a reasonable adult who is willing to comply with this ordinance and policies promulgated by the Columbus County Commissioners.

- B. No animal which has been impounded by reason of its being a stray, unclaimed by its owner or keeper, shall be allowed to be adopted from the animal shelter during a period of emergency rabies quarantine invoked pursuant to this ordinance, except by special authorization of the Health Director.

Section 19. Procedure with Respect to Redemption or Adoption of Unvaccinated Dog or Cat.

- A. Unless proof of a current rabies vaccination can be furnished, every person who either adopts or redeems a dog/cat at the animal shelter will be given a "proof of rabies vaccination notice" at the time for the redemption or adoption. This notice will be stamped with a date stating the maximum time limit allowed to take the dog/cat to the veterinarian of such person's choice for rabies vaccination. The time limit for dogs/cats four (4) months and older will be twenty-four (24) hours. For puppies/kittens under four (4) months, the time limit will vary according to their age.
- B. The "proof of rabies vaccination notice" will be completed by the veterinarian and returned to the shelter by the animal owner or keeper.
- C. Payment for rabies vaccination provided for in this section will be the responsibility of the person redeeming or adopting the animal.

Section 20: Immediate Placement for Adoption or Destruction of Owner Surrendered Animals.

- A. Any animal surrendered by its owner to the Animal Control Division of Columbus County may be immediately placed for adoption or humanely destroyed by the Animal Control Division when:
  - 1. The owner directs in writing that the animal be placed for adoption or humanely destroyed;
  - 2. The owner affirmatively represents in writing that he/she is in fact the legal owner of said animal;
  - 3. The owner agrees that he/she will indemnify and hold the Animal Control Division/Columbus County harmless from any loss or damage it may sustain, including attorney's fees, by reason of the destruction or placement for adoption of said animal; and
  - 4. The owner transfers ownership of said animal to the Animal Control Division and releases Columbus County from any and all future claims with respect to the said animal.

B. Upon receiving said assurance, the Animal Control Division may rely on the same and place said animal for adoption, or destroy said animal, as it sees fit. The waiting periods provided in Sections 24-25 shall not apply to immediate adoption or destruction as provided for in this section.

Section 21: Destruction of Wounded, Diseased, or Unwanted Animals.

Notwithstanding any other provision of this ordinance, any animal seized and impounded which is badly wounded, diseased (not a rabies suspect), or unwanted and has no identification shall be destroyed immediately in a humane manner, if the animal has identification, the Animal Control Division shall attempt to notify the owner or keeper before disposing of such animal. If the owner or keeper cannot be reached readily, and the animal is suffering, the Animal Control Division may destroy the animal at its discretion in a humane manner.

Section 22: Destruction of Animals that Cannot be Seized by Reasonable Means.

Notwithstanding any other provision of this ordinance, an animal, which cannot be seized by reasonable means, may be humanely destroyed by order of the Health Director or person duly authorized by the Health Director.

Section 23: Injuring Animals, Notice Required.

It shall be unlawful for any person injuring an animal to fail to notify immediately the owner or keeper of said animal, or an animal control agency, or a local humane society.

Section 24: Keeping Stray Animals.

- A. It shall be unlawful for any person in the county knowingly and intentionally to harbor, feed, keep in possession by confinement, or otherwise allow to remain on his property any animal which does not belong to him, unless he has, within seventy-two (72) hours from the time such animal came into his/her possession, notified the Animal Control Division or person duly authorized by the Columbus County Commissioners. Upon receiving such notice, the Animal Control Division or person duly authorized by the Board of Columbus County Commissioners shall take such animal and place it in the animal shelter and deal with it as provided by the Columbus County Policy.
- B. It shall be unlawful for any person to refuse to surrender any such stray animal to the Animal Control Division or person duly authorized by the Columbus County Commissioners upon demand.

Section 25: Dangerous Dog/Potentially Dangerous Dog.

- A. ***Procedure.*** Upon determination by the Animal Control Officer that an animal is dangerous or potentially dangerous, the owner or keeper has the right to appeal within 24 hours to a panel of two people appointed by the Board of Commissioners. When making the determination that a dog is a dangerous dog or a potentially dangerous dog, animal control services must notify the owner in writing, giving the reasons before the dog may be considered dangerous or potentially dangerous under this section. The committee shall consider any written response by the owner to the written notification. If there is a split decision, the chairman of the board of commissioners or his designee will make the final determination. Once a decision has been made, the owner must provide animal control with a current address where the dog will be housed, notify animal control within 48 hours of any change in address of the owner or the dangerous dog, and follow all state laws and county ordinances dealing with dangerous or potentially dangerous dogs until all appeals have been exhausted and a final decision rendered or no appeal is requested; and the decision if final.
- B. ***Precautions against attacks by dangerous or potentially dangerous dogs and Unlawful acts.*** If so ordered in the determination made pursuant to subsection A of this section, it is unlawful for an owner to:
1. Leave a dangerous dog or potentially dangerous dog unattended on the owner's real property unless the dog is confined indoors:
    - a) In a securely enclosed and padlocked pen with a concrete bottom or a bottom to prevent escape and a secure top;
    - b) along with the posting of the premises with four clearly visible warning signs adequate to inform the public, including children, of the presence of a dangerous dog, and strategically placed on the property as designated by the appropriate county authority.
    - c) The owner or keeper shall have 72 hours to prepare such area to enclose the animal. Chaining or tying does not meet the requirements of this Part.
  2. Permit a dangerous dog or potentially dangerous dog to go beyond the owner's real property unless the owner or guardian has the dog leashed and the leash in hand and the dog muzzled or otherwise securely restrained and muzzled.
  3. Even in the presence of an owner or others, permit a dangerous dog or potentially dangerous dog on the owner's property, not confined in a secured enclosure, to be without a muzzle.
- C. ***Determination.*** In the determination, the committee appointed by the Board of Commissioners may waive any of the measures included in this section, or other similar measures or conditions may be substituted in their place.

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1. Within 72 hours after a dangerous dog or potentially dangerous dog the owner must affix a tag to the collar of the dog as directed by the Animal Control Officer.
  2. If the owner of a dangerous or potentially dangerous dog transfers ownership or possession of the dog to another person, the owner shall provide written notice within 48 hours to:
    - a) The authority that made the determination under this section, stating the name and address of the new owner or possessor of the dog; and
    - b) The person taking ownership or possession of the dog, specifying the dog's dangerous behavior and the authority's determination.
  3. The person taking ownership of the dog shall notify animal control services within 48 hours of the dog's change of address and their knowledge of the committee's determination.
  4. Violation of this section is a misdemeanor punishable by a fine not to exceed \$500.00 or imprisonment for not more than 30 days or both.
- D. ***Violation of conditions; euthanization.*** Animal Control services may take possession of any dog concerning which it has cause to believe an owner has violated section C. For this purpose, the requirement for sufficient cause shall be satisfied if an officer observes the violation or if the animal control department receives verbal or written complaints from a citizen(s). An owner who violated section C in a willful or grossly negligent manner may be found by the Animal Control Director to have forfeited all rights of ownership of the dog; and upon a final determination of such violation, the dog may be humanely euthanized by Animal Control. The committee appointed by the Board of Commissioners shall hear any appeal within 72 hours to determine whether the owner's violation was willful or grossly negligent; and the committee or board must notify the owner in writing, giving the reasons for the determination, before the dog may be euthanized.
- E. ***Liability for injury to livestock or fowls.*** If any dog, not being at the time on the premises of the owner or person having charge thereof, shall kill any livestock or fowls, the owner or person having such dog in charge shall be liable for damages sustained by the injury, killings, or maiming of any livestock and cost of suit.
- F. ***Failing to kill a mad dog.*** If the owner of any dog shall know, or have good reason to believe, that his dog, or any dog belonging to any person under his control, has been bitten by a mad dog and shall neglect or refuse immediately to kill the same, he shall forfeit and pay the sum of fifty dollars (\$50) to him who will sue therefore; and the offender shall be liable to pay all damages which may be sustained by anyone. in his property or person, by the bite of any such dog and shall be guilty of a Class 3 misdemeanor. (G.S. 67-4)

**G. *Mad dogs, dogs killing sheep, etc., may be killed.***

1. Any person may kill any mad dog, and also any dog if he is killing sheep, cattle, hogs, goats, or poultry.
2. Any person may kill any dog that has been determined dangerous or potential dangerous by the Animal Control Officer if the dog is on his/her property and unrestrained.

**Section 26: Security Dog Permit Required.**

- A. It shall be unlawful to keep, maintain, or use any dog in the county for the purpose of protecting any commercially or industrially used property or person on such property unless a permit for the same shall have been obtained from the Animal Control Division in accordance with the provisions of this section and unless such permit shall remain unsuspended and unrevoked.
- B. It shall be unlawful to keep, maintain or use any patrol or sentry dog in the county for the purpose of protecting any residentially used property or person on such property unless a permit for the same shall have been obtained from the Animal Control Division in accordance with the provisions of this section and unless such permit shall remain unsuspended and unrevoked.
- C. The Columbus County Board of Health/County Commissioners shall promulgate regulations and applicable fee schedule for the issuance of permits and shall include requirements for humane care of all security dogs and for the compliance with this provision of this ordinance and applicable laws, regulations from time to time as deemed desirable for public health and welfare for the protection of security dogs.
- D. The Animal Control Division may revoke any permit if the person holding the permit refuses or fails to comply with this ordinance, the regulations promulgated by the Columbus County Board of Health/Commissioners, or any law governing the protection and keeping of animals.

**Section 27. Non-Domestic Animals-Prohibited.**

No person shall possess or harbor any non-domestic animal/animals which are dangerous to persons or property or which have the potential of being dangerous to persons or property. This section shall not apply to bona fide circuses, petting zoos, and other traveling commercial exhibitions of limited duration. Ownership must register with N.C. Wildlife Department or proper agent.

Section 28. Collecting Dogs/Cats for Resale-Permit Required.

- A. It shall be unlawful for any person to collect any dog/cat for the purpose of resale unless a permit for the same shall have been obtained from the Animal Control Division in accordance with the provisions of this section and unless such permit shall remain unsuspended and unrevoked. This EXCLUDES Hunting Dogs. Permit Fee: \$500.00.
- B. The Columbus County Board of Commissioners shall promulgate regulations and applicable fee schedule for the issuance of permits and shall include requirements for humane care and transportation of all dogs/cats for the compliance with the provisions of this ordinance and applicable laws. The Columbus County Commissioners may amend such regulations from time to time as deemed desirable for public health and welfare and for the protection of collected dogs/cats.
- C. The Animal Control Division may revoke any permit if the person holding the permit refuses or fails to comply with this ordinance, the regulations promulgated by the Columbus County Board of Commissioners, or any law governing the protection and keeping of animals.

Section 29. Interference with Enforcement.

It shall be unlawful for any person to interfere with, hinder, or molest the employee of the Animal Control Division or persons in the custody of such persons, except as otherwise specifically provided.

Section 30. Penalty for Violation.

- A. The violation of any provision of this ordinance shall be a misdemeanor and any person convicted of such violation shall be punishable as provided in N.C.G.S.14-4. Each day's violation of this ordinance is a separate offense. Payment of a fine imposed in criminal proceedings pursuant to this subsection does not relieve a person of his liability for taxes or fees imposed under this ordinance.
- B. In addition, enforcement of this ordinance may be by appropriate equitable remedy, injunction or order of abatement issuing from a court or competent jurisdiction pursuant to G.S. 153A-123 (d) and (e).
- C. In addition to and not in lieu of the criminal penalties and other sanctions provided in this ordinance may also subject the offender to the civil penalties hereinafter set forth.
  - 1. Such civil penalties may be recovered by Columbus County in a civil action in the nature of debt or may be collected in such other amounts as prescribed herein within the

prescribed time following the issuance of notice for such violation.

2. Such notice shall, among other things:
  - a) State upon its face the amount of the penalty if such penalty were paid within 12 hours from and after the issuance of the notice and the late fee (\$1.00). If paid more than 72 hours after its issuance.
  - b) Notify such offender that a failure to pay the penalty within the prescribed time shall subject such offender to a civil action in the nature of debt for the stated penalty plus an additional penalty in the amount of twenty-five dollars (\$25.00), together with the cost of the action to be taxed by the Court.
  - c) Further provide that such offender may answer the said notice by mailing said notice, and stated penalty to the Animal Control Division and its mailing address, and that upon payment, such case or claim and right of action by Columbus County will be deemed comprised and settled.
  - d) State that such penalties must be paid within 72 hours from issuance of such notice. Such notice shall further state that if such notice of violation is not paid within said 72-hour period, court action by the filing of a civil complaint for collection of such penalty may be taken.
3. The Animal Control Division is authorized to accept such payments in full and final settlement of the claim or claims, right or rights of action, which Columbus County may have to enforce such penalty by civil action in the nature of debt. Acceptance of such penalty shall be deemed a full and final release of any and all such claims, or rights of action arising out of such contended violation or violations.
4. The civil penalty for violation of this ordinance is twenty-five dollars (\$25.00). Said penalty shall be paid within 72 hours from and after the issuance of the notice referred to in this section.
5. The notice of violation referred to herein may be delivered to the person violation the provisions of this ordinance in person, or may be mailed to said person at his last known address.
6. In addition to the penalty prescribed in subsection (4) above, a one-dollar (\$1.00) penalty shall be imposed in all those cases in which the above penalty has not been paid within the authorized 72-hour period. Should it become necessary to institute a Civil action to collect any penalty hereunder, and then the violation shall also be subject to an additional penalty of \$25.00.
7. All penalties paid to the Animal Control Division or as may be recovered in a civil action in the nature of debt as herein provided shall be paid into the General fund of Columbus

County.

Section 31. Adoption of Certain Animals.

A. A responsible adult, upon application, vaccination when necessary and payment of the established fees, may adopt animals owned by the Animal Shelter as a pet as follows:

1. Generally, the adoption fee for dogs shall be five dollars (\$5.00) and the adoption fee for cats shall be two dollars (\$2.00). An additional fee of two dollars (\$2.00) per day for dogs and fifty cents (\$.050) per day for cats will be charged for each day of keeping the animal in the animal shelter including the date of impoundment, but not the date of adoption. In no case shall the total cost of adoption, adoption fee plus per day fee exceeds fifteen dollars (\$15.00) for a dog. In addition, if the animal does not have a valid rabies vaccination, upon the adoption of the animal the person shall pay for the cost of rabies vaccination and received it from local veterinarian.
2. Puppies/kittens four (4) months or younger may be adopted at a rate of five dollars (\$5.00) per puppy and two dollars (\$2.00) per kitten, but no daily fee should be charged. At such time these puppies/kittens are eligible for rabies vaccination it shall be the duty of the owner to have these animals vaccinated. At the time for adoption, the Animal Control Supervisor will issue a card to that owner to be returned upon the animal receiving the required vaccination.
3. The Columbus County Commissioners and Animal Control shall determine animals other than dogs/cats that should require impoundment and a redemption fee. Unclaimed animals shall be auctioned after five (5) days.

B. Fees.

(1) The following fees shall be charged for redemption of animals impounded under the provisions of this chapter:

- |   |                                  |
|---|----------------------------------|
| a) First impoundment:                     | No cost.                         |
| b) Second impoundment:                    | \$5.00 per dog, \$2.00 per cat   |
| c) Third impoundment:                     | \$25.00 per dog, \$8.00 per cat  |
| d) Subsequent impoundments within 1-year: | \$50.00 per dog, \$25.00 per cat |

(2) An additional fee of three dollars (\$3.00) per day for dogs and one dollar (\$1.00) per day for cats will be charged each day of keeping the animal in the animal shelter, including the date of impoundment, but does not have a valid rabies vaccination an additional fee will be charged to cover the cost of the rabies vaccination and any county tax that may be due. Euthanasia of dogs/cats at the owner's request is a \$3.00 fee.

- C. Animals shelter cannot care for: The Animal Control Supervisor is authorized to obtain suitable board, maintenance and care for any impounded animal (domestic livestock) from any available source, which the animal shelter is not equipped to care for. The owner of the animal impounded and cared for under this section may redeem the animal within five (5) days, upon the payment of all costs of maintenance, transportation and care, plus the regular redemption fees. If not redeemed, the animal shall be sold for fair market value and a report of the sale shall be duly reported to the Finance officer, or disposed of in any manner not inconsistent with the provisions of the General Statutes of the State.
- D. An animal held for observation or rabies: Animals may be held for observation to determine if the animal is rabid. If at the end of the ten-day holding period, the animal shows no sign of being rabid, the owner may redeem the animal at the animal shelter upon payment of the required redemption fee required in this article, plus any other fee provided for in this article. If at the end of the ten-day observation period the animal shows no signs of being rabid and the owner of the animal does not redeem this animal at the animal shelter within five days 72 hours, this animal shall become the property of the county and shall be adopted or disposed of at the discretion of the Animal Control Supervisor.
- E. Unclaimed animals: Animals unclaimed by their owners are to be destroyed in a humane manner under the direct supervision of the Animal Control Supervisor or adopted by a responsible person.
- F. Obstructing, interfering with impoundment procedures: It shall be unlawful for any person to obstruct or interfere in any manner with the restraint, capture, transportation or impoundment of any dog or other animal found to be in violation of any provision of this chapter. In addition, it shall be unlawful for any person to release or attempt to release any dog or other animal that has been impounded except as provided in this chapter.
- G. Animal released by owner to animal shelter. A person who is the owner of any animal may release the animal into the custody and control of an Animal Control Officer or may deliver the animal to the animal shelter. However, upon transfer of custody the animal is eligible for immediate adoption or euthanasia.

Section 32. Enactment.

The ordinance establishing the provisions of this Part was passed by the Board of Commissioners on January 22, 1991, upon motion by Commissioner Junior Dew, seconded by Commissioner Samuels G. Koonce and passed unanimously, and recorded in the minutes of said meeting in Minute Book 21, Page 123-132. The above ordinance was revised by the Columbus County Board of Commissioners on December 2, 2002, upon motion by Commissioner McKenzie, seconded by Commissioner Norris and passed unanimously.

## **PART 2 – HUNTING**

### Section 1. Unlawful to Hunt from Public Right-of-Way.

It is unlawful to hunt, take, or kill any wild animal or wild bird with a firearm on, from, or across the right-of-way of any public road or highway in Columbus County without first obtaining the written permission of the owner or lessee of the land abutting the road or the land across which the weapon is being discharged.

### Section 2. Exceptions.

Section 1 of this Part does not apply to the owner or lessee of the real property. A hunter recovering dogs shall not be in violation of Section 1 of this act so long as all of the hunter's weapons remain in a motor vehicle.

### Section 3. Violation.

Violation of this Part is a Class 3 misdemeanor.

### Section 4. Enforcement.

This Part is enforceable by law enforcement officers of the Wildlife Resources Commission, by sheriffs and deputy sheriffs, and by other peace officers with general subject matter jurisdiction.

### Section 5. Effective Date.

This act becomes effective October 1, 1997.

### Section 6. Enactment.

The above Part is enacted by special legislation known as House Bill 516 (Special Legislation for Columbus County) and was passed by the Board of County Commissioners on July 21, 1997, upon motion by Commissioner Britt, seconded by Commissioner Jacobs and passed unanimously and recorded in the Minutes of the said meeting, Book 24, page 123.

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### **PART 1 - AIRPORT RULES and REGULATIONS**

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#### Section 1. Terms and Definitions.

The following words, terms and phrases appearing in this Chapter shall have the meanings appearing below, unless the context establishes a different meaning:

***Aeronautical Activity*** shall mean any activity which involves, makes possible, or is required for the operation of aircraft, or which contributes to or is required for the safety of such operations.

***Airport*** shall mean the Columbus County Municipal Airport (CPC), North Carolina.

***Airport Board (Authority)*** shall mean the Columbus County Municipal Airport Authority, an advisory board appointed by the Columbus County Board of Commissioners and charged with overseeing the supervision of Airport activities.

***Airport Manager*** shall mean the representative of the County having day-to-day oversight of Airport activities. If no individual is designated with such charge, this responsibility is retained by the Airport Board, or otherwise designated by the County Commissioners.

***Airport Owner*** shall mean Columbus County, as Airport Sponsor, as represented by the Columbus County Board of Commissioners.

**Commercial Aeronautical Activity** shall mean a person or business providing goods and services to the aviation public for which compensation is received.

**FAA** shall mean the Federal Aviation Administration.

**Hangar** shall mean a building providing shelter or enclosed space for the storage of aircraft or aircraft parts.

**Lease** shall mean an executed contract, in writing and enforceable by law, granting interests in property or the conduct of certain activities.

**Motor Vehicle** -shall mean any powered ground vehicle.

**State** shall mean the NCDOT -Division of Aviation (NCDOA).

**Tenant** shall mean a Person who leases or subleases real property and whose premises have access to the airport.

**Through-The-Fence** shall mean any use of the Airport public landing areas by any person offering aeronautical activity or by aircraft based on land adjacent to, but not a part of, the Airport property.

Section 2. Delegated Powers / Liability Exclusion / Compliance.

The Owner shall, at all times, have power to take such reasonable action as may be necessary to enforce these regulations, including contingencies not specifically mentioned by this Ordinance. The Airport Owner assumes no liability or responsibility for any loss, injury or damage to persons or property by reason of fire, theft, vandalism, wind or other natural causes, nor does the Airport Owner assume any liability for injury or death to any person while on Airport property or while using any public or private facilities at the Airport.

- A. Compliance -All persons on, and users of, the Airport shall comply with and be governed by these Rules and Regulations. The privilege of using the Airport and its facilities shall impose full responsibility and risk by the user thereof, and shall release and hold harmless and indemnify the Airport Owner, and its agents, from any liability or charges of loss resulting from such use, as well as claims of third persons using the Airport.
- B. Failure to Comply - Any person violating this Ordinance may be subject to pertinent deprivation of use of the Airport facilities for such period of time as may be deemed necessary by the Owner, or legal representation.

- C. Enforcement - These Airport Rules and Regulations, as well as all applicable state laws and County ordinances, shall be enforced by the County and/or law enforcement officers appointed pursuant to law.

Section 3. Airport Leases.

The Airport Owner may lease Airport property in accordance with the approved Airport Layout Plan (ALP). All construction by any person must be authorized by the County, or designated agent, and comply with applicable land use regulations and building codes.

- A. Lease Records: Any person, hangar tenant and/or commercial aviation operators conducting business at the Airport must have an executed lease agreement or contract with the Airport Owner. Such persons shall retain and become familiar with the current Airport Rules and Regulations.
- B. Airport Lease / Erection of Buildings or Structures: Any person desiring to erect or construct any new or renovated permanent or temporary structure, landscaping, signs or support facilities at the Airport shall submit plans and specifications to the Airport Owner for review and approval. The plans shall include a general layout, drawn to scale, showing said structure (site location, building, ground and top elevations, and aesthetic and decorative features), access and proposed boundary of leasehold area, plus a completed FAA Form 7460 'Notice of Proposed Construction or Alteration'. The County Board, prior to construction, shall submit this information to the NCDOT Division of Aviation/FAA for review and airspace determination. Buildings shall meet all building codes and development ordinances. All such building permits, licensing and environmental certifications shall be obtained by the person prior to construction. A certificate of occupancy must be obtained before the structure can be occupied. No Airport leases will be executed for a period in excess of twenty (20) years.
- C. Subleasing: Leased property may be subleased by the lessee only with prior written authorization or approval of the Airport Owner, or designated representative. Any person that subleases, assigns their lease, or rents to any person who then performs any commercial aeronautical activity on the Airport shall notify the Airport Owner of such tenant within ten (10) calendar days of such transaction.
- D. Leasehold Condition/Abuse of Property - Tenants are required to keep their premises clean and clear of all rubbish, junk, debris, disabled/dismantled aircraft, vehicles and unsightly objects. No person shall construct, erect or store facilities, equipment or materials in a manner as to constitute a hazard to persons or property, or that could interfere with the safe movement of aircraft. Garbage, refuse, chemicals, or other waste material shall be placed in appropriately approved receptacles used to dispose of off Airport property. No person shall, in any way, destroy, remove or disturb buildings, signs, equipment, markers or other property

on the Airport. The borrowing or use of Airport-owned tools or equipment must receive prior permission from the Airport Owner.

- E. Through-the-Fence: Through-the-fence operations may negatively impact the Airport's compliance with Federal Grant assurances. The Airport Owner is not obligated to make the Airport available for the use and benefit of the public by operations from adjacent properties. Accordingly, through-the-fence operations or arrangements are not permitted.
- F. Right-of-Entry: The County Administrator, Airport Manager, Fire Chief, or other designated County agents shall have reasonable right-of-entry into all areas of the Airport, including enclosed structures.
- G. Solicitation: No person shall solicit funds nor post commercial-related signs or advertisements at the Airport without written permission of the Airport Owner, or designated representative.
- H. Abandonment: No person may abandon vehicles, equipment, aircraft or parts on the Airport property. The Airport Owner, or designated representative, has the right following due written notice to the owner after 90 days to have such equipment removed and/or disposed of without liability. The last registered owner of the equipment shall be liable for all costs incurred in the disposal of such property.

Section 4. Motor Vehicle Regulations.

- A. Unless authorized by the Airport Manager, no highway or automotive vehicle shall be operated on the Airport except on roadways, parking area, et cetera, that are specifically designated for such vehicles. Such vehicles shall be parked in the manner prescribed by the Airport Manager while on the Airport and as indicated by posted signs.
- B. All persons shall park in areas designated by the Airport Manager.
- C. The area adjacent to the Administrative building is designated a temporary parking zone.
- D. When aircraft are parked on the ramp or apron for the purpose of loading or unloading, no vehicle shall be drive between the aircraft and the loading gate or fence.
- E. Motor vehicles shall not be permitted on the runways, taxiways, aprons, or ramps (aircraft movement areas) without the express permission of the Airport Manager, unless the operation of such vehicle is in accordance with prior agreement to accomplish a necessary Airport purpose, service or inspection. No motor vehicle may operate on the runway while an aircraft is preparing for or conducting a takeoff or landing.

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- F. All vehicles operating within the landing area shall have mounted yellow flashing lights, and/or be painted a bright yellow or international orange, and/or display an international orange and white checkered flag of not less than three (3) square feet, with one-foot squares. Motor vehicles operating on the runway must monitor the designated common traffic frequency channel (CT AFIUNICOM).
- G. No vehicle shall exceed a speed of 15 mph while on the apron, and 45 mph while on the taxiway and runway system.
- H. Pedestrians or motor vehicle operators observed in areas other than public use areas without authorization by the Airport Owner will be considered trespassing and may be subject to arrest.
- I. Any vehicle parked in violation or abandoned may be towed by the Airport Manager at the owner's expense, and without liability for damage which may result in the course of such moving.
- J. Any motor vehicle accident involving injury or property damage on the Airport shall be reported to the Airport Owner/Airport Board/Airport Manager no later than 24 hours after the accident occurred.
- K. No person shall operate any vehicle in a careless manner or negligent manner or in disregard for the safety of others, or in excess of posted speed traffic signs. All persons are required to carry liability insurance on all vehicles.

### Section 5. Airport Operating Procedures.

- A. Air Traffic Rules: The air traffic rules and aircraft operations regulations of the FAA as in effect and all additions thereto are made a part of these airport rules and regulations fully as if set forth herein.
- B. Public Use: The Airport Owner may suspend or restrict Airport operations when deemed necessary in the interest of safety, or as otherwise restricted due to weather, construction development, national security, and "Acts of God". The Airport Owner has the authority to temporarily close the Airport by means of a NOTAM.
- C. Aircraft Emergency Transmitter: Should an aircraft's Emergency Locator Transmitter (ELT) accidentally be activated, and the pilot or owner unable to be contacted or respond, the Airport Manager shall take steps to tum-off the ELT.
- D. Parked Aircraft: No aircraft shall be parked or stored at the Airport except in areas for such use, as designated or instructed by the Airport Manager, or designated representative. All

aircraft not hangered shall be sufficiently secured at night and during inclement weather.

- E. Aircraft Engine Run-up: Aircraft engines shall be started and run up only in the place designated for such purposes. At no time shall engines be run up when hangars, shops, airplanes, or any buildings or persons are in the path of the propeller stream and/or jet exhaust.
- F. Required Aircraft Relocation: At the direction of the Airport Owner, the operator, owner, or pilot of any aircraft on the Airport shall move the aircraft from the place where it is parked or stored, to any other place designated on the Airport. If the operator refuses to comply with the directions, the Airport Owner, through the Airport Manager/Airport Board, may tow the aircraft to such place, at the operator's expense and without liability for damage that may result from such moving.
- G. Aircraft Size & Weight: Airport operations by aircraft and/or other operating vehicles in excess of the published pavement strength shall require prior written permission by the Airport Manager, or designated County representative. Such operations will be evaluated on a case-by-case basis.
- H. Aircraft Registration: All aircraft based at the Airport shall be registered with the Airport Owner (pilot name, address, phone number, aircraft type, model, N-number).
- I. Aircraft Accident: In the event of an aircraft accident, the aircraft operator and/or owner shall promptly remove any disabled aircraft or parts hereof, subject to FAA/NTSB accident investigation. If unable, the Airport Manager may, in compliance with FAA and other governmental regulations, move damaged or wrecked aircraft and parts from aircraft maneuvering and operating areas. The pilot of an aircraft involved in an accident on or near the Airport causing personal injury or property damage shall immediately report such incident to the Airport Manager. In the event that the pilot is unable, the owner of the aircraft or the owner's agent shall submit an accident report to the Airport Manager within 24 hours, including 1) names of persons involved, 2) addresses, 3) phone numbers and 4) general description of the accident. Airport property damaged or otherwise destroyed by an accident or other activity shall be paid for by parties responsible.
- J. Detaining Aircraft: The Airport Manager shall have the authority to detain any aircraft for nonpayment of any charges due. All service and/or tie down fees are equally applicable to all aircraft as established by the Airport Owner.

- K. Taxiing Aircraft: No person shall taxi an aircraft until he has ascertained by visual inspection of the area that there will be no danger of collision with any person or object in the immediate area. No two aircraft shall occupy the runway at the same time. Aircraft waiting on the taxiway for another aircraft to takeoff or land shall remain behind the runway holding position markings. Aircraft shall be taxied at a safe and reasonable speed with due respect for other aircraft, persons, or property.
- L. Take-offs and Landings: All take-offs and landings shall be confined to the runways and all movement of aircraft shall be confined to the hard surface areas.
- M. Access Within Aircraft Operations Areas: No person or persons, except airmen, duly authorized personnel, passengers going to or from aircraft, or persons being personally conducted by Airport attendants shall be permitted to enter the landing area property, taxi space, or aprons. However, this does not give any person or persons so excepted the privilege of unrestricted use of the Airport. These privileges are confined to the necessary use of these spaces in connection with the flights, inspections, and routine duties.
- N. Special or Unique Airport Uses: Special use of the Airport shall be governed by the following:
1. Flying Events: No person or organization will engage in or promote any show, contest, demonstration or similar exhibition at or on the Airport without specific prior written authorization from the Airport Owner. Said request for authorization must be submitted at least ninety (90) calendar days prior to the event. Such permission shall not be given without appropriate FAA clearance or exemptions, nor without proof of an insurance policy for the event, which covers hazards and holds the Airport Owner harmless from any and all claims resulting from such events.
  2. Parachute Activity: Parachute jumps at or onto the Airport must receive prior consent from the Airport Owner. An FAA "NOTAM" shall be filed by the Airport Manager, or designated representative prior to any said parachute jumps.
  3. Agricultural Spray Activity: Aircraft agricultural spraying operations shall be conducted in compliance with applicable local, state and federal laws. Staging and washing areas shall be conducted in compliance with the applicable regulations. Any liability resulting from agricultural spraying operations is the sole responsibility of the operator. The Airport Owner has authority to require said operators to post a bond that would cover, with the intent of mitigating, liabilities to the Airport Owner resultant from the intentional or accidental dispersion of agricultural spraying or other compounds.

4. Model Aircraft: The flying of model aircraft at the Airport is prohibited. No person shall operate or release any model aircraft, rocket, kite, balloon, or other similar contrivance at or upon the Airport.

Section 6. Aircraft Fueling.

The following rules shall govern and control the fueling and de-fueling of aircraft and motor vehicles at the Airport:

- A. No fuel storage and dispensing equipment, whether publicly or privately owned, shall be installed and used at the Airport without the prior written approval of the Airport Owner. All equipment or storage used for the handling of fuels, whether 100LL, Jet-A or Avgas, shall fully comply with current National Fire Protection Association (NFPA) regulations and all applicable local, state or national regulations. Aircraft authorized by the FAA to use automobile gas shall be fueled in outside areas, unless the aircraft cannot be moved due to maintenance reasons.
- B. No aircraft shall be fueled or drained while the aircraft engine is running or while the aircraft is in a non-designated area.
- C. During all fueling operations the aircraft shall be grounded by an approved method.
- D. No person shall engage in aircraft fueling operations without adequate fire extinguishers within ready reach.
- E. Smoking or lighting of an open flame shall be prohibited, at minimum, within one hundred feet (100') of any fueling operation.
- F. Aircraft fuel dispensing trucks must be appropriately registered with the State, and parked at least fifty feet (50') from any hangar or building.
- G. All fuel dispensing equipment shall be of a modern design and shall be kept in a safe and non-leaking condition.
- H. Any person involved with an accidental release of fuel or fuel contamination situation must immediately contact the Airport Manager and notify the: 1) type of fuel, 2) spill location, 3) quantity of fuel released, and 4) time of spill. If requested by the Airport Manager, a written report shall be filed by the responsible persons within seven (7) calendar days of the spill. Persons responsible for a spill will be accountable for any assessed fines and spill liability, including clean-up as prescribed by regulatory agencies.

Section 7. Fire Procedures.

- A. Smoking or lighting of an open flame is prohibited at places with posted signs, within fifty feet of any aircraft and within fifty feet of hangars, fuel trucks, or fuel loading stations, and tank farms.
- B. No person shall start an open fire any place on the Airport without permission of the Airport Owner.
- C. No person shall store material or equipment, use inflammable liquids or gases, or allow their premises to become in such condition so as to violate, in any manner, the fire code in force in the area of the airport. Unless authorized by the Airport Owner, the storage of paint thinners, fuels, or other such combustible materials in hangars or hangar areas is prohibited.
- D. Tenants of all hangars and buildings shall provide suitable fire extinguishers and equipment and they shall be kept in good condition as recommended by the Airport Manager and inspected at least every twelve months by trained personnel.
- E. Any changes to the hangar electrical system must receive prior authorization from the Airport Owner. At a minimum, extension cords must be of the grounded type and are for temporary use only.
- F. Tenants and persons are required to keep their premises clean and clear of all rubbish, junk, old aircraft and vehicles, and any other unsightly objects. If after warning by the Airport Owner the area is not cleaned, cleaning will be done by the Airport Owner and billed to the responsible tenant or person.

Section 8. Aircraft Maintenance.

- A. The Airport Owner reserves the right to designate areas for performing major and minor aircraft and engine repair and maintenance, including immobilized aircraft. Major engine, airframe, avionics or aircraft apparatus repairs shall be conducted by a properly licensed mechanic, and shall be performed within an enclosed hangar designated for such purposes. All minor preventative aircraft maintenance and repairs authorized by FAR Part 43, Maintenance, Preventative Maintenance Rebuilding and Alteration shall be performed in the owner's hangar or designated hangar for such purposes. If required, minor aircraft adjustments or repairs may be performed outside of hangars, at places assigned or designated by the Airport Manager. Any engine work requires the use of adequate drip pans. Spent oil, fuels, and lubricants must be disposed in appropriate containers.
- B. Persons in violation of these rules can be subject, at the discretion of the Airport Owner, to

finest, payable to the Airport Owner for purposes of Airport use.

Section 9. Airport Security.

A. Security Requirements Regulated by the Airport Owner or their agents:

1. Restricted areas are established for safety and security reasons. Except for passenger enplaning or deplaning of aircraft, the general public is prohibited from the areas of the airport posted as being RESTRICTED AREAS.
2. Only flight crews, passengers going to and from aircraft, aircraft service and maintenance technicians, FAA, Fire Fighting personnel, and others authorized by the Airport Owner, shall be permitted into the RESTRICTED AREAS.

B. Security of Aircraft and Airport Operations Area

1. A breach in security caused by a user or person that results in an FAA finding of negligence will be cause to review, find, and possibly cancel or curtail tenant access to the RESTRICTED AREAS.

C. Weapons

1. No person will carry a weapon on the Airport except encased for appropriate transport in an aircraft. Federal, state, and local law enforcement officers are exempt from this rule.

Section 10. Conflicting Regulations, Violation, Changes.

Violation of the rules and regulations may be considered reason to restrict or terminate the activities on the Airport for said person or tenant. Upon written notice of the violation and restriction, the Airport Owner, in lieu of termination of the lease or contract, can conclude that the person or tenant could correct the violation so that the violation is eliminated. Any restriction may be limited to certain areas of the Airport, or may be limited to a certain time period, depending upon the violation.

- A. If any conflict is found between provisions of this Ordinance, the more stringent provision shall prevail. If any provisions of this Ordinance, or application thereof, are held invalid it shall not effect or impose other provisions of this Ordinance. To this end, the provisions of this Ordinance are declared to be severable.
- B. Any published FAA Federal Aviation Regulations shall become effective as part of this Ordinance without requiring any action on the part of the Airport Owner /County Board.
- C. A copy of these Rules and Regulations and any adopted changes will be available at the

County office.

Section 11. Enactment.

The ordinance establishing the provisions of this Part was passed by the Board of County Commissioners on December 05, 2005, upon motion by Commissioner McKenzie, seconded by Commissioner Prevatte, and passed unanimously, and recorded in the Minutes of the said meeting, Minute Book 29, Pages 159 -165.

**PART 2 – COMMERCIAL ACTIVITIES**

Columbus County, a Municipal Corporation of the State of North Carolina, hereby adopts and approves the following Minimum Standards Ordinance for conducting commerce at Columbus County Municipal Airport located in Columbus County, North Carolina. The Airport is owned and operated by Columbus County. Administration and enforcement of the terms of the Airport Minimum Standards shall be delegated at the discretion of Columbus County.

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Section 1. Terms and Definitions.

The terms hereinafter used shall have their meanings defined in Chapter 1 of this Code of Ordinances; Chapter 4 - Part 1; and defined as follows:

***Air Charter*** shall mean an FAA certified commercial operator providing on-demand, non-scheduled service of persons or property for hire.

***Commercial Aeronautical Operator (Operator) -Fixed Base Operator (FBO) / Special Aviation Service Organization (SASO) / Independent Operators (IO)*** shall mean a person or aeronautical business offering or supporting general aviation services.

***Exclusive Rights*** shall mean excluding a Person from enjoying or exercising privileges conferred on one or more parties by excluding others by unreasonable standards or requirements.

Section 2. Regulations Governing Fixed Base Operators (FBO) / Special Aviation, Service Organizations (SASO) and Independent Operators (IO).

No commercial enterprise of any kind or type shall conduct commercial aeronautical activities on or at the Airport unless specifically authorized in writing by the Airport Owner. The privilege of using the Airport and its facilities shall impose full responsibility and risk by the Operator thereof, and shall release and hold harmless and indemnify the County, and its agents, from any liability or charges of loss resulting from such use, as well as claims of third persons using the Airport.

- A. FBO/SASO/IO Commercial Designation: In all cases, the Airport Owner will determine if the aeronautical activity qualifies as a commercial aeronautical activity. If determined to be commercial, the person or business shall conform to the requirements of Columbus County Municipal Airport 'Minimum Standards for Commercial Activities. '
- B. FBO/SASO/IO Compliance: All Fixed Base Operators (FBO), Special Aviation Service Organizations (SASO) and Independent Operators (IO) shall comply fully with this Ordinance, and applicable regulations contained in Columbus County Municipal Airport 'Rules & Regulations', as adopted and amended.
- C. FBO/SASO/IO Discrimination: No person shall be denied service because of their race, national origin, or gender. The Operator shall offer and provide services in accordance with the provisions of Title VI of the Civil Rights Acts of 1964 (P.L. 88-352). Accordingly, no person shall be denied equal services on the ground of race, color, or national origin in accordance with Regulation DOT Part 21.

Section 3. General Regulations Governing Minimum Standard Requirements.

The operating standards outlined below are the minimum threshold requirements for Commercial Aeronautical Operators (Fixed Base Operator, Special Aviation Service Organization, and/or Independent Operators) as a condition of the Operator's right to lease premises and provide services on and at the Airport. The following shall apply to all prospective Operators, as disclosure of adequate intent and resources to offer or conduct commercial aeronautical activity at the Airport:

- A. Prior to initiating operations or providing services at the Airport, Operators must be a party to a fully-executed lease or rental agreement with the Airport Owner.
- B. Any executed agreement or lease with an Operator shall be subordinate to the provisions of any existing or future Airport property agreements or grant assurances relative to the operation or maintenance of the Airport, as agreed between the County and the United States Government and/or State of North Carolina.
- C. The Operator ground lease or operating agreement shall not include any of the airfield or taxiway systems as specified by FAA Order 5100.38B, Section 526.
- D. No Airport land or building space in excess of present and foreseeable Operator requirements shall be leased to any Operator. Any additional land may be made available on the basis of need and availability. Although Airport land designated or leased for Operator activities is limited and valued, nothing contained herein shall be construed to grant or authorize the granting of an exclusive right as forbidden by Section 308 of the Federal Aviation Act of 1958.
- E. Operators must comply with applicable regulations set forth by local, state and federal agencies. The Operator shall post, in a prominent place, all necessary or required licenses or permits.
- F. The Operator must establish an office at the Airport for public availability, and for public access to staff, facilities and equipment offered by the Operator Office hours shall coincide with attended hours of Airport operation as published in the Airport Facility Directory, unless stated otherwise in the Operator lease agreement.
- G. The rates, charges and prices assessed by the Operator may be requested, and must be divulged, to the Airport Owner upon written request, including any discounts, rebates or other similar type price reductions.
- H. Operator shall have the right to choose, at its sole discretion, its vendors and suppliers.

Operator reserves the right, at its sole discretion, to grant others certain rights and privileges upon the Airport which are identical in part or in whole to those granted to Operator

- I. The distribution or sale of fuel on or at the Airport is authorized only with the express prior written approval of the Airport Owner. No Operator may sell or distribute aviation petroleum products at the Airport unless having the prior written approval of the Airport Owner, and having met the minimum standards found in Section 8 of this Part.
- J. Operations such as UNICOM radio, aircraft tie-down and other miscellaneous aeronautical activities not specifically described herein may be provided or conducted by any Operator upon application to and approval of the Airport Owner. Reasonable terms and conditions for the privilege of engaging in these various services will be established or determined by the Airport Owner as commensurate with the nature and scope of the activities involved.
- K. Failure or inability of the Operator to meet the Airport Minimum Standards shall be reported in writing to the Airport Owner, without delay.

Section 4. Construction.

Proposed Construction/Capital Improvements: Any Operator desiring to erect or construct any new or renovated permanent or temporary structure, landscaping, signs or support facilities at the Airport shall submit plans and specifications to the Airport Owner for review and approval. No such approval shall be granted unless such construction and design is consistent with the most current Airport Layout Plan (ALP) drawing. The plans shall include a general layout, drawn to scale, showing said structure (site location, building, ground and top elevations, and aesthetic and decorative features), access and proposed boundary of leasehold area, plus a completed FAA Form 7460 'Notice of Proposed Construction or Alteration'. The County Commissioners, prior to construction, shall submit this information to the NCDOT, Division of Aviation /FAA for review and airspace determination.

- A. Before construction of facilities and equipment is undertaken, the Operator must furnish the Airport Owner with a performance bond commensurate with the construction costs to be performed.
- B. The building structure shall be constructed in accordance with North Carolina Building Codes and National Fire Protection Association (NFPA) standards.
- C. All such building permits, licensing and environmental certifications shall be obtained by the Operator prior to construction. A certificate of occupancy must be obtained before the structure can be occupied.

- D. No Operator shall erect advertising or vendor signs at the Airport without express written permission of the Airport Owner.

Section 5. Staffing and Employment Conditions.

The Operator must ensure that all of its employees meet physical requirements and mental competency necessary to carry-out the employee's job tasks in a safe manner.

- A. Operators shall furnish prompt service adequate to meet all reasonable demands for its services at the Airport. All service offered by the Operator shall be provided to persons on a fair, equal and non-discriminatory basis.
- B. The Operator shall appoint a qualified person (Operations Manager) stationed at the Airport, a position vested with full-power and authority to act in the name of Operator. The Operations Manager shall be available to the Airport Owner for routine communication and coordination, and shall attend official County meetings, as required or necessary. If absent, a duly authorized subordinate shall be in charge and available to the County.
- C. Operator personnel shall hold all necessary FAA certificates and ratings as required to carry-out the nature of their services, and shall maintain such certificates and ratings, as appropriate.
- D. The Operator shall provide, at its sole expense, a sufficient number of qualified employees and resources to provide safe and effective services. It shall be the responsibility of Operations Manager to maintain close supervision over its employees. The Operations Manager shall control the conduct, demeanor and appearance of its employees.
- E. The Operator is responsible for informing and training its employees as to the current contents of the Airport Minimum Standards and Airport Rules and Regulations, and applicable portions of the Operator lease agreement with the Airport Owner.

Section 6. Leasehold Conditions.

Operator lease terms shall be mutually agreed upon with due consideration for the financial investment and the need to amortize improvements to or on the leasehold. The Operator has the right to further improve and develop its leasehold area. Any plans by the Operator for leasehold improvements, modifications or like development shall be submitted, prior to initiating construction, to the Airport Board/County Commissioners for review and approval.

- A. No Operator leases or agreements will be executed for a period in excess of twenty (20) years.

- B. Operator leaseholds may be subleased by a lessee only with prior written approval of the Airport Owner, or designated representative.
- C. All improvements made by the Operator to their leasehold property become the property of the County upon termination of the Operator's leasehold for such areas or facilities.
- D. No new leases will be executed, amended or assigned unless the existing lease is in compliance with the standards and requirements contained herein.

Section 7. Insurance Coverage.

Unless otherwise approved or directed by the Airport Owner, each Operator shall furnish satisfactory evidence of, at minimum, the following Insurance coverage and conditions:

- A. \$1,000,000 Single Limit Airport Premises Liability, Bodily Injury and Property Damage.
- B. \$1,000,000 for Hangar Keeper's Liability, or otherwise as applicable.
- C. Aircraft Liability in an appropriate amount.
- D. Workmen's Compensation Insurance as required by the State of North Carolina.

The Airport Owner may choose, at their discretion, to modify insurance requirements on a case-by-case basis, depending on statutory and/or inherent risk factors. Operator insurance policies shall also declare the County as a named insured and shall contain a clause which shall provide that in the event Lessee's insurance coverage, or any part thereof, should be cancelled or materially changed, the County shall receive at least thirty (30) days prior written notice of such change.

Section 8. Required Minimum Standards for Commercial Aeronautical Activities.

As a practical matter, due to the surrounding circumstances that make such an arrangement necessary, Columbus County intends to provide any and/or all activities related to the sale and distribution of aviation fuel needed by the public at the Airport.

- A. The sale and distribution of fuel must be authorized with the expressed prior written approval of the Airport Owner. Any distributor or seller of fuels must comply fully with Columbus County Municipal Airport Rules & Regulations Ordinance, as adopted. The distribution or sale of fuels without prior written consent is a violation, and subject to prescribed penalties listed herein.

B. Fuel and Oil Sales. Persons conducting aviation fuel and oil sales on the Airport shall be required to provide:

1. All fuel systems must be capable of dispensing fuel directly into aircraft. Only properly trained personnel shall dispense fuel. In conducting refueling operations, the Operator shall install and use adequate grounding at fueling locations to eliminate the hazards of static electricity and shall provide types of fire extinguishers or other equipment commensurate with the hazard involved in refueling and servicing aircraft.
2. The Operator shall provide at a minimum 100-Low Lead aviation fuel, and pending user demand, standard Jet -A fuel.
3. Hours of fuel dispensing must be publicly posted, with a contact employee for on-demand fuel required during hours of not in operation to the public.
4. Adequate storage and inventory of at least one (1) brand of generally accepted grade of aviation fuel, engine oil and lubricants.
5. If supplied by the Operator, a minimum of 8,000 gallons on-site aircraft fuel storage capacity, per grade of fuel. A minimum capacity of 500 gallons is required for any fuel truck storage vehicle used for aircraft refueling. All fuel storage tanks and vehicles must meet federal, state, and local regulations and shall be regularly inspected and maintained by the Operator.
6. The Airport Owner may prescribe a reasonable fuel flowage fee to be charged for all fuel sales or distributions, as specified in the Operator's lease agreement. Disclosure of Operator fuel sale quantities and revenues can be requested, and shall be furnished, to the Airport Owner upon written notice.

C. Aircraft Line Service.

1. Adequate towing equipment and parking and tie-down areas to safely and efficiently move aircraft and store them in all reasonably expected weather conditions.
2. Proper equipment for repairing and inflating aircraft tires, servicing oleo struts, changing engine oil, washing aircraft and aircraft windows, and for recharging or energizing discharged aircraft batteries and starters.
3. Conveniently located lounge or waiting rooms for passengers and airplane crews of itinerant aircraft, together with sanitary restrooms and public telephones.

D. Hangar Storage:

1. Operators desiring to provide additional hangar storage rental will meet the following minimum floor space requirements for aircraft storage:
  - a) Lease at least 6,000 square feet for T-hangars.
  - b) Lease at least 3,000 square feet for common hangars.
2. An area of 600 square feet of office space, restrooms, and lounge which may be an adjunct to other buildings, must meet the North Carolina State Building Code Requirements.
3. Sufficient outside hose connections for washing of aircraft, and other purposes, such as washing ramps, watering shrubbery, et cetera, will be installed. Should any new building be constructed over 1,000 feet from an existing fireplug, a new plug shall be provided.

E. Aircraft Maintenance and Repair. All persons operating aircraft engine and accessory maintenance facilities shall meet the following provisions:

1. Sufficient equipment, supplies and spare parts to perform maintenance in accordance with FAA Part 145 'Certified Repair Station'.
2. Trained and uniformed personnel to sufficiently meet the demand for aircraft maintenance services. At least one (1) mechanic shall be a FAA certified Airframe & Power-plant (A&P) technician, available during established business hours. Contact for on-demand services shall be publicly posted at the Airport.
3. New maintenance hangars constructed by or for an Operator shall contain a minimum of 3,600 square feet of storage and/or floor space. Adequate shop space to house the equipment and adequate equipment. and machine tools, jacks, lifts, and testing equipment to perform top overhauls as required for FAA certification and repair
4. Suitable leased parking and/or storage space for aircraft awaiting maintenance or delivery after repair and maintenance has been completed.

F. Flight Training/Rental. Persons or Operators conducting flight training/aircraft rentals shall provide:

1. Flight instruction shall be provided by at least one properly FAA certified flight instructor with commercial certificate. Hours of availability and contact information must be publicly posted at the airport.

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2. At least one aircraft to be used for flight training and/or rental and additional types of aircraft as may be required to give flight training, check-outs, proficiency training and instruction of the kind as advertised.
3. Adequate mock-ups, pictures, slides, film strips or other visual aids necessary to provide proper ground school instruction.
4. Adequate facilities for servicing and repairing the aircraft or satisfactory arrangements with other operators on the Airport for such service and repair.
5. Proper check lists and operating manuals on all aircraft rented and adequate parts catalogue and service manual on new aircraft sold.
6. Adequate liability and property damage insurance sufficient to protect the operator and the County from legal liabilities involved. Indemnification and Hold-Harmless Agreement to protect the County. A copy of this Agreement shall be provided to the Airport Owner before flight training activities commence.

G. Aircraft Charter and Taxi Service. Persons or Operators operating aircraft charter and taxi service shall provide:

1. Properly certified suitable aircraft with properly certified and qualified operating crew available for service when not otherwise engaged in such service.
2. Adequate building or office lease area for passenger and baggage processing.
3. Adequate facilities for servicing and repairing the aircraft or satisfactory arrangements with other operators on the Airport for such service and repair
4. Passenger liability insurance of at least \$100,000 per passenger seat and property damage liability of at least \$300,000. Indemnification and Hold-Harmless Agreement to protect the County. A copy of this Agreement shall be provided to the Airport Owner before flight activities commence.

H. Aircraft Sales. Persons or Operators wishing to sell aircraft must provide:

1. At least one aircraft for sale.
2. Publicly posted hours of operation and contact numbers.
3. Office space sufficient to house operations.

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4. An FAA-certified pilot with a current commercial certificate for demonstration and aircraft transport.
  5. Passenger liability insurance of at least \$100,000 per passenger seat and property damage liability of at least \$300,000. Indemnification and Hold-Harmless Agreement to protect the County. A copy of this Agreement shall be provided to the Airport Owner before flight activities commence.
- I. Crop Dusting and Spray Operators. Persons or Operators seeking to conduct crop dusting or spraying of agricultural chemicals shall be required to satisfy the Airport Owner that operations shall be conducted in compliance with applicable local, state and federal laws. Staging and washing areas shall be conducted in compliance with the applicable regulations. Any liability resulting from agricultural spraying operations is the sole responsibility of the operator. The Airport Owner has authority to require said operators to post a bond that would cover, with the intent of mitigating, liabilities to the Airport Owner/County resultant from the intentional or accidental dispersion of agricultural spraying or other compounds.
- J. Aircraft Painting: All operators offering commercial painting services must:
1. Provide a separate enclosed painting area of sufficient size to accommodate the largest anticipated aircraft to be painted. The facility must comply with local, state, and federal fire-code and environmental regulations. The Operator will provide proof of compliance and due diligence prior to commencing painting activities.
  2. Provide proof of insurance per the requirements found in Section 3. The Airport Owner has authority to require said operator(s) to post a bond adequate to cover, with the intent of mitigating, liability to the Airport Owner/County resultant from the intentional or accidental dispersion of chemicals or compounds of a hazardous nature.
- K. Through-the-fence Operators: Through-the-fence operations may negatively impact the Airport's compliance with Federal Grant assurances. The Airport Owner is not obligated to make the Airport available for the use and benefit of the public by operations from adjacent properties. Accordingly, through-the-fence operations or arrangements are not permitted.
- L. Flying Club/Association. A flying club, or similar organization, is recognized as a plan for joint ownership of aircraft and the fair distribution of the cost of maintaining and operating such an aircraft. Such operation is not considered to be commercial in nature when so operated, nor is flight instruction by flying club members for flying other club members considered to be commercial in nature so long as there is not profit or for-hire motive involved in the operation. In all cases, the Airport Owner will determine if the operation is a commercial aeronautical activity. If determined to be commercial, the club or organization

shall conform to the requirements set forth herein for commercial aeronautical operators.

Section 9. Procedures for Receiving and Processing Applications.

- A. All Operators, as part of the application process, must show and demonstrate business and financial ability to the satisfaction of the Airport Owner. The County will not accept, or take action on, a request to lease building space or land area, or a request for assignment of an existing lease, or in any way permit the installation of a commercial aeronautical activity until after the applicant, in writing, submits a proposal, which clearly sets forth the scope and type of operations being proposed, including the following:
1. The name and address of the applicant;
  2. The proposed aeronautical operation or activity sought;
  3. The proposed land use and facility needs sought;
  4. The names and qualifications of the personnel to be involved in conducting the activity;
  5. The financial responsibility and technical ability of the applicant and operator to carry out said operations or activity, including historical evidence of satisfactory performance of previous similar;
  6. The tools, equipment, services, and inventory, if any, associated with the proposed activity;
  7. The requested or proposed date for commencement of the activity and the term conducting the same;
  8. The estimated cost of any structure or facility to be furnished, the proposed specifications for the same, and the means or method of financing such construction or acquisition of facilities;
  9. Other information the Airport Owner may require and specifically request.
- B. Only applications completed according to the requirements will be considered. Upon approval of any such application in principal, the Airport Owner, or designated agent shall prepare a suitable lease or contract agreement setting forth the terms and conditions under which the Operator shall be conducted. Any rejected application shall be returned to the applicant within thirty calendar (30) days of the rejection with a written explanation of the reasons for rejection. Candidates are invited to resubmit at their discretion.

Section 10. Lease Termination.

Any Operator or tenant who violates these minimum standards will be given written notice by the Airport Owner describing the violation and suggesting corrective action (hereafter referred to as a "notice of violation"). The tenant may be given a specified and reasonable time period to correct any violations. If the tenant does not correct the cited violation(s) in the prescribed manner and time, the tenant's lease and continued use of Airport facilities are subject to termination.

Section 11. Amendments, Conflicting Regulations, Violation, Changes.

- A. The minimum standards contained herein may be revised, supplemented, and/or amended by the County from time to time in such a manner as to reflect changes at the Airport and fairness and consistency to all existing and prospective future airport tenants.
- B. Violation of the rules and regulations may be considered reason to restrict or terminate the activities on the Airport for said person or tenant. Upon written notice of the violation and restriction, the Airport Owner, in lieu of termination of the lease or contract, can conclude that the person or tenant could correct the violation so that the violation is eliminated. Any restriction may be limited to certain areas of the Airport, or may be limited to a certain time period, depending upon the violation.
  1. If any conflict is found between provisions of this Ordinance, the more stringent provision shall prevail. If any provisions of this Ordinance, or application thereof, are held invalid it shall not effect or impose other provisions of this Ordinance. To this end, the provisions of this Ordinance are declared to be severable.
  2. Any published FAA regulation shall become effective as part of this Ordinance without requiring any action on the part of the Airport Owner. A copy of these Minimum Standards and any adopted changes will be available at the County office.

Section 12. Enactment.

The ordinance establishing the provisions of this Part was passed by the Board of County Commissioners on December 05, 2005 upon motion by Commissioner Norris, seconded by Commissioner Prevatte, and passed unanimously and recorded in the Minutes of the said meeting, Minute Book 29, Pages 166 -174.

**PART 3 – AIRPORT HEIGHT HAZARDS**

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Section 1. Short Title.

This Ordinance shall be known and may be cited as the "Columbus County Municipal Airport Height Hazard Ordinance." This attached map entitled Airport Property Map, dated 2005, shall be known and may be cited as the "Columbus County Municipal Airport Height Hazard Ordinance Map".

Section 2. Definitions.

The following words, terms and phrases appearing in this Chapter shall have the meanings appearing below, unless the context establishes a different meaning:

***Administrator*** means the individual responsible for performing the administrative functions of this ordinance. The administrator shall be the County Administrator, unless otherwise designated or represented.

***Airport*** means Columbus County Municipal Airport, North Carolina (CPC).

***Airport Board (Authority)*** shall mean the Columbus County Municipal Airport Authority, an advisory board appointed by the Columbus County Board of Commissioners and charged with overseeing the supervision of Airport activities.

***Airport Elevation*** means the highest Point of an airport's usable landing area measured in feet above sea level.

***Airport Hazard*** means any structure or tree or use of land which obstructs the airspace required for the flight of aircraft in landing or taking-off at the airport or is otherwise hazardous to such landing or taking-off of aircraft.

***Airport Manager*** shall mean the representative of the County having day-to-day oversight of Airport activities. If no individual is designated with such charge, this responsibility is retained by the Airport Board, or otherwise designated by the County Commissioners.

***Approach Surface*** means a surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in Section 4 of this Ordinance. In plan, the perimeter of the approach zone.

***Approach, Transitional, Horizontal, And Conical Zones*** - These zones are set forth in Section 11 of this Ordinance.

***Board of Adjustment*** means the Board appointed by the Columbus County Board of Commissioners as provided in Chapter 10, Part 2, Article 4 of the Code of Ordinances.

***Conical Surface*** means a surface extending outward and upward from the horizontal surface at a slope of 20 to 1 for a horizon distance of 4,000 feet.

***Hazard to Air Navigation*** means an obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.

***Height*** - For the purpose of determining the height limits in all zones set forth in this Ordinance and shown on the height hazard map, the datum shall be mean sea level elevation unless otherwise specified.

***Horizontal Surface*** means a horizontal plane 150 feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.

***Larger Than Utility Runway*** means a runway that is constructed for and intended to be used by propeller driven aircraft of greater than 12,500 pounds maximum gross weight and jet powered aircraft.

***Nonconforming Use*** means any pre-existing structure, object of natural growth, or use of land which is inconsistent with the provisions of this Ordinance or an amendment thereto.

***Non-Precision Instrument Runway*** means a runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in non-precision instrument approach procedure has been approved or planned.

**Obstruction** means any structure, growth, or other object, including a mobile object which exceeds a limiting height set forth in Section 4 of this Ordinance.

**Precision Instrument Runway** means a runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS) or a Precision Approach Radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document.

**Primary Surface** means a surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; for military runway or when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of the runway. The Width of the primary surface is set forth in Section III of this Ordinance. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

**Runway** means a defined area on an airport prepared for landing and take-off of aircraft along its length. The runway end is defined by geodetic coordinates and elevation as noted on the Airport Height Hazard Ordinance Map.

**Runway Ends:** Refers to the planned usable physical end of the hard-surfaced asphalt runway, having a defined coordinate and elevation as noted on the Airport Height Hazard Ordinance Map.

**Structure** means an object, including a mobile object, constructed or installed by man, including but without limitation, buildings, towers, cranes, smokestacks, earth formation, and overhead transmission lines.

**Transitional Surfaces:** These surfaces extend outward at 90 degree angles to the runway centerline and the runway centerline extended at a slope of seven (7') feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces, which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at 90 degree angles to the extended runway centerline.

**Tree** means any object of natural growth.

**Utility Runway** means a runway that is constructed for and intended to be used by propeller driven aircraft or 12,500 pounds maximum gross weight and less.

**Visual Runway** means a runway intended solely for the operation of aircraft using visual approach procedures.

Section 3. Airport Zones.

In order to carry out the provisions of this Ordinance, there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to the Columbus County Municipal Airport. Such zones are shown on the Airport Height Hazard Ordinance Map, which is attached to this Ordinance and made a part thereof. An area located in more than one of the following zones is considered to be only in the zone with the more restrictive height limitation.

The various zones are hereby established and defined as follows:

- A. Primary Surface Zone: A rectangular surface longitudinally centered on a runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. Runway 6-24: 1,000 feet wide and extends 200 feet beyond each runway end.
- B. Approach Surface Zones: A trapezoidal inclined plane symmetrically centered along the extended runway centerline, longitudinally extending outward and upward from the end of the primary surface. The perimeter of the approach surface coincides with the perimeter of the approach zone, extending per a boundary and slope defined below, and as shown on the Airport Height Hazard Ordinance Map.

*Runway End*

*Inner Width x Length x Outer Width  
(Approach Length and Slope)*

Runway 6 approach surface zone: 1,000' x 10,000' x 3,500' (0'-10,000' @ 34:1)

Runway 24 approach surface zone: 1,000' x 50,000' x 16,000' (0'-10,000' @ 50:1)  
(10,000' -50,000' @ 40:1)

- C. Transitional Zones: Inclined planes with a slope of 7:1 measured upward and outward in a vertical plane at right angles to the centerline of the runway and approach surfaces. The transitional surface zones, located on either side of the runway and symmetrically parallel to and level with the runway centerline, extend upward and outward from the primary surface and approach surface elevation to a point intersecting the horizontal or conical surface (150 feet above the airport elevation). Where the precision instrument runway approach zone extends beyond the conical zone, there is established height limits sloping 7: 1 measured upward and outward beginning at the sides of and at the same elevation as the approach surface, and extending a horizontal distance of 5,000 feet measured at 90-degree angles to the extended runway centerline. The transitional surface zones are shown on the Airport Height Hazard Ordinance Map.

- D. Horizontal Zones: A plane, elliptical in shape, with a height one hundred and fifty (150) feet above the established airport elevation, or 250 feet mean sea level and having a specified radius from the center of the primary surface for each runway end. The perimeter of the horizontal surface coincides with the perimeter of the horizontal zone as indicated on the Columbus County Municipal Airport Height Restriction Ordinance Map.
1. Runway 6-24 horizontal radius: 10,000 feet.
  2. Runway 6-24 horizontal elevation: 150' above established Airport elevation.
- E. Conical Zone: A surface, elliptical in shape, extending radially outward and upward from the periphery of the horizontal surface zone at a slope of 20:1 for a horizontal distance of 4,000 feet and vertical elevation of 200 feet above the horizontal surface, to a height of 350 feet above the Airport elevation, or 450 feet above mean sea level (MSL). The conical surface zone is shown on the Airport Height Hazard Ordinance Map.

Section 4. Airport Environs Height Limitations.

Except as otherwise provided in, this Ordinance, no structure shall be erected, altered, or maintained, and no tree shall be allowed to growth in any zone created by this Ordinance to a height in excess of the applicable height limitations as hereby established for each of the zones in question. Nothing in this Ordinance shall be construed as prohibiting the construction or maintenance of any structure, or growth of any tree to a height up to 50 feet above the surface of the land.

Section 5. Use Restriction.

Notwithstanding any other provisions of this Ordinance, no use may be made of land or water within any zone established by this Ordinance in such a manner as to create electrical interference with navigational signals or radio communication between airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in, glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

Section 6. Nonconforming Uses.

- A. Regulations Not Retroactive: The regulations prescribed in this Ordinance shall not be construed to require removal, lowering, or other change of alternation of any structure or tree not conforming to the regulations at the effective date of this Ordinance, or otherwise interfere with the continuation of a nonconforming use. Nothing contained herein shall require any change in the construction, alteration of which was begun prior to the effective date of this Ordinance, and is diligently prosecuted.

- B. Marking and Lighting: Notwithstanding the preceding provisions of this Section, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the Airport Board to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstructions. Such markers and lights shall be installed, operated, and maintained at the expense of the Columbus County Municipal Airport.

Section 7. Permits.

- A. Future Uses. Except as specifically provided in subsections 1-3 hereunder, no material change shall be in the use of land, no structure shall be erected or otherwise established, and no tree shall be planted in any zone hereby created unless a permit therefore shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit to be determined whether the resulting use, structure, or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted. No permit for use inconsistent with the provisions of this Ordinance shall be granted unless a variance has been approved in accordance with Section 7.D.
1. In the area laying within the limits of the horizontal zone and conical zone no permit shall be required for any tree or structure less than seventy-five (75) feet of vertical height above the ground, except when, because of terrain, land contour, or topographic features, such tree or structure would extend about height limits prescribed for such zones.
  2. In areas lying within the limits of the approach zones but at a horizontal distance of not less than 4,200 feet from each end of the runway, no permit shall be required for any tree or structure less than seventy-five (75) feet of vertical height above the ground, except when such tree or structure would extend above the height prescribed for such approach zones.
  3. In the areas lying within the limits of the transition zones beyond the perimeter of the horizontal zone, no permit shall be required for any tree or structure less than seventy-five (75) feet of vertical height above the ground, except when such tree or structure, because of terrain, land contour, or topographic features, would extend above the height limit prescribed for such transition zones.

Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, or alteration of any structure, or growth of any tree in excess of any of the height limits established by this Ordinance except as set forth in Section 4.

- B. Existing Uses. No permit shall be granted that would allow the establishments or creation of an obstruction or permit a nonconforming use, structure, or tree to become a greater hazard to air navigation, than it was on the effective date of this Ordinance or any amends thereto or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.
- C. Nonconforming Uses Abandoned or Destroyed. Whenever the Administrator or designated representative determines that a nonconforming tree or structure has been abandoned or more than 80 percent tom down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviated from the requirements of this Ordinance.
- D. Variance. Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use proper, not in accordance with the regulations prescribed in this Ordinance, may apply to the Board of Adjustment for a variance from such regulations. The application for variance shall be accompanied by a determination from the North Carolina Department of Transportation, Division of Aviation (NCDOA) or Federal Aviation Administration (FAA) as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and relief granted will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of this Ordinance.
- E. Obstruction Marking and Lighting. Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this Ordinance and be the structure or tree in question to install, operate, and maintain, at the owner's expense, such markings and lights as may be necessary. If deemed proper by the Board of Adjustment, this condition may be modified to require the owner to permit the Columbus County Municipal Airport, at its own expense, to install, operate, and maintain the necessary markings and lights.

Section 8. Enforcement.

It shall be the duty of the County Board to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the Administrator upon a form published for that purpose. Applications required by this Ordinance to be submitted to the Administrator shall be promptly considered and granted or denied. Application for action by the Board of Adjustment shall be forthwith transmitted by the Administrator.

Section 9. Board of Adjustment.

The Board of Adjustment shall be that board created in Chapter 10, Part 2, Article 4 of the Code of Ordinances.

Section 10. Administration, Enforcement and Appeals.

The Administration and Enforcement of this Part shall be as set forth in Chapter 10, Part 2, Article 3 of the Code of Ordinances

- A. Any person aggrieved, or any taxpayer affected by any decision of the Administrator in the administration of this Ordinance, may appeal to the Board of Adjustment.
- B. All appeals hereunder must be taken within a reasonable time as provided by the rules of the Board of Adjustment, by filing with the Administrator a notice of appeals specifying the grounds thereof. The County Administrator shall forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken.
- C. An appeal shall stay all proceeding in furtherance of the appealed action unless the Administrator certifies to the Board of Adjustment, after the notice of appeal has been filed with it that, by reason of the facts stated in the certificate, a stay would in the opinion of the Administrator cause imminent peril to life or property. In such cases, proceedings shall not be stayed except by order of the Board of Adjustment or notice to the Administrator and on due cause shown.
- D. The Board of Adjustment shall fix a reasonable time for hearing appeals, give public notice and due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney.
- E. The Board of Adjustment may, in conformity with the provisions of this Ordinance, reverse or affirm, in whole or in part, or modify the order, requirement, decision or determination appealed from and may make such other requirement, decision or determination as may be appropriate under the circumstances.

Section 11. Enactment.

Approved and adopted by the Columbus County Board of Commissioners on January 03, 2006, upon motion by Commissioner Jacobs, seconded by Commissioner Prevatte, and passed unanimously, and recorded in Minute Book 29.

## **CHAPTER 5 – BUILDINGS, ADDRESSING AND ABANDONED STRUCTURES**

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### **PART 1 - ESTABLISHMENT OF A BOARD OF INSPECTIONS**

County of Columbus is authorized to create an Inspections Department pursuant to N.C.G.S. 153A-350 for the County's territorial jurisdiction covering the construction of buildings, installation of facilities such as plumbing systems, electrical systems, refrigeration systems and air conditioning systems and the maintenance of buildings in a safe, suitable and healthful condition and other matters that may be specified by the Board of County Commissioners. The County Board of Inspections shall supervise the Inspections Department and shall serve the purposes for its establishment as stated herein.

- A. The Board of Columbus County Commissioners, Columbus County, North Carolina, does hereby authorize and establish a Columbus County Board of Inspections which shall supervise the Columbus County Inspections Department.
- B. The purpose of the Board is as follows:
1. To enforce all state building codes and guidelines and inspection requirements as the same may be enforced at that particular time.
  2. To assist in the establishment and enforcement of inspection procedures and to supervise the County building inspectors.
  3. To investigate and resolve problems or complaints which may arise from the County Inspections Program.
  4. To document and adopt bylaws and to amend the same when needed for the governing of the Inspections Department. All bylaws and inspection procedures will not be effective until the same has been duly adopted by the Board of County Commissioners of Columbus County.

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C. Composition of the Board of Inspections shall consist of:

1. One (1) General Contractor.
2. One (1) Heating/Air Conditioning Contractor.
3. One (1) Plumber.
4. One (1) Electrician.
5. One (1) Paving/Land Grading Contractor.
6. One (1) At-Large Citizen appointed by County Commissioners.
7. One (1) Ex-Officio Member.
8. One (1) Utility Company Representative

D. The initial appointment of each person shall be as follows:

1. General Contractor - Two (2) years
2. Electrician - Two (2) years
3. At-Large Citizen - Two (2) years
4. County Commissioner - Two (2) years
5. Plumber - One (1) year
6. Heating/Air Conditioning - One (1) year
7. Paving/Land Grading - One (1) year
8. Utility Company Representative - One (1) year

E. After the initial appointment, all appointments will be for two (2) year terms. Each appointee may succeed himself/herself one (1) time. Each appointee may be returned to the board after a term rotation off of the board has elapsed.

F. The Board of Inspections has the right to nominate individuals to fill any vacancy on its board, but the final and absolute decision concerning the appointment of said vacancy will be by the Board of Columbus County Commissioners.

G. The Board of Inspections shall meet at least one (1) time per month and the meeting shall be called and conducted by the Chairman of the Board with minutes recorded by the Board's secretary. The meetings shall take place at such time and location as the Chairman may deem appropriate within Columbus County, provided that all meetings shall comply with the Open Meetings Law(s) of the North Carolina General statutes.

H. This ordinance was passed by the Columbus County Board of Commissioners on April 18, 1994, upon motion by Commissioner Richardson, seconded by Commissioner Norris and passed unanimously, and recorded in the minutes of said meeting, Book 22, page 609.

**PART 2 – ADDRESSING**

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Section 1. Purpose and Intent.

The purpose and intent of this Ordinance is to provide a uniform system of rural addresses for all properties and buildings throughout the County in order to facilitate provisions of adequate public safety and emergency response services and to minimize difficulty in locating properties and buildings for public service agencies and the general public.

Section 2. Definitions.

The following words, terms and phrases appearing in this Chapter shall have the meanings appearing below, unless the context establishes a different meaning:

***Address Administrator:*** The official of Columbus County designated by the County Administrator, charged with the administration of this article, including their authorized agent or delegate.

***Building:*** Any structure whether residential, commercial, industrial, or institutional in nature and use. When a structure is divided by division walls from the ground up without openings, each portion of such building may be deemed a separate building.

***Driveway:*** A private way, beginning at the property line of a lot abutting a public or private road or other easement. A driveway may not serve more than a single lot unless it runs along a lot line shared by two (2) lots and serves no more than two (2) lots addressed from the named road.

***Mobile Home Park:*** Shall mean and include site, lot, tract, or parcel of land upon which one (1) or more mobile home/ manufactured homes or travel trailer is parked, for the temporary or permanent use as living quarters of one (1) or more families.

***Private Road:*** Any road which serves more than two (2) buildings and is not maintained by a governmental entity or agency through the use of public funds.

**Public Road:** Any road or street which is maintained by a government entity or agency through the use of public funds.

**Road Address:** The combination of numbers and road names assigned by Columbus County which uniquely identifies a particular building or lot.

**Subdivision:** All divisions of a tract or a parcel of land into two (2) or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future) and includes all division of land involving the dedication of a new street or change in existing streets as outlined in G.S. 153A-335.

Section 3. Road Names.

- A. The road names on file with the office of the Emergency Services are the official names of these roads. The Address Administrator is hereby authorized to determine the need for road name changes. Unless there is a substantial documental need for a change in an official road name, no changes will be made
- B. All roads in Columbus County shall be identified by a sign showing the official name of that road.
- C. Road name signs shall be uniform throughout the County in accordance with the following system:

White with Green Background	Public Roads
White with Blue Background	Private Roads

- D. All roads which meet the criteria for a private road shall be named using the procedures listed below.

As part of Columbus County's Comprehensive E9-1-1 Telecommunications System, all State Maintained and Private Roads will be identified and addressed. In order to have a systematic process to facilitate the naming of State Maintained and Private Roads the following guidelines are to be followed:

1. A private road shall be defined as any road, lane, drive, etc. which serves more than two (2) structures (other than farm storage buildings) not facing state-maintained road or highway.
2. That the property owner(s) submits three (3) proposed names for the road, in the form of a petition, to the Address Administrator. The petition will indicate location of the road, contact person, telephone number, etc.

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3. That the petition must indicate the number of property owners on the private road in question and that a majority of the property owners must be in agreement with the proposal.
4. That these petitions be examined and compared with the existing road names to ensure that no road names are duplicated.
5. Every effort will be made to name the road by one (1) of the three (3) proposed names, but in the event that all of the proposals are already being used, the contact person will be notified and other proposed names requested.
6. For a private road, once the road name is approved by the Address Administrator will notify the contact person of the total cost of the sign(s), of which property owner(s) will be required to pay the total
7. The Address Administrator will order the sign(s). When the private road name sign(s) arrive, the Address Administrator will notify the contact person to pick up the sign(s). The contact will be responsible for the installation of the sign(s). The installer should contact their phone company prior to installation to avoid cutting buried cables.
8. The County will order and have the sign(s) installed.
9. The signs for 11 private roads will have six (6) inch blades, blue background with white reflective letters installed on standard square aluminum poles.
10. The monies collected from the property owner(s) will be used to pay for these signs and will be transferred to the appropriate line item.

Section 4. Administration and Application.

- A. The Address Administrator will be responsible for the interpretation and administration of this Ordinance, including:
  1. Assigning all numbers for properties and buildings.
  2. Maintain address records of each property and building.
  3. Recommending any changes necessary to facilitate sequential building numbers along a road.
  4. Designating individual unit addresses within any multiple housing units in conformity with this Ordinance.
  5. Assisting the public in complying with the requirements of this Ordinance.

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B. Road address number will be assigned using the Columbus County Addressing System listed below:

1. Columbus County uses an equal interval system in its approach to assigning road address numbers to buildings within the County. This requires the selection of two (2) intersecting baselines, one (1) running in an East-West direction and one (1) running in a North-South direction. A frontage interval of 5.28 feet is then used to assign a progression of road address numbers to building and properties. Working out from these lines in any direction along a continuous road with this system will easily convert to distance from the beginning point (i.e., 1600 equals 1.6 miles).
2. The base lines selected for Columbus County are the Whiteville City limits. Most road address numbers will begin at the end of the road closest to the nearest base line; or in case of a dead-end road, at its intersection with another named road. For continuous roads, which cross a base line, they will be addressed with respect to East -West -North -South of that line.
3. All buildings will be addressed relative to their position on a named road. Houses which are obviously facing a named road will be addressed with the number which falls closest to the front door of that building. Buildings, which are situated more than seventy-five (75) feet off a named road will be addressed where their driveway intersects the named road (if the house is not visible from the road, use driveway).
4. Road address numbers will be assigned every 5.28 feet from the beginning point on that particular road. Numbers will be assigned, even numbers on the right side of the road, odd numbers on the left side of the road, as one would stand with their back toward the beginning point.

C. This Ordinance shall apply in all areas of Columbus County not within a municipality.

1. However, the following government entities are addressed by the Address Administrator: Boardman, Bolton, Brunswick, Cerro Gordo, Chadbourn, Fair Bluff, Lake Waccamaw, Riegelwood, Sandyfield, Tabor City and Whiteville.

D. No subdivision, mobile home park, other non-permanent dwelling unit park, may be recorded, constructed, or otherwise begun without first submitting plans showing layout of any proposed subdivision, mobile home park or other non-permanent dwelling park to the Address Administrator. The Address Administrator will review the plans to ensure adequate access to and from the proposed subdivision, or park and will assign address numbers for each proposed lot and ensure that other provisions of this Ordinance are complied with.

Section 5. Display of Road Address Numbers.

- A. Road Address Numbers must be clearly displayed so that the location can be easily identified from the road.
1. The 9-1-1 address Number must be displayed on the front of a building or at the entrance to a building which is most clearly visible from the road during both day and night.
  2. If a building is more than fifty (50') feet from any road, the address number shall be displayed at the end of the driveway nearest the road which provides access to the building.
  3. Numerals indicating the address number of a single-family dwelling shall be at least four (4) inches in height and shall be posted and maintained so as to be legible from the road.
  4. Numbers for multiple dwelling units and non-residential buildings shall be at least four (4) inches in height and shall be placed on the front of the building facing the road or on the end of the building nearest the road.
  5. Numerals shall be of a contrasting color to the background.
  6. Mobile home and other non-permanent dwelling unit lots shall have sequential address numbers throughout the park. Each lot will have a separate address number assigned. The address number of each lot must be clearly displayed on the lot so as to be legible from the road rather than maintained on the mobile home unit.
- B. The Address Administrator will have the authority to authorize and approve alternate methods of displaying road address numbers which meet the intent of this Ordinance when strict adherence to these standards cannot be reasonably met.
- C. The Postal Service will adopt the new house numbering system as addresses. If mail is delivered to the home, the new address will be the mailing address. If mail is received at a post office, the new address will not affect the mailing address and will only be used to locate the residence in an emergency.
1. The address number must be displayed on both sides of the mail box.
  2. Each address should have a mail box unless mail is received at a post office.

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Section 6. Enforcement.

- A. No building permit shall be issued until 9-1-1 address number has been assigned for a lot. The record plat of any subdivision must show the address for each lot created or recorded, as required by Section 4, Paragraph D.
- B. No Certificate of Completion or Certificate of Occupancy will be issued by the Building Inspection Department until the road address numbers are properly displayed.
- C. No person may display or cause to be displayed on any building any number other than the number assigned by the Address Administrator.
- D. No person may remove, obliterate, conceal or destroy any number or sign displayed in accordance with this Ordinance.
- E. Owners or occupants of buildings which do not comply with this Ordinance will be notified and requested to meet these requirements within thirty (30) days from the date of the notification. A warning notice will be issued after fifteen (15) days of the requirements have not been met. If the owner or occupant does not comply voluntarily with this Ordinance within fifteen (15) days of the delivery of a warning notice by certified mail to the building in violation, a civil penalty, pursuant to G.S. 153A-123, will be assessed. The civil penalty may be recovered by the County in a civil action in the nature of a debt if the offender does not pay the penalty within fifteen (15) days after the warning notice has been issued. In addition, this Ordinance may be enforced by an appropriate equitable remedy issued from a court of competent jurisdiction.
- F. A violation of this Ordinance shall subject the offender to a civil penalty until subject complies with this Ordinance.
- G. Monies collected from enforcement of this Ordinance will be applied to the appropriate line item for the Addressing Office.

Section 7. Effective Date.

This Part shall take effect and be in force on May 15, 1995.

**PART 3 – INSULATION CONTRACTORS**

**ARTICLE 1 – LICENSING OF CONTRACTORS**

Section 1. Authority.

This ordinance is adopted pursuant to Chapter 703, North Carolina Session Laws of 1977, and G. S. 153A-134.

Section 2. License Required.

On and after January 1, 1978, no person, firm or corporation may for a consideration install, alter or restore, within any unincorporated part of Columbus County, North Carolina, and within any city which adopts this ordinance pursuant to the authority granted in G. S. 153A-122, any insulation or other materials or energy utilization equipment designed or intended to meet the State Building Code requirements for insulation and energy utilization standards who is not either:

- A. Licensed as a contractor to do the proposed work under Chapter 87 of the General Statutes;
- B. Working under the supervision of a registered architect or professional engineer;
- C. An owner working upon his own building; or
- D. Licensed under this ordinance.

Section 3. Applications.

Every person desiring a license under this ordinance shall submit an application for such a license to the Columbus County Building Inspector conforming to the following requirements:

- A. Form of Application. Each application shall be a written statement upon forms provided by the Columbus County Building Inspector.
- B. Contents of Application. Each application shall contain the following information
  - 1) Name and home address of the applicant, if an individual, or home office address, if a corporation or partnership;
  - 2) Name and home addresses of the partners, if partnership
  - 3) Names and home addresses of the officers and directors, if a corporation
  - 4) Place where the proposed business is to be located;
  - 5) Complete record of all convictions of felonies or acts involving dishonesty, fraud, or deceit by the applicant or any employee, partner, officer, or director of the applicant whether in this or any other state or jurisdiction;

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- 6) Complete record of all licenses held by the applicant or any employee, partner, officer, or director of the applicant authorizing activities of the type regulated by this ordinance or other activities involving construction, alteration, or modification of buildings and structures;
  - 7) Information as to the circumstances in which any local, state, or federal government or agency has refused, suspended, or revoked a license of type described in paragraph (f) to applicant or any employee, partner, officer, or director of the applicant.
- C. License Fee. Each application shall be accompanied by a license fee in the amount of \$25.00 for such license, such amount to be for the calendar year prorated by quarters to the end of such year.
- D. False Statements. False statements on any application for a license shall be grounds for Immediate revocation or denial of such license.

### Section 4. Procedure for Issuance.

- A. Review by County Officers. Each application received by the Columbus County Building Inspector shall be promptly forwarded to the Columbus County Police Department or the Sheriff Department for review. Such officers shall promptly make any comments and recommendations pertaining to the application and forward them to the County Building Inspector.
- B. Licensing Agency. The application and any comments and recommendations relating thereto shall be considered by the Building Inspector which shall then issue or deny the license pursuant to the following standards.
- C. Standards. The Columbus County Building Inspector shall issue the license unless he shall find. the applicant or any employee, partner, officer, or director of the applicant:
- 1) Has been convicted within the last three years of a felony or an act involving dishonesty, fraud, or deceit, whether in this or any state or jurisdiction;
  - 2) Has been refused a license to do the type of work authorized herein or has had such a license suspended or revoked by any local, state, or federal government or agency and such government or agency has nor subsequently granted or restored such license;
  - 3) Has knowingly made a false statement in the application;
  - 4) Has failed to post the bond or other security required by Section 5.
- D. Appeal from Denial. Any applicant whose license is denied may appeal the denial to the Columbus County Board of Commissioners. After reasonable notice to the applicant, the Board shall afford the applicant an opportunity to show why its license should not be denied.

Section 5. Bond Requirement.

- A. Before a license shall be issued to any applicant, the applicant shall post a bond with Columbus County in the amount of \$1,000. In lieu of posting a bond, the applicant may deposit a cashier's check or cash in the same amount.
- B. The security required by subsection (A) shall be available to indemnify any person for any damage which may occur by reason of the applicant's failure properly to provide or install insulation, energy utilization equipment or other materials designed or intended to meet the State Building Code standards for insulation and energy utilization.

Section 6. Termination and Renewal of License.

All license issued hereunder shall terminate on the last day of the calendar year for which issued. Renewal of such licenses shall be pursuant to the same procedures and requirements set forth for initial issuance.

Section 7. Suspension, Revocation, and Appeal.

- A. The Columbus County Building Inspector may suspend or revoke any license issued hereunder at any time upon a showing that the applicant or any employee, partner, officer, or director of the applicant has:
  - 1) Knowingly made a false statement in the application for a license; or
  - 2) Violated the State Building Code requirements as to insulation or energy utilization equipment or materials, whether in this or any other jurisdiction; or
  - 3) Been convicted of an act involving dishonesty, fraud, or deceit with respect to any contract entered into for work requiring this license.
- B. Any licensee whose, license is suspended or revoked may appeal the suspension or revocation to the Columbus County Board of Commissioners. After reasonable notice to the licensee, the Board shall afford the licensee an opportunity to show why its license should not be suspended or revoked.

Section 8. Change of Location.

The location of any licensed business may be changed, provided a 10 day notice thereof is given to the licensing agency designated in Section 4 (b) and operation at such new location does not violate any applicable State or local law, ordinance, or regulation.

## **ARTICLE 2. PERMIT REQUIREMENTS**

### **Section 1. Permit Required: Insulation and Energy Utilization, Permit Fee; Persons Exempted.**

- A. On or after January 1, 1978, no person, firm or corporation may for a consideration install, alter or restore, within any city which adopts this ordinance and any unincorporated part of Columbus County pursuant to the authority granted in G. S. 153A-122, any insulation or other materials or energy utilization equipment designed or intended to meet the State Building Code requirements for insulation and energy utilization standards without first securing a permit for the work to be done. Such permit shall be either:
- 1) A general building permit, secured from the Columbus County Building Inspector and evidencing full compliance with all applicable requirements of the state Building Code and other State and local laws, or
  - 2) An insulation and energy utilization permit, secured from the energy and insulation inspector or County inspection department and evidencing full compliance with the insulation and energy utilization standards in the State Building Code.
- B. The following are exempted from the requirement of obtaining a permit:
- 1) An owner working upon his own building;
  - 2) Any person working under the supervision of a registered architect or professional engineer when work is being performed under a general building permit; and
  - 3) A contractor licensed to do the proposed work under Chapter 87 of the General Statutes of North Carolina when the work is being performed under a general building permit.

## **ARTICLE 3. PENALTIES AND EFFECTIVE DATE**

### **Section 1. Penalties.**

Any person, firm or corporation violating the provisions of this ordinance shall be subject to all the applicable punishments, penalties, and equitable relief provided for by Chapter 703, North Carolina Session Laws of 1977, and G. S. 153A-123.

### **Section 2. Effective Date.**

This Ordinance shall become effective the 19th day of December, 1977.

## **PART 4 - ABANDONED STRUCTURES**

### **ARTICLE 1. GENERAL REQUIREMENTS**

#### **Section 1. Authority.**

Columbus County hereby exercises its authority to enact Abandoned Structure regulations pursuant to N.C.G.S 153A-12, 121,123 &140; 160A-443.

#### **Section 2. Jurisdiction.**

The jurisdiction of this Ordinance shall be described as any part of Columbus County not within the corporate limits or the extra territorial jurisdiction of any municipality. However, this ordinance shall not apply to any structure used or previously used for agricultural purposes other than residential. In addition, the Governing Board of any municipality may by resolution permit this Ordinance to be applicable within the municipality. If it does so the municipality shall give written notice to the county of its withdrawal of such permission. Thirty (30) days after the day the county receives the notice this Ordinance ceases to be applicable within the municipality.

#### **Section 3. Short Title.**

This ordinance shall be known as the Abandoned Structure Ordinance of Columbus County, North Carolina, and may be cited as the Abandoned Structure Ordinance.

### **ARTICLE 2. PURPOSE**

The purpose of this ordinance is to promote the public safety, health, and welfare of the citizens of Columbus County through the regulation of abandoned structures in the county. All abandoned structures defined herein are hereby declared to be a public nuisance, the abatement of which pursuant to the police power is hereby declared to be necessary for the health, welfare, and safety of the residents of Columbus County.

### **ARTICLE 3. DEFINITIONS**

The following words, terms, and phrases shall have the following meanings when used in this Part:

***Abandoned Structure:*** For the purposes of this Ordinance, abandoned structures shall be defined in two (2) categories, one related to manufactured homes and the other related to all other building structures except those identified as exempt in Section 2 of this Article.

- A. ***Manufactured Home (abandoned):*** A manufactured home shall be considered an abandoned structure if it is in a wrecked, scrapped, disassembled, unusable, cannibalized, burnt, or inoperable (not connected to an approved sewer system) condition and not

occupied and is found to be a nuisance because it creates or fosters one (1) or more of the following conditions:

- 1) A breeding ground or harbor for mosquitoes, other insects, rats, or other pests;
- 2) A point of heavy growth of weeds or other noxious vegetation over eight (8") inches in height;
- 3) The collection of pools or ponds of water;
- 4) Concentrated quantities of gasoline, oil, or other flammable or explosive materials;
- 5) A source of danger for children because of the possibility of entrapment or injury from exposed sharp surfaces of metal, glass, or other rigid materials;
- 6) A source of danger from the home, or parts thereof, falling or turning over;
- 7) An accumulation of garbage, food waste, or any other rotten or putrefied matter of any kind;
- 8) Accumulation of sewage or animal waste;
- 9) Concentrated quantities of hazardous materials;
- 10) The presence of dead animals; or
- 11) Any manufactured home specifically declared a public health and safety hazard by the Board of Commissioners.

B. ***Building. Structure (abandoned):*** A building structure shall be considered an abandoned structure if it is unoccupied and damaged or in disrepair to the point of being condemnable as defined in the most current edition of the North Carolina State Building Code (International Building Code with NC Amendments) as related to being structurally unsound, unable to support the design loads as determined by the Columbus County Building Official and is found to be a nuisance because it creates or fosters one (1) or more of the following conditions:

- 1) A breeding ground or harbor for mosquitoes, other insects, rats, or other pests;
- 2) A point of heavy growth of weeds or other noxious vegetation over eight (8") inches in height;
- 3) The collection of pools or ponds of water;
- 4) Concentrated quantities of gasoline, oil, or other flammable or explosive materials;
- 5) A source of danger for children because of the possibility of entrapment or injury from exposed sharp surfaces of metal, glass, or other rigid materials;
- 6) A source of danger from the building structure, or parts thereof, falling or turning over;
- 7) An accumulation of garbage, food waste, or any other rotten or putrefied matter of any kind;
- 8) Accumulation of sewage or animal waste;
- 9) Concentrated quantities of hazardous materials;
- 10) The presence of dead animals; or

- 11) Any building structure specifically declared a public health and safety hazard by the Board of Commissioners.

***Classic or Antique Vehicles:*** Any vehicle found on the property that is considered a “classic or antique vehicle” as defined by the North Carolina Department of Motor Vehicles will be exempted from removal from the property under this amendment. Said vehicles may, however, be relocated on the property to allow for the safe and efficient removal of an abandoned structure and any of the various types of debris listed above.

***Junked motor vehicle:*** As authorized and defined in G.S. 153A-132.2, the term junked motor vehicle means a vehicle that does not display a current license plate lawfully upon that vehicle and that:

- (1) Is partially dismantled or wrecked; or
- (2) Cannot be self-propelled or move in the manner in which it originally was intended to move; or
- (3) Is more than five (5) years old and appears to be worth less than one hundred dollars (\$100.00).

***Manufactured Home:*** A structure, transportable in one or more sections, which in the traveling mode whose body is 8 feet or more in width or 40 feet or more in length, or when erected on site, is 320 square feet or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein. Such term shall include any structure that meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Department of Housing and Urban Development (HUD) and complies with the standards established under that Federal agency. For purposes of this ordinance, "manufactured home" includes both factory-built single-family structures built to meet standards established under The National Manufactured Housing Construction and Safety Standards Act of 1974 and mobile homes built prior to the effective date of those standards (June 15, 1976). The Federal Standards became effective on June 15, 1976, and all homes with a date of manufacture on or after this date were required to have a HUD label indicating compliance with the standards.

***Nuisance vehicle:*** A vehicle on public or private property that is determined and declared to be a health or safety hazard, a public nuisance, and unlawful, including a vehicle found to be:

- (1) A breeding ground or harbor for mosquitoes, other insects, rats or other pests; or
- (2) A point of heavy growth of weeds or other noxious vegetation which exceeds eight (8) inches in height; or
- (3) In a condition allowing the collection of pools or ponds of water; or

- (4) A concentration of quantities of gasoline, oil, or other flammable or explosive materials as evidenced by odor; or
- (5) An area of confinement which cannot be operated from the inside, such as, but not limited to, trunks or hoods; or
- (6) So situated or located that there is a danger of it falling or turning over; or
- (7) A collection of garbage, food waste, animal waste, or any other rotten or putrescent matter of any kind; or
- (8) One which has sharp parts thereof which are jagged or contain sharp edges of metal or glass;
- (9) Any other vehicle specifically declared a health and safety hazard and a public nuisance by the County Board of Commissioners.

#### **ARTICLE 4. REGULATED ACTIVITIES AND PROCEDURE**

##### **Section 1. Abandoned Manufactured Homes Unlawful; Removal Authorized; Tax Classification.**

- A. It shall be unlawful for the registered owner or persons entitled to the possession of an abandoned manufactured home, or for the registered owner, lessee, or occupant of the real property upon which an abandoned manufactured home is located, to cause or allow a manufactured home to be an abandoned manufactured home.
- B. If, following the second notice required by Subsection 4.4.G, no action is taken to remove or abate the abandoned structure pursuant to the time limitations period identified in the second notice of violation or following appeal pursuant to this Ordinance, the County may enter the property and remove, abate, or remedy the abandoned structure as provided herein.
- C. Manufactured homes that are abandoned as defined herein shall be considered personal property and, if previously characterized as real property for tax or other purposes, shall forfeit that characterization.

Section 2. Nuisance Conditions and Junked or Nuisance Vehicles; Removal Authorized.

Upon notice issued to the owners of any abandoned structure as herein defined, it is also determined that any of the following conditions or any combination thereof, are found to be present or exist within (150) one hundred fifty feet of said abandoned structure, such notice shall include an order to also remove, remedy or otherwise abate such conditions by the imposed deadline as related to the removal, remedy or abatement of said structure or structures.

- A. Any grass, weeds or similar noxious vegetation having an overall height of more than eighteen (18) inches above the surrounding ground within an area of approximately one hundred fifty (150) feet in any direction of an abandoned structure.
- B. An open place, collection, or concentration of mattresses, boxes, paper, garbage, trash, refuse, old clothes, rags, automobile parts, tires or rims, furniture, stoves, refrigerators, appliances, cans and containers, household goods, plumbing or electrical fixtures, old rusty metal, or other similar items.
- C. A collection place for lumber, bricks, blocks, nails, building hardware, roofing materials, scaffolding, masonry materials, electrical supplies or materials, plumbing supplies or materials, heating and air conditioning supplies or materials or any other type of old or unusable building supplies (especially those with nails, staples or sharp objects and edges) or other similar items.
- D. Any junked or nuisance vehicle that is found to exist on the property of an abandoned structure as defined herein.

Section 3. Notice, Hearing, Appeal, Lien on Property.

- A. Upon determining that a violation of this ordinance exists, the Planning Director shall issue a written notice, in accordance with Section 5 (Enforcement) of this Article, to:
  - 1. the registered owner or person(s) entitled to possession of the abandoned structure;
  - 2. the registered owner, lessee, or person(s) entitled to the land on which the abandoned structure is located; and
  - 3. the occupant of the abandoned structure.
- B. The notice shall be provided by hand delivery, service of process, or certified mail.
- C. The notice shall:
  - 1. Identify the property and describe the abandoned structure located thereon to be removed, abated, or remedied;
  - 2. Direct that the abandoned structure be removed, abated, or remedied;
  - 3. Advise that the property must comply within sixty (60) days;

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4. State that the county may enter the property to remove, abate, or remedy the abandoned, structure if appropriate action is not taken during the time period provided;
  5. State that the costs incurred by the county to remove, abate, or remedy the abandoned structure, if not paid by the violator(s), shall be a lien upon the abandoned structure, the abandoned structure owner's real or personal property upon which it is located and shall be collectable as unpaid taxes;
  6. Notify the violator(s) of a right to appeal the basis of the notice to the Columbus County Planning Board, provided the appeal is made within fifteen (15) calendar days of receipt of the notice and that the appeal must be in writing addressed to the Columbus County Planning Board; and
  7. If the owner of the real property on which the abandoned structure is located can demonstrate that the cost of removal, abatement or remediation would create an undue financial hardship, the county may assume responsibility for removal of the abandoned structure by a licensed and/or bonded contractor.
- D. If the name or whereabouts of the owner, tenant, possessor, or occupant cannot, after due diligence, be discovered, the notice shall, in addition to the above, include the date, time, and location for a hearing before the Planning Board on the matter. The notice shall be considered properly and adequately served if a copy thereof is conspicuously posted on the property in question at least ten 10 days prior to the hearing and a notice of the hearing is published in a newspaper having general circulation in the county at least once not later than one (1) week prior to the hearing.
- E. The owner, tenant, possessor, occupant, or agent of the owner may appeal a notice by the Planning Director for decision by the Planning Board. The owner or his/her agent may either rely on written materials or appear before the Planning Board for a hearing at which he/she shall be heard in person or by counsel and may present arguments and evidence pertaining to the matter. The only issues for appeal are:
1. Whether the person is actually entitled to the notice; or
  2. Whether the action or condition that serves as the basis of the notice is dangerous or prejudicial to public health or safety. The fact that an owner did not bring the manufactured home to the property or does not have a possessory interest in the condition creating the abandoned, structure is not a defense.
- F. The Planning Board shall within thirty (30) days of the date of the hearing or the date of the written appeal if a hearing is not requested, issue an order either canceling the notice or directing the violator(s) to remove, abate, or remedy the identified structure. The owner, tenant, possessor, or occupant may appeal decisions of the Planning Board to the Columbus County Board of Commissioners within fifteen (15) days of the decision.

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G. If the property is not removed, abated or remedied within sixty (60) days of the initial notice and an appeal has not been filed, the Planning Director shall issue a second notice. The notice shall:

1. Identify the property and describe the abandoned structure located thereon to be removed, abated or remedied;
2. Direct that the abandoned structure be removed, abated or remedied;
3. Advise that the property must comply by a specific date, such date not to be less than thirty (30) days nor more than sixty (60) days from date of the second notice;
4. State that the county may enter the property to remove, abate, or remedy the abandoned structure if appropriate action is not taken before the date provided;
5. State that the cost incurred by the county to remove, abate, or remedy the abandoned structure, if not paid by the violator(s) and any unpaid civil penalties, may be a lien upon the abandoned structure, the abandoned structure owner's real or personal property upon which it is located and may be collectable as unpaid taxes;
6. Advise that civil penalties, in accordance with Subsection 6.1.A, are being assessed daily as of the date of the second notice; and
7. Advise that in addition to any and remedies above, the Columbus County Board of Commissioners may request criminal penalties in accordance with Subsection 6.1.C.

H. If the property is not removed, abated or remedied before the date provided in the second notice, the Planning Director shall present the case to the Planning Board with a recommendation of action based on severity, location and available resources. The Planning Board shall then direct the Planning Director of their desired action. The Planning Board shall base their recommendation on the point system identified in Table "A" below. If the action requires the utilization of county resources, the Planning Director shall prepare and present an Ordinance to the Board of Commissioners for their consideration and adoption. The Board of Commissioners shall consider the recommendation(s) of the Planning Board, the structure's score as related to Table "A" below, and available resources, but is not obligated to adopt the Ordinance.

TABLE "A" - ABANDONED STRUCTURE PRIORITIZATION RANKING

CONDITION	POINTS
Structurally unsound (walls, roof, or flooring)	10
Unsecured (windows, doors not locked/boarded)	8
Located on a road designated as an "Entrance Corridor"	7
Located within 500' of an occupied building	4
Located within 1,000' of an educational/religious facility	3
Unightly (littered with excessive junk, debris, graffiti or vegetation)	2

- I. Any person who removes an abandoned structure pursuant to this Ordinance shall not be held liable for damages for the removal of the abandoned structure to the owner, lien holder, or other person legally entitled to the possession of the abandoned structure removed; however, any person who intentionally or negligently inflicts injury upon any person or real property in the removal of such abandoned structure, may be held liable for damages.

## **ARTICLE 5. ADMINISTRATIVE**

### Section 1. Administration.

- A. The Columbus County Planning Department and Columbus County Building Inspections Department are jointly and mutually responsible for the administration and enforcement of this ordinance.
- B. The county may secure, make safe, remove, store, and dispose of abandoned structures in compliance with this ordinance and applicable state laws.
- C. Nothing in this Ordinance shall be construed to limit the legal authority or powers of officers or the employees of the county or state in enforcing other laws or in otherwise carrying out their duties with regard to abandoned manufactured homes.

### Section 2. Enforcement.

- A. Enforcement of this Ordinance shall rest with those governmental agencies and personnel authorized to exercise police powers to include the Director of the Columbus County Planning Department and the Director of the Columbus County Building Inspections Department.
- B. The provisions of this Ordinance shall be enforced by the inspection of property and by observation of persons who are engaged in or responsible for a violation of an action or condition that is prejudicial to public health or safety. Enforcement personnel are empowered to issue citations, warning citations, or letters of warning when any of the provisions of this Ordinance have been violated. Citations shall be delivered by enforcement officials in person to the alleged violator or delivered by registered mail return receipt requested to the person so charged. Any citation of violation so delivered or mailed shall direct the alleged violator to appear in district court on or before a specific day or hour named in the citation. The period so specified shall not be less than seventy-two (72) hours after its delivery to the violator.
- C. Where enforcement personnel determine that a violation is a first offense for the person charged, a written letter or warning citation shall be issued. Such warning letter or warning citation shall state therein the nature of the violation, the corrective measures to be taken, and the time and date when corrections are to be completed. Failure to comply with the corrective

## Columbus County North Carolina - Code of Ordinances

measures stated in such warning notices shall be just cause for enforcement personnel to issue a citation for violation of this Ordinance.

- D. The Columbus County Planning Director shall cause all citation forms to be serially numbered and accounted for. The Columbus County Auditor or his representative may periodically inspect these records to determine the disposition of the forms and shall report the result of such inspection to the Columbus County Manager. For the purpose of this inspection, the Columbus County Auditor shall have access to all necessary records and files.

### Section 3. Penalty Provisions.

- A. Civil penalty: The County may assess a civil penalty twenty-five and 00/100 (\$25.00) dollars, which amount may be recovered by the county in a civil action in the nature of a debt. Each day in which the violation occurs, or continues, shall constitute a separate offense. No civil penalty shall be assessed prior to notice of violation by citation or letter.
- B. Injunction and order of abatement: The provisions of this Ordinance may be enforced by injunction and order of abatement.
- C. Criminal penalties: In addition to other remedies cited in this Ordinance, any person violating the provisions of this Ordinance shall be guilty of a Class,3 Misdemeanor and shall be subject to fines in accordance with GS 14-4. A fine of not more than one hundred and 00/100 (\$100.00) dollars for the first offense, two hundred and 00/100 (\$200.00) dollars for the second offense, and five hundred and 00/100 (\$500.00) dollars for each subsequent offense, is hereby established. Each day in which the violation occurs, or continues, shall constitute a separate offense.

### Section 4. Ordinance Cumulative.

Procedures set forth in this Ordinance shall be in addition to any other remedies that may exist under law or ordinance for the abatement of public nuisances or for the removal of abandoned structures.

### Section 5. Severability.

Should any section or provision of this Ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, the declaration shall not affect the validity of this Ordinance as a whole or any part thereof that is not specifically declared to be invalid or unconstitutional.

Section 6. Conflict with Other Laws.

Wherever the requirements of this Ordinance are at variance with the requirements of any other lawfully adopted statutes, rules, regulations or ordinances, the most restrictive or that imposing higher standards shall govern.

Section 7. Enactment.

This Ordinance shall take effect and be in force this the 4th day of January, 2011. APPROVED and ADOPTED this the 3rd day of January, 2011.

## **CHAPTER 6 –BUSINESS AND FRANCHISE**

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### **PART 1 – ADULT BUSINESSES**

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### **ARTICLE 1 - REGULATING MASSEURS, MASSAGE PARLORS, HEALTH SALONS AND CLUBS**

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Section 1. Purpose, Applicability and Authority.

To protect the general health, safety, welfare and morals, the following licensing provisions hereinafter specified are ordained for the privilege of carrying on the business, trade, or profession of masseur or masseuse and for the operation or carrying on of the businesses, trade or professions commonly known as massage parlors, health salons, physical culture studies, clubs or establishments, or similar establishments by whatever name designated, wherein physical culture, massage, hydrotherapy or other physical treatment of the human body is carried on or practiced.

The provisions of this article shall not apply to a regularly established and licensed hospital, sanitarium, nursing home or medical clinic, nor to the office or clinic operated by a duly qualified and licensed medical practitioner, osteopath, or chiropractor in connection with his practice of medicine, chiropractor or osteopathy, provided, however, that such office or clinic is regularly used by such medical practitioner, chiropractor or osteopath as his principal location for his practice of medicine, chiropractic or osteopathy.

County of Columbus is authorized to regulate certain businesses within its jurisdiction pursuant and under authority of North Carolina General Statutes 153-A-45.

Section 2. Definitions.

**Masseur** means a male person who applies manual or mechanical massage or similar treatment to the human body trunk or limbs.

**Masseuse** means a female person who applies manual or mechanical massage or similar treatment to the human body trunk or limbs.

Section 3. License.

A. Any person desiring to engage in the business, trade or profession of masseur or masseuse or the operation or carrying on of any of the businesses, trades, professions, occupations or callings mentioned in Section 1 shall, before engaging in such business, trade, profession, occupation or calling, file an application for a license addressed to the Columbus County Tax Collector. Such application shall be in writing and shall set forth the following:

1. Name and address of applicant. If such applicant be a corporation, the address or addresses of such corporation and its officers.
2. Qualifications. These must be plainly stated and must be submitted together with required exhibits annexed to said application proving such qualifications.

Section 4. Qualifications of Applicant for License.

- A. An applicant hereunder, prior to making application for a license, must have the following qualifications:
1. The applicant may be male or female and shall be required to provide written recommendations showing proof of good moral character; and, in case the applicant is a corporation, such corporation must be created in or domesticated by the laws of the State and the officers thereof shall provide written recommendations showing proof of good moral character.
  2. Each applicant must furnish a health certificate from a medical doctor which shall accompany such application as an exhibit. Such health certificate shall be furnished for each masseur and masseuse who will be actually working under said license. Each employee who begins work as a masseur or masseuse following the original issuance of a license under this article shall likewise obtain a health certificate. A copy of the application and all certificates shall be furnished to the Sheriff of Columbus County. Said medical doctor must be licensed to practice in North Carolina.

Section 5. Issuance and Renewal of License and Payment of Fees.

- A. After submission of an application and approval of such application by the Columbus County Tax Collector and upon payment to the Columbus County Tax Collector of an examination fee of Five Hundred Dollars (\$500.00) for each premises and Fifty Dollars (\$50.00) for each masseur or masseuse in excess of three (3) to be employed or trained by the licensee on such premises, the Columbus County Tax Collector shall issue a license to the applicant.
- B. Each license shall be valid for the calendar year in which issued, expiring on the thirty-first day of December of the year of issue.
- C. Each license may be renewed from calendar year to calendar year by submission of the renewal application to the Columbus County Tax Collector at least thirty days prior to the expiration date of the license. After approval of said application and upon payment to the Columbus County Tax Collector of a renewal examination fee in the same amount as prescribed for initial applications, the County Tax Collector shall issue to the applicant a renewal certificate which shall validate the applicant's license for an additional calendar year. It shall be a valid basis for the denial of a license or a nonrenewal of a license if the Columbus County Tax Collector determines that the applicant or licensee has violated this Ordinance in any respect whatsoever or any other law or ordinance concerning the operation of any business, trade, profession, occupation or calling mentioned in Section 1 of this Ordinance. Any application or renewal on such grounds shall be appealable as any other denial according to the terms of Section 5.D.

- D. Approval of an application for issue or renewal of a license by the Columbus County Tax Collector shall be granted if he or she is satisfied as to the qualifications of the applicant, the correctness of the information contained in his or her application, the good moral character if the applicant is a corporation. If the license is denied because he or she is not so satisfied, the applicant shall be notified of the denial and the reason therefor and, upon his request, at the reasonable convenience of the Board of County Commissioners, the applicant shall be granted an opportunity to appear before said Board and be heard in defense of his application. After such hearing the Board may grant or deny the license.
- E. If the business to be licensed pursuant to this Ordinance is carried on at two or more separate places, a separate county license for each place or location of such business shall be required.
- F. The county license issued under this Ordinance shall be and constitute a personal privilege to conduct the profession or business named in the license and shall not be transferrable to any other person, and shall be construed to limit the person named in the license to conducting the profession or business and exercising the privilege named in the license to the location specified in the license; provided, if the holder of a license under this chapter moves the business for which a license has been obtained to another location, a new license may be issued to the licensee at a new location for the balance of the license year, upon surrender of the original license for cancellation.
- G. Revocation of a license shall not be cause for a refund of any fee paid for issuance or renewal of a license.
- H. It shall be unlawful willfully to make a false statement in an application for a license or request, for renewal of license under the provisions of this Ordinance.
- I. Every license or renewal of license issued shall show on the face thereof the name of the licensee, the nature of the business, the location thereof, the time it was issued, and payment of the fee.
- J. Licenses shall be kept posted where business is carried on. No person shall engage in any business or trade for which the issuance of a license pursuant to this Ordinance is required without having such license posted conspicuously at the place where such business or trade is carried on.

Section 6. Authority to Employ, Train Personnel.

Any applicant granted a license hereunder shall have the authority to train masseurs or masseuses under his supervision in his studio or establishment provided that the licensee shall furnish to the Sheriff of Columbus County, there to be kept by such Department, a health certificate of such employee from a medical doctor and provided that other requirements of this ordinance are met.

Section 7. Names of Employees to be Filed with Sheriff of Columbus County.

It shall be the duty of all persons holding a license hereunder to file with the Chief of Columbus County Police or the Sheriff of Columbus County the names of all employees, their home addresses, home telephone numbers and place of employment. Changes in the list of employees with the names of new employees must be filed with the Chief of the Columbus County Police or the Sheriff of, Columbus County within three business days from the date of such change.

Section 8. Employment of Persons Convicted of Certain Crimes.

No establishment licensed under the provisions of this Ordinance shall employ or continue the employment, of any person convicted within three (3) years of a violation of this Ordinance or any State or local statute prohibiting prostitution, lewdness, or indecent exposure or of any crime involving moral turpitude on the part of such person. Any person refused employment or discharges under the provisions of this section shall be given notice of the reason for such refusal and afforded an opportunity to be heard by the Board of County Commissioners in protest of the accuracy of a report of conviction. It shall be the duty of the Chief of the Columbus County Police or the Sheriff of Columbus County to check all names and other identifying data of employees submitted by establishments regulated by this Ordinance against available records of convictions in courts of this and the several States and the United States and to inform such establishment of the existence of records and convictions of any of its current or prospective employees. It shall be the duty of any owner, officer, or employee to provide any reasonable identifying data including fingerprints to assist the Chief of the Columbus County Police or the Sheriff of Columbus County in the performance of his duties. Failure to assist the Chief of the County Police or the Sheriff of Columbus County is just cause for denial or revocation of a license granted under this Ordinance.

Section 9. Enforcement and Revocation of License.

- A. It shall be the duty of the Chief of the Columbus County Police or the Sheriff of Columbus County, or his deputies, to inspect periodically, the premises licensed under this Ordinance, to determine any violations of its provisions, and to otherwise enforce said Ordinance.
- B. Upon acquiring substantial and reasonable evidence that an establishment requiring licensing under this Ordinance, or an owner, officer, or employee of such establishment, has violated a provision of this Ordinance, that a crime involving violence or moral turpitude has been committed by owners, officers, employees, customers, members, or guests on the premises of such an establishment, or that acts defined as nuisances under state or local statute have occurred on or about the premises of such establishment, and upon acquiring information of a conviction of any owner, officer, employee, customer, member or guest of such establishment for the aforementioned violations, crimes and acts or nuisance, the Sheriff or the Chief of the Columbus County Police shall notify the Board of County Commissioners of such evidence or conviction. The Board of County Commissioners shall then determine if there is sufficient

danger to the morals, public health, safety or general, welfare) of the citizens and residents of Columbus County to warrant revocation of the license of the establishment concerned. Upon determination that there is probable cause for revocation and after notification to the licensee of such determination and the reasons therefor, the Board of Commissioners shall schedule a hearing at which the licensee or his representative shall be afforded an opportunity to show good cause why his license should not be revoked. Upon licensee's failure to show good cause, the Board of County Commissioners shall revoke such license.

- C. In addition to the other requirements as to health certificates herein provided for, each masseur, masseuse, or other person who actually works under said license, shall have their health certificate renewed every sixty (60) days and provide the Columbus County Tax Collector a copy thereof. Said health certificate must be signed by a medical doctor licensed to practice in North Carolina. Any person purporting to operate under a license issued hereunder without a current health certificate as described in this subsection is guilty of a misdemeanor.

Section 10. Hours of Operation.

No masseur or masseuse or any person or party engaging in any of the businesses licensed by this article shall engage in such business, trade, profession, occupation or calling except within and between the hours of 8:00 A.M. and 10:00 P.M.; nor shall any operator of a massage parlor or establishment or business above enumerated and not specifically expected hereunder, operate the same except within and between the aforesaid hours.

Section 11. Certain Practices Proscribed.

- A. It shall be unlawful for any person engaging in the business, trade, or profession of masseur or masseuse, or any officer or employee of such persons, or any customers or member of an establishment requiring licensing under the provisions of this Ordinance, to engage in the following practices on or about the premises of such an establishment:
1. To offer or provide a massage to any person without having a currently valid license to do so except when under the supervision as an employee or trainee of a person with a currently valid license.
  2. To touch, manipulate, uncover or otherwise have physical contact with the genital organs of any person, whether directly or indirectly or whether such organs are covered or not.
  3. To go lie about such establishment without the genital organs being covered at all times.
  4. To provide or accomplish massage or any treatment offered by the establishment in private areas, which for the purpose of this provision are defined as areas:
    - a) designated to accommodate only a single customer or member and a single masseur or masseuse; and
    - b) in which the activities of such persons cannot be seen by a "supervisor" without opening a door or window or using a peep-hole or same similar device denying

“normal” vision.

- B. To operate or maintain an establishment requiring a license under the provisions of this Ordinance without posting in readable print in permanent places inside the establishment notice of the-practices which are declared unlawful under this Section and Section 12.
- C. It shall be unlawful for any person holding a license under this article to treat a person of the opposite sex except upon the signed order of a licensed physician, osteopath, chiropractor, or registered physical therapist, which order shall be dated and shall specifically state the number of treatments, not to exceed ten (10). The date and hour of each treatment given and the name of the operator shall be entered on such order by the establishment where such treatments are given and shall be subject to inspection by deputies at any reasonable time. The requirements of this section shall not apply to treatments given in the residence of a patient, the office of a licensed physician, osteopath, or registered physical therapist, chiropractor, or in a regularly established and licensed hospital or sanitarium.
- D. It shall be unlawful for any person to perform any massage or other treatment authorized or prohibited under this Ordinance in a place licensed under this Ordinance without being fully clothed.

Section 12. Patronage of Massage Parlors by Minors.

- A. It shall be unlawful for any person under the age of eighteen (18) to patronize any massage parlor or similar establishment licensed hereunder unless such person carries with him at the time of such patronage, a written order directing the treatment to be given by a regularly licensed physician.
- B. It shall be the duty of the operator of such massage parlor or similar establishment license hereunder to determine and have verification of the age of the person patronizing such establishment, and violation of this section shall be grounds for the revocation of the license of the establishment.

Section 13. Massages by Unlicensed Persons.

Massages as permitted by this article may be given by persons not holding a license as a masseur or masseuse only if such massages are given under the direct supervision of a person having a license as a masseur or masseuse who shall be in the same room where the massage is being administered during the entire time of the giving of the massage.

Section 14. Applicability.

The Provisions of this Ordinance with respect to the original issuance of license shall not apply to those engaged in the business, trade, professions, occupations, or callings enumerated above who have been so engaged in the County for a period of five (5) years or more prior to the adoption of this Ordinance; provided however, that the provisions of this Ordinance shall apply to all such businesses, trades, professions, occupations, or callings shall be properly licensed as provided herein within twenty (20) days of the effective date of this Ordinance.

Section 15. Violations.

If any person shall violate any provision, rule, or regulation of this Ordinance, he shall be guilty of a misdemeanor and upon conviction, punished as prescribed by North Carolina General Statutes 14-4. Each day that any person shall continue to do any act in violation of any such provision, rule, or regulation shall be and constitute a distinct and separate offense.

Section 16. Inducement to Violate Ordinances or Provisions of General Statutes Relating to Sexual Misconduct.

It shall be unlawful for any person to induce a licensee or employee or agent thereof to violate this Ordinance or any provision of the General Statutes of North Carolina involving sexual misconduct including but not limited to G. S. 14-177 through 202.1, (Offenses Against Public Morality and Decency), Article 26 and G. S. 14-203 through 208, Article 27, (Prostitution).

Section 17. Enactment and Effective Date.

Adopted this the 3rd day of October, 1977. This Ordinance shall become effective on the 17th day of October, 1977.

**ARTICLE 2 - SEXUALLY ORIENTED BUSINESSES**

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Section 1. Authority and Jurisdiction.

The provisions of this Article are adopted by the Columbus County Board of Commissioners under authority granted by the General Assembly of the State of North Carolina, in Chapter 153A, Section 135 of the General Statutes. From and after the effective date hereof, this Article shall apply to every building, lot, tract or parcel of land within the county exclusive of the jurisdiction of any incorporated municipality (as herein stated), and all lands under the ownership thereof.

Section 2. Purpose.

For the purpose of promoting the health, safety, morals and general welfare of the citizenry of Columbus County, this Article is adopted by the Board of Commissioners to regulate adult and sexually oriented businesses, as hereby defined, located in Columbus County. Further, the regulations of this Article have been made with reasonable consideration, among other things, as to the character of the County and its areas and their peculiar suitability for these businesses.

Section 3. Abrogation.

These regulations shall not repeal, impair, abrogate or interfere with any existing easements, covenants, deed restrictions, setback requirements, rules, definitions, regulations previously adopted pursuant to law in any established zoning district in Columbus County. However, where these regulations impose greater restrictions, the provisions of these regulations shall govern.

Section 4. Definitions.

The following words, terms and phrases appearing in this Chapter shall have the meanings appearing below, unless the context establishes a different meaning:

**Adult Arcade:** an establishment where, for any form of consideration, one (1) or more motion picture projectors, slide projectors or similar machines for viewing by five (5) or fewer persons each are used to show films, motion pictures, video cassettes, slides or other photographic reproductions that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas (as defined hereinafter).

**Adult Bookstore:** an establishment that has as a substantial portion (over twenty-five (25%) percent of total retail space) of its stock-in-trade and offers for rent or sale, for any consideration, any one (1) or more of the following:

- A. Books, magazines, periodicals or other printed material, or photographs, films, motion pictures, video cassettes, slides or other visual representations, that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas; or
- B. Instruments, devices or paraphernalia that are designed for use in connection with specified sexual activities.

**Adult Business:** any business activity, club or other establishment which permits its employees, members, patrons or guests on its premises to exhibit any specified anatomical areas before any other person or persons.

**Adult Motion Picture Theater:** an establishment where, for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions are shown, and in which a substantial portion twenty-five (25%) percent of the total presentation time is devoted to the showing of material characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas.

**Adult Theater** means a theater, concert hall, auditorium or similar establishment characterized by (activities featuring) the exposure of specified anatomical areas or by specified sexual activities.

**Massage** means any manipulation of body muscle or tissue by rubbing, stroking, kneading or tapping, by hand or mechanical device.

**Massage Business** means any establishment or business wherein massage is practiced, including establishments commonly known as health clubs, physical culture studios, massage studios or massage parlors.

**Sexually Oriented Business** means any business activity, club or other establishment, within which the exhibition, showing, rental or sale of materials distinguished or characterized by an emphasis on material depicting, describing or exhibiting specified anatomical areas or relating to specified sexual activities is permitted. Sexually oriented businesses shall include, but are not limited to: adult arcades, adult bookstores, adult motion picture theaters, adult theaters and

massage parlors, as defined by this Article.

***Specified Anatomical Areas*** means less than completely and opaquely covered human genitals, pubic regions, buttocks and female breasts below a point immediately above the top of the areola.

***Specified Sexual Activities:***

- A. Human genitals in a state of sexual stimulation or arousal;
- B. Acts of human masturbation, sexual intercourse, sodomy; or
- C. Fondling or other exotic touching of human genitals, pubic regions, buttocks or female breasts.

***Total Retail Space*** means any space within the structure that is used for the direct sale of merchandise to the public and storage areas for those items.

**Section 5. Separation Requirements and Non-Conforming Businesses.**

A. Adult Business: No adult business shall be permitted in any building:

- 1. Located within three thousand (3,000') feet in any direction from a building used as a dwelling.
- 2. Located within three thousand (3,000') feet in any direction from a building in which an adult business or a sexually oriented business is located.
- 3. Located within five thousand (5,000') feet in any direction from a building used as a church, synagogue or other house of worship.
- 4. Located within five thousand (5,000') feet any direction from a building used as a public school or as state licensed day care center.
- 5. Located within five thousand (5,000') feet in any direction from any lot or parcel on which a public playground, public swimming pool, or public park is located.

B. Sexually Oriented Business: No sexually oriented business shall be permitted in any building:

- 1. Located within three thousand (3,000') feet in any direction from a building used as a dwelling.
- 2. Located within three thousand (3,000') feet in any direction from a building in which an adult business or a sexually oriented business is located.
- 3. Located within five thousand (5,000') feet in any direction from a building used as a church, synagogue or other house of worship.
- 4. Located within five thousand (5,000') feet in any direction from a building used as a public school or as a state licensed day care center.
- 5. Located within five thousand (5,000') feet in any direction from any lot or parcel on which a public playground, public swimming pool or public park is located.

C. Nonconforming Adult Business and Sexually Oriented Adult Business:

An adult business or sexually oriented business lawfully operating on February 21, 2000, 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 reestablished. If two (2) or more adult businesses or sexually oriented adult businesses are within one thousand (1,000') feet of one another and otherwise in a permissible location, the business which was first established and continually operating at its present location shall be considered the conforming use and the later established business(es) shall be considered nonconforming. An adult business or sexually oriented adult business lawfully operating as a conforming use shall not be rendered nonconforming by the subsequent location of a dwelling, church, house of worship, day care center, school, playground, public swimming pool or public park within five thousand (5,000') feet of the adult business or sexually oriented business.

Section 6. Interpretation of Terms and Definitions.

- A. Words used in the present tense include the future tense.
- B. Words used in the singular number include the plural and words used in the plural number include the singular.
- C. The word "person" includes an owner, firm, joint venture, association, organization, partnership, corporation, trust and company, as well as an individual.
- D. The word "owner" when applied to a building or land, shall include any part owner, joint owner, tenant in common, joint tenant or tenant by entirety of the whole or part of such building or land.
- E. The word "lot" includes the words "plot" or "parcel".
- F. The word "building" includes the word "structure".
- G. The word "shall" is always mandatory and not merely directory.
- H. The words "located", "used" or "occupied", as applied to any land or building, shall be construed to include the words "intended, arranged or designed to be located, used or occupied".

- I. The word "dwelling" shall mean a structure or portion thereof which is used exclusively for human habitation.

Section 7. Severability.

It is hereby declared to be the intention of the Board that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Article is declared unconstitutional or invalid by the valid judgement or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Article, since the same would have been enacted by the Board of Commissioners without the incorporation in this Ordinance of any such unconstitutional or invalid phrase, clause, sentence, paragraph or section.

Section 8. Enforcement.

- A. Any person who violates this Article shall be guilty of a misdemeanor and upon conviction shall be punished in accordance with Section 14-4(a) of the North Carolina General Statutes.
- B. This Article may be enforced against any person who is in violation by an appropriate equitable remedy issuing from a court of competent jurisdiction as provided for in Section 153A-123(d) of the North Carolina General Statutes.
- C. This Article may be enforced against any person who is in violation by injunction and order of abatement as provided for in Section 153A-123(e) of the North Carolina General Statutes against any person who is in violation.
- D. Each day's continuing violation of this Article by any person is a separate and distinct offense.
- E. As used herein "person" shall include:
1. The agent in charge of the building, premises, structure or facility.
  2. The owner of the building, premises, structure or facility when such owner knew or reasonably should have known the nature of the business located therein.
  3. The owner of the business or the manager of the business.

Section 9. Enactment.

The ordinance establishing the provisions of this Article was adopted and effective the 21st day of February, 2000 upon motion by Commissioner Spruell R. Britt, seconded by Commissioner A. Dial Gray and passed unanimously and recorded in the Minutes of the said meeting Book 25, Pages 514-520 amending the original ordinance of October 3, 1977.

**PART 2 – DEALERS OF PRECIOUS METALS**

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Section 1. Purpose.

To protect the public health, safety and welfare by regulating the trade in precious metals within Columbus County.

Section 2. Definitions.

***Precious metals*** mean gold, silver or platinum.

***Precious metal dealer*** means a person, partnership, corporation, association, or firm engaged in the business of purchasing precious metals from non-commercial sources; however, precious metal dealer does not include a person, partnership, corporation, association or firm engaged exclusively in the business of purchasing coins or currency.

Section 3. Permit Required.

- A. No person, partnership, corporation, association or firm shall operate a precious metal dealership as herein defined unless such person, partnership, corporation, association or firm shall have first applied for and received the permit provided by this ordinance.
  
- B. Every application for the permit prescribed herein shall be upon a form approved by the County Tax Collector and shall be filed with the Tax Collector. Every such application shall be made under oath and shall contain the following information:
  - 1. If the applicant is a person, the name, fingerprints, photograph, date of birth, social security number, and address of such person. If applicant is a partnership, corporation, association or firm, the name, fingerprints, photograph, date of birth, social security number, address and residence of all persons having any legal or beneficial interest in such applicant.
  - 2. The address of the premises where the precious metal dealership shall be located;

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3. A complete statement of all convictions and arrests of any person(s) whose name(s) is (are) required to be given in paragraph (b) (1) above, for any felony or any crime involving fraud, theft or the receiving or processing of stolen property.
  4. A description of any other business to be operated on the same premises or on adjoining premises owned or controlled by the applicant;
  5. A list of the names, addresses, home telephone numbers, date, of birth, social security number, and other places of employment of all employees of the applicant; said list shall be updated whenever new employees are hired;
  6. A photographic copy of a receipt from the North Carolina Department of Agriculture Consumer Standards Division showing that all scales and weights to be used by the precious metal dealer in the establishment are approved.
- C. The Tax Collector shall transmit a copy of the application to the Sheriff's Department for an investigative report.
- D. An Application in proper form, accompanied by all reports required by this section, shall be submitted to the Columbus County Chairman of the Board of County Commissioners who shall approve it if it is determined that:
1. The application contains no misstatement of fact;
  2. The applicant, or any person having any legal or beneficial ownership interest in the applicant, has not been convicted of a felony or of any crime involving fraud, theft or the receiving or possessing of stolen property within the five (5) years immediately preceding the date of the application;
  3. The business premise conforms to all requirements of applicable zoning and building codes; and
  4. The business, by reason of the manner or place in which it is to be conducted, will not constitute a nuisance or in any other manner amount to a menace to good order, the public health, safety, or morals.
- E. Upon approval of the application, and upon receipt of Fifty Dollars (\$50.00) processing fee, the Tax Collector shall issue a permit to the applicant. A separate permit must be purchased for and prominently displayed at each location where the precious metal dealer engages in the business of purchasing precious metals.
- F. Any applicant whose application for a permit is denied by the County Chairman of the Board of County Commissioners pursuant to subsection (d) of this section or revoked by the County Chairman of the Board of County Commissioners pursuant to Section 6 of this Ordinance may appeal from such decision to the County Commissioners. An appeal is taken by filing written notice of such appeal with the Clerk to the Board of County Commissioners within ten (10) days following the date of the decision. The Board of County Commissioners shall set the

appeal for hearing in the manner provided by Section 7 of this Ordinance. The Board of County Commissioners may affirm, modify or reverse the County Chairman's decision.

Section 4. Records to be Kept and Notice.

- A. Every precious metal dealership shall keep, for at least three (3) years a tightly bound book (not loose leaf) with sequentially numbered pages, in which shall be legibly written, at the time of the purchase, an account and description of the item or items purchased or traded including, if available:
1. manufacturer's name; style; model number; serial number; engraved initials, number or other identifying marks;
  2. the amount of money paid for the item or items date of-purchase; and
  3. the name and-address of the person selling the items, including the source or identification of the seller.
- B. Within twenty-four (24) hours of a purchase, the dealer of precious metals must place in the US Mail, addressed to the Sheriff's Department of Columbus County, a memorandum of the information required in subsection A of this section.
- C. The books and records required by this section shall be kept at all times on the premises of the precious metal dealer's business and shall be made available during regular business hours, to any law enforcement officer. Said books and records must be kept for a period of three (3) years.

Section 5. Purchase of Precious Metals.

Prior to the purchase of precious metals, the dealer shall require the seller to present one form of government-issued identification containing age, address, and photographic likeness of the seller, such as a driver's license. Dealers shall make no purchase from a person who is less than eighteen (18) years of age. No dealer shall transfer possession of any purchased precious metal or materially alter the appearance or form of the metal to make identification by a prior owner substantially more difficult until at least five (5) days, excluding Saturday, Sunday, and holidays, have elapsed from the date of purchase. Precious metal dealers shall conspicuously post in their places of business the following conversion table on a sign, the letters of which are at least three (3) inches high:

**“one troy ounce equals 20 pennyweights**

**one troy ounce equals 31.1 grams**

**one gram equals 0.643 pennyweight”**

Section 6. Permit Revocation.

- A. A permit issued pursuant to section 3 may be revoked by the County Commissioners without refund of any part of the fee paid if the Board determines that:
1. The permittee has violated any provision of this Ordinance;
  2. The permittee has violated any zoning or building ordinance;
  3. The business is conducted or allowed to be conducted in a manner constituting a public nuisance;
  4. The permittee, or the legal or beneficial owner of any interest in the permittee, is convicted of any felony or crime involving fraud, theft or the receiving or possessing of stolen property.
- B. A permit issued pursuant to this section is void if the permittee moves or ceases operating a precious metal dealership at the location required to be stated in the application for permit pursuant to this Ordinance.

Section 7. Notice and Hearing.

Before the Board of County Commissioners revokes a permit issued pursuant to this Ordinance, or if an appeal is taken pursuant to Section 3 F, the Board shall cause a written notice to be sent by certified mail to the permittee affected or the applicant affected at the address stated in the permit or application. This notice shall advise the affected party of right to appear before the Board, with or without legal counsel, at a stated time and place, for the purpose of presenting any evidence relevant to such relocation or denial, and for the purpose of hearing all evidence submitted and examining or cross examining any person providing such evidence.

Section 8. Penalties.

Violation of any of the provisions of this Ordinance shall constitute a misdemeanor and, upon conviction, a violator shall be punished by a fine of not more than Fifty Dollars (\$50.00) or imprisoned for not more than thirty (30) days. Each and every violation shall constitute a separate and distinct offense.

Section 9. Enactment and Effective Date.

This Ordinance shall be effective February 15, 1981, and shall continue in force until such date as a state statute or regulation dealing with the same subject shall be enacted and in effect. At that time provisions of this Ordinance shall expire. The above Ordinance was passed by the Board of Commissioners on February 2, 1981, and action is recorded in minutes of that Board meeting.

**PART 3 – NON-EMERGENCY AMBULANCE FRANCHISE**

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Section 1. Applicability.

This Ordinance is not to be construed to govern Emergency Ambulance Service. Columbus County contracts with County rescue squads for emergency services. This Ordinance applies to and for a franchise for any non-emergency ambulance service that may wish to operate in the geographical confines of Columbus County. These non-emergency ambulance transport providers shall operate by franchise. This franchise shall be granted by the Columbus County Board of Commissioners.

Section 2. Definitions.

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

***Ambulance:*** Any privately or publicly owned motor vehicle, aircraft or vessel that is specifically designed, construed or modified and equipped and is intended to be used for and is maintained or operated for the transportation on any thoroughfare of Columbus County of persons who are sick, injured, incapacitated or helpless and meeting the North Carolina Administration Code TIO:030.0901-1004.

**Ambulance Service:** A public or privately owned enterprise that is engaged in the transportation of patient to non-emergency and/or emergency medical facilities.

**EMS Personnel:** The individual who is responsible for the operation of an ambulance for the transportation of a patient or patients.

**Franchise:** A permit issued by the County to a person for the operation of a non-emergency ambulance service.

**Franchisee:** Any person having been issued a franchise by the County for the operation of a non-emergency ambulance service.

**Non-Emergency Transportation Services:** The operation of an ambulance or rescue vehicle for any purpose other than an emergency.

**Operator:** A person in actual physical control of an ambulance or rescue vehicle which is in motion or which has the engine running.

**Owner:** Any person or entity who owns and operates an ambulance service.

**Patient:** An individual who is sick, injured, wounded or otherwise incapacitated or helpless.

### Section 3. Franchise Required.

- A. No person, either as owner, agent or otherwise, shall furnish, operate, conduct, maintain, advertise, or otherwise be engaged in or profess to be engaged in the business or service of non-emergency transportation of patients within the County of Columbus unless the person holds a valid permit for each ambulance used in such business or service issued by the North Carolina Department of Human Resources, Office of Emergency Medical Services, and has been granted a franchise for the operation of such business or service by the County pursuant to this Ordinance.
- B. No person shall drive an ambulance, attend a patient in one, or permit one to be operated when transporting a patient within the County of Columbus unless he/she holds a currently valid certificate as a medical responder, emergency medical technician, EMT-Intermediate, or EMT-Paramedic issued by the North Carolina Division of Health Service Regulation, Office of Emergency Medical Services under the United States Department of Health and Human Services.
- C. All persons, either as owners, agent or otherwise, shall establish an office in Columbus County with proper ambulances and equipment for the purpose of operating a non-emergency ambulance service.

- D. No franchise shall be required for and the provision of this division shall not apply to the following entities. However, such entities must comply with all applicable state and local laws relating to health, sanitation, safety, equipment, ambulance design and all other laws and ordinances.
1. Any entity rendering assistance to a franchised ambulance service in the case of a major catastrophe or emergency with which the ambulance services franchised by Columbus County are insufficient or unable to cope; or
  2. Any entity operated from a location or headquarters outside of Columbus County in order to transport patients who are picked up beyond the limits of Columbus County, but no such entity shall be used to pick up patients within Columbus County for transporting to locations within Columbus County unless it is rendering assistance as referred to in Subsection 1 above.
  3. Law enforcement personnel.
  4. All municipalities within Columbus County.
- E. Any ambulance service operated from a location or headquarters inside the County for the purpose of responding to on-site industrial accidents which may result in the non-emergency transport of a patient to an emergency medical facility within the County.

Section 4. Application for Ambulance Franchise.

Application for a franchise to operate ambulances in the County of Columbus shall be made by the ambulance provider upon such forms as may be prepared or prescribed by the County and shall contain:

- A. The name and address of the ambulance provider and of the owner of the ambulance(s).
- B. The trade or other businesses, corporations or agencies, if any, under which the applicant does business, along with a certified copy of an assumed name certificate stating such name or articles of incorporation stating such name.
- C. A resume of the training and experience of the applicant in the transportation and care of patients.
- D. A full description of the type and level of service to be provided, including the location of the place or places from which it is intended to operate, the manner in which the public will be able to obtain assistance and how the vehicles will be dispatched.
- E. A description of the applicant's capability to provide twenty-four (24) hour coverage, seven (7) days per week for the district covered for which the franchise was applied.

- F. Any information the County shall deem reasonably necessary for a fair determination of the capability of the applicant to provide ambulance services in the County of Columbus in accordance with the requirements of State laws and the provisions of this regulation.

Section 5. Granting of Franchise.

- A. Prior to accepting applications for the operation of an ambulance service, the Board of Commissioners may designate specific service areas as franchise districts. Said districts will be established using criteria that includes geographic size, road access, the location of existing medical transportation services, population and response time or no geographical districts may be designated with the franchise being inclusive of all of Columbus County. The County shall have the complete authority to delegate service areas at their discretion.
- B. Upon receipt of an application for a franchise, the County shall schedule a time and place for hearing the applicant. Within thirty (30) days after hearing, the County shall cause such investigation as it may deem necessary to be made of the applicant and his/her proposed operations.
- C. A franchise may be granted if the County finds that:
  - 1. The applicant shows a reasonable effort to meet state standards and standards outlined in the franchise ordinance for non-emergency services.
  - 2. The proposed service will fit within the existing service so as not to adversely affect the level of service or operations of other franchisees to render service.
  - 3. A need exists for the proposed service in order to improve the level of ambulance services available to residents of the County and that this is a reasonable and cost effective manner of meeting the need.

Section 6. Term of Franchise.

- A. The County may issue a franchise hereunder to an ambulance provider, to be valid for a term to be determined by the County, provided that either party as its option, may terminate the franchise upon sixty (60) days prior written notice to the other party. After a notice of service termination is given, the ambulance provider may reapply for a franchise if continued service is desired.
- B. Upon suspension, revocation or termination of a franchise granted hereunder, such franchised ambulance service immediately shall cease operations. Upon suspension, revocation or termination of a driver's license, the franchisee shall immediately cause such person to cease to drive an ambulance with an ambulance service. Upon suspension, revocation or termination of an EMS certification, the franchisee shall immediately cause such person to cease to provide medical care in conjunction with an ambulance service.

- C. Each franchised ambulance service shall comply, at all times, with the requirements of this Ordinance, the franchise granted hereunder, and all applicable State and local laws relating to health, sanitation, safety, equipment and ambulance design and all other laws and ordinances.
- D. Prior approval of the County shall be required where ownership or control of more than ten (10%) percent of the right of control of franchisee is acquired by a person or group of persons acting in concert, none of whom own or control ten (10%) percent or more of such right of control, singularly or collectively, at the date of the franchise. By its acceptance of the franchise, the franchisee specifically agrees that any such acquisition occurring without prior approval of the County shall constitute a violation of the franchise by the franchisee and shall be cause for termination at the option of the County.
- E. Any change of ownership of a franchised ambulance service without the approval of the County shall terminate the franchise and shall require a new application and a new franchise and conformance with all the requirements of this Ordinance as upon original franchising.
- F. No franchise may be sold, assigned, mortgaged or otherwise transferred without the approval of the County; and a finding of conformance with all requirements of this Ordinance as upon original franchising. Each franchised ambulance service, its equipment and the premises designated in the application and all records relating to its maintenance and operation, as such, shall be open to inspection by the State, the County or their designated representatives.

Section 7. Standards for Drivers and EMS Personnel.

Drivers and EMS personnel are subject to standards developed by the North Carolina Medical Care Commission for certification pursuant to Article 7, Chapter 131E and Article 56, Chapter 143 of the General Statutes of North Carolina and are incorporated into this Ordinance.

Section 8. Standards for Vehicles and Equipment.

Vehicles and equipment are subject to standards developed by the North Carolina Medical Care Commission pursuant to Article 7, Chapter 131E and Article 56, Chapter 143 of the General Statutes of North Carolina and are incorporated into this Ordinance.

Section 9. Standards for Communications.

- A. Each ambulance vehicle shall be equipped with an operational two-way radio capable of establishing good quality voice communications from within the geographic confines of Columbus County to the County hospital and all emergency agencies in Columbus County.
- B. Each ambulance provider will maintain current Federal Communication Commission licenses. All licenses will be available for inspections at all times per FCC regulations.

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- C. Each fixed base of operations must have at least one (1) open telephone line. Telephone numbers must be registered with each emergency service agency, communication center and law enforcement agencies in Columbus County.

### Section 10. Insurance.

No ambulance franchise shall be issued under this Ordinance, nor shall such franchise be valid after issuance, nor shall any ambulance be operated in the County of Columbus unless the franchisee has, at all times, in force and effect, insurance coverage, issued by an insurance company licensed to do business in the State of North Carolina, for each and every ambulance owned and/or operated by or for the ambulance service providing for the payment of damages:

- A. In the sum of five hundred thousand and 00/100 (\$500,000.00) dollars for injury to or death of individuals in accidents resulting from any cause for which the owner of said vehicle would be liable on account of liability imposed on him/her by law, regardless of whether the ambulance was being driven by the owner or his/her agency;
- B. In the sum of fifty thousand and 00/100 (\$50,000.00) dollars for the loss of or damage to the property of another, including personal property, under like circumstances, in sums as may be required by the State or as approved by the County of Columbus;
- C. Each ambulance provider shall have Worker's Compensation Insurance at all times; and
- D. Columbus County will not be held responsible for any negligent or wrongful or malfeasance on civil claims or judgment that may be filed against the non-emergency transport provider.

### Section 11. Records.

- A. Trip Records: Records that shall be designed as to provide the patient with a copy thereof containing all required information. A copy of the Trip Record may serve as a receipt for any charges paid.
- B. Daily Report Logs: Shall be maintained for the purpose of identifying more than one (1) person transported in any one (1) day.
- C. Annual Reports: Will be provided in written form to the Board of Columbus County Commissioners. This report will identify the number of transports made during the ambulance provider's fiscal year and any other information pertinent to the non-emergency operations. This report will be due thirty (30) days after the close of the past fiscal year.

### Section 12. Enforcement.

The Columbus County Emergency Services Office shall be the enforcing agency for regulations contained in this Ordinance. The Columbus County Emergency Services Office will:

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- A. Receive all franchise proposals from potential providers;
- B. Study each proposal for conformance to this Ordinance;
- C. Present the completed application to the Board of County Commissioners for its approval or disapproval of a franchise;
- D. Inspect the premises, vehicles, equipment and personnel of the franchisee to assure compliance to this Ordinance; and
- E. Recommend to the Board of County Commissioners the temporary or permanent suspension of a franchise in the event of non-compliance with the terms of this Ordinance.

### Section 13. Violations.

Violation of this Ordinance or the terms of any franchise granted hereunder shall be a misdemeanor as provided by North Carolina General Statutes, Section 14-4. Each such violation also shall subject the offender (franchisee) to a civil penalty in the amount of one hundred and 00/100 (\$100.00) dollars for each separate breach of the franchise or violation of this division. This civil penalty must be paid within ten (10) days after the hearing, as provided in Section 153A-123(c) above on said citation, has been held. If not so paid, such penalty may be recovered by the County as provided by North Carolina General Statutes, Section 1 53A-123(c). If the civil penalty is not paid within the ten (10) days as provided for above, the County may suspend or revoke the franchise.

### Section 14. Compensation.

- A. It will be the responsibility of the franchise holder/non-emergency ambulance provider to bill, charge or seek compensation for their services.
- B. The Columbus County Board of Commissioners will not be responsible for any expenses or cost associated with the operation of the franchised non-emergency ambulance transport service.
- C. Columbus County will provide no monetary inducements, stipends or payment to any non-emergency ambulance transport service.

### Section 15. Enactment.

Amended and adopted this the 17th day of August, 2009 by the Columbus County Board of Commissioners.

## **CHAPTER 7 – EMERGENCY MANAGEMENT**

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### **PART 1 - EMERGENCY MANAGEMENT AGENCY ORDINANCE**

#### Section 1. Short Title.

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

#### Section 2. Intent and Purpose.

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

#### Section 3. Definitions.

The following definitions shall apply in the interpretation of this Article:

**"Emergency Management"** shall mean those plans, actions, and procedures necessary to provide protection to the people against loss of life, injury, and loss or damage to property caused by natural phenomena or man-made causes such as war, insurrection, riot or accidents; and those measures necessary to mitigate the effects of the destructive forces of man and nature, to provide for response to disaster conditions and for the relief of suffering and hardship resulting from such

conditions and to initiate rehabilitation of persons and restoration of essential services and acceptable standards of living . (GS 162(1) Extract).

**"Disaster"** includes but is not limited to actual or threatened enemy attack, sabotage, extraordinary fire, flood, storm, epidemic, accident, chemical spill or other impending or actual calamity endangering or threatening to endanger health, life or property of constituted government.

**"Emergency Management Forces"** shall mean the employees, equipment, and facilities of all City and County departments, boards, councils, institutions and commission; and in addition, it shall include all volunteer personnel, equipment and facilities contributed by, or obtained from, volunteer persons or agencies.

**"Volunteer"** shall mean contributing a service, equipment, or facilities to the Emergency Management Agency without remuneration.

**"Emergency Management Volunteer"** shall mean any person duly registered, identified and appointed by the Coordinator of Columbus County Emergency Management Agency and assigned to participate in the Emergency Management Activity.

**"Coordinator"** shall mean the Coordinator of the Columbus County Emergency Management Agency, appointed as prescribed in this Ordinance.

**"Regulations"** shall include plans, programs and other emergency procedures deemed essential to emergency management.

Section 4. Organization and Appointments.

A. The organization shall consist of the following:

1. An agency of Emergency Management within the executive department of the Columbus County Government under the direction of the Columbus County Board of Commissioners. The agency head of the Columbus County Emergency Management Agency shall be known as the Coordinator, and such assistants and other employees as are deemed necessary for the proper functioning of the agency will be appointed.
2. The employees and resources of all Columbus County departments, boards, institutions, and councils shall participate in the emergency management activities. Duties assigned to the City or County department shall be the same as or similar to the normal duties of the department, where possible.

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3. Volunteer personnel and agencies offering service to, and accepted by the County.
- B. The Columbus County Board of Commissioners shall appoint a Coordinator of the Columbus County Emergency Management Agency who shall be a person well versed and trained in planning operations involving the activities of many different agencies which will operate to protect the public health, safety and welfare in the event of danger from enemy action or disaster as defined in this Ordinance.
- C. The Coordinator shall designate and appoint Deputy Coordinators to assume the emergency duties of the Coordinator in the event of his absence or inability to act.

### Section 5. Emergency Powers and Duties.

During any period when disaster or when Columbus County has been struck by disaster, within the definition of this Ordinance, the Emergency Management Coordinator and the Chairman of the Board of Commissioners may promulgate such regulations as they deem necessary to protect life and property and preserve critical resources. This promulgation of regulations jointly by the Coordinator and Chairman will be only when immediacy of necessary action precludes contact and discussion with the entire Columbus County Board of Commissioners. Such regulations may include, but shall not be limited to the following:

- A. Regulations prohibiting or restricting the movement of vehicles in order to facilitate the work of Emergency Management Forces, or to facilitate the mass movement of persons from critical areas within the County.
- B. Regulations pertaining to the movement of persons from areas deemed to be hazardous or vulnerable to disaster.
- C. Such other regulations necessary to preserve public peace, health, and safety.
- D. Regulations promulgated in accordance with the authority above will be given widespread circulation through all avenues of the news media.

### Section 6. Day to Day Duties and Responsibilities of the Coordinator.

The Coordinator shall be responsible to the Columbus County Board of Commissioners in regard to all phases of emergency management activity. The Coordinator shall be responsible for the planning, coordination and operation of the Emergency Management activities in Columbus County. The Coordinator shall maintain liaison with the State and Federal authorities and the authorities of nearby political subdivisions so as to insure the most effective operation of the

Emergency Management plans. The Coordinator's duties shall include, but not be limited to the following:

- A. Coordinating the recruitment of volunteer personnel and agencies to augment the personnel and facilities of the County of Columbus for Emergency Management purposes.
- B. Development and coordination of plans for immediate use of all facilities, equipment, manpower and other resources of the County for the purpose of minimizing or preventing damage to persons and property; and protecting and restoring to usefulness governmental services and public utilities necessary for the public health, safety, and welfare.
- C. Negotiating and concluding agreements with owners or persons in control of building or other property for the use of such building or other property for the Emergency Management purposes and designating suitable buildings as public shelters.
- D. Through public informational programs, educating the populace as to actions necessary and required for the protection of their persons and property in case of enemy attack or disaster as defined herein, either impending or present.
- E. Conducting public practice alerts to insure the efficient operation of the Emergency Management forces and to familiarize residents with Emergency Management regulations, procedures and operations.
- F. Coordinating the activity of all other public and private agencies engaged in any Emergency Management activities.

Section 7. Emergency Management Plans.

- A. Comprehensive Emergency Management plans shall be adopted and maintained by resolution of the Columbus County Board of Commissioners. In the preparations of these plans as it pertains to county organization, it is intended that the services, equipment and facilities and personnel of all existing departments and agencies shall be utilized to the fullest extent. When approved, it shall be the duty of all departments and agencies to perform the functions assigned by these plans to maintain their portions of the plans in a current state of readiness at all times. These Plans shall have the effect of law whenever a disaster, as defined in this Ordinance, has been proclaimed.
- B. The Coordinator shall prescribe in the emergency plans those positions within the disaster organization, in addition to his own, for which lines of succession are necessary. In each instance, the responsible person will designate and keep on file with the Coordinator a current

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list of three (3) persons as successors to his position. This list will be in order of succession and will nearly as possible designate persons best capable of carrying out all assigned duties and functions.

- C. Each service chief and department head assigned responsibility in the Plans shall be responsible for carrying out all duties and functions assigned therein. Duties will include the organization and training of assigned employees and where needed volunteers. Each chief shall formulate the Standing Operating Procedure to implement the plans for his service.
- D. Amendments to these Plans shall be submitted to the Coordinator. If approved, the Coordinator will then submit the amendments to the Columbus County Board of Commissioners with his recommendation for their approval. Such amendments shall take effect 30 days from the date of approval.
- E. When a required competency or skill for a disaster function is not available within government, the Coordinator is authorized to seek assistance from persons outside of government. The assignment of duties, when of a supervisory nature, shall also include the granting of authority for the persons so assigned to carry out such duties prior to, during, and after the occurrence of a disaster. Such services from persons outside of government may be accepted by local government on a volunteer basis. Such citizens shall be enrolled as Emergency Management volunteers.

### Section 8. No Municipal or Private Liability.

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

Section 9. Violations.

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

Section 10. Severability.

Should any provision of this Ordinance be declared invalid for any reason, such declaration shall not affect the validity of other provisions, or of this Ordinance, as a whole, it being the legislative intent that the provisions of this Ordinance shall be severable and remain valid notwithstanding such declaration.

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

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

Section 12. Enactment

This Ordinance was adopted by the Columbus County Board of Commissioners on November 4, 1996, upon motion by Commissioner Wilson, seconded by Commission Gray and passed unanimously. The Ordinance is effective immediately upon adoption. Recorded in the minutes of said meeting, Book 23, pages 763 – 770.

**PART 2 – STATE OF EMERGENCY ORDINANCE**

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

Under the authority of Article 36A of Chapter 14, Chapter 166A, and Chapter 153A of the North Carolina General Statutes, the County of Columbus ordains:

Section 1. State of Emergency: Declaration and Restrictions Authorized.

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

In the event of an existing or threatened state of emergency endangering the lives, safety, health and welfare of the people within Columbus County or any part thereof, or threatening damage to or destruction of property, the Chairperson of the Board of Commissioners of Columbus County is hereby authorized and empowered under Section 14-288.13 and 166A-8 to issue a public proclamation declaring to all persons the existence of such a state of emergency, and , in order to more effectively protect the lives and property of people within the County, to place in effect any or all of the restrictions hereinafter authorized.

The Chairperson is hereby authorized and empowered to limit by the proclamation the application of all or -any part of such restrictions to any area specifically designated or described within the County and to specify hours of the day or night; and to exempt from all or any part of such restrictions, while acting in the line of and within the scope of their respective duties, law enforcement officers, firemen and other public employees, rescue squad members, doctors, nurses, employees of hospitals and other medical facilities; on-duty employees of public utilities,-public transportation companies, and newspaper, magazine, radio broadcasting, and television broadcasting corporations operated for profit; and such other classes of persons as may be essential to the preservation of public order and immediately necessary to serve the safety, health, and welfare needs of people within the County.

Section 2. Proclamation Imposing Prohibitions and Restrictions.

A. The Chairperson of the Board of Commissioners of Columbus County by proclamation may impose the prohibitions and restrictions specified in Sections 3 through 8 of this Ordinance in the manner described in those sections. The Chairperson may impose as many of those

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specified prohibitions and restrictions as he/she finds are necessary, because of an emergency, to maintain an acceptable level of public order and services; and to protect lives, safety, and property. The Chairperson shall recite his/her findings in the proclamation.

- B. The proclamation shall be in writing. The Chairperson shall take reasonable steps to give notice of the terms of the proclamation to those affected by it and shall post a copy of it in the County Courthouse. The Chairperson shall send reports of the substance of the proclamation to the mass communications media which serves the affected area. The Chairperson shall retain a text of the proclamation and furnish upon request certified copies of it.

### Section 3. Evacuation.

The Chairperson may direct and compel the evacuation of all or part of the population of the County of Columbus, to prescribe routes, modes of transportation, and destination, in connection with evacuation; and to control ingress and egress of a disaster area, the movement of persons within the area, and the occupancy of premises therein. Details of the evacuation may be set forth or amended in a subsequent proclamation which shall be well publicized.

### Section 4. Curfew.

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

### Section 5. Restrictions on Possession, Consumption, or Transfer of Alcoholic Beverages.

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

Section 6. Restriction on Possession, Transportation, and Transfer of Dangerous Weapons and Substances.

- A. The proclamation may prohibit the transportation or possession off one's own premises, or the sale or purchase of any dangerous weapon or substance. The Chairperson may exempt from some or all of the restrictions, classes of people whose possession, transfer, or transportation of certain dangerous weapons or substances is necessary to the preservation of the public's health, safety, or welfare. The proclamation shall state the exempted classes and the restrictions from which each is exempted.
- B. Definition. For the purpose of this ordinance, certain words or terms used herein shall be defined as follows:
- "Dangerous weapon or substance"* means:
1. Any deadly weapon, ammunition, explosive, incendiary device, radioactive material or device as defined in G.S.14-288.8(c)(5), gasoline, or other instrument or substance designed for a use that carries a threat of serious bodily injury or destruction of property.
  2. Any other instrument or substance that is capable of being used to inflict serious bodily injury or destruction of property, when the circumstances indicate that there is some probability that such instrument or substance will be so used.
  3. Any part or ingredient in any instrument or substance included above when the circumstances indicate a probability that such a part or ingredient will be so used.
- C. If imposed, the restrictions shall apply throughout the jurisdiction of the County or such part thereof as designated in the proclamation.
- D. A violation of this section shall be punishable as provided in G.S. 14-288.7. Section 7.

Section 7. Restrictions on Access to Areas.

- A. The proclamation may prohibit obtaining access or attempting to obtain access to any area, designated in the manner described in this section, in violation of any order clearly posted notice, or barricade indicating that access is denied or restricted.
- B. Areas to which access is denied or restricted shall be designated by the Sheriff and his/her subordinates or other law enforcement officer when directed in the proclamation to do so by the Chairperson. When acting under this authority, the Sheriff and his subordinates may restrict or deny access to any area, street, highway or location within the County if that restriction or denial of access or use is reasonably necessary to promote efforts being made to overcome the emergency or to prevent further aggravation of the emergency.

Section 8. The Proclamation May Prohibit, Restrict or Authorize:

- A. Movements of people in public places;
- B. The operation of offices, business establishments, and other places to or from which people may travel or at which they may congregate;
- C. Other activities or conditions the control of which may be reasonably necessary to maintain order and protect lives or property during the state of emergency, within the area designated in the proclamation; and
- D. The expenditures of County contingency funds needed to expedite any action within the proclamation.

Section 9. Removal of Prohibitions and Restrictions.

The Chairperson shall by proclamation terminate the entire declaration of emergency or remove any of the prohibitions and restrictions when the emergency no longer requires them, or when directed to do so by the Board of Commissioners.

Section 10. Superseding the Amendatory Proclamations.

The Chairperson in his/her discretion may invoke the restrictions authorized by this Ordinance in separate proclamations, and may amend any proclamation by means of a superseding proclamation in accordance with the procedures set forth in Section 2.

Section 11. Termination of Proclamation.

Any proclamation issued under this Ordinance shall expire five (5) days after its last imposition unless sooner terminated in writing under the same procedures set forth in Section 2 for proclamations.

Section 12. In Case of Absence or Disability of Chairperson.

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

Section 13. Penalty for Violation.

Except as provided in Section 6, any person violating any prohibition or restriction imposed by a proclamation authorized by this Ordinance shall be guilty of a misdemeanor, punishable upon conviction by a fine not exceeding fifty-dollars (\$50.00) or imprisonment not exceeding 30 days, as provided by G.S. 14-4.

Section 14. Repeal of Conflicting Ordinances.

All Ordinances in conflict with the provisions of this Ordinance are hereby repealed.

Section 15. Territorial Applicability.

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

Section 16. Validity.

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

Section 17. Enactment.

This Ordinance was passed by the Columbus County Board of Commissioners on November 4, 1996, upon motion by Commissioner Wilson, seconded by Commissioner Gray and passed unanimously, and recorded in the minutes of said meeting, Book 23, pages 757 -763 and shall take effect on the 4th day of November, 1996.

**PART 3 – WATER EMERGENCY ORDINANCE**

**ARTICLE 1 – GENERAL PROVISIONS**

Section 1. Purpose.

The County's Public Utilities Department (henceforth referred to as the "Department") and the Board of County Commissioners (henceforth referred to as the "Commissioners") shall have the charge to protect the County's public water supply and to ensure that the benefactors of this system are assured an adequate supply of water even in times of water shortage. Water shortage can be the result of climatic conditions causing drought or it may be the result of a physical breach in the County's water supply system (i.e., mechanical failure, cut or broken water main, etc.) impeding the flow of potable or raw water supply.

Section 2. Definitions.

***Water Shortage*** -The result of climatic conditions causing drought or the result of a physical breach in the County's water supply system (i.e. mechanical failure, cut or broken water main, etc.) impeding the flow of potable or raw water supply.

***Water Production Capacity*** -The maximum volume of water that meets or exceeds state and federal standards that the water treatment process can produce during a twenty-four (24) hour period.

***Stage 1 - Water Conservation Alert*** - An immediate water shortage declared by appropriate state and/or local officials or when there are three (3) consecutive days when water demand exceeds eighty percent (80%) of the water production capacity.

***Stage 2 - Water Shortage Warning*** - An immediate water shortage declared by appropriate state and/or local officials or when there are two (2) consecutive days when water demand exceeds ninety percent (90%) of the water production capacity.

***Stage 3 - Water Shortage Danger*** - An immediate water shortage declared by appropriate state and/or local officials or when there is one (1) day when water demand exceeds one hundred percent (100%) of the water production capacity.

**ARTICLE 2 - WATER EMERGENCY RESTRICTIONS AND MANAGEMENT**

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Section 1. Declaration of Water Emergency.

The Director or his authorized representative is authorized to declare that a water emergency exists. Depending on the severity of the emergency, voluntary (Stage 1) and mandatory (Stage 2 and Stage 3) staged water use restrictions as described in this ordinance shall be imposed upon all water customers.

Section 2. Staged Water Use Restrictions.

A. **Stage 1 - Water Conservation Alert:** A Stage 1 Water Conservation Alert may be declared in the event of an immediate water shortage, as so declared by state and/or local officials, or when there are three (3) consecutive days when water demand exceeds eighty percent (80%) of the water production capacity. Water production capacity shall be defined as the maximum volume of water that meets or exceeds state and federal standards that the water treatment process can produce during a twenty-four (24) hour period. Water production capacity can vary depending on system component reliability and/or raw water conditions. During a declared Stage 1 Water Conservation Alert the following voluntary water conservation practices shall be encouraged:

1. Inspect and repair all faulty and defective parts of faucets and toilets.
2. Use showers for bathing rather than the bathtub and limit showers to no more than five (5) minutes.
3. Do not leave' faucets running while shaving, brushing teeth, rinsing or preparing food.
4. Limit the use of dishwashers and washing machines and when used, operate fully loaded. Operate dishwashers and washing machines after the peak demand hours of 6:00 P.M. to 10:00 P.M.
5. Limit lawn watering to that necessary for plant survival. Water lawns before the peak demand hours of 6:00 A.M. to 10:00 A.M.
6. Shrubbery should be watered at the minimum required amounts. Water shrubbery before the peak demand hours of 6:00 A.M. to 10:00 A.M.
7. Limit vehicle washing to a minimum.
8. Do not wash down outside areas such as sidewalks, driveways, patios, etc.
9. Install water saving showerheads and other water conservation devices.
10. Use disposable and biodegradable dishes where possible.

11. Install water saving devices in toilets such as early closing flappers.
12. Limit hours of water-cooled air conditioners.
13. Do not fill swimming or wading pools.

B. **Stage 2 - Water Shortage Warning:** A Stage 2 Water Shortage Warning watch may be declared in the event of an immediate water shortage, as so declared by state and/or local officials, or when there are two (2) consecutive days when water demand exceeds ninety percent (90%) of the water production capacity. Water production capacity shall be defined as the maximum volume of water that meets or exceeds state and federal standards that the water treatment process can produce during a twenty-four (24) hour period. Water production capacity can vary depending on system component reliability and/or raw water conditions. During a declared Stage 2 Water Shortage Warning the following activities shall be prohibited:

1. Watering lawns, grass, shrubbery, trees, flower and vegetable gardens except by handheld hoses, containers, or drip irrigation systems. A person who regularly sells plants will be permitted to use water on their commercial stock only. Golf courses are allowed to irrigate using water from storm water ponds, wastewater effluent, and irrigation wells only. State and County licensed landscape contractors may water any plants by handheld hoses or drip irrigation systems under a written warranty.
2. Filling swimming or wading pools, either newly constructed or previously drained.
3. Using water-cooled air conditioners or other equipment, in which cooling water is not recycled, unless there are health or safety concerns.
4. Washing any type of mobile equipment including cars, trucks, trailers, boats or airplanes. Businesses that provide car washing or detailing services and automobile dealers in preparation of sales or delivery may continue to operate. The cleaning of emergency vehicles, garbage trucks, and similar vehicles are excluded if it is necessary to preserve public health or vehicle functions.
5. Washing outside surfaces such as streets, driveways, service station aprons, parking lots or patios. Businesses that provide a service of washing the exterior of homes and other buildings will be an exception.
6. Washing the exterior of office buildings, homes, or apartments. Businesses that provide a service of washing the exterior of homes and other buildings will be an exception.
7. Using water for any ornamental fountain, pool, pond, etc.
8. Serving drinking water in food establishments such as restaurants or cafeterias, unless requested to do so by a customer.
9. Using water from a public or private fire hydrant for any reason other than to suppress a fire or other public emergency or as authorized by the Director or his authorized representative.
10. Using water to control or compact dust.
11. Intentionally wasting water.

12. Commercial and industrial water customers shall achieve mandatory reductions in water usage through whatever means are available. A minimum reduction of twenty percent (20%) shall be the target; however, a greater target reduction percentage may be required depending on the severity of the water shortage emergency. Compliance with the reduction target shall be determined by the Director or his authorized representative. Variances to the target reduction may be granted by the Director or his authorized representative to designated public health facilities.

C. **Stage 3 - Water Shortage Danger:** A Stage 3 Water Shortage Danger warning may be declared in the event of an immediate water shortage, as so declared by state and/or local officials, or when there is one (1) day when water demand exceeds one hundred percent (100%) of the water production capacity. Water production capacity shall be defined as the maximum volume of water that meets or exceeds state and federal standards that the water treatment process can produce during a twenty-four (24) hour period. Water production capacity can vary depending on system component reliability and/or raw water conditions. During a declared Stage 3 Water Shortage Danger the following activities shall be prohibited, in addition to activities prohibited under Stage 2:

1. Watering lawns, grass, shrubbery, trees, and flowers. Plant nurseries will be permitted to irrigate their products only. State and County Licensed Landscape Contractors may water newly installed landscaping by handheld hoses or drip irrigation systems under a written warranty. Golf courses are allowed to irrigate using water from storm water ponds, wastewater effluent, and irrigation wells only.
2. Washing any type of mobile equipment including cars, trucks, trailers, boats, airplanes, etc. Businesses that provide car washing or detailing services and automobile dealers in preparation of sales or delivery may continue to operate. The cleaning of emergency vehicles, garbage trucks, and similar vehicles are excluded if necessary to preserve public health or vehicle functions.
3. Watering any vegetable garden except by handheld hoses, containers, or drip irrigation systems.
4. Commercial and industrial water customers shall achieve mandatory reductions in water usage through whatever means are available. A minimum reduction of fifty percent (50%) shall be the target; however, a greater target reduction percentage may be required depending on the severity of the water emergency. Compliance with the reduction target shall be determined by the Director or his authorized representative. Variances to the target reduction may be granted by the Director or his authorized representative to designated Public Health facilities.
5. In the event that the prohibition of the activities listed above is not sufficient to maintain an adequate supply of water for fire protection, all use of water for purposes other than maintenance of public health and safety shall be prohibited. Residential water use shall be

limited to the amount necessary to sustain life through drinking, food preparation, and personal hygiene.

Section 3. Compliance Plan During Stage 2 and Stage 3 Emergencies.

The Director or his authorized representative may require that commercial and industrial water customers prepare plans detailing measures to be taken by them to achieve mandatory reductions in daily water usage during Stage 2 and Stage 3 emergencies. Such plans shall be completed within sixty (60) calendar days after receipt of notice to prepare them.

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Section 1. Penalties for Violation of Mandatory Restrictions.

Any user who is found to have failed to comply with any of the mandatory restrictions set forth herein these Regulations may be fined in accordance with North Carolina General Statute 153A-123(c) in conjunction with North Carolina General Statute Section 14-4. The amount of the fine is to be set greater than \$50.00 (fifty dollars) by the Columbus County Board of Commissioners and recorded with the Clerk to the Board. This is to be recovered by the County in a civil action in the nature of debt if the offender does not pay the penalty within fifteen (15) calendar days of being cited for the violation. Each day's continuing violation shall be considered as a separate and distinct offense.

Section 2. Authority to Discontinue Service.

Pursuant to the provisions of North Carolina General State 153A-123, water service may be temporarily discontinued for a reasonable amount of time for failure to comply with the mandatory restrictions in this ordinance. All applicable penalty fees may be applied in the event of such service suspensions. In the event of continued non-compliance with this ordinance, after a reasonable amount of time, removal of meter and service will be deemed proper and service will

be discontinued. Any and all tap fees and account deposits will be forfeited.

Section 3. Appeals by Customers of Penalties and Termination of Service.

Any user who received a penalty and/or has service terminated as a result of violations of the mandatory restrictions in this ordinance may appeal upon notification to the Director. The Director shall be the final decision maker for appeals and shall transmit a written copy of the final decision by United States certified mail to said user or user's agent within three (3) calendar days after notification.

Section 4. Adoption and Enforcement of Ordinance by Public or Private Water System.

Unless enforcement will breach previous agreement, public or private water systems purchasing water from the County shall adopt and enforce this entire ordinance as a condition of water service. Upon declaration of a water shortage emergency, the public or private water systems shall, within a reasonable amount of time, enforce the appropriate water use restrictions for the level of declared emergency.

Section 5. Termination of Restrictions.

A water emergency declaration will expire when the Director or his authorized representative determines that, based upon reasonable information, the condition that caused the emergency has abated. The expiration or cancellation of a water shortage emergency declaration shall, within a reasonable amount of time and with reasonable means, be promptly and extensively publicized.

Section 6. Enactment.

The above Ordinance was passed by the Columbus County Board of Commissioners on December 03, 2007, upon motion by Commissioner Amon E. McKenzie, seconded by Commissioner Ronald Gore and passed unanimously, and recorded in the minutes of said meeting, Book 30, Pages 511-515.

## **CHAPTER 8 - ENVIRONMENT**

### **NOISE AND WATERSHED PROTECTION**

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#### **PART 1 - NOISE**

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#### Section 1. Prohibited.

Subject to the provisions of this ordinance, the creation of any unreasonably loud and disturbing noise in Columbus County and outside the corporate limits of any town is hereby prohibited and unlawful. Noise of such character, intensity, and duration as to be detrimental to the life or health of any individual is hereby prohibited. It shall be unlawful for any person to make, continue, or cause to be made or continued any loud or unusual noise or any noise which annoys, disrupts, injures, or endangers the health, safety, comfort, and welfare of other citizens within the County of Columbus and outside of any corporate limits.

#### Section 2. Violations.

The following acts are declared to be loud and/or disruptive noises in violation of this ordinance, but such enumeration shall not be deemed to be exclusive, and the acts herein enumerated are found to be annoying to the public and contrary to the health, safety, comfort, and welfare of the people and each is declared to be a nuisance:

- A. ***Blowing Horns.*** The sounding of any horn or signal device on any automobile, motor vehicle, motorcycle, or other vehicle on any street or public highway of the County of Columbus except as a danger sounding device only; the creation by means of a signaling device of any loud or harsh sound; the sounding of such device for any unreasonable period of time; the use of a horn, whistle, or other device operated by engine exhaust; the use of such signaling device when the traffic for any reason held up or not flowing in a normal

manner;

- B. ***Yelling, Shouting, Hooting*** Whistling or singing on the public streets or highways, or public vehicular area between the hours of 11:00 o'clock PM and 7 :00 o'clock AM or at any other time or place so as to annoy or disrupt the quiet, comfort, or repose of any person in any office, dwelling, hotel, or other type of residence, or any of the persons in the said vicinity of those locations.
- C. ***Defect in Vehicle or Load.*** The use of any automobile, motorcycle, or other vehicles so out of repair, so loaded, or in such a manner as to create a loud or unreasonable grating, grinding, rattling, or other noise.
- D. ***Excessive Noises Near Churches.*** The creation of any excessive noise on any street or public highway adjacent to any church which disturbs or unreasonably interferes with the working of the institution or the conducting of the religious activities contained therein.
- E. ***Radios or Phonographs, etc.*** The using, operating or permitting to be played or used or operated any radio or television, receiver set, musical instrument, phonograph, or other machine or device for the producing or reproducing of sound in such manner as to disrupt the peace, quiet or comfort of the neighboring inhabitants or at any time louder volume than is necessary for the convenient hearing of the persons who are in the room, vehicle, or chamber in which such machine or device is operated and who are voluntary listeners thereto. The operation of such set, instrument, phonograph, machine, or device between the hours of 11:00 o'clock PM and 7:00 o'clock AM in such a manner as to be plainly audible at a distance of fifty (50) feet from the building, structure, or vehicle in which it is located shall be prima facie evidence of a violation of this section.
- F. ***Live Music. Jukeboxes. and Similar Musical Instrument.*** It shall be unlawful for any person or group of persons to play musical instruments, either individually or as a live band, or to play or permit to be played, in any place of business or amusement hall in the County of Columbus, any jukeboxes or similar musical instruments in violation of any of the following regulations:
  - 1. No musical instrument or live band shall be played under any conditions between the hours of 1:00 o'clock AM and 7:00 o'clock AM and no musical instrument shall be played under any condition at any time when the volume of such instrument is sufficient to disrupt the public.
  - 2. Jukeboxes and similar musical instruments shall be allowed to play seven (7) days per week between the hours of 7:00 o'clock AM and 1:00 o'clock AM in enclosed buildings only.

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3. All persons keeping or maintaining a jukebox or similar musical instrument in the place of business or amusement hall in the County of Columbus shall keep the volume of such instrument turned down at all times, so that the sound of the said instrument shall not disrupt the public.
- G. **Exemptions.** The provisions of this section shall not apply to public schools, official school functions or present churches, to warning signals required by law for vehicles on highways, streets, or railroads, or to whistles at mills or factories, or to policemen, firemen, or other public officials while in performance of their official duties or to anyone responding to public emergencies or protecting the public safety.
- H. **Loudspeakers or Magnifier.** It shall be unlawful for any person to speak into a loudspeaker or magnifier when such loudspeaker or magnifier is so adjusted that the volume of the magnifier or speaker is extended to the extent audibly in excess of 150 feet from the person speaking.
- I. **Penalty.** Any person violating the provisions of this ordinance, upon conviction, shall be guilty of a Class III misdemeanor and shall be fined not in excess of (\$500.00) Dollars and/or imprisoned not exceeding twenty (20) days.
- J. **Severability.** Should any word, phrase, sentence, or paragraph be deemed to be unconstitutional or in violation of state or federal law, then the remainder of this ordinance shall remain in full force and effect.
- K. **Special, Sanctioned, Organized by Sponsorship or Community Events and Festivals.** Any activity that is classed as special, sanctioned, organized by sponsorship, or community events and festivals may be held and operate to a closing time of 11 :30 P.M. during the months of April 1 through September 30. During these months, no event will begin after the 11 :30 P.M. time. This closing time is contingent on time changes to Daylight Savings Time. From September 30 to March 31, no events will be started after 11 :00 P.M. Should Day Light Savings Time not be in effect, then all events will be based on the 11:00 P.M. closing time for events and activities. Functions of the above stated uses in unincorporated areas of Columbus County will require all subject business licenses and permits and must be registered with the Columbus County Administration Office.
- L. **Application.** This Ordinance does not apply to planting and/or preparation for and harvesting of any product and/or the preparation and marketing of any product that is controlled, in whole or in part, by the United States Department of Agriculture or the North Carolina Department of Agriculture or any agency or sub agency thereof. This Ordinance shall be in full force and effect from and after its adoption. ADOPTED this the 18th day of June 2001.

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### Section 3. Enactment.

The above Ordinance was passed by the Board of County Commissioners on June 26, 2001, upon motion by Commissioner Memory, seconded by Commissioner Wilson and passed unanimously to amend the Ordinance Prohibiting Noises that was approved at the June 18,2001 Board Meeting and is recorded in the Minutes of said meeting, Book 26, pages 437-440. The Ordinance that was adopted on June 26,2001 replaces the Ordinance adopted June 18,2001 and May 4, 1992.

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## **PART 2 - WATERSHED PROTECTION**

### **ARTICLE 1 - AUTHORITY AND GENERAL REGULATIONS**

#### Section 1. Authority and Enactment.

The Legislature of the State of North Carolina has, in Chapter 153A, Article 6, Section 121, General Ordinance Authority; and in Chapter 143, Article 21, Watershed Protection Rules, delegated the responsibility or directed local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. The Board of Commissioners of Columbus County does hereby ordain and enact into law the following articles as the Watershed Protection Ordinance of Columbus County.

#### Section 2. Jurisdiction.

The provisions of this Ordinance shall apply within the areas designated as a Public Water Supply Watershed by the N.C. Environmental Management Commission and shall be defined and established on the map entitled, "Watershed Protection Map of Columbus County, North Carolina" ("the Watershed Map"), which is adopted simultaneously herewith. The Watershed Map and all explanatory matter contained thereon accompanies and is hereby made a part of this Ordinance. This Ordinance shall be permanently kept on file in the office of the County Clerk.

#### Section 3. Exceptions to Applicability.

- A. Nothing contained herein shall repeal, modify, or amend any Federal or State law or regulation, or any ordinance or regulation pertaining thereto except any ordinance which these regulations specifically replace; nor shall any provision of this Ordinance amend, modify, or restrict any provisions of the Code of Ordinances of Columbus County; however, the adoption of this Ordinance shall and does amend any and all ordinances, resolutions, and regulations in effect in the County at the time of the adoption of this Ordinance that may be construed to impair or reduce the effectiveness of this Ordinance or to conflict with any of its provisions.
- B. It is not intended that these regulations interfere with any easement, covenants or other agreements between parties. However, if the provisions of these regulations impose greater restrictions or higher standards for the use of building or land, then the provisions of these regulations shall control.
- C. Existing development, as defined in this Ordinance, is not subject to the requirements of this Ordinance. Expansions to structures classified as existing development must meet the

requirements of this Ordinance, however, the built-upon area of the existing development is not required to be included in the density calculations.

- D. If a nonconforming lot of record is not contiguous to any other lot owned by the same party, then that lot of record shall not be subject to the development restrictions of this ordinance if it is developed for single-family residential purpose. However, this exemption is not applicable to multiple contiguous lots under single ownership. See Article 3, Section 7.A.2 regarding the recombination of existing lots.

#### Section 4. Criminal Penalties.

Any person violating any provisions of this Ordinance shall be guilty of a misdemeanor and, upon conviction, shall be punished in accordance with NCGS 14-4. The maximum fine for each offense shall not exceed \$500.00. Each day that the violation continues shall constitute a separate offense.

#### Section 5. Remedies.

- A. If any subdivisions, development and/or land use is found to be in violation of this Ordinance, the Columbus County Board of Commissioners may, in addition to all other remedies available either in law or in equity, institute a civil penalty in the amount of \$100.00, action or proceeding to restrain, correct, or abate the violation; to prevent occupancy of the building, structure, or land; or to prevent any illegal act, conduct, business, or use in or about the premises. In addition, the N.C. Environmental Management Commission may assess civil penalties in accordance with G.S. 143-215.6(a). Each day that the violation continues shall constitute a separate offense.
- B. If the Watershed Administrator finds that any of the provisions of this Ordinance are being violated, he shall notify in writing the person responsible for such violation, indicating the nature of the violation, and ordering the action necessary to correct it. He shall order discontinuance of the illegal use of land, buildings or structures; removal of illegal buildings or structures, or of additions, alterations or structural changes thereto; discontinuance of any illegal work being done; or shall take any action authorized by this Ordinance to ensure compliance with or to prevent violation of its provisions. If a ruling of the Watershed Administrator is questioned, the aggrieved party or parties may appeal such ruling to the Watershed Review Board.

Section 6. Severability.

Should any section or provision of this Ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, the declaration shall not affect the validity of this Ordinance as a whole or any part thereof that is not specifically declared to be invalid or unconstitutional.

**ARTICLE 2 - SUBDIVISION REGULATIONS**

Section 1. General Provisions.

- A. No subdivision plat of land within the Public Water Supply Watershed shall be filed or recorded by the Register of Deeds until it has been approved in accordance with the provisions of this Article. Likewise, the Clerk of Superior Court shall not order or direct the recording of a plat if the recording of such plat would be in conflict with this Article.
- B. The approval of a plat does not constitute or effect the acceptance by the County or the public of the dedication of any street or other ground, easement, right-of-way, public utility line, or other public facility shown on the plat and shall not be construed to do so.
- C. All subdivisions shall conform with the mapping requirements contained in G.S.47-30.
- D. All subdivisions of land within the Water Supply Watershed jurisdiction of the County after the effective date of this Ordinance shall require a plat to be prepared, approved, and recorded pursuant to this Ordinance.

Section 2. Subdivision Application and Review Procedures.

- A. All proposed subdivisions shall be reviewed prior to recording with the Register of Deeds by submitting a vicinity map to the Watershed Administrator to determine whether or not the property is located within the designated Public Water Supply Watershed. Subdivisions that are not within the designated watershed area shall not be subject to the provisions of this Ordinance and may be recorded provided the Watershed Administrator initials the vicinity map. In addition, subdivisions within a WS-IV watershed are subject to the provisions of this Ordinance only when an erosion and sedimentation plan is required under the provisions of State law, or approved local program. Subdivisions within the designated watershed area shall comply with the provisions of this Article and all other state and local requirements that may apply.
- B. Subdivision applications shall be filed with the Watershed Administrator. The application shall include a completed application form, two (2) copies of the plat and supporting

documentation deemed necessary by the Watershed Administrator or the Watershed Review Board.

C. The Watershed Administrator shall review the completed application and submit recommendations to the Watershed Review Board for further review and final action. The Watershed Review Board shall either approve, approve conditionally or disapprove each application by a majority vote of the members present and voting. First consideration of the application shall be at the next regularly scheduled meeting of the Board after the application is submitted. The Board shall take final action within forty-five (45) days of its first consideration. The Watershed Administrator or the Board may provide public agencies an opportunity to review and make recommendations. However, failure of the agencies to submit their comments and recommendations shall not delay the Board's action within the prescribed time limit. Said public agencies may include, but are not limited to, the following:

1. The district highway engineer with regard to proposed streets and highways.
2. The director of the Health Department with regard to proposed private water system or sewer systems normally approved by the Health Department.
3. The state Division of Environmental Management with regard to proposed sewer systems normally approved by the Division, engineered storm water controls or storm water management in general.
4. Any other agency or official designated by the Watershed Administrator or Watershed Review Board.

D. If the Watershed Review Board approves the application, such approval shall be indicated on both copies of the plat by the following certificate and signed by the chairman or other authorized member of the Board:

**WATERSHED CERTIFICATE OF APPROVAL FOR RECORDING**

I certify that the plat shown hereon complies with the Watershed Protection Ordinance and is approved by the Watershed Review Board for recording in the Register of Deeds office.

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
Date

\_\_\_\_\_  
Chairman, Watershed Review Board

NOTICE: This property is located within a Public Water Supply. Watershed development restrictions may apply.

- E. If the Watershed Review Board disapproves or approves conditionally the application, the reasons for such action shall be stated in writing for the applicant and entered in the minutes. The Subdivider may make changes and submit a revised plan which shall constitute a separate request for the purpose of review.
- F. All subdivision plats shall comply with the requirements for recording of the County Register of Deeds.
- G. The Subdivider shall provide the Watershed Administrator with evidence the plat has been recorded with the Register of Deeds within five (5) working days of its being recorded.

Section 3. Subdivision Standards and Required Improvements.

- A. All lots shall provide adequate building space in accordance with the development standards contained in Article 3. Lots which are smaller than the minimum required for residential lots shall be identified on the plat as, "NOT FOR RESIDENTIAL PURPOSES".
- B. For the purpose of calculating built-upon area, total project area shall include total acreage in the tract on which the project is to be developed.
- C. Storm Water Drainage Facilities. The application shall be accompanied by a description of the proposed method of providing storm water drainage. The Subdivider shall provide a drainage system that diverts storm water runoff away from surface waters and incorporates best management practices to minimize water quality impacts.
- D. Erosion and Sedimentation Control. The application shall, where required, be accompanied by a written statement that a Sedimentation and Erosion Control Plan has been submitted to and approved by the N.C. Division of Land Quality.
- E. Roads constructed in critical areas and watershed buffer areas. Where possible, roads should be located outside of critical areas and watershed buffer areas. Roads constructed within these areas shall be designed and constructed so to minimize their impact on water quality.

Section 4. Construction Procedures.

- A. No construction or installation of improvements shall commence in a proposed subdivision until a subdivision plat has been approved by the Watershed Review Board.
- B. No building or other permits shall be issued for erection of a structure on any lot not of record at the time of adoption of this Ordinance until all requirements of this Ordinance have been met. The Subdivider, prior to commencing any work within the subdivision, shall make

arrangements with the Watershed Administrator to provide for adequate inspection.

Section 5. Penalties for Transferring Lots in Unapproved Subdivisions.

Any person who, being the owner or agent of the owner of any land located within the jurisdiction of the County, thereafter subdivides his land in violation of this Ordinance or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under this Ordinance and recorded in the office of the Register of Deeds, shall be guilty of a misdemeanor. The description by metes and bounds in the instrument of transfer or 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 this Ordinance.

**ARTICLE 3 - DEVELOPMENT REGULATIONS**

Section 1. Establishment of Watershed Areas.

The purpose of this Article is to list and describe the watershed areas herein adopted. For purposes of this Ordinance, the County is hereby divided into the following areas, as appropriate:

- WS-IV-CA (Critical Area)
- WS-IV-PA (Protected Area)

Section 2. Watershed Areas Described.

**A. WS-IV Watershed Areas -Critical Area (WS-IV-CA).** Only new development activities that require an erosion/sedimentation control plan under State law or approved local program are required to meet the provisions of this Ordinance when located in the WS-IV Watershed. In order to address a moderate to high land use intensity pattern, single family residential uses are allowed at a maximum of two (2) dwelling units per acre. All other residential and non-residential development shall be allowed twenty-four (24%) percent built-upon area. New residuals application sites and landfills are specifically prohibited.

1. WS-IV Watershed Areas -Critical Area (WS-IV-CA) Allowed Uses:
  - a) Agriculture subject to the provisions of the Food Security Act of 1985 and the Food, Agriculture, conservation and Trade Act of 1990. Agricultural activities conducted after January 1, 1993 shall maintain a minimum ten (10) foot vegetative buffer, or equivalent control as determined by the Soil and Water Conservation Commission, along all perennial waters indicated on the most recent versions of U.S.G.S. 1: 24,000 (7.5 minute) scale topographic maps or as determined by local

government studies. Animal operations greater than one hundred (100) animal units shall employ Best Management Practices by July 1, 1994, recommended by the Soil and Water Conservation Commission.

- b) Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 11.6101-.0209).
- c) Residential.
- d) Non-residential development, excluding: 1) discharging landfills and 2) sites for land application of residuals or petroleum contaminated soils.

2. Density and Built-upon Limits:

- a) Single Family Residential--development shall not exceed two (2) dwelling units per acre on a project by project basis. No residential lot shall be less than one-half (1/2) acre, except within an approved cluster development.
- b) All Other Residential and Non-Residential--development shall not exceed twenty-four (24%) percent built-upon area on a project by project basis. For the purpose of calculating the built-upon area, total project area shall include total acreage in the tract on which the project is to be developed.

A. **WS-IV Watershed Areas -Protected Area (WS-IV-PA).** Only new development activities that require an erosion/sedimentation control plan under State law or approved local government program are required to meet the provisions of this Ordinance when located in a WS-IV watershed. In order to address a moderate to high land use intensity pattern, single family residential uses shall develop at a maximum of two (2) dwelling units per acre. All other residential and nonresidential development shall be allowed at a maximum of twenty-four (24%) percent built-upon area. A maximum of three (3) dwelling units per acre or thirty-six (36%) percent built-upon area is allowed for projects without a curb and gutter street system.

1. WS-IV Watershed Areas -Protected Area (WS-IV-PA) Uses Allowed:

- a) Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990.
- b) Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 11.6101-.0209).
- c) Residential development.
- d) Non-residential development.

2. Density and Built-upon Limits:

- a) Single Family Residential--development shall not exceed two (2) dwelling units per acre, as defined on a project by project basis. No residential lot shall be less than one-half (1/2) acre, or one-third (1/3) acre for projects without a curb and gutter system, except within an approved cluster development.
- b) All Other Residential and Non-Residential--development shall not exceed twenty-four (24%) percent built-upon area on a project by project basis. For projects without a curb and gutter street system, development shall not exceed thirty-six (36%) percent built-upon area on a project by project basis. For the purpose of calculating built-upon area, total project area shall include acreage in the tract on which the project is to be developed.

Section 3. Cluster Development.

Clustering of development is allowed in all Watershed Areas under the following conditions:

- A. Minimum lot sizes are not applicable to single family cluster development projects; however, the total number of lots shall not exceed the number of lots allowed for single family detached developments in Article 3, Section 2. Built-upon area or storm water control requirements of the project shall not exceed that allowed for the critical area or balance of watershed protected area, whichever applies.
- B. All built-upon area shall be designed and located to minimize storm water runoff impact of the receiving waters and minimize concentrated storm water flow, maximize the use of sheet flow through vegetated areas and maximize the flow length through vegetated areas.
- C. Areas of concentrated development are located in upland areas and away, to the maximum extent practicable, from surface waters and drainage ways.
- D. The remainder of the tract shall remain in a vegetated or natural state. Where the development has an incorporated property owners' association, the title of the open space area shall be conveyed to an incorporated homeowners' association for management; to a local government for preservation as a park or open space; or to a conservation organization for preservation in a permanent easement.
- E. Cluster development shall transport stormwater runoff from the development by vegetated conveyances to the maximum extent practicable.

Section 4. Buffer Areas Required.

- A. A minimum thirty (30) foot vegetative buffer for development activities is required along all perennial waters indicated on the most recent versions of U.S.G.S. 1: 24,000 (7.5 minute) scale topographic maps or as determined by local government studies. Desirable artificial

stream band or shoreline stabilization is permitted.

- B. No new development is allowed in the buffer except that for water dependent structures other structures such as flag poles, signs, and security lights which result in only diminutive increases in impervious area, and public works projects such as road crossings and green ways where no practical alternative exists. These activities should minimize built-upon surface area, direct runoff away from the surface waters and maximize the utilization of storm water Best Management Practices.

Section 5. Rules Governing the Interpretation of Watershed Area Boundaries.

Where uncertainty exists as to the boundaries of the watershed areas, as shown on the Watershed Map, the following rules shall apply:

- A. Where area boundaries are indicated as approximately following either street, alley, railroad or highway lines or center lines thereof, such lines shall be construed to be said boundaries.
- B. Where area boundaries are indicated as approximately following lot lines, such lot lines shall be construed to be said boundaries. However, a surveyed plat prepared by a registered land surveyor may be submitted to the County as evidence that one or more properties along these boundaries do not lie within the watershed area.
- C. Where the watershed area boundaries lie at a scaled distance more than twenty-five (25) feet from any parallel lot line, the location of watershed area boundaries shall be determined by use of the scale appearing on the watershed map.
- D. Where the watershed area boundaries lie at a scaled distance of twenty-five (25) feet or less from any parallel lot line, the location of watershed area boundaries shall be construed to be the lot line.
- E. Where other uncertainty exists, the Watershed Administrator shall interpret the Watershed Map as to location of such boundaries. This decision may be appealed to the Watershed Review Board.

Section 6. Application of Regulations.

- A. No building or land shall hereafter be used and no development shall take place except in conformity with the regulations herein specified for the watershed area in which it is located.
- B. No area required for the purpose of complying with the provisions of this Ordinance shall be included in the area required for another building.
- C. Every residential building hereafter erected, moved or structurally altered shall be located on a lot which conforms to the regulations herein specified, except as permitted in Section seven

(7).

D. If a use or class of use is not specifically indicated as being allowed in a watershed area, such use or class of use is prohibited.

Section 7. Existing Development.

Any existing development as defined in this Ordinance, may be continued and maintained subject to the provisions provided herein. Expansions to structures classified as existing development must meet the requirements of this Ordinance, however, the built-upon area of the existing development is not required to be included in the density built-upon area calculations.

A. Vacant Lots. This category consists of vacant lots for which plats or deeds have been recorded in the office of the Register of Deeds of the County. Lots may be used for any of the uses allowed in the watershed area in which it is located, provided the following:

1. Where the lot area is below the minimum specified in this Ordinance, the Watershed Administrator is authorized to issue a watershed protection permit.
2. Notwithstanding the foregoing, whenever two (2) or more contiguous residential vacant lots of record are in single ownership at any time after the adoption of this Ordinance and such lots individually have less area than the minimum requirements for residential purposes for the watershed area in which such lots are located, such lots shall be combined to create one (1) or more lots that meet the standards of this Ordinance, or if this is impossible, reduce to the extent possible the nonconformity of the lots.

B. Occupied Lots. This category consists of lots, occupied for residential purposes at the time of the adoption of this Ordinance. These lots may continue to be used provided that whenever two (2) or more adjoining lots of record, one (1) of which is occupied, are in single ownership at any time after the adoption of this Ordinance, and such lots individually or together have less area than the minimum requirements for residential purposes for the watershed area in which they are located, such lots shall be combined to create lots which meet the minimum size requirements or which minimize the degree of nonconformity.

C. Uses of Land. This category consists of uses existing at the time of adoption of this Ordinance where such use of the land is not permitted to be established hereafter in the watershed area in which it is located. Such uses may be continued except as follows:

1. When such use of land has been changed to an allowed use, it shall not thereafter revert to any prohibited use.
2. Such use of land shall be changed only to an allowed use.

3. When such use ceases for a period of at least one (1) year, it shall not be reestablished.
- D. Reconstruction of Buildings or Built-upon Areas. Any existing building or built-upon area not in conformance with the restrictions of this Ordinance that has been damaged or removed may be repaired and/or reconstructed, except that there are no restrictions on single family residential development, provided:
1. Repair or reconstruction is initiated within twelve (12) months and completed within two (2) years of such damage.
  2. The total amount of space devoted to built-upon area may not be increased unless storm water control that equals or exceeds the previous development is provided.

Section 8. Watershed Protection Permit.

- A. Except where a single-family residence is constructed on a lot deeded prior to the effective date of this Ordinance, no building or built-upon area shall be erected, moved, enlarged or structurally altered, nor shall any building permit be issued nor shall any change in the use of any building, or land be made until a Watershed Protection Permit has been issued by the Watershed Administrator. No Watershed Protection Permit shall be issued except in conformity with the provisions of this Ordinance.
- B. Watershed Protection Permit applications shall be filed with the Watershed Administrator. The application shall include a complete application form and supporting documentation deemed necessary by the Watershed Administrator.
- C. Prior to issuance of a Watershed Protection Permit, the Watershed Administrator may consult with qualified personnel for assistance, to determine if the application meets the requirements of this Ordinance.
- D. A Watershed Protection Permit shall expire if a Building Permit or Watershed Occupancy Permit for such use is not obtained by the applicant within twelve (12) months from the date of issuance.

Section 9. Building Permit Required.

Except for a single-family residence constructed on a lot deeded prior to the effective date of this Ordinance, no permit required under the North Carolina State Building Code shall be issued for any activity for which a Watershed Protection Permit is required until that permit has been issued.

Section 10. Watershed Protection Occupancy Permit.

- A. The Watershed Administrator shall issue a Watershed Protection Occupancy Permit certifying that all requirements of this Ordinance have been met prior to the occupancy or use of a building hereafter erected, altered or moved and or prior to the change of use of any building or land.
- B. A Watershed Protection Occupancy Permit, either for the whole or part of a building, shall be applied for coincident with the application for a Watershed Protection Permit and shall be issued or denied within ten (10) days after the erection or structural alterations of the building.
- C. When only a change in use of land or existing building occurs, the Watershed Administrator shall issue a Watershed Protection Occupancy Permit certifying that all requirements of this Ordinance have been met coincident with the Watershed Protection Permit.
- D. If the Watershed Protection Occupancy Permit is denied, the Watershed Administrator shall notify the applicant in writing stating the reasons for denial.
- E. No building or structure which has been erected, moved or structurally altered may be occupied until the Watershed Administrator has approved and issued a Watershed Protection Occupancy Permit.

**ARTICLE 4 - PUBLIC HEALTH REGULATIONS**

Section 1. Public Health, in General.

No activity, situation, structure or land use shall be allowed within the watershed which poses a threat to water quality and the public health, safety and welfare. Such conditions may arise from inadequate on-site sewage systems which utilize ground absorption; inadequate sedimentation and erosion control measures; the improper storage or disposal of junk, trash or other refuse within a buffer area the improper management of storm water runoff; or any other situation found to pose a threat to water quality.

Section 2. Abatement.

- A. The Watershed Administrator shall monitor land use activities within the watershed areas to identify situations that may pose a threat to water quality.
- B. The Watershed Administrator shall report all findings to the Watershed Review Board. The

Watershed Administrator may consult with any public agency or official and request recommendations.

- C. Where the Watershed Review Board finds a threat to water quality and the public health, safety and welfare, the Board shall institute any appropriate actions or proceeding to restrain, correct or abate the condition and/or violation.

## **ARTICLE 5 - ADMINISTRATION, ENFORCEMENT AND APPEALS**

### Section 1. Watershed Administrator and Duties Thereof.

The County shall appoint a Watershed Administrator, who shall be duly sworn in. It shall be the duty of the Watershed Administrator to administer and enforce the provisions of this Ordinance as follows:

- A. The Watershed Administrator shall issue Watershed Protection Permits and Watershed Protection Occupancy Permits as prescribed herein. A record of all permits shall be kept on file and shall be available for public inspection during regular office hours of the Administrator.
- B. The Watershed Administrator shall serve as clerk to the Watershed Review Board.
- C. The Watershed Administrator shall keep records of all amendments to the local Water Supply Watershed Protection Ordinance and shall provide copies of all amendments upon adoption to the Division of Water Quality.
- D. The Watershed Administrator is granted the authority to administer and enforce the provisions of this Ordinance, exercising in the fulfillment of his responsibility the full police power of the County. The Watershed Administrator, or his duly authorized representative, may enter any building, structure, or premises, as provided by law, to perform any duty imposed upon him by this Ordinance.
- E. The Watershed Administrator shall keep a record of all variances to the local Water Supply Protection Ordinance. This record shall be submitted for each calendar year to the Division of Water Quality on or before January 1st of the following year and shall provide a description of each project receiving a variance and the reasons for granting the variance.

### Section 2. Appeal from the Watershed Administrator.

- A. Any order, requirement, decision or determination made by the Watershed Administrator may be appealed to and decided by the Watershed Review Board.

- B. An appeal from a decision of the Watershed Administrator must be submitted to the Watershed Review Board within thirty (30) days from the date the order, interpretation, decision or determination is made. All appeals must be made in writing stating the reasons for appeal. Following submission of an appeal, the Watershed Administrator shall transmit to the Board all papers constituting the record upon which the action appealed from was taken.
- C. An appeal stays all proceedings in furtherance of the action appealed, unless the officer from whom the appeal is taken certifies to the Board after the notice of appeal has been filed with him, that by reason of facts stated in the certificate, a stay would in his opinion cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a court of record on application of notice of the office from whom the appeal is taken and upon due cause shown.
- D. The Board shall fix a reasonable time for hearing the appeal and give notice thereof to the parties and shall decide the same within a reasonable time. At the hearing, any party may appear in person, by agent or by attorney.

Section 3. Changes and Amendments to the Watershed Protection Ordinance.

- A. The Columbus County Board of Commissioners may, on its own motion or on petition, after public notice and hearing, amend, supplement, change or modify the watershed regulations and restrictions as described herein.
- B. No action shall be taken until the proposal has been submitted to the Watershed Review Board for review and recommendations. If no recommendation has been received from the Watershed Review Board within forty-five (45) days after submission of the proposal to the Chairman of the Watershed Review Board, the Columbus County Board of Commissioners may proceed as though a favorable report had been received.
- C. Under no circumstances shall the Columbus County Board of Commissioners adopt such amendments, supplements or changes that would cause this Ordinance to violate the Watershed Protection Rules as adopted by the Division of Water Quality. All amendments must be filed with the Division of Water Quality, N. C. Division of Environmental Health, and the N.C. Division of Community Assistance.

Section 4. Public Notice and Hearing Required.

Before adopting or amending this Ordinance, the Columbus County Board of Commissioners shall hold a public hearing on the proposed changes. A notice of the public hearing shall be given once a week for two (2) successive calendar weeks in a newspaper having general circulation in the area. The notice shall be published for the first time not less than ten (10) nor more than

twenty-five (25) days before the date fixed for the hearing.

Section 5. Establishment of Watershed Review Board.

- A. There shall be and hereby is created the Watershed Review Board consisting of seven (7) members appointed by the Board of Commissioners. Three (3) residents of Columbus County shall be appointed for three (3) year terms. Two (2) residents of Columbus County shall be appointed for two (2) year terms. Two (2) residents shall be appointed for one (1) year terms. Thereafter, all new terms shall be for three (3) years, and members may be reappointed.
- B. Two (2) alternate members shall be appointed to serve on the Watershed Review Board in the absence of any regular member and shall be appointed for three (3) year terms. While attending in the capacity of a regular member, the alternate shall have and exercise all the powers and duties of the absent regular member.

Section 6. Rules of Conduct for Members.

Members of the Board may be removed by the Columbus County Board of Commissioners for cause, including violation of the rules stated below:

- A. Faithful attendance at meetings of the Board and conscientious performance of the duties required of members of the board shall be considered a prerequisite to continuing membership on the Board.
- B. No Board member shall take part in the hearing, consideration, or determination of any case in which he is personally or financially interested. A Board member shall have a "financial interest" in a case when a decision in the case will: 1) cause him or his spouse to experience a direct financial benefit or loss, or 2) will cause a business in which he or his spouse owns a ten (10%) percent or greater interest, or is involved in a decision-making role, to experience a direct financial benefit or loss. A Board member shall have a "personal interest" in a case when it involves a member of his immediate family (i.e., parent, spouse, or child).
- C. No Board member shall discuss any case with any parties thereto prior to the public hearing on that case; provided, however, that members may receive and/or seek information pertaining to the case from the Watershed Administrator or any other member of the Board, its secretary or clerk prior to the hearing.
- D. Members of the Board shall not express individual opinions on the proper judgement of any case prior to its determination on that case.
- E. Members of the Board shall give notice to the chairman at least forty-eight (48) hours prior to the hearing of any potential conflict of interest which he has in a particular case before the Board.

- F. No Board member shall vote on any matter that decides an application or appeal unless he had attended the public hearing on that application or appeal.

Section 7. Powers and Duties of the Watershed Review Board.

- A. Administrative Review. The Watershed Review Board shall hear and decide appeals from any decision or determination made by the Watershed Administrator in the enforcement of this Ordinance.
- B. Variances. The Watershed Review Board shall have the power to authorize, in specific cases, minor variances from the terms of this Ordinance as will not be contrary to the public interests where, owing to special conditions, a literal enforcement of this Ordinance, will result in practical difficulties or unnecessary hardship, so that the spirit of this Ordinance shall be observed, public safety and welfare secured, and substantial justice done. In addition, the County shall notify and allow a reasonable comment period for all other local governments having jurisdiction in the designated watershed where the variance is being considered.
1. Applications for a variance shall be made on the proper form obtainable from the Watershed Administrator and shall include the following information:
    - a) A site plan, drawn to a scale of at least one (1) inch to forty (40) feet, indicating the property lines of the parcel upon which the use is proposed; any existing or proposed structure; parking areas and other built-upon areas; surface water drainage. The site plan shall be neatly drawn and indicate north point, name and address of person who prepared the plan, date of the original drawing, and an accurate record of any later revisions.
    - b) A complete and detailed description of the proposed variance, together with any other pertinent information which the applicant feels would be helpful to the Watershed Review Board in considering the application.
    - c) The Watershed Administrator shall notify in writing each local government having jurisdiction in the watershed. Such notice shall include a description of the variance being requested. Local governments receiving notice of the variance request may submit comments to the Watershed Administrator prior to a decision by the Watershed Review Board. Such comments shall become a part of the record of proceedings of the Watershed Review Board.

2. Before the Watershed Review Board may grant a variance, it shall make the following three (3) findings, which shall be recorded in the permanent record of the case, and shall include the factual reasons on which they are based:
  - a) There are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the Ordinance. In order to determine that there are practical difficulties or unnecessary hardships, the Board must find that the five (5) following conditions exist:
    - 1) If he complies with the provisions of the Ordinance, the applicant can secure no reasonable return from, nor make reasonable use of, his property. Merely proving that the variance would permit a greater profit to be made from the property will not be considered adequate to justify the Board in granting a variance. Moreover, the Board shall consider whether the variance is the minimum possible deviation from the terms of the Ordinance that will make possible the reasonable use of his property.
    - 2) The hardship results from the application of the Ordinance to the property rather than from other factors such as deed restrictions or other hardship.
    - 3) The hardship is due to the physical nature of the applicant's property, such as its size, shape, or topography, which is different from that of neighboring property.
    - 4) The hardship is not the result of the actions of an applicant who knowingly or unknowingly violates the Ordinance, or who purchases the property after the effective date of the Ordinance, and then comes to the Board for relief.
    - 5) The hardship is peculiar to the applicant's property, rather than the results of conditions that are widespread. If other properties are equally subject to the hardship created in the restriction, then granting a variance could be a special privilege denied to others, and would not promote equal justice.
  - b) The variance is in harmony with the general purpose and intent of the Ordinance and preserves its spirit.
  - c) In the granting of the variance, the public safety and welfare have been assured and substantial justice has been done. The Board shall not grant a variance if it finds that doing so would in any respect impair the public health, safety, or general welfare.
3. In granting the variance, the Board may attach thereto such conditions regarding the locations, character, and other features of the proposed building, structure, or use as it may deem advisable in furtherance of the purpose of this Ordinance. If a variance for the construction, alteration or use of property is granted, such construction, alteration or use shall be in accordance with the approved site plan.

4. The Watershed Review Board shall refuse to hear an appeal or an application for a variance previously denied if it finds that there have been no substantial changes in conditions or circumstances bearing on the appeal or application.
5. A variance issued in accordance with this Section shall be considered a Watershed Protection Permit and shall expire if a Building Permit or Watershed Occupancy Permit for such use is not obtained by the applicant within six (6) months from the date of the decision.
6. If the application calls for the granting of a major variance, and if the Watershed Review Board decides in favor of granting the variance, the Board shall prepare a preliminary record of the hearing with all deliberate speed. The preliminary record of the hearing shall include:
  - a) The Variance Application;
  - b) The Hearing Notice
  - c) The Evidence Presented;
  - d) Motion, Offer of Proof, Objections to Evidence, and rulings on them;
  - e) Proposed Findings and exceptions; and
  - f) The Proposed Decision including all Conditions Proposed to be Added to the Permit.
7. The preliminary record shall be sent to the Environmental Management Commission for its review as follows:
  - a) If the Commission concludes from the preliminary record that the variance qualifies as a major variance and that:
    - 1) The property owner can secure no reasonable return from, nor make any practical use of the property unless the proposed variance is granted, and
    - 2) The variance, if granted, will not result in a serious threat to the water supply, then the Commission shall approve the variance as proposed or approve the proposed variance with conditions and stipulations. The Commission shall prepare a Commission decision and send it to the Watershed Review Board. If the Commission approves the variance as proposed, the Board shall prepare a final decision granting the proposed variance. If the Commission approves the variance with conditions and stipulations, the Board shall prepare a final decision, including such conditions and stipulations, granting the proposed variance.
  - b) If the Commission concludes from the preliminary record that the variance qualifies as a major variance and that:
    - 1) The property owner can secure a reasonable return from or make a practical use of the property without the variance or

- 2) The variance, if granted, will result in a serious threat of the water supply, then the Commission shall deny approval of the variance as proposed. The Commission shall prepare a Commission decision and send it to the Watershed Review Board. The Board shall prepare a final decision denying the variance as proposed.

Section 8. Appeals from the Watershed Review Board.

Appeals from the Watershed Review Board must be filed with the Superior Court within thirty (30) days from the date of the decision of the Watershed Review Board.

## **ARTICLE 6 - DEFINITIONS**

Section 1. General Definitions.

***Agricultural Use.*** The use of waters for stock watering, irrigation, and other farm purposes.

***Best Management Practices (BMP).*** A structural or nonstructural management-based practice used singularly or in combination to reduce non-point source inputs to receiving waters in order to achieve water quality protection goals.

***Buffer.*** An area of natural or planted vegetation through which storm water runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. The buffer is measured landward from the normal pool elevation of impounded structures and from the bank of each side of streams or rivers.

***Building.*** Any structure having a roof supported by columns or by walls, and intended for shelter, housing or enclosure of persons, animals or property. The connection of two (2) buildings by means of an open porch, breezeway, passageway, carport or other such open structure, with or without a roof, shall not be deemed to make them one (1) building.

***Built-upon area.*** Built-upon areas shall include that portion of a development project that is covered by impervious or partially impervious covering including buildings, pavement, gravel roads, recreation facilities (e.g. tennis courts), etc. (Note: Wooden slatted decks and the water area of a swimming pool are considered pervious.)

***Cluster Development.*** The grouping of buildings in order to conserve land resources and provide for innovation in the design of the project. This term includes non-residential development as well as single-family residential subdivisions and multi-family developments that do not involve

the subdivision of land.

**Composting Facility.** A facility in which only stumps, limbs, leaves, grass and untreated wood collected from land clearing or landscaping operations are deposited.

**Critical Area.** The area adjacent to a water supply intake or reservoir where risk associated with pollution is greater than from the remaining portions of the watershed. The critical area is defined as extending either one-half mile from the normal pool elevation of the reservoir in which the intake is located or to the ridge line of the watershed (whichever comes first); or one-half mile upstream from the intake located directly in the stream or river (run-of-the-river), or the ridge line of the watershed (whichever comes first). Local governments may extend the critical area as needed. Major landmarks such as highways or property lines may be used to delineate the outer boundary of the critical area if these landmarks are immediately adjacent to the appropriate outer boundary of the one-half mile.

**Customary Home Occupations.** Any use conducted entirely within a dwelling and carried on by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling for residential purposes and does not change the character thereof. Provided further that no mechanical equipment is installed or used except as is normally used for domestic or professional purposes, and that not over twenty-five (25%) percent of the total floor space of any structure is used for the occupation. No home occupation shall be conducted in any accessory building except for the storage and service of a vehicle that is driven off site, such as a service repair truck, delivery truck, etc.

**Development.** Any land disturbing activity, which adds to or changes the amount of impervious or partially impervious cover on a land area or which otherwise decreases the infiltration of precipitation into the soil.

**Discharging Landfill.** A landfill which discharges treated leachate and which requires a National Pollution Discharge Elimination System (NPDES) permit.

**Dwelling Unit.** A building, or portion thereof, providing complete and permanent living facilities for one (1) family.

**Existing Development.** Those projects that are built or those projects that at a minimum have established a vested right under North Carolina zoning law as of the effective date of this Ordinance based on at least one (1) of the following criteria:

- 1) Substantial expenditures of resources (time, labor, money) based on a good faith reliance upon having received a valid local government approval to proceed with the project, or

- 2) Having an outstanding valid building permit as authorized by the General Statutes (G.S. 153A-344.1 and G.S. 160A-385.2), or
- 3) Having an approved site specific or phased development plan as authorized by the General Statutes (G.S. 153A-344.1 and G.S. 160A-385.1).

**Existing Lot (Lot of Record).** A lot which is part of a subdivision, a plat of which has been recorded in the office of the Register of Deeds prior to the adoption of this Ordinance, or a lot described by metes and bounds, the description of which has been so recorded prior to the adoption of this Ordinance.

**Family.** One (1) or more persons occupying a single dwelling unit, provided that unless all members are related by blood or marriage or adoption, no such family shall contain over five (5) persons, but further provided that domestic servants employed or living on the premises may be housed on the premises without being counted as family or families.

**Industrial Development.** Any non-residential development that requires an NPDES permit for an industrial discharge.

**Landfill.** A facility for the disposal of solid waste on land in a sanitary manner in accordance with Chapter 130A, Article 9, of the N.C. General Statutes. For the purpose of this Ordinance, this term does not include composting facilities.

**Lot.** A parcel of land occupied or capable of being occupied by a building or group of buildings devoted to a common use, together with the customary accessories and open spaces belonging to the same.

**Major Variance.** A variance from the minimum statewide water supply watershed protection rules that results in the relaxation, by a factor of greater than ten (10%) percent, of any management requirement that takes the form of a numerical standard.

**Minor Variance.** A variance from the minimum statewide watershed protection rules that result in a relaxation, by a factor of up to ten (10%) percent, of any management requirement under the low-density option.

**Nonconforming Lot of Record.** A lot described by a plat or a deed that was recorded prior to the effective date of this Ordinance (or its amendments) that does not meet the minimum lot size or other development requirements of this Ordinance.

**Non-residential Development.** All development other than residential development, agriculture and silviculture.

**Plat.** A map or plan of a parcel of land which is to be, or has been subdivided.

**Protected area.** The area adjoining and upstream of the critical area of WS-IV watershed. The boundaries of the protected area are defined as within five (5) miles of and draining to the normal pool elevation of the reservoir or to the ridge line of the watershed; or within 10 (ten) miles upstream; and draining to the intake located directly in the stream or river or to the ridge line of the watershed.

**Residential Development.** Buildings for residence such as attached and detached single-family dwellings, apartment complexes, condominiums, townhouses, cottages, etc. and their associated outbuildings such as garages, storage buildings, gazebos, etc. and customary home occupations.

**Single Family Residential.** Any development where: 1) no building contains more than one (1) dwelling unit, 2) every dwelling unit is on a separate lot, and 3) where no lot contains more than one (1) dwelling unit.

**Street (Road).** A right-of-way for vehicular traffic which affords the principal means of access to abutting properties.

**Structure.** Anything constructed or erected, including but not limited to buildings, which requires location on the land or attachment of something having permanent location on the land.

**Subdivider.** Any person, firm or corporation who subdivides or develops any land deemed to be a subdivision as herein defined.

**Subdivision.** All divisions of a tract or parcel of land into two (2) or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future) and shall include all division of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within this definition nor be subject to the regulations authorized by this Ordinance:

- 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 this Ordinance;
- 2) The division of land into parcels greater than ten (10) 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;
- 4) The division of a tract in single ownership whose entire area is no greater than two (2) acres into not more than three (3) lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of this

Ordinance;

- 5) The division of a tract into plots or lots used as a cemetery.

**Toxic Substance.** Any substance or combination of substances (including disease causing agents), which after discharge-and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, has the potential to cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions or suppression in reproduction or growth) or physical deformities in such organisms or their off-spring or other adverse health effects.

**Variance.** A permission to develop or use property granted by the Watershed Review Board relaxing or waiving a water supply watershed management requirement adopted by the Division of Water Quality that is incorporated into this Ordinance.

**Water Dependent Structure.** Any structure for which the use requires access to, or proximity to, or siting within surface waters to fulfill its basic purpose, such as boat ramps, boat houses, docks and bulkheads. Ancillary facilities such as restaurants, outlets for boat supplies, parking lots and commercial boat storage areas are not water dependent structures.

**Watershed.** The entire land area contributing surface drainage to a specific point (e.g. the water supply intake).

**Watershed Administrator.** An official or designated person of the County responsible for administration and enforcement of this Ordinance.

## Section 2. Word Interpretation.

For the purpose of this Ordinance, certain words shall be interpreted as follows:

- A. Words in the present tense include the future tense.
- B. Words used in the singular number include the plural, and words used in the plural number include the singular, unless the natural construction of the wording indicates otherwise.
- C. The word "person" includes a firm, association, corporation, trust, and company, as well as an individual.
- D. The word "structure" shall include the word "building".
- E. The word "lot" shall include the words, "plot", "parcel", or "tract".
- F. The word "shall" is always mandatory and not merely directory.
- G. The word "will" is always mandatory and not merely directory.

Section 3. Enactment.

This ordinance was adopted by the Columbus County Board of Commissioners on this, the 21st day of July 2003 upon motion by Commissioner McKenzie seconded by Commissioner Jacobs and passed unanimously, and recorded in the minutes of said meeting, Book 27, Pages 554-570.

## **CHAPTER 9 – FIREARMS and HANDGUNS PROHIBITED**

### Section 1. Posting of signs to prohibit carrying concealed handguns on certain county property.

The County Administrator shall post appropriate signage on each park, building or portion of a building that is owned, leased as lessee, operated, occupied, managed or controlled by Columbus County, as well as the appurtenant premises to such buildings, indicating that concealed handguns are prohibited therein.

### Section 2: Location of Signs.

Signs shall be visibly posted on the exterior of each entrance by which the general public can access the building, appurtenant premise or park. The County Administrator shall exercise discretion in determining the necessity and appropriate location for other signs posted on the interior of the building, appurtenant premise or park.

### Section 3. Enactment.

This ordinance was adopted by the Columbus County Board of Commissioners on October 16, 1995, upon motion by Commissioner Wilson, seconded by Commissioner Williams and passed unanimously, and recorded in the minutes of said meeting, Book 23, pages 365 and 366.

## **CHAPTER 10 - PLANNING & ZONING**

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### **PART 1 - FLOOD DAMAGE PREVENTION ORDINANCE**

For Columbus County, North Carolina - Non-Coastal Regular Phase

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#### **ARTICLE I. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES**

##### **Section 1. Statutory Authorization.**

The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Parts 3 and 4 of Article 18 of Chapter 153A; and Part 121, Article 6 of Chapter 153A of the North Carolina General Statutes, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Board of Commissioners of Columbus County, North Carolina, does ordain as follows:

Section 2. Findings of Fact.

(1) The flood prone areas within the jurisdiction of Columbus County and unincorporated areas are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

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

Section 3. Statement of Purpose.

It is the purpose of this ordinance to promote public health, safety, and general welfare and to minimize public and private losses due to flood conditions within flood prone areas by provisions designed to:

(1) Restrict or prohibit uses that are dangerous to health, safety, and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights or velocities;

(2) Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;

(3) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;

(4) Control filling, grading, dredging, and all other development that may increase erosion or flood damage; and

(5) Prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or which may increase flood hazards to other lands.

Section 4. Objectives.

The objectives of this ordinance are:

(1) To protect human life and health;

(2) To minimize expenditure of public money for costly flood control projects;

(3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(4) To minimize prolonged business losses and interruptions;

(5) To minimize damage to public facilities and utilities (i.e. water and gas mains, electric,

telephone, cable and sewer lines, streets, and bridges) that are located in flood prone areas;

(6) To help maintain a stable tax base by providing for the sound use and development of flood prone areas; and

(7) To ensure that potential buyers are aware that property is in a Special Flood Hazard Area.

## ARTICLE 2. DEFINITIONS

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

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

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

***Appeal*** means a request for a review of the floodplain administrator's interpretation of any provision of this ordinance.

***Area of Shallow Flooding*** means a designated Zone AO on a community's Flood Insurance Rate Map (FIRM) with base flood depths determined to be from one (1) to three (3) feet. These areas are located where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

***Area of Special Flood Hazard*** see "Special Flood Hazard Area (SFHA)"

***Basement*** means any area of the building having its floor sub-grade (below ground level) on all sides.

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

***Base Flood Elevation (BFE)*** means a determination of the water surface elevations of the base flood 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 or State or other source using FEMA approved engineering methodologies. This elevation, when combined with the "Freeboard", establishes the "Regulatory Flood Protection Elevation".

**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.

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

**Disposal** 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 ground waters.

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

**Encroachment** means the advance or infringement of uses, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

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

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

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

**Flood Boundary and Floodway Map (FBFM)** means an official map of a community, issued by the Federal Emergency Management Agency, on which the Special Flood Hazard Areas and the floodways are delineated. This official map is a supplement to and shall be used in conjunction with the Flood Insurance Rate Map (FIRM).

**Flood Hazard Boundary Map (FHBM)** means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the Special Flood Hazard Areas have been defined as Zone A.

***Flood Insurance*** means the insurance coverage provided under the National Flood Insurance Program.

***Flood Insurance Rate Map (FIRM)*** means an official map of a community, issued by the Federal Emergency Management Agency, on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.

***Flood Insurance Study (FIS)*** means an examination, evaluation, and determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones, and other flood data in a community issued by the Federal Emergency Management Agency. The Flood Insurance Study report includes Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), if published.

***Flood Prone Area*** see "Floodplain"

***Floodplain*** 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 which control development in flood-prone areas. This term describes federal, state or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

***Flood proofing*** means any combination of structural and nonstructural additions, changes, or adjustments to structures, which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures, and their contents.

***Floodway*** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

**Flood Zone** means a geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

**Freeboard** means the height added to the Base Flood Elevation (BFE) to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization on the watershed. The Base Flood Elevation plus the freeboard establishes the "Regulatory Flood Protection Elevation".

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

**Hazardous Waste Facility** means, as defined in NCGS 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:

- (1) 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;
- (2) 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;
- (3) Individually listed on a local inventory of historic landmarks in communities with a "Certified Local Government (CLG) Program"; or
- (4) Certified as contributing to the historical significance of a historic district designated by a community with a "Certified Local Government (CLG) Program" *Certified Local Government (CLG) Programs are approved by the US Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.*

**Lowest Adjacent Grade (LAG)** means the elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.

**Lowest Floor** means lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or limited storage in an area other than a basement area is not considered a building's lowest floor, provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

***Manufactured Home*** means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

***Manufactured Home Park or Subdivision*** means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

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

***Mean Sea Level*** means, for purposes of this ordinance, the National Geodetic Vertical Datum (NGVD) as corrected in 1929, the North American Vertical Datum (NAVD) as corrected in 1988, or other vertical control datum used as a reference for establishing varying elevations within the floodplain, to which Base Flood Elevations (BFEs) shown on a FIRM are referenced. Refer to each FIRM panel to determine datum used.

***New Construction*** means structures for which the "start of construction" commenced on or after the effective date of the original version of the community's Flood Damage Prevention Ordinance and includes any subsequent improvements to such structures.

***Non-Encroachment Area*** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot as designated in the Flood Insurance Study report.

***Post-FIRM*** means construction or other development for which the "start of construction" occurred on or after the effective date of the initial Flood Insurance Rate Map for the area.

***Pre-FIRM*** means construction or other development for which the "start of construction" occurred before the effective date of the initial Flood Insurance Rate Map for the area.

***Principally Above Ground*** means that at least 51 % of the actual cash value of the structure is above ground.

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

**Recreational Vehicle (RV)** means a vehicle, which is:

- (1) Built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.

**Reference Level** means the top of the lowest floor for structures within Special Flood Hazard Areas designated as Zone AI-A30, AE, A, A99 or AO and lowest attended utilities.

**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 of freeboard. In "Special Flood Hazard Areas" where no BFE has been established, this elevation shall be at least two (2) feet above the highest adjacent grade.

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

**Riverine** means relating to, formed by; or resembling a river (including tributaries), stream, brook, etc.

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

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

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

**Special Flood Hazard Area (SFHA)** means the land in the floodplain subject to a one (1 %) percent or greater chance of being flooded in any given year, as determined in Article 3, Section B of this ordinance.

***Start of Construction*** includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of 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. 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:

- (1) 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,
- (2) Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

***Variance*** is a grant of relief from the requirements of this ordinance.

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

*Water Surface Elevation (WSE)* means the height, in relation to mean sea level, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

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

### **ARTICLE 3. GENERAL PROVISIONS**

#### **Section A. Lands to Which This Ordinance Applies.**

This ordinance shall apply to all Special Flood Hazard Areas within the jurisdiction of Columbus County and within the jurisdiction of any other community whose governing body agrees, by resolution, to such applicability.

#### **Section B. Basis for Establishing the Special Flood Hazard Areas.**

The Special Flood Hazard Areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its Flood Insurance Study (FIS) and its accompanying Flood Insurance Rate Maps (FIRM), for Columbus County dated June 2, 2006, which are adopted by reference and declared to be a part of this ordinance.

#### **Section C. Establishment of Floodplain Development Permit.**

A Floodplain Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities within Special Flood Hazard Areas determined in accordance with Article 3, Section B of this ordinance.

#### **Section D. Compliance.**

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

#### **Section E. Abrogation and Greater Restrictions.**

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

#### **Section F. Interpretation.**

In the interpretation and application of this ordinance, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body; and

(3) Deemed neither to limit nor repeal any other powers granted under State statutes.

Section G. Warning and Disclaimer of Liability.

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur. 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 Columbus County or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

Section H. Penalties for Violation.

Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with, grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$50.00 or imprisoned for not more than thirty (30) days, or both. Each day such violation continues that shall be considered a separate offense. Nothing herein contained shall prevent Columbus County from taking such other lawful action as is necessary to prevent or remedy any violation.

**ARTICLE 4. ADMINISTRATION**

Section A. Designation of Floodplain Administrator.

The County Manager or Designee, hereinafter referred to as the "Floodplain Administrator", is hereby appointed to administer and implement the provisions of this ordinance.

Section B. Floodplain Development Application, Permit and Certification Requirements.

**(1) Application Requirements.** Application for a Floodplain Development Permit shall be made to the floodplain administrator prior to any development activities located within Special Flood Hazard Areas. The following items shall be presented to the floodplain administrator to apply for a floodplain development permit:

(a) A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:

- i) The nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and

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- other development;
  - ii) The boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in Article 3, Section B, or a statement that the entire lot is within the Special Flood Hazard Area;
  - iii) Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in Article 3, Section B;
  - iv) The boundary of the floodway(s) or non-encroachment area(s) as determined in Article 3, Section B;
  - v) The Base Flood Elevation (BFE) where provided as set forth in Article 3, Section B; Article 4, Section C (11 & 12); or Article 5, Section D;
  - vi) The old and new location of any watercourse that will be altered or relocated as a result of proposed development; and
  - vii) Certification of the plot plan by a registered land surveyor or professional engineer.
- (b) Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to:
- i) Elevation in relation to mean sea level of the proposed reference level (including basement) of all structures;
  - ii) Elevation in relation to mean sea level to which any non-residential structure in Zone AE, A or AO will be flood-proofed; and
  - iii) Elevation in relation to mean sea level to which any proposed utility systems will be elevated or flood proofed;
- (c) If flood proofing, a Floodproofing Certificate (*FEMA Form 81-65*) with supporting data and an operational plan that includes, but is not limited to, installation, exercise, and maintenance of flood proofing measures.
- (d), A Foundation Plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this ordinance are met. These details include but are not limited to:
- i) The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls);
  - ii) Openings to facilitate equalization of hydrostatic flood forces on walls in accordance with Article 5, Section B(4)(d), when solid foundation perimeter walls are used in Zones A, AO, AE, and AI-30;
- (e) Usage details of any enclosed areas below the regulatory flood protection elevation.

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- (f) Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage;
  - (g) Copies of all other Local, State and Federal permits required prior to floodplain development permit issuance (Wetlands, Endangered Species, Erosion and Sedimentation Control, Riparian Buffers, Mining, etc.)
  - (h) Documentation for placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure Article 5, Sections B (6 & 7) of this ordinance are met.
  - (i) A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.
- (2) **Permit Requirements.** The Floodplain Development Permit shall include, but not be limited to:
- (a) A description of the development to be permitted under the floodplain development permit.
  - (b) The Special Flood Hazard Area determination for the proposed development per available data specified in Article 3, Section B.
  - (c) The regulatory flood protection elevation required for the reference level and all attendant utilities.
  - (d) The regulatory flood protection elevation required for the protection of all public utilities.
  - (e) All certification submittal requirements with timelines.
  - (f) A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse, as applicable.
  - (g) The flood openings requirements, if in Zones A, AO, AE or AI-30.
  - (h) Limitations of below BFE enclosure uses (if applicable). (i.e., Parking, Building Access and Limited Storage only).

**(3) Certification Requirements.**

(a) Elevation Certificates

- i) An Elevation Certificate (FEMA Form 81-31) is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the floodplain administrator a certification of the elevation of the reference level, in relation to mean sea level. The floodplain administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit.
  
- ii) An Elevation Certificate (FEMA Form 81-31) is required after the reference level is established. Within seven (7) calendar days of establishment of the reference level elevation, it shall be the duty of the permit holder to submit to the floodplain administrator a certification of the elevation of the reference level, in relation to mean sea level. Any work done within the seven (7) day calendar period and prior to submission of the certification shall be at the permit holder's risk. The floodplain administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being permitted to proceed. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop-work order for the project.
  
- iii) A final as-built Elevation Certificate (*FEMA Form 81-31*) is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit to the floodplain administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The floodplain administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Compliance/Occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.

(b) Floodproofing Certificate

If non-residential flood proofing is used to meet the regulatory flood protection elevation requirements, a Floodproofing Certificate (FEMA Form 81-65), with supporting data and an operational plan, is required prior to the actual start of any

new construction. It shall be the duty of the permit holder to submit to the floodplain administrator a certification of the flood proofed design elevation of the reference level and all attendant utilities, in relation to mean sea level. Flood proofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The floodplain administrator shall review the certificate data and plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.

- (c) If a manufactured home is placed within Zone A, AO, AB, or AI-3~ and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required per Article 5, Section B (3).
- (d) If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; a professional engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.
- (e) Certification Exemptions. The following structures, if located within Zone A, AO, AB or AI-3D, are exempt from the elevation/flood proofing certification requirements specified in items (a) and (b) of this subsection:
  - i) Recreational Vehicles meeting requirements of Article 5, Section B (6) (a);
  - ii) Temporary Structures meeting requirements of Article 5, Section B (7); and
  - iii) Accessory Structures less than 150 square feet meeting requirements of Article 5, Section B (8).

Section C. Duties and Responsibilities of the Floodplain Administrator.

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

- (1) Review all floodplain development applications and issue permits for all proposed development within Special Flood Hazard Areas to assure that the requirements of this ordinance have been satisfied.
- (2) Advise permittee that additional Federal or State permits (Wetlands, Endangered Species,

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Erosion and Sedimentation Control, Riparian Buffers, Mining, etc.) may be required, and require that copies of such permits be provided and maintained on file with the floodplain development permit.

(3) Notify adjacent communities and the North Carolina Department of Crime Control and Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).

(4) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

(5) Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of Article 5, Section E are met.

(6) Obtain actual elevation (in relation to mean sea level) of the reference level (including basement) and all attendant utilities of all new or substantially improved structures, in accordance with Article 4, Section B (3).

(7) Obtain actual elevation (in relation to mean sea level) to which all new and substantially improved structures and utilities have been flood proofed, in accordance with Article 4, Section B (3).

(8) Obtain actual elevation (in relation to mean sea level) of all public utilities in accordance with Article 4, Section B (3).

(9) When flood proofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with Article 4, Section B (3) and Article 5, Section B (2).

(10) Where interpretation is needed as to the exact location of boundaries of the Special Flood Hazard Areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.

(11) When Base Flood Elevation (BFE) data has not been provided in accordance with Article 3, Section B, obtain, review, and reasonably utilize any Base Flood Elevation (BFE) data, along with floodway data or non-encroachment area data available from a Federal, State, or other source, including data developed pursuant to Article 5, Section D (2) (b), in order to administer the provisions of this ordinance.

(12) When Base Flood Elevation (BFE) data is provided but no floodway nor non-encroachment area data has been provided in accordance with Article 3, Section B, obtain, review, and

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reasonably utilize any floodway data or non-encroachment area data available from a Federal, State, or other source in order to administer the provisions of this ordinance.

(13) When the lowest ground elevation of a parcel or structure in a Special Flood Hazard Area is above the Base Flood Elevation, advise the property owner of the option to apply for a Letter of Map Amendment (LOMA) from FEMA. Maintain a copy of the Letter of Map Amendment (LOMA) issued by FEMA in the floodplain development permit file.

(14) Permanently maintain all records that pertain to the administration of this ordinance and make these records available for public inspection.

(15) Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the floodplain administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the floodplain administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.

(16) Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this ordinance, the floodplain administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing the work. The stop-work order shall state the specific work to be stopped, the specific reason (s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.

(17) Revoke floodplain development permits as required. The floodplain administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable State or local law may also be revoked.

(18) Make periodic inspections throughout all special flood hazard areas within the jurisdiction of the community. The floodplain administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.

(19) Follow through with corrective procedures of Article 4, Section D.

(20) Review, provide input, and make recommendations for variance requests.

(21) Maintain a current map repository to include, but not limited to, the PIS Report, FIRM and other official flood maps and studies adopted in accordance with Article 3, Section B of this ordinance, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify State and FEMA of mapping needs.

(22) Coordinate revisions to PIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMRF) and Letters of Map Revision (LOMR).

Section D. Corrective Procedures.

(1) Violations to be Corrected: When the floodplain administrator finds violations of applicable State and local laws, it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.

(2) Actions in Event of Failure to Take Corrective Action: If the owner of a building or property shall fail to take prompt corrective action, the floodplain administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:

- (a) That the building or property is in violation of the Flood Damage Prevention Ordinance;
- (b) That a hearing will be held before the floodplain administrator at a designated place and time, not later than ten (10) days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and,
- (c) That following the hearing, the floodplain administrator may issue an order to alter, vacate, or demolish the building; or to remove fill as appears appropriate.

(3) Order to Take Corrective Action: If, upon a hearing held pursuant to the notice prescribed above, the floodplain administrator shall find that the building or development is in violation of the Flood Damage Prevention Ordinance, they shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than sixty (60) calendar days, nor more than one-hundred eighty (180) calendar days. (*One-hundred-eighty (180) calendar days or less is recommended*) Where the floodplain administrator finds that there is imminent danger to life or other property, they may order that corrective action be taken in such lesser period as may be feasible.

(4) Appeal: Any owner who has received an order to take corrective action may appeal the order to the local elected governing body by giving notice of appeal in writing to the floodplain administrator and the clerk within ten (10) days following issuance of the final order. In the absence of an appeal, the order of the floodplain administrator shall be final. The local governing

body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.

(5) Failure to Comply with Order: If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a misdemeanor and shall be punished at the discretion of the court.

Section E. Variance Procedures.

(1) The Planning Board will serve as the appeal board on all variances and forward a recommendation to Board of Commissioners for final approval as established by Columbus County, hereinafter referred to as the "appeal board", shall hear and decide requests for variances from the requirements of this ordinance.

(2) Any person aggrieved by the decision of the appeal board may appeal such decision to the Court, as provided in Chapter 7A of the North Carolina General Statutes.

(3) Variances may be issued for:

- (a) The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure.
- (b) Functionally dependent facilities if determined to meet the definition as stated in Article 2 of this ordinance, provided provisions of Article 4, Section E(9)(b), (c), and (e) have been satisfied, and such facilities are protected by methods that minimize flood damages.
- (c) Any other type of development provided it meets the requirements stated in this section.

(4) In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:

- (a) The danger that materials may be swept onto other lands to the injury of others;
- (b) The danger to life and property due to flooding or erosion damage;
- (c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (d) The importance of the services provided by the proposed facility to the community;
- (e) The necessity to the facility of a waterfront location as defined under Article 2 of this

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ordinance as a functionally dependent facility, where applicable;

- (f) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- (g) The compatibility of the proposed use with existing and anticipated development;
- (h) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- (i) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- j) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
- (k) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

(5) A written report addressing each of the above factors shall be submitted with the application for a variance.

(6) Upon consideration of the factors listed above and the purposes of this ordinance, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

(7) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Base Flood Elevation (BFE) and the elevation to which the structure is to be built and that such construction below the Base Flood Elevation increases risks to life and property, and that the issuance of a variance to construct a structure below the Base Flood Elevation will result in increased premium rates for flood insurance up to \$25 per \$100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.

(8) The floodplain administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the State of North Carolina upon request.

(9) Conditions for Variances:

(a) Variances shall not be issued when the variance will make the structure in violation of other Federal, State, or local laws, regulations, or ordinances.

(b) Variances shall not be issued within any designated floodway or non-encroachment

area if the variance would result in any increase in flood levels during the base flood discharge.

- (c) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (d) Variances shall only be issued prior to development permit approval.
- (e) Variances shall only be issued upon:
  - i) A showing of good and sufficient cause;
  - ii) A determination that failure to grant the variance would result in exceptional hardship; and
  - iii) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(10) A variance may be issued for solid waste disposal facilities, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in Special Flood Hazard Areas provided that all of the following conditions are met.

- (a) The use serves a critical need in the community.
- (b) No feasible location exists for the use outside the Special Flood Hazard Area.
- (c) The reference level of any structure is elevated or flood proofed to at least the regulatory flood protection elevation.
- (d) The use complies with all other applicable Federal, State and local laws.
- (e) The **Columbus County** has notified the Secretary of the North Carolina Department of Crime Control and Public Safety of its intention to grant a variance at least thirty (30) calendar days prior to granting the variance.

## **ARTICLE 5. PROVISIONS FOR FLOOD HAZARD REDUCTION.**

### Section A. General Standards.

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

- (1) All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.

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- (2) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (3) All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.
- (4) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. These include, but are not limited to, HV AC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panel/boxes, utility/cable boxes, appliances (washers, dryers, refrigerators, freezers, etc.), hot water heaters, and electric outlets/switches.
- (5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into flood waters.
- (7) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- (8) Any alteration, repair, reconstruction, or improvements to a structure, which is in compliance with the provisions of this ordinance, shall meet the requirements of "new construction" as contained in this ordinance.
- (9) Nothing in this ordinance shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this ordinance and located totally or partially within the floodway, non-encroachment area, or stream setback, provided there is no additional encroachment below the regulatory flood protection elevation in the floodway, non-encroachment area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this ordinance.
- (10) New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted, except by variance as specified in Article 4, Section E (10). A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated or flood proofed to at least the regulatory flood protection elevation and certified according to Article 4, Section B (3) of this ordinance.
- (11) All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.

(12) All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

(13) All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(14) All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments -of 1972, 33 U.S.C. 1334.

#### Section B. Specific Standards.

In all Special Flood Hazard Areas where Base Flood Elevation (BFE) data has been provided, as set forth in Article 3, Section B, or Article 4, Section C (11 & 12), the following provisions, in addition to Article 5, Section A, are required:

**(1) Residential Construction.** New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in Article 2 of this ordinance.

**(2) Non-Residential Construction.** New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in Article 2 of this ordinance. Structures located in A, AE and AI-30 Zones may be flood proofed to the regulatory flood protection elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the regulatory flood protection elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. For AO Zones, the flood proofing elevation shall be in accordance with Article 5, Section H (3). A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in Article 4, Section B (3), along with the operational and maintenance plans.

#### **(3). Manufactured Homes.**

- (a) New or replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the regulatory flood protection elevation, as defined in Article 2 of this ordinance.

- (b) Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by engineer certification, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance pursuant to NCGS 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis thirty-six (36) inches or less above the grade, at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above thirty-six (36) inches in height, an engineering certification is required.
- (c) All enclosures or skirting below the lowest floor shall meet the requirements of Article 5, Section B(4)(a), (b), and (c).
- (d) An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be, filed with and approved by the floodplain administrator and the local Emergency Management coordinator.

(4) **Elevated Buildings.** Fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor:

- (a) Shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas;
- (b) Shall be constructed entirely of flood resistant materials below the regulatory flood protection elevation;
- (c) Shall include, in Zones A, AO, AE, and AI-30, flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria:
  - i) A minimum of two flood openings on different sides of each enclosed area subject to flooding;
  - ii) The total net area of all flood openings must be at least one (1) square inch

for each square foot of enclosed area subject to flooding;

- iii) If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;
- iv) The bottom of all required flood openings shall be no higher than one (1) foot above the adjacent grade;
- v) Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and
- vi) Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.

**(5) Additions/Improvements.**

- (a) Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
  - i) Not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure.
  - ii) A substantial improvement, both to the existing structure and the addition and/or improvements must comply with the standards for new construction.
- (b) Additions to post-FIRM structures with no modifications to the existing structure other than a standard door in the common wall shall require only the addition to comply with the standards for new construction.
- (c) Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
  - i) Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction.
  - ii) A substantial improvement, both to the existing structure and the addition and/or improvements must comply with the standards for new construction.

- (d) Where an independent perimeter load-bearing wall is provided between the addition and the existing building, the addition(s) shall be considered a separate building and only the addition must comply with the standards for new construction.

**(6) Recreational Vehicles.** Recreational vehicles shall either:

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

**(7) Temporary Non-Residential Structures.** Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the floodplain administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning notification. The following information shall be submitted in writing to the floodplain administrator for review and written approval;

- (a) A specified time period for which the temporary use will be permitted. Time specified may not exceed three months, renewable up to one year;
- (b) The name, address, and phone number of the individual responsible for the removal of the temporary structure;
- (c) The time frame prior to the event at which a structure will be removed (i.e., minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);
- (d) A copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and
- (e) Designation, accompanied by documentation, of a location outside the Special Flood Hazard Area, to which the temporary structure will be moved.

**(8) Accessory Structures.** When accessory structures (sheds, detached garages, etc.) are to be placed within a Special Flood Hazard Area, the following criteria shall be met:

- (a) Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);
- (b) Accessory structures shall not be temperature-controlled;
- (c) Accessory structures shall be designed to have low flood damage potential;

- (d) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
- (e) Accessory structures shall be firmly anchored in accordance with Article 5, Section A (1);
- (f) All service facilities such as electrical shall be installed in accordance with Article 5, Section A (4); and
- (g) Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below regulatory flood protection elevation in conformance with Article 5, Section B(4)(c).
- (h) An accessory structure with a footprint less than 150 square feet that satisfies the criteria outlined above does not require an elevation or flood proofing certificate. Elevation or flood proofing certifications are required for all other accessory structures in accordance with Article 4, Section B (3).

Section C. Reserved.

Section D. Standards for Floodplains Without Established Base Flood Elevations.

Within the Special Flood Hazard Areas designated as Approximate Zone A and established in Article 3, Section B, where no Base Flood Elevation (BFE) data has been provided by FEMA, the following provisions, in addition to Article 5, Sections A and B, shall apply:

- (1) No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of twenty (20) feet each side from top of bank or five times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- (2) The BFE used in determining the regulatory flood protection elevation shall be determined based on one of the following criteria set in priority order:
  - (a) If Base Flood Elevation (BFE) data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this ordinance and shall be elevated or flood proofed in accordance with standards in Article 4, Section C (11 & 12).

(b) All subdivision, manufactured home park and other development proposals shall provide Base Flood Elevation (BFE) data if development is greater than five (5) acres or has more than fifty (50) lots/manufactured home sites. Such Base Flood Elevation (BFE) data shall be adopted by reference per Article 3, Section B to be utilized in implementing this ordinance.

(c) When Base Flood Elevation (BFE) data is not available from a Federal, State, or other source as outlined above, the reference level shall be elevated to or above the regulatory flood protection elevation, as defined in Article 2.

Section E. Standards for Riverine Floodplains with BFE But Without Established Floodways or Non-Encroachment Areas.

Along rivers and streams where BFE data is provided but neither floodway nor non-encroachment areas are identified for a Special Flood Hazard Area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:

- (1) Standards outlined in Article 5, Sections A and B; and
- (2) Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

Section F. Floodways and Non-Encroachment Areas.

Areas designated as flood ways or non-encroachment areas are located within the Special Flood Hazard Areas established in Article 3, Section B. The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in Article 5, Sections A and B, shall apply to all development within such areas:

- (1) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless it has been demonstrated that:
  - (a) The proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the floodplain administrator prior to issuance of floodplain development permit, or
  - (b) A Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained upon completion of the

proposed encroachment.

(2) If Article 5, Section F (1) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this ordinance.

(3) No manufactured homes shall be permitted, except replacement manufactured homes in an existing manufactured home park or subdivision, provided the following provisions are met:

- (a) The anchoring and the elevation standards of Article 5, Section B (3); and
- (b) The no encroachment standard of Article 5, Section F (1).

Section G. Standards for Areas of Shallow Flooding (Zone AO).

Located within the Special Flood Hazard Areas established in Article 3, Section B, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to Article 5, Section A, all new construction and substantial improvements shall meet the following requirements:

(1) The reference level shall be elevated at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, plus a freeboard of two (2) feet, above the highest adjacent grade; or at least two feet above the highest adjacent grade plus a freeboard of two (2) feet if no depth number is specified.

(2) Non-residential structures may, in lieu of elevation, be flood proofed to the same level as required in Article 5, Section H (1) so that the structure, together with attendant utility and sanitary facilities, below that level shall be watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required as per Article 4, Section B (3) and Article 5, Section B (2).

(3) Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

**ARTICLE 6. LEGAL STATUS PROVISIONS**

Section A. Effect on Rights and Liabilities Under the Existing Flood Damage Prevention Ordinance.

This ordinance in part comes forward by re-enactment of some of the provisions of the flood damage prevention ordinance enacted March 17, 1987 (*adoption date of the community's original Flood Damage Prevention Ordinance*) 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 there under 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 Columbus County enacted on March 17, 1987 (*adoption date of the community's original Flood Damage Prevention Ordinance*), as amended, which are not reenacted herein are repealed.

Section B. Effect Upon Outstanding Floodplain Development Permits.

Nothing herein contained shall require any change in the plans, construction, size, or designated use of any development or any part thereof for which a floodplain development permit has been granted by the floodplain administrator or his or her authorized agents before the time of passage of this ordinance; provided, however, that when construction is not begun under such outstanding permit within a period of six (6) months subsequent to the date of issuance of the outstanding permit, construction or use shall be in conformity with the provisions of this ordinance.

Section C. Effective Date.

This ordinance shall become effective on June 2, 2006, upon the approval and adoption of the Columbus County Board of Commissioners on May 15, 2006.

Section D. Adoption Certification.

The above Ordinance was approved and adopted by the Columbus County Board of Commissioners on May 15, 2006, to become effective on June 02, 2006, upon motion by Commissioner Prevatte, seconded by Commissioner Memory, and the motion unanimously carried. This information will be recorded in Minute Book 29.

**PART 2 – LAND USE REGULATIONS ORDINANCE**

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**ARTICLE 1. INTRODUCTION**

**Section 1. General Purpose.**

The following land use regulations are adopted for the purpose of promoting health, safety, and general welfare of the citizens of Columbus County. These standards shall allow for the placement and growth of such uses with the appropriate approval and permitting, while maintaining the health, safety, and general welfare standards of established residential and commercial uses in Columbus County.

The zoning regulations and districts as herein set forth have been made in accordance with a comprehensive plan and designed to lessen traffic congestion; to secure safety from fire, panic and the dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provisions of transportation, water, sewerage, schools, parks, and other requirements. Such regulations shall be made with reasonable consideration, among other things, to the character of each district and to its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdiction.

Section 2. Legal Authority.

This ordinance is adopted under the general ordinance authority granted to counties pursuant to N.C.G.S. 153A-121, and the zoning authority granted to counties pursuant to N.C.G.S. 153A, Article 18, Part 3 by the General Assembly of North Carolina.

Section 3. Territorial Coverage.

This ordinance shall apply to all areas of unincorporated Columbus County which are not within the extraterritorial planning jurisdiction of any municipalities. All municipalities, their respective corporate limits, and extra-territorial jurisdiction shall be exempted from the ordinance, unless they choose to adopt this ordinance or some form thereof.

Section 4. Bona Fide Farm Operations.

Bona fide farm operations are exempt from this ordinance. Bona fide farm operations include growing crops, raising livestock and poultry, growing plants in a greenhouse or nursery, and tree farming as defined by N.C.G.S. 106-581.1.

**ARTICLE 2. GENERAL PROVISIONS**

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Section 1. Application.

The regulations set forth in this ordinance affect all land, every building and every use of land and/or building, and shall apply as follows:

1.1 New Uses or Construction After the effective date of this ordinance all new construction or use of land shall conform to the use and dimensional requirements for the

district in which it is to be located.

1.2. Existing Conforming Uses After the effective date of this ordinance, land or structures, or the uses of land or structures which then conform to the regulations for the district in which it is located may be continued, provided that any structural alteration or change in use shall conform with the regulations herein specified.

1.3 Existing Nonconforming Uses After the effective date of this ordinance, land or structures, or uses of land or structures which would be prohibited under the regulations for the district in which it is located shall be considered as nonconforming. Nonconforming structures or uses may be continued provided they conform to the following provisions:

## Section 2. Continuation of Nonconforming Uses.

The regulations set forth below provide the conditions under which the nonconforming uses shall be continued.

2.1 Minimum Single Lot Requirements. Where the owner of a lot at the time of the adoption of this ordinance or his successor in title there to does not own sufficient land to enable him to conform to the dimensional requirements of this ordinance, such lot may be used as a building site for a single-family residence in a district in which residences are permitted; provided, that the lot area is not more than twenty-five (25) percent below the minimum specified in this ordinance and providing that the minimum side and front yard requirements set out in this ordinance are conformed to.

2.2 Minimum Multi-Lot Requirements. If two or more adjoining and vacant lots on record are in a single ownership at any time after the adoption of this ordinance, such lots shall be considered as a single lot or several lots which meet the minimum requirements of this ordinance for the district in which such lots are located.

2.3 Extension of Nonconforming Uses. Nonconforming uses shall not hereafter be enlarged or extended in any way.

2.4 Change of Nonconforming Uses. Any nonconforming use may be changed to any conforming use, or with the approval of the Zoning Board of Adjustment, to any use more in character with the uses permitted in the district. In permitting such change, the Zoning Board of Adjustment may require appropriate conditions and safeguards in accordance with the provisions of this Ordinance.

2.5 Cessation of Nonconforming Uses. If active operations of a nonconforming use are discontinued for a continuous period of ten (10) months, such nonconforming use shall thereafter be used only for a conforming use.

2.6 Repair and Alteration of Nonconforming Uses. Normal maintenance and repair in a building occupied by a nonconforming use are permitted provided it does not extend the nonconforming use.

2.7 Damage or Destruction of Nonconforming Uses. Any nonconforming building or any building containing a nonconforming use which has been declared by the Zoning Enforcement Officer to have been damaged by fire or other causes to an extent exceeding sixty (60) percent of its assessed value at the time of destruction shall thereafter be used only for a conforming use. Any nonconforming building or any building containing a nonconforming use which has been damaged by fire or other causes to an extent less than sixty (60) percent may be reconstructed and used as before provided it is done within two (2) years of such damage.

### Section 3. Relationship of Buildings to Lots.

There shall be not more than one principal residential building and its accessory buildings on one lot.

### Section 4. Open Space Requirements.

No part of a yard, court or other open space provided around any building or structure for the purpose of complying with the provisions of this Ordinance shall be included as a part of a yard or other open space required under this Ordinance for another building or structure. Every part of a required yard shall be open and unobstructed from its lowest level to the sky, except for the ordinary projection of sills, belt courses, chimney, flues, buttresses, ornamental features, and eaves; provided, however, that none of the aforesaid projections shall project into a minimum side yard more than one-third (1/3) of the width of such yard nor more than twenty-four (24) inches. Open or lattice enclosed fire escapes, fire proof outside stairways, and balconies opening upon fire towers projecting into a yard not more than five (5) feet shall be permitted where placed; so as not to obstruct light and ventilation.

### Section 5. Reduction of Lot and Yard Areas Prohibited.

No yard or lot existing at the time of passage of this Ordinance shall be reduced in size or area below the minimum requirement set forth in this ordinance. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.

### Section 6. Public Access to Property.

Every building or structure hereafter erected shall be located on a lot and said lot shall abut a public street, highway, road, or other public way.

Section 7. Projections into Public Rights-of-Way.

No private signs nor other structures, shall project beyond an imaginary line drawn fifteen (15) feet from and parallel to the outer edge travelled portion of the public right-of-way.

Section 8. Interpretation of District Boundaries.

When uncertainty exists with respect to the boundaries of districts as shown on the official zoning map, the following rules shall apply.

8.1 Delineation District boundary lines are generally intended to be along or parallel to property lines, lot lines, the center lines of streets and roads, railroads, easements, other rights-of-way, and creeks, streams, or other water channels. In the absence of visual district boundaries or specified distances on the zoning map, dimensions or distances shall be determined by scaling the distance on the Official Zoning Map.

8.2 Zoning Board of Adjustments When the public right-of-way or property layout existing on the ground is at variance with that shown on the Official Zoning Map, the Zoning Board of Adjustment shall interpret the district boundaries of this Ordinance.

Section 9. Interpretation of Regulations.

Regulations of this Ordinance shall be enforced and interpreted according to the following rules:

9.1 Permitted Uses not designated as permitted uses shall be prohibited.

Additional uses when in character with the district may be added to the Ordinance by amendment.

9.2 Minimum Requirements The provisions of this Ordinance shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, prosperity or the general welfare.

Section 10. Official Zoning Map.

The boundaries of each zoning area and zoning district are shown on a map entitled "Official Zoning Map", for Columbus County which is hereby made a portion of this Ordinance.

A reproducable copy of the Official Zoning Map shall be filed by the County Clerk in the office of the Columbus County Clerk. Amendments to the Official Zoning Map shall be made as necessary on this map so that it portrays at all times the current status of the zoning districts and zoning district boundaries.

**ARTICLE 3. ADMINISTRATION, ENFORCEMENT AND APPEALS**

Section 1. Administration.

The Planning Director of his/her designee shall be responsible for the administration and enforcement of this ordinance.

If the Planning Director shall determine that any of the provisions of this ordinance are being violated, they shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to within ten (10) working days correct the violation. He may order the discontinuance of illegal use of land, buildings, or structures; the removal of illegal buildings or structures or of addition, alterations, or structural changes thereto; the discontinuance of any illegal work being done; and may take any other action authorized by this ordinance to insure compliance with, or to prevent violation of, its provisions.

Any person aggrieved, or any taxpayer affected by any decision of the Administrator in the administration of this Ordinance, may appeal to the Board of Adjustment.

Section 2. Appeals.

- A. All appeals hereunder must be taken within a reasonable time as provided by the rules of the Board of Adjustment, by filing with the Administrator a notice of appeals specifying the grounds thereof. The Planning Director shall forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken.
- B. An appeal shall stay all proceeding in furtherance of the appealed action unless the Planning Director certifies to the Board of Adjustment, after the notice of appeal has been filed with it that, by reason of the facts stated in the certificate, a stay would in the opinion of the Planning Director cause imminent peril to life or property. In such cases, proceedings shall not be stayed except by order of the Board of Adjustment or notice to the Planning Director and on due cause shown.
- C. The Board of Adjustment shall fix a reasonable time for hearing appeals, give public notice and due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney.
- D. The Board of Adjustment may, in conformity with the provisions of this Ordinance, reverse or affirm, in whole or in part, or modify the order, requirement, decision or determination appealed from and may make such other requirement, decision or determination as may be appropriate under the circumstances.

Section 3. Conflict with Other Laws.

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

Section 4 Penalties.

Any person, firm or corporation who violates any provision of any article of this ordinance; or who shall violate or fail to comply with any order made hereunder; or who shall continue to work upon any structure after having received written notice from the Ordinance Administrator to cease work, shall, upon conviction, be guilty of a Class 3 misdemeanor as provided by N.C.G.S. § 14-4 as may be amended from time to time, and shall be punishable by a fine not to exceed fifty (\$50.00) dollars, or imprisonment not to exceed twenty days. Each day such violation shall be permitted to exist shall constitute a separate offense. Notice of violation shall be sufficient if directed to the owner, the agent of the owner, or the contractor and left at his known place of residence or place of business. In lieu of or in addition to the criminal penalties outlined above, each person violating this ordinance shall be subject to a civil penalty, under N.C.G.S. 153A-123(c), in the amount of two-hundred (\$200.00) dollars per day. No penalty shall be assessed prior to notice to the violator. For every day a violator is in violation of this ordinance, it shall be considered a separate offense. If the violator does not pay such penalty within 30 days of notification of its assessment by written citation it and any subsequently accruing penalty may be recovered by the County in a civil action in the nature of a debt. Any contest of said penalty shall be by appropriate action taken in the General Court of Justice for Columbus County.

Section 5. Severability Clause.

Should any section or provisions of this ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this ordinance as a whole, or any part hereof other than the part so declared to be unconstitutional or invalid.

Section 6. Ordinance Amendments.

After a recommendation from the Planning Board, this Ordinance may be amended by the Board of Commissioners following a public hearing on the proposed changes. The Board shall cause notice of the hearing to be published once a week for two successive calendar weeks. The notice shall be published the first time not less than 10 days nor more than 25 days before the date fixed 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.

**ARTICLE 4. PLANNING BOARD ESTABLISHED**

The Board of County Commissioners hereby establish The Columbus County Planning Board hereinafter referred to as the "Planning Board", and ordain that it be governed by the following provisions:

Section 1. Membership and Vacancies.

Unless provided for otherwise, the term of office for the Columbus County Planning Board, shall be three (3) year staggered terms. The term of office for appointments shall be: two (2) members shall be appointed for a term of one (1) year; two (2) members shall be appointed for a term of two (2) years; three (3) members shall be appointed for a term of three (3) years. Members shall continue to serve until their successors have been appointed. All terms of office shall begin at the time of appointment. Vacancies shall be filled for the unexpired portion of terms only. A complete application is required to be considered for appointment or re-appointment to the Columbus County Planning Board. Persons serving on the Columbus County Planning Board may serve no more than six (6) continuing years, but may serve more than six (6) years of interrupted service. The Columbus County Board of Commissioners may remove a member of the Columbus County Planning Board for failure to attend at least seventy-five percent (75%) of regularly scheduled meetings within a twelve (12) month period, or for any other good cause.

Section 2. Organization, Rules, Meetings, and Records.

Within thirty days after appointment, the Planning Board shall meet and elect a chairman and create, and fill such offices, as it may determine. The term of the chairman and other officers shall be one (1) year, with eligibility for reelection. The Board shall adopt rules for transaction of its business and shall keep a record of its members' attendance and of its, resolutions, discussions" findings, and recommendations, which record shall be a public record. The Board shall hold at least one (1) meeting monthly, and all of its meetings shall be open to the public. There shall be, a quorum of five (5) members for the purpose of taking any official action required by this ordinance. The County Manager shall assign a staff employee to coordinate with the Columbus County Planning Board and to prepare the agenda and take minutes.

Section 3. General Powers and Duties.

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

- (1) To acquire and maintain in current form such basic information and materials as are necessary to an understanding of past trends present trends and conditions, and forces at work to cause changes in these conditions;
- (2) To prepare and from time to time amend and revise a comprehensive and coordinated plan for the physical development of the area;
- (3) To establish principles and policies for guiding, action in the development of the area;
- (4) To prepare and recommend to the Board of County Commissioners ordinances promoting orderly development along the lines indicated in the comprehensive plan;
- (5) To determine whether specific proposed developments conform to the principals and requirements of the comprehensive plan for the growth and improvement of the area;
- (6) To keep the Board of County Commissioners and the general public informed and advised as to these matters;
- (7) To perform any other duties which may lawfully be assigned to it.

Section 4. Basic Studies.

As background for its comprehensive plan and any ordinance 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 not limited to studies of housing; commercial and industrial facilities; parks, playgrounds, and recreational facilities; public and private utilities; and traffic, transportation, and parking facilities.

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

Section 5. Comprehensive Plan.

The comprehensive plan, with the accompanying maps, plats, charts, and descriptive matter, shall be and show the Planning Board's recommendations to the Board of County Commissioners for the development of said territory, including, among other things, the general location, character, and extent of streets, bridges, boulevards, parkways, playgrounds, squares, parks, aviation fields, and other public ways, grounds, and open spaces; 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, for recreational uses, for open spaces, and for mixed uses.

The plan and any ordinances or other measures to effect-ate it shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted, and harmonious development of the county and its environs 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.

Section 6. Zoning Ordinance.

The Planning Board shall prepare and submit to the Board of County Commissioners for its consideration and possible adoption a zoning ordinance for the control of the height, area, bulk, location, and use of buildings and premises in the area, bulk, location, and use of buildings and premises in the area, in accordance with the provisions of Article 18 of Chapter 153A of the General Statutes of North Carolina.

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

Section 7. Subdivision Regulations.

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

The Planning Board shall review and make recommendations to the Board of County

Commissioners concerning all proposed plats of land subdivision.

Section 8. Public Facilities.

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

Section 9. Miscellaneous Powers, and Duties.

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

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

Members or employees of the Planning Board, when duly authorized by the Planning Board, may attend planning conferences or meetings of planning institutes or hearings upon pending planning legislation, and the Planning Board's budget, the reasonable travelling expenses incident to such attendance.

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

The Planning Board shall, in May of each year, submit in writing to the Board of County Commissioners a written report of its activities and an analysis of the expenditures to date for the current 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 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 expenditure; as it may see fit, subject to limitations of funds provided for the Planning Board by the Board of County Commissioners in the County's annual Budget. All

revenues raised by the Columbus County Planning Board are the property of Columbus County and shall immediately be given to the Finance Director of the County for deposit. No individual serving on the Columbus County Planning Board has the right to expend funds or obligate Columbus County in any way. All expenditures must be handled through the staff employee assigned to the board or commission and must be provided for in the Annual Operating Budget of Columbus County. All expenditures also require a Purchase Order approved by the Finance Director. All contracts require the prior approval of the Columbus County Board of Commissioners and the signature of the Chairman of the Columbus County Board of Commissioners, or other designated official.

Section 11. Advisory-Council and Special Committees.

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

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

**ARTICLE 5. BOARD OF ADJUSTMENT ESTABLISHED**

Section 1. Establishment, Membership and Rules of Procedures.

The Columbus County Board of Commissioners does hereby create and establish a Board of Adjustment.

The Board of Adjustment shall consist of seven (7) voting members. In so far as possible, members of the board shall be appointed from different areas within the County's jurisdiction. Initial appointment of the board shall have terms of appointment as follows: Three (3) members for a term of three (3) years, two (2) members for a term of two (2) years and two (2) members for a term of one (1) year. Following the expiration of terms of the first appointed board members, the successors to the regular members shall be appointed for three (3) year terms. Vacancies shall be filled for the unexpired term only.

The Planning Director and/or his designee shall serve as clerk to the Board of Adjustment.

The Board of Adjustment is a quasi-judicial body. Meetings of the board shall be held at the call of the Chairman and at such other times as the board may determine. The board shall establish rules of procedure at the first called meeting or as soon thereafter as possible.

A quorum is not obtained unless five voting members are present. In the event there is abstention

for reason declared into the record by a voting member, then a particular matter cannot proceed unless and until five other voting members are present and vote.

As required by N.C.G.S. 153A-345.1 and 160A-388, a 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 the nature of a certiorari. For purposes of this section, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the board for calculation of the requisite majority.

A member of any board exercising quasi-judicial functions pursuant to this Article shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected person's constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business or other association relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

As early as possible in each new year the voting members shall elect a chairman and vice-chairman. Either such party when in the chair shall have the authority to administer oaths to witnesses.

All decisions of the Board of Adjustment run with the land, never the person or corporation. Special Uses may have time limits imposed on their validity.

The minutes of the Board of Adjustment shall be kept in such detail as necessary, and do not reflect official action of the Board until adoption of same.

Minutes shall be filed in the office of the Planning Director, as a public record.

The chair of the board, any member acting as chair of the board, 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 of Adjustment, willfully swears falsely is guilty of a Class 1 misdemeanor.

The Board of Adjustment shall have the authority to subpoena witnesses and compel the production of evidence as specified in N.C.G.S. 153A-345.1 and 160A-388.

All other rules regarding the Board of Adjustment, not stated herein, are set out more fully in N.C.G.S. 153A-345.1 and 160A-388.

Section 2. Powers and Duties.

The Board of Adjustment shall hear and take final action on the following development review procedures:

- Variance
- Special Use Permit
- Appeal of Administrative Decision

**ARTICLE 6. ZONING AREAS ESTABLISHED**

For the purposes of this Ordinance, Columbus County is hereby divided into two Zoning Areas: the Southeastern Community College Zoning Area; and the General Use District Zoning Area.

**ARTICLE 7. SOUTHEASTERN COMMUNITY COLLEGE ZONING AREA  
DISTRICT REGULATIONS**

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For the purpose of this Ordinance, the Southeastern Community College Zoning Area is hereby divided into the following districts:

RA-20	Residential-Agricultural
B	Business
I	Institutional
IND-1	Industrial
IND-2	Industrial
M-H	Mobile Home

The boundaries of these districts are hereby established as shown on the "Official Zoning Map", Southeastern Community College Area, which is a part of this Ordinance.

Section 1. RA-20 - Residential Agricultural District.

The RA-20 Residential Agricultural District is established as a district in which the principal use of land is for low density residential and agricultural purposes. The regulations of this district are intended to protect the agricultural sections of the area from an influx of uses likely to render it undesirable for farms and future development, and to ensure that residential development not having access to public water supplies and dependent upon septic tank systems and outdoor privies for sewage disposal will occur at sufficiently low densities to insure a healthful environment.

1.1 Permitted Uses:

Single family and two family dwellings

Churches

Home occupations; convalescent and nursing homes, dressmaking, beauty shops, offices for architects, engineers, accountants, physicians, dentists, tax consultants, realtors, and day nurseries and kindergartens only when an outdoor play area equivalent to at least one hundred (100) square feet per child is provided.

Mobile homes (no more than two per lot)

Signs, accessory; provided no more than two (2) signs are displayed, and these must be on the same lot with the use being advertised. Illuminated signs shall be permitted only if the signs are located more than one hundred (100) feet from adjacent residential dwellings and casts no direct light on adjoining property. Signs, independent; provided such signs shall be one thousand (1000) feet apart and shall be located no less than five hundred (500) feet from the nearest residential dwelling.

Uses and buildings customarily accessory to the above permitted uses.

1.2 Dimensional Requirements:

- 1.21 Lot Area. Minimum required lot area for the first dwelling unit - 20,000 square feet.  
Minimum additional lot area for the second dwelling unit in principal structure – 10,000 square feet  
Minimum required lot area for permitted non-residential uses -30,000 square feet.

- 1.22 Lot Width. Minimum required lot width for the first dwelling unit-100 feet.  
Minimum additional required lot width for the second dwelling unit in the principal

structure - 10 feet.

Minimum required lot width for permitted non-residential uses -200 feet.

1.23 Yard Requirements. Minimum required depth of front yard – 40 feet

Minimum required width of any residential side yard-15 feet.

Minimum required width of any nonresidential side yard 20 feet.

Minimum required width of any corner side yard 30 feet.

Minimum required depth of rear yard - 25 feet.

1.24 Signs. Maximum sign surface area for churches shall be eighteen (18) square feet.

Maximum sign surface area for all other permitted accessory signs shall be two (2) square feet.

1.25 On a corner lot nothing shall be erected, placed, planted, Visibility or allowed to grow in such a manner as to materially impede vision between a height of two and one-half, (2.5) feet and ten (10) feet in a triangular area formed by a diagonal line between two points on the rights-of-way lines, twenty (20) feet from where they intersect.

1.26 Accessory buildings may be located in the required rear Accessory yard provided such buildings shall be: (1) fifteen (15) feet from the principal building; (2) not less than five (5) feet from any lot line; and (3) occupy not more than twenty (20) percent of the required rear yard.

1.3 Off-Street Parking Off-street parking shall be provided according to the provisions set forth in Section 7 of this Article.

## Section 2. I - Institutional District.

This district is established primarily for institutional uses. As this district is usually adjacent to residential districts, provisions are made for yards, off-street parking and off-street loading areas.

### 2.1 Permitted Uses:

Churches, colleges, public and private schools

Signs, accessory, provided no more than two (2) signs are displayed, and these must be on the same lot with the use being advertised.

Uses and building customarily accessory to the above permitted uses.

2.2 Dimensional Requirements Minimum required lot -20,000 square feet.

2.21 Lot Width: Minimum required lot width -100 feet.

2.23 Yard Requirements:

Minimum required depth of the front yard – 40 feet

Minimum required side yard – 15 feet

Minimum required width of any corner side yard – 30 feet

Minimum required depth of rear yard -25 feet.

2.24 Visibility at Intersections: On a corner lot nothing shall be erected, placed, planted, or allowed to grow in such a manner as materially to impede vision between a height of two and one-half (2.5) feet and ten feet in a triangular area formed by a diagonal line between two points on the right-of-way lines, twenty (20) feet from where they intersect.

2.25 Accessory Buildings: Accessory buildings may be located in the required rear yard provided such buildings shall be: (1) fifteen (15) feet from the principal buildings, (2) not less than five (5) feet from any lot line; and (3) occupy not more than twenty (20) percent of the required rear yard.

2.3 Off-Street Parking Off-street parking shall be provided according to the provisions set forth in Section 7 of this Article.

### Section 3. B - Business District.

The Business District is established as a district in which the principal use of the land is to provide for retailing goods and services to the passing motorists and residences living in the area. Because the Business Uses are subject to the public view, developers and operators of businesses should provide an appropriate appearance, ample parking, and design the entrances and exits to businesses in' a manner to minimize traffic congestion.

3.1 Permitted Uses:

Barber shops

Beauty Shops

Eating and drinking establishments

Florists

Laundries, Laundromats, and dry cleaning establishments

Motels

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Offices; business, professional and governmental

Parking lots for automobiles

Post office facilities

Repair shops for jewelry, shoes, radios, and televisions and other small household appliances

Service stations

Signs; accessory

Storage, provided it is within a building and the use is not visible from outside the building.

Retailing establishments engaged in selling appliances, clothing, drugs, fabrics, foods, and beverages, furniture, hardware, jewelry, notions, paint and wallpaper and sporting goods.

Uses and building customary accessory to the above permitted uses.

### 3.2 Dimensional Requirements

#### 3.21 Yard requirements:

Minimum required depth of front yard shall be fifteen (15) feet which shall be developed for sidewalks, grass, and plants and the necessary entrance driveways. Off-street parking shall not be permitted in this area.

No side yards are required except on lots that are adjacent to residentially zoned lots. These lots shall have a minimum of fifteen (15) foot side yards. In cases where a side yard, not required, is provided, it shall be at least five (5) feet in width.

Minimum required depth of rear yard shall be twenty (20) feet.

3.3 Required Buffers: After the effective date of this Ordinance, the establishment of any business use in the business district where it abuts a lot in a residential district or land occupied by any residential use permitted by this Ordinance, shall provide and maintain along said property line, a continuous visual buffer. The buffer shall be a compact evergreen hedge or other type of evergreen foliage screening, or shall be a combined fence and shrubbery screen, the latter facing the residential use.

3.4 Off-Street Parking Off-street parking shall be provided according to the provisions set forth in Section 7 of this Article.

Section 4. IND-I Industrial District.

The IND-I Industrial District is established as a district in which the principal use of land is for industries which can be operated in a relatively clean and quiet manner and which will not be obnoxious to adjacent residential, institutional, or business districts.

4.1 Permitted Uses:

Animal hospitals

Assembly of farm products such as granaries and storage bins, but not fertilizer or tallow plants.

Automobile service

Building materials, storage and sale, but not including saw mills.

Carpenter shops

Construction contractor's office and/or storage yards

Dairy products processing

Dry cleaning and laundry plants

Electrical and industrial equipment repair and servicing

Farm machinery assembly, repair and sales

Food processing

Gasoline or fuel oil storage or bulk terminal plants for any flammable gases or liquids, provided that: 1) no storage takes place closer than fifty (50) feet to any boundary line of the lot on which said storage is located and 2) the uses are in conformity with the codes and regulations applicable to the storage of gasoline or fuel oil in the area.

Industrial research and educational facilities

Laboratories for research and testing

Machine shops

Printing, publishing and reproduction establishments

Public utilities

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Repair and servicing of office and household equipment

Service stations

Signs, accessory and independent

Storage warehouses

Storage yards, not including automobile salvage facilities, provided such yards are enclosed by a solid wall or fence at least six (6) feet in height.

Textile manufacturing plants

Warehouse including tobacco warehouses

Welding shops

Wholesale establishments

Wood working shops, millwork

Uses and buildings customarily accessory to the above permitted uses.

### 4.2 Dimensional Requirements

4.21 Lot Width: Minimum required lot width shall be one hundred (100) feet

4.22 Yard Requirements:

Minimum front yard depth shall be fifteen (15) feet which shall be devoted for sidewalks, grass, and plants, and the necessary driveways.

Off-street parking shall not be permitted in this area.

Minimum required width of side yard shall be fifteen (15) feet.

Minimum required depth of rear yard shall be twenty (20) feet.

4.23 Visibility at Intersections. On a corner lot nothing shall be erected, placed, Visibility planted, or allowed to grow in such a manner as materially to impede vision between a height of two and one-half (2 1/2) feet and ten (10) feet in a triangular area formed by a diagonal line between two (2) points on the right-of-way lines, twenty (20) feet from where they intersect.

4.3 Required Buffers. After the effective date of this Ordinance, the establishment of any industrial use in this industrial district where it abuts a lot in a residential district or land occupied by any residential use permitted by this Ordinance, shall provide and maintain along said property line. The buffer shall be a compact evergreen foliage screening, or shall be a combined fence and shrubbery screen, the latter facing the residential use.

4.4 Off-Street Parking and Loading. Off-street parking and loading shall be provided according to the provisions set forth in Section 7 of this Article.

#### Section 5. IND-2 Industrial District.

The IND-2 Industrial District is established as a district in which the principal use of land is for heavy industries that by their nature may create some nuisance and which are not properly associated with nor compatible with residential, institutional, or business establishments.

##### 5.1 Permitted Uses

Any use permitted in the IND-1 Industrial district

Automobile wrecking and salvage operations and similar types of uses when conducted within a structure or on a lot enclosed by a solid fence at least six (6) feet in height, provided such fence shall not be less than fifty (50) feet from any public right-of-way line.

Blacksmith's shops

Foundries producing iron and steel products

Chemical manufacture and sales

Machine tool manufacture

Metal fabrication plants using plate and structural shapes and including boiler or tank works.

Mixing plants for concrete, or paving materials and manufacture of concrete products.

Paper, pulp, cardboard and building board manufacture.

Railroad freight yard, terminals or classification yards, car repairs, and manufacture.

Signs, accessory and independent.

Truck terminals, repair shop, hauling and storage yards.

## 5.2 Dimensional Requirements

5.21 Lot Width. Minimum required lot width shall be one hundred (100) feet.

5.22 Yard Requirements. Minimum front yard depth shall be fifteen (15) feet which shall be devoted for sidewalks, grass, and plants, and the necessary driveways. Off-street parking shall not be permitted in this area.

Minimum required width of side yard shall be fifteen (15) feet.

Minimum required depth of rear yard shall be twenty (20) feet.

5.23 Visibility on a corner lot nothing shall be erected, placed, planted, or allowed to grow in such a manner as materially to impede vision between a height of two and one-half (21) feet and ten (10) feet in a triangular area formed by a diagonal line between two points on the rights-of-way lines, twenty (20) feet from where they intersect.

5.3 Required Buffers. After the effective date of this Ordinance,' the establishment of any industrial use in this industrial district where it abuts a lot in a residential district or land occupied by any residential use permitted by this Ordinance, shall provide and maintain along said property line. The buffer shall be a compact evergreen hedge or other type of evergreen foliage screening, or shall be a combined fence and shrubbery screen, the latter facing the residential use.

5.4 Off-Street Parking Off-street parking shall be provided according to the provisions set forth in Section 7 of this Article.

## Section 6. Mobile Home District.

Groupings of more than two (2) mobile homes shall be permitted only in a mobile home court in a mobile home district subject to the requirements of Standard C, Manufactured/ Mobile Home Park Ordinance, of this Chapter.

## Section 7. Off-Street Parking Requirements.

There shall be provided at the time of the erection of any building, or at the time any principal building is enlarged or increased in capacity by adding dwelling units, guest rooms, seat, or floor area; or before conversion from one type of use of occupancy to another, permanent off-street parking space in the amount specified by this section. Such parking space may be, provided in a parking garage or properly graded open space.

7.1 Certification of Minimum Parking Requirements Each application for a zoning permit submitted to the Zoning Enforcement Officer as provided for in this Ordinance shall

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include information as to the location and dimensions of off-street parking and loading space and the means of entrance and exit to such space. This information shall be in sufficient detail to enable the Zoning Enforcement Officer to determine whether or not the requirements of this section are met.

7.2 Minimum Off-Street Parking Requirements: The following off-street parking space shall be required:

<u>Residential and Related Uses</u>	<u>Required Off-Street Parking</u>
Any residential use consisting of one or more dwelling units	One (1) parking space on the same lot for each unit
Rooming or boarding houses	One (1) parking space for each two (2) rooms to be rented
Home Occupation	Addition to residence requirements: one (1) parking space per 100 square feet of floor space devoted to the home occupation use
Public/Semi-Public Uses, Hospitals	One parking space per two (2) beds intended for patient use, exclusive of bassinets
Medical Clinics	Four (4) parking spaces for each doctor plus one (1) parking space for each employee
Nursing Homes	One (1) parking space for each five (5) beds intended for patient use
Churches	One (1) parking space for each four (4) seats in the sanctuary
Elementary and Junior High Schools	One parking spaces for each classroom and administrative office
Senior High Schools	One (1) parking space for each twenty (20) students for which the building was designed plus one (1) parking space for each classroom and administrative office
Colleges and similar institutions	One (1) parking space for each five (5) students for which the building was designed plus one (1) parking space for each classroom and administrative office

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Nonresidential and Related Uses

Required Off-Street Parking

Stadiums	One (1) parking space for each eight (8) spectator seats
Auditoriums	One (1) parking space for each four (4) seats in the largest assembly room
Public or private clubs	One (1) parking space for each two hundred (200) square feet of gross floor space
Public Utility Building	One (1) parking space for each employee

Business Uses

Required Off-Street Parking

Tourist Homes	One (1) parking space for each room to be rented plus one (1) additional parking space for each three (3) employees
Motels or Motor Courts	One (1) parking space for each room to be rented plus one (1) additional parking space for each three (3) employees
Offices, General	One (1) parking space for each two hundred (200) square feet of gross floor space
Offices, Medical, Dental	One (1) parking space for each employee plus three (3) spaces per medical doctor or dentist
Offices, Professional (other than medical and dental)	One (1) parking space for each employee plus three (3) spaces per professional on staff
Banks	One (1) parking space for each two hundred (200) square feet of gross floor space plus one (1) for each two (2) employees
Filling Stations	Five (5) parking spaces for each grease rack and five (5) parking spaces for each wash rack
Funeral Homes	One (1) parking space for each four (4) seats in the chapel or parlor
Retail uses not otherwise indicated	One (1) parking space for each one hundred (100) square feet or floor area

Industrial and Wholesale

Required Off-Street Parking

Wholesale Uses

One (1) parking space for each two (2) employees on the largest shift

Industrial Uses

One (1) parking space for each two (2) employees on the largest shift

Section 8. Off-Street Loading for Industrial Uses.

The number of off-street loading berths required by this section shall be considered as the absolute minimum and the developer shall evaluate his own needs to determine if they are greater than the minimum specified by this section. For purposes of this section an off-street loading berth shall have minimum plan dimensions of twelve feet by twenty-five feet and fourteen feet overhead clearance with adequate means for entrance and exits.

Square Feet of Gross Floor Area	Required Number of Berths
0 – 25,000	1
25,000 – 40,000	2
40,000 -100,000	3
100,000 -160,000	4
160,000 -240,000	5
240,000 -320,000	6
320,000 -400,000	7
Each 90,000 above 400,000	1

**ARTICLE 8. GENERAL USE DISTRICT ZONING AREA REGULATIONS**

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For the purpose of this Ordinance, the General Use District Zoning Area is hereby designated as General Use District (G-U).

Section 1. General Use District (G-U).

The General Use District is established as a zoning district in which the principal use of land is for uses that are in harmony with residential, agricultural, and commercial development in Columbus County. Any use not discussed in Section 2 is a permitted use in the (G-U) district if it can be properly identified and determined to be a classified land use by the Planning Director. If a land use cannot be determined by the Planning Director or his designee, the use is not permitted, and a text amendment to this ordinance will be required before the use will be approved and permitted.

Section 2. Regulated Uses.

Special Use permits are only required for the land uses listed below:

Heavy Industrial uses (unless in an area already zoned as I-II -Heavy Industrial)

Light Industrial Uses (unless in an area already zoned as I-I -Light Industrial)

Industrial Parks

Private and Public Utilities and related operations

Solar Energy Generation Facilities (Subject to STANDARD A)

Propane, Fuel Oil, Gasoline, or Other Hydrocarbon Bulk Storage Facilities

Junk, Storage, Recycling, Reclamation, or Salvage Yards

Electronic Gaming Operations

Wireless Communication Towers or other steel frame structures/towers

Firing Range (Indoor/Outdoor)

Landfill (Demolition and Sanitary)

Mining/Quarrying, Borrow Pits, and/or Extraction Operations

Go-Cart, Motor Cross, and or other categories of race tracks.

Intensive Livestock Farming

Meat Packing Facilities

Land Application of Animal and Human Waste

Adult Businesses (Subject to Columbus County Code of Ordinances Chapter 6 - Regulation of Certain Businesses, specifically Article 1 - Masseurs, Massage Parlors, Health Salons and Clubs and Article 2 – Sexually Oriented Businesses)

Resort Vehicle Campgrounds (Subject to STANDARD “B” herein)

Manufactured / Mobile Home Parks (Subject to STANDARD “C” herein)

Section 3. Purpose and Procedures.

Special Use Permits shall be granted by the Columbus County Board of Adjustment as permitted by 153A-340(c) for the uses listed as special uses in Section 2.

The owner of the property or his agent who is requesting a Special Use Permit shall submit a Special Use Permit application to the Planning Director at least three weeks prior to a public hearing on the application scheduled before the Planning Board. The Special Use permit application can be found on the Columbus County Planning Department website found at columbusco.org. Such application shall include all of the requirements pertaining to this Ordinance including any proposed site plans, the names and addresses of all adjacent property owners including property owners that are directly across from any public or private street or roadway, and the requisite fee established by the Columbus County Planning Department Fee Schedule. After a public hearing, the Columbus County Planning Board shall forward a recommendation to the Columbus County Board of Adjustment for their consideration.

Planning Department Administrative Review:

1. Pre-Development Conference: All applicants shall meet with the Planning Director to discuss the permit application, proposed site plans, and additional information needed for approval process.
2. Technical Review Committee: The Planning Director shall make and distribute copies of the proposed site plan to the Chairman of the Planning Board, the Clerk to the Board of Commissioners, the Columbus County Health Department, the Columbus County Board of Education (*only, if the project involves multi-family housing*), the Columbus County Inspections Department, the Columbus County Soil and Water Conservation District, the Columbus County Fire Marshal, the Columbus County Tax Administrator and the local District Engineer of the State Department of Transportation. The Technical Review Committee shall be given ten (10) days to review and respond with comments. The Technical Review Committee shall forward their comments, if any, to the Planning Director. The Planning Director shall consider any reasonable request submitted by the committee member in writing which will be reviewed by the Planning Director and/or the Planning Board Chairman, who then shall grant or deny the request. Upon receipt of comments from the Technical Review Committee, the Planning Director shall prepare a report summarizing the comments, if any, for review by the Planning Board and the applicant. The applicant may then submit a revised site plan to the Planning Department at least five (5) days prior to the public hearing before the Planning Board.

3. Prior to approval of the site plan, the Planning Director may consult with other qualified personnel for assistance to determine if the application meets the requirements of this Ordinance.

Section 4. Planning Board Action.

1. After the Pre-Development Conference, the Planning Director shall set a date and time for a public hearing before the Planning Board. Notice of the public hearing shall be given once a week for two successive calendar weeks in a local newspaper of general circulation, said notice to be published the first time at least ten (10) days, but not more than twenty-five (25) days, prior to the date fixed for said public hearing. In addition to the newspaper advertisement, the property concerned shall be posted indicating that a public hearing will take place regarding a proposed zoning change/permitting action by the Columbus County Planning Department, at least one week before the public hearing. The posting shall also include the phone number of the Planning Department so that more information can be provided upon request.
2. The Planning Board shall consider the application, the comments of the applicant, and any comments of any interested persons attending the public hearing. In conducting the public hearing, the Planning Board shall follow the same rules and procedures as employed in the conduct of public hearings held before the Columbus County Board of Commissioners. Following the public hearing, the Planning Board shall forward a recommendation to grant, deny, or grant with conditions the Special Use permit to the Board of Adjustment.
3. No Planning Board member shall participate in a manner that would violate an affected person's constitutional rights to an impartial decision maker. Impermissible conflicts include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to a member's participation and that member does not recuse himself/herself, the remaining members shall by majority vote rule on the objection. Vacant positions on the Planning Board and members who are disqualified from voting on the matter shall not be considered "members of the Board" for calculation of the requisite majority.
4. In deciding whether or not to recommend the issuance of a Special Use permit, the Planning Board shall use as a guide the specific conditions outlined in this Article for each use proposed. In making their recommendation to the Board of Adjustment, the Planning Board shall consider the following criteria:

- A. That the use will not materially endanger the public health or safety, if located

according to the plan submitted and approved;

B. That the use meets all required conditions and specifications;

C. That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity; and

D. That the location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the Columbus County Land Use Plan.

Based above criteria, the Planning Board shall then forward a recommendation to the Board of Adjustment regarding the Special Use Permit.

Section 5. Board of Adjustment Action.

1. After the public hearing before the Planning Board, the Planning Director shall schedule an evidentiary hearing before the Board of Adjustment.
2. Prior to the hearing before the Board of Adjustment, the Planning Director shall pursuant to NCGS 160A-388(a2) notify by first class mail all owners of property abutting the property that is the subject of the hearing and to owners of property across any public or private street from the subject property. Within that same time period, the property concerned shall be posted indicating that a public hearing will take place regarding a proposed zoning change/permitting action by the Columbus County Planning Department, at least one week before the public hearing. The posting shall also include the phone number of the Planning Department so that more information can be provided upon request.
3. The Planning Director shall provide to the Board of Adjustment, copies of the application, site plans, reports and any other written administrative material relevant to the evidentiary hearing. The administrative materials may be submitted at the hearing or distributed, in written or electronic form, to the Board prior to the evidentiary hearing. At the same time a copy of the administrative materials shall be submitted to the applicant or landowner, if he is not the applicant. The administrative materials shall become part of the hearing record. Any objections to the inclusion or exclusion of administrative materials shall be made at the hearing.
4. At the evidentiary hearing the applicant, the owner of the subject property, local government, adjacent landowners and any other interested person who has relevant evidence to offer, shall have the right to present evidence and participate in the hearing.

5. At the evidentiary hearing, the Board of Adjustment shall consider the application and other relevant evidence, including sworn testimony and exhibits and may deny, grant or grant with reasonable and appropriate conditions the Special Use permit. In conducting the evidentiary hearing, the Board of Adjustment shall follow quasi-judicial procedures as set forth in NCGS 153A and 160A.
6. The concurring vote of four-fifths of the Board shall be necessary to grant a variance. A majority of the members of the Board shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. Vacant positions on the Board and members who are disqualified from voting on the matter shall not be considered "members of the Board" for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.
7. No Board of Adjustment member shall participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible conflicts include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to a member's participation and that member does not recuse himself/herself, the remaining members shall by majority vote rule on the objection.
8. In rendering a decision on a Special Use permit, the Board of Adjustment shall consider the following conditions for each proposed use:
  - A. Whether or not the use materially endangers the public health or safety;
  - B. Whether or not the use meets all required conditions and specifications;
  - C. Whether or not the use will substantially injure the value of adjoining or abutting property or will be a public necessity; and
  - D. Whether or not the location and character of the use, will be in harmony with the area in which it is located and be in general conformity with the Columbus County Land Use Plan.
9. 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 reflecting the Board's determination of any contested facts and their application to the applicable standards. A quasi-judicial decision is effective upon filing the written decision with the Clerk to the Board of Commissioners. The decision of the Board shall be delivered within a reasonable time by personal delivery, electronic mail, or by first class mail to the

applicant, property owner, and to any other person who has submitted a written request for copy prior to the date the decision becomes effective.

10. In granting the Special Use Permit the Board of Adjustment may designate conditions which, in its opinion, assure that the use in its proposed location will be harmonious with the area and with the spirit of this Ordinance and in keeping with the public welfare. All such additional conditions shall be entered in the minutes of the hearing at which the Special Use Permit is granted, on the Special Use Permit itself, and on the approved plans submitted therewith. All specific conditions shall run with the land and shall be binding on the original applicants for the Special Use permit, their heirs, successors and assigns. The Special Use permit shall be kept on file in the office of the Planning Department, including in the Planning Department's electronic data files.

#### Section 6. Denials and Appeals.

If the Board of Adjustment denies the Special Use Permit, the Board shall enter the reason for their action in the minutes of the meeting at which the action is taken.

No appeal may be taken from the action of the Board of Adjustment in granting or denying a Special Use permit except through the Columbus County Superior Court within thirty (30) days.

If denied, the applicant must wait for a period of six (6) months before a new application can be submitted.

#### Section 7. Failure to Comply/Notification of Adjacent Property Owners.

In the event of failure to comply with the plans approved by the Board of Adjustment, or with any other conditions imposed upon the Special Use permit, the permit shall thereupon immediately become void and of no effect. No building permits for further construction or certificates of occupancy under this Special Use permit shall be issued, and all completed structures shall be regarded as nonconforming uses subject to the provisions of this Ordinance. In such cases, owners of adjoining property shall be notified that the Special Use permit is no longer in effect.

#### Section 8. Expiration of Special Use Permit.

In any case where a Special Use permit has not been exercised within the time limit set by the Board of Adjustment, or within one year if no specific time limit has been set, then without further action, the permit shall be null and void. "Exercised" as set forth in this section shall mean that binding contracts for the construction of the main building have been let; or in absence of contracts that the main building is under construction to a substantial degree; or that prerequisite conditions involving substantial investment are contracted for, in substantial

development; or completed (sewerage, drainage, etc.). When construction is not a part of the use, "exercised" shall mean that the use is in operation in compliance with the conditions set forth in the permit.

Section 9. Modifications of Plans.

Where plans are required to be submitted and approved as part of the application for a Special Use permit, the Board of Adjustment may authorize modifications of the original plans.

Section 10. General Requirements for Special Uses.

A site plan must be submitted with the Special Use Permit Application and may be prepared by the applicant. The site plan must include the following:

1. The shape and dimensions of the lot on which the proposed building(s) is to be erected;
2. The location of said lot with respect to adjacent rights-of-way;
3. The shape, dimensions, and location of all buildings, existing and proposed, and required setbacks;
4. The nature of the proposed use of the building or land, including the extent and location of the use;
5. The location and dimensions of off-street parking and loading space and means of ingress and egress;
6. The square feet and percentage of lot as built upon area if the lot is located in a Watershed;
7. The location and type of all required buffers;
8. Required Driveway Permits from the Department of Transportation;
9. A landscape plan that meets requirements of the Highway Corridor Overlay District (if applicable);
10. A Sedimentation and Erosion Control Plan (if applicable) as submitted to the Land Quality Section, Department of Environment and Natural Resources; and,
11. The location and dimensions of outdoor activity areas including outdoor storage.
12. location and type of outdoor lighting, and areas of environmental concern such as flood plains, surface water, and drainage ways.

13. Any other information, which the Planning Staff may deem necessary for consideration in enforcing all provisions of this Ordinance.

## **ARTICLE 9. SPECIAL DEVELOPMENT STANDARDS**

The following Special Development Standards shall apply to the uses specified in addition to the general standards:

Standard A – Minimum Solar Farm Requirements	64
Standard B – Resort Vehicle Park/Campground Ordinance	65
Standard C – Manufactured/Mobile Home Park Ordinance	78

### **STANDARD A - MINIMUM SOLAR FARM REQUIREMENTS**

1. All solar farms must be set back from an adjacent highway right-of-way at least 50 feet. Similarly, a side or rear set-back distance of 30 feet from any property line is required.
2. A vegetative buffer consisting of either one or two rows of staggered evergreen vegetation is required as per the vegetative buffer design specification sheet available from the Columbus County Planning Department. A vegetative buffer may be constructed using any of those evergreen varieties identified or an approved equivalent. A staggered two row buffer is to be located between any solar farm fencing and an adjacent highway. Similarly, a two-row vegetative buffer is required to screen the farm from the direct view of adjacent residential housing units. Where required, a single row vegetative buffer is required along perimeter fencing as noted in item three (3) below.
3. A vegetative buffer consisting of one row of evergreen vegetation is required along all perimeter areas not covered under item number 2 above (i.e. where two-row vegetative buffering is called for) but with the following exceptions:
  - a. Where a natural vegetative buffer already exists on the property and which allows for said natural vegetative buffer to remain and be maintained in an undisturbed natural state which provides adequate screening to adjacent parcels on the side or sides, or along the back fence line of the solar farm.
  - b. When a solar farm is located over 250 feet from an adjacent highway such that only minimal vegetative screening is needed to prevent the farm from becoming a distraction to drivers on the adjacent highway or to adjacent landowners.
4. Vegetative buffers may be located within the required setback areas.
5. The maximum height for a ground mounted solar system under these guidelines is 15 feet above ground level.

6. General Standards:

- a. All Solar Farms shall comply with all Building and Electrical Codes.
- b. Shall not create a visual safety hazard for any passing motorist or aircraft.
- c. Shall be removed, at the property owner's expense, or at the solar farm owner's expense within one hundred and eighty (180) days of determination by the Planning Department that the facility is no longer being maintained in an operable state of good repair or is no longer supplying solar power.
- d. All solar farms must be maintained in a reasonable fashion with regard to the facility grounds such that the facility does not become a public eyesore or contain undergrowth which may harbor vermin due to the excessive length of grass and other vegetation located inside or outside of the perimeter fencing.

**STANDARD B - RESORT VEHICLE PARK/CAMPGROUND ORDINANCE**

A. PURPOSE

The purpose of this Ordinance is to regulate and guide the establishment of campgrounds in order to promote the public health, safety and general welfare of the citizens of Columbus County, North Carolina. This Ordinance is designed to accomplish the following specific objectives: (a) to further the orderly layout of campgrounds; (b) to secure safety from fire, panic and other danger; (c) to provide adequate light and air; and (d) to ensure that facilities for transportation, parking, water, sewage and recreation are provided for campground visitors.

B. AREA GOVERNED

These regulations shall govern the establishment of each and every new campground and the alteration or expansion of existing campgrounds lying within the jurisdiction of Columbus County and which is not governed by a municipality within Columbus County.

C. AUTHORITY

Columbus County hereby exercises its authority to adopt and enforce a Campground Ordinance pursuant to the authority granted to Columbus County by Chapter 153A, Article Six of the General Statutes of North Carolina.

D. SHORT TITLE

This Ordinance shall be known as the CAMPGROUND ORDINANCE, COLUMBUS COUNTY, and may be cited as the Campground Ordinance.

E. DEFINITIONS

When used in this Ordinance, the following words and phrases shall have the meaning given in this section. Terms not herein defined shall have their customary definitions where not inconsistent with the context. The term shall is mandatory and words used in the singular include the plural and those in the present include the future tense.

1. Columbus County Health Department: Health Director or his/her designated agent(s).
2. Camper: A folding structure manufactured of metal, wood, canvas, plastic or other materials, or any combination thereof, mounted on wheels and designed for travel, recreation or vacation use. A camper is not designed or intended to be used as a permanent dwelling. Campers may also include the following:
  - a) Travel Trailer: A vehicular, portable structure built on chassis, designed to be towed by a self-propelled vehicle for use for travel, recreation or vacation purposes. A travel trailer is not designed or meant to be used as a permanent dwelling.
  - b) Recreational Vehicle: A self-propelled vehicle or portable structure mounted on such a vehicle designed as a temporary dwelling for travel, recreation and vacation.
  - c) Tent: A portable shelter of canvas, plastic or skins stretched over a supporting framework of poles with skins stretched over a supporting framework of poles with ropes and pegs.
3. Camper Space: A plot of land within a campground designed for the accommodation of one (1) camper or tent.
4. Campground: Any lot which fifteen (15) or more camper or tent spaces are provided for temporary occupancy according to requirements as set forth in this Ordinance. A campground shall also be known as a recreational vehicle park or travel trailer park.
5. Cul-de-sac: A street with only one (1) end to traffic and the other end being permanently terminated and a vehicular turnaround provided for the safe and convenient reversal of traffic movement. Length is measured from the center point of the turnaround to the center line of the connecting non-cul-de-sac street.
6. Developer: Any person, firm, trust, partnership, association or corporation engaged in development or proposed development of a Campground, as defined herein.
7. Easement: The right to use another person's property, but only for a limited and specifically named purpose, the owner generally continues to make use of such land since he/she has given up only certain and not all ownership rights.
8. Sanitary Sewage System: A complete system of sewage collection, treatment and disposal, including approved privies, septic tank systems, connection to public or community sewage systems, incinerators, mechanical toilets, composting toilets, recycling toilets, mechanical aeration systems or other such systems.
9. Public Street: A dedicated and accepted public right-of-way which affords access to abutting property and meets the standards of this Ordinance and the most recent North

Carolina Department of Transportation's minimum construction standards for subdivision roads.

10. Public Water Supply: Any water supply furnishing potable water to fifteen (15) connections or combination of twenty -five (25) residences or businesses so approved and designated by the appropriate agent of the State of North Carolina. This definition is not to be inferred as limited to publicly owned or operated systems, as such systems may be owned and operated by either public or private enterprise.
11. Septic Tank System: A subsurface sanitary sewage system consisting of a settling tank and a subsurface disposal field and other appurtenances required for proper collection, distribution, treatment, disposal, operation and performance.
12. Service Building: A building housing toilet and bathing facilities for men and women, with laundry tray.
13. Setbacks: The distance between a structure and the space or boundary line.
14. Surveyor: A qualified land surveyor or engineer registered and currently licensed to practice surveying in the State of North Carolina.
15. Board Designate: an agent(cies) and/or representative appointed by the Board of County Commissioners to represent their interest and act on their behalf.
16. Board of County Commissioners: governing body for the County of Columbus with equal representation from all districts.
17. Nude: A situation involving a condition of individuals being unclothed or devoid of clothing.

## F. PROCEDURE FOR SECURING APPROVAL OF CAMPGROUNDS

### Section F.1: Approval Required.

Campgrounds, as permissible uses, may be established upon the approval of the Board of County Commissioners or their Designate. The Board of County Commissioners or their Designate shall have approval authority of such Campgrounds.

### Section F.2: Campground Plan Submission.

1. Prior to the construction of a campground or the expansion of an existing campground, the developer shall submit a campground plan to the Columbus County Administrator. Ten (10) copies of the proposed campground plan must be received at least thirty (30) days prior to a regularly scheduled meeting of the Columbus County Board of Commissioners if the plans are to be reviewed by the Board at that time. New campgrounds or the expansion of an existing campground regardless of site numbers will be approved by the Board of County Commissioners or their Designate.
2. All park plans shall be prepared by a registered land surveyor currently licensed and registered in the State of North Carolina, or the owner or his/her authorized agent and

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shall be drawn legibly at a scale of one hundred (100') feet to one (1 ") inch, or larger, and shall include the following plan requirements:

- a. Name of the park, developer, scale, date and tax map, block and parcel number;
- b. Vicinity Map, sketch showing relationship between campground and surrounding area;
- c. The location of existing property lines, streets, service buildings, natural and manmade water courses, existing wells and septic tanks, railroads, transmission lines, sewers, bridges, culverts and drain pipes, water mains, city and County lines (if adjoining), drainage easements and public utility easements, all structures to be located on the park site;
- d. The outside boundaries of the tract of land on which the park will be built and approximate bearings and distances of each line;
- e. Proposed camper spaces well defined, indicating accurate dimensions and site numbers;
- f. All existing structures and proposed structures;
- g. The proposed location of all streets, driveways, open recreational areas, parking areas, service buildings, easement and camper spaces;
- h. Water distribution system which will connect to County system, if applicable (should be designed to minimum County standards and submitted for review);
- i. Surface and/or subsurface drainage plan;
- j. Classification of the property;
- k. Site date:
  1. Acreage in total tract;
  2. Acreage in campgrounds, if applicable;
  3. Total number of spaces; and
  4. Lineal feet in streets;
- l. Flood plain information, if necessary;
- m. Landscaping and buffering;
- n. Adjoining property owners;
- o. Sign location, setback and dimensions;
- p. Title, date, graphic scale, north arrow;
- q. Sedimentation control plan information in accordance with North Carolina State Law;
- r. Uses on adjacent properties;
- s. Off-street parking, loading areas and their dimensions;
- t. The location and dimensions of present and proposed campground streets and adjacent highways;
- u. Method of garbage disposal; and
- v. Water/Utility systems.

Section F.3: Review of the Proposed Campground Plan.

The County Administrator shall review the proposed campground plan. The County Administrator shall also forward a copy of the proposed campground plan to the Columbus County Health Department and all other appropriate agencies for review and comments. Following the evaluation period, a review meeting shall be set with the applicant and appropriate agencies, not less than thirty (30) days prior to a regular scheduled Board of County Commissioners' Meeting, to discuss the plan. If deficiencies are found with the plan, the plan will then be returned to the developer for correction. If the Board of County Commissioners or their Designate determines no inconsistencies with applicable regulations, the County Administrator shall then ask for the plan to be approved. The matter will not be heard before the County Commissioners until all requirements are met and approved.

1. The County Administrator shall determine if the proposed campground plan is in accordance with the design standards set forth in this Ordinance, including, but not limited to the following:
  - a. Title information;
  - b. Location map;
  - c. Recreation areas;
  - d. Street and lot design;
  - e. Surface water drainage;
  - f. Other features of the campground;
  - g. Columbus County Health Department's report;
  - h. County Inspections Department;
  - i. Buffering; and
  - j. Other approvals as may be required.
  
2. The Columbus County Health Department shall review the proposed campground plan to determine if the plan is in accordance with the minimum health standards and regulations as follows:
  - a. Source of water and water distribution system;
  - b. Sanitary sewage system: owner/developer shall submit plans for proposed sanitary sewerage system to the Columbus County Health Department for its review. Each campground intended for the use of septic systems will require an application for a site evaluation. An operations permit must be maintained in order for the campground to remain operational;
  - c. Adequate space size, if septic tanks are to be used; and
  - d. Each well located so as to provide a minimum pollution-free radius as specified in Title 15A, Subchapter 18C, Section .0203 of the North Carolina 'Administrative Code.

3. Each agency's review shall be completed within a reasonable time. Should any agency find deficiencies in the proposed campground plan, the developer or his agent shall be notified by the County Administrator to correct such deficiencies in the plan. Each agency shall notify the County Administrator after reviewing the proposed campground plan and shall provide a written statement of approval or disapproval. If disapproved, then the reasons therefore shall be stated.
4. If any permitting agency should disapprove the proposed campground plan, the reasons for such action and recommended changes shall be given to the developer or his agent.

Section F.4: Plan Approval.

1. Plan Review; Procedure by the Board of County Commissioners or Their Designate:  
The Columbus County Board of Commissioners or their Designate shall make a decision on a final plan approval based on all required final agency reviews and other available pertinent information.
2. Notification of Final Approval:  
After receiving approval of the campground plan from the Board of County Commissioners or their Designate, Health Department and other relevant County agencies, the County Administrator is authorized to write a letter of approval to the developer. The County Administrator shall notify the owner as shown on the plan of this approval within ten (10) days of the action. The intent of the letter of approval is to enable the execution of the campground plan in the field and shall not be construed to entitle the recipient to offer spaces for rent or lease, or to operate a campground as defined in this Ordinance. Spaces can only be occupied after all required improvements have been installed and Certificates of Occupancy have been issued by the County Inspections Department.
3. Issuance of a Certificate of Compliance:
  - A. After receiving approval of the campground plan by the Board of County Commissioners or their Designate, the Health Department and the County Inspections Department, the County Administrator's office is authorized to issue a compliance permit. The intent of this permit is to enable the execution of the campground plan in the field and shall not be construed to entitle the recipient to offer spaces for rent or lease or to operate a campground as defined in this Ordinance.
  - B. When the developer has completed the construction of the campground, he/she shall apply to the County Administrator for a Certificate of Compliance. The County Inspections representative and a representative from the Health Department shall make an on-site inspection of the campground.
    - i. If the plan conforms to the campground plan approved by the Board of County Commissioners or their Designate and other agencies, the County Administrator shall issue the developer a Certificate of Compliance.



service buildings shall be accessible to the County Health Department and shall be in conformity with all County codes. All buildings shall be constructed in accordance with the North Carolina State Building Code, and shall meet the North Carolina State Building Code setback requirements.

6. No swimming pool or bathing area shall be installed, altered, improved or used without compliance with applicable Columbus County Health Department regulations. No bathing area shall be used without the approval of the Columbus County Health Department.
7. The campground owner is responsible for refuse collection. Storage, collection and disposal of refuse shall be so managed as not to create health hazards, rodent harborage, insect-breeding areas, accident, fire hazards or air pollution. The method of garbage disposal shall be noted on the plan and approved by the Board of County Commissioners or their Designate.
8. It shall be unlawful to park or store a manufactured home in a campground. However, two (2) manufactured homes may be allowed within a campground to be used as residences of persons responsible for the operation and/or maintenance of the campground.
9. The transfer of title of a camper space or spaces either by sale or by any other manner shall be prohibited within a campground as long as the campground is in operation.
10. All camping units must be placed individually on approved camper spaces where all design standards and utilities have been completed.
11. Junked or wrecked vehicles are prohibited in campgrounds.

Section G.2: Streets and Parking.

1. Off-Street Parking Requirements

Two (2) off-street parking spaces shall be provided and maintained for each camper space. Required parking spaces may be included within the minimum required space area for each camper space.

2. Public Street Access

No camper space within a campground shall directly access a public road. Access to all campers and accessory structures within the campground shall be made using internal streets.

3. Internal Street Standards

- A. One (1) or two (2) way streets shall be used throughout the campground. One (1) way streets shall have a minimum width of sixteen (16') feet. Two (2) way streets shall have a minimum width of eighteen (18') feet. Such streets shall be well maintained and clearly identified. All streets within the campground shall be privately owned and maintained. Each camper space shall abut an internal street within the campground.
- B. All internal streets that dead end shall be provided with a permanent turnaround.
- C. All parking within the campground shall take place off the internal street within designated parking areas only. All internal streets within the campground shall be equipped with adequate and suitable drainage facilities.
- D. Maintenance of all internal streets and drainage facilities shall be the responsibility of the owner of the campground. Such streets shall be maintained in a manner to be free from pot holes, breaks in the pavement, rough surfaces, ponding of water and associated problems which would impede or cause hazards to motor vehicles. Speed reduction bumps on paved internal streets are permissible, but they shall be painted and appropriate signs indicating the speed reduction bump must be placed along the street.

4. Ingress and Egress

Campgrounds shall not be located on through lots unless the campground is designed in a manner which does not encourage motorists from using the campground as a means of traveling from one (1) public street to another.

Campgrounds requiring only one (1) entrance and exit area shall provide at least one (1) permanent turnaround within the campground. All campground entrances must be approved by the North Carolina Department of Transportation.

Section G.3: Campground Space.

- 1. Minimum Campground Area All campgrounds shall have a gross land area of at least three (3) acres.
- 2. Minimum Space Design
  - a. The following minimum space requirements also takes into account the need for adequate space to prevent overcrowding, prevent fire hazards, provide sufficient light and air, etc.
    - i. Minimum space size, square feet: 1,250
    - ii. Minimum space width, feet: 25
  - b. Where public, municipal or community water or sewer systems exist within one thousand (1,000') feet of the park, the developer shall connect to such system. If the water distribution system is installed in accordance with minimum County standards, the developer could dedicate the system to the County to operate. The County will have the "right to accept or not accept such water systems.

- c. A minimum of eight (8%) percent of the total land area shall be devoted to accessible common open space intended for recreational use. These areas are separate from the camper spaces and shall be grouped and of character suitable for active and passive recreation and shall be reasonably located for safe and convenient access to residents.
  - d. Each camper shall be located at least thirty (30') feet from the edge of any publicly-maintained street or road.
3. Spaces Numbered
- Each camper space shall be identified by a permanent number which shall not be changed. The appropriate number of each camper space must be permanent and visibly displayed on each space. Each number shall be placed on a concrete, wood, metal or any permanent post and conspicuously located on the lot.

Section G.4: Utility Requirements.

1. An accessible, adequate, safe and potable supply of water shall be provided in each campground. Where a public supply is available, connection shall be made thereto and its supply used exclusively. When a public water supply is not available, a community water supply may be developed and its supply used exclusively in accordance with local and state regulations and standards of the Division of Environmental Management, North Carolina Department of Environment, Health and Natural Resources codified in 15A NCAC 2C. Siting well locations will be designated by the Columbus County Health Department.
2. Adequate and safe sewage disposal facilities shall be provided in all campgrounds. A public sewage disposal system and sewage treatment plant complying with the requirements of the North Carolina Department of Environment, Health and Natural

Resources shall be provided in every campground. Individual septic tank systems are permissible in accordance with the requirement of the State Health Sewage Disposal Regulations.

- A. Sewage dumping stations shall be approved by the Columbus County Health Department. Each campground shall provide at least one (1) sewage dumping station for each fifty (50) camper spaces, which are not equipped with individual sewer and water connections. Each campground shall also provide a sewer outlet to accommodate any dependent campers for emptying containers of human waste.
- B. No method of sewage disposal shall be installed, altered or used without the approval of the Columbus County Health Department. All sewage waste from each park, including waste from toilets, showers, bathtubs, lavatories, wash basins, sinks and water-using appliances not herein mentioned, shall be piped into an approved sewage disposal system.

3. Building and grounds shall be maintained free of rodent/insect harborage and infestation. Extermination methods and other control measures shall be in accordance with the requirements of licensed pest control operators. The campground owner shall be responsible for pest extermination and pest control measures to prevent the development of unsanitary conditions.

Section G.5: Buffering.

A buffer strip at least ten (10') feet in width shall be maintained. This strip shall be free of all encroachment by buildings, park areas or impervious coverage. No designated camper spaces shall include any areas required for buffering in accordance with this Ordinance.

Section G.6: Registration of Occupants.

Every campground owner or operator shall maintain an accurate register containing a record of all occupants and owners of campers in the campground. The register shall be available for inspection at all times by authorized County representatives. The register shall contain the following information:

- a. Name and address of the occupants of each space;
- b. Camper space number; and
- c. Date when occupancy within the campground begins and date when occupancy within the campground ceases.

Section G.7: Permanent Occupancy Prohibited.

No camper space shall be used as a permanent place of abode. Any action toward removal of wheels of a camper except for temporary purposes of repair is hereby prohibited.

Section G.8: Inspection.

1. The County Administrator, the Columbus County Health Department, the Columbus County Building Inspections Department and the Columbus County Board of Commissioners are hereby authorized and directed to make such inspections as are necessary to determine satisfactory compliance with this Ordinance. If connecting to County water, the developer must comply with minimum County standards. It shall be the duty of the owners of campgrounds to give these agencies free access to such premises at reasonable times for inspections.
2. The person to whom an operating permit for a campground is issued shall operate the campground in compliance with this Ordinance and shall provide adequate supervision to maintain the campground, its facilities and equipment in good repair and in a clean and sanitary condition.
3. The campground owner shall notify campground visitors of all applicable provisions of this Ordinance and inform them of their responsibilities under this Ordinance.

## H. PRIVATE ORGANIZATIONS OPERATING AS NUDE CAMPGROUNDS, COLONY, RESORT OR OTHER SIMILAR FACILITIES

Private organizations operating as nude campgrounds, colonies, resorts or similar facilities, must operate with the following minimum requirements:

1. Must meet all applicable County and State regulations including, but not limited to, campground, mobile home park and PUD ordinances;
2. Must operate as private organization with no access by the general public. Only members or guest of members may be permitted on site;
3. Must provide adequate visual and noise screening and/or buffering; and
4. No part of any facility or structure shall be:
  - a. Located within one thousand five hundred (1,500') feet in any direction from a building used as a dwelling.
  - b. Located within one thousand five hundred (1,500') feet in any direction from a building in which an adult business or asexually oriented business is located.
  - c. Located within one thousand five/hundred (1,500') feet in any direction from a building used as a church, synagogue, other house of worship or cemeteries.
  - d. Located within one thousand five hundred (1,500') feet in any direction from a building used as a public school or as a state licensed day care center.
  - e. Located within one thousand five hundred (1,500') feet in in any direction from any lot or parcel on which a public playground, public swimming pool or public park is located.
  - f. Located within one thousand five hundred (1,500') feet in any direction of any publicly owned or operated facility.

## I. ADMINISTRATION

### Section I.1: Variances.

Where strict adherence to the provisions of this Ordinance would cause an unnecessary hardship because of topographical or other conditions peculiar to the site, the Board of County Commissioners or their Designate may authorize a variance, if such variance can be made without destroying the intent of the Ordinance. Any variance this authorized shall be entered into the minutes of the Board of County Commissioners or their Designate and the reasoning on which the departure was justified shall be set forth.

### Section I.2: Conformance Requirements.

Campgrounds shall be permitted only in conformance with the regulations of this Ordinance.

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Section I.3: Criminal Violations.

Any person violating the provisions of this Ordinance shall be guilty of a Class Three misdemeanor and is punishable by a fine up to five hundred and 00/100 (\$500.00) dollars per violation in accordance with NCGS 14-4. Each day that the violation continues to exist shall be considered a separate and distinct offense. For the purpose of this Ordinance, a violation begins from the date of first notification.

Section I.4: Civil Penalties.

In addition to the other remedies cited in this Ordinance for the enforcement of these provisions, these regulations may be enforced through the issuance of citations by Columbus County. These citations shall be in the form of a civil penalty. The County may recover this penalty within seventy-two (72) hours after being cited for a violation. In' addition, failure to pay the civil penalty within the seventy-two (72) hour period, may subject the violator to criminal charges.

The following civil penalties are established for violations under this Section:

VIOLATION	CHARGE
Warning Citation	None, correct within ten (10) days
First Citation	\$25.00
Second Citation for Same Offense	\$50.00
Third and Sequential Citation for Same Offense	\$50.00

These civil penalties are in addition to any other penalties which may be imposed by the court of law for violations of the provisions of this Ordinance.

In addition to the foregoing enforcement provisions, this Ordinance may be enforced by any remedy provided in North Carolina General Statute 153-A-123, including, but not limited to, all appropriate equitable remedies issued from a court of competent jurisdiction as provided in General Statute 153A-123(d) and particularly the remedy of injunction and order of abatement as allowed by North Carolina General Statute 153A~123(e).

This Ordinance specifically provides that each day's continuing violation is a separate and distinct offense.

Section I.5: Separability.

Should any section or provision of these regulations be held void or invalid by the courts for any reason, it shall not affect the validity of any other section or provision hereof which is not itself held void and invalid.

Wherever the provision of any other law, ordinance or regulation impose higher standards than are required by the provision of this Ordinance, the provisions of such law, ordinance or regulations shall govern.

Section I.6: Amendment Procedure.

This Ordinance may be amended from time to time by the Board of County Commissioners as provided by the General Statutes. No amendment shall become effective unless it shall have been proposed by or shall have been submitted to the Board of County Commissioners or their Designee's review and recommendation.

**STANDARD C - MANUFACTURED/MOBILE HOME PARK ORDINANCE**

A. GENERAL PROVISIONS

Section A.1: Purpose.

The purpose of this Ordinance is to regulate and guide the establishment of manufactured/mobile home parks in order to promote the health, safety and general welfare of the citizens of Columbus County, North Carolina. This Ordinance is designed to accomplish the following specific objectives:

- 1) To further the orderly layout of manufactured/mobile home parks;
- 2) To secure safety from fire, panic and other danger;
- 3) To provide adequate light and air; and
- 4) To ensure that facilities for transportation, parking, water, sewage and recreation are provided for manufactured/mobile home park residents and visitors.

Section A.2: Jurisdiction.

These regulations shall govern the establishment of each and every new manufactured/mobile home park and the alteration or expansion of existing manufactured/mobile home parks lying within the jurisdiction of Columbus County. Facilities developed within a municipal limit or extra-territorial jurisdiction will come under the authority of that particular municipality.

Section A.3: Authority.

Columbus County hereby exercises its authority to adopt and enforce a Manufactured/Mobile Home Park Ordinance pursuant to the authority granted to Columbus County by North Carolina General Statutes 153A-121 and 153A-341.1.

Section A.4: Short Title.

This Ordinance shall be known as the MANUFACTURED/MOBILE HOME PARK ORDINANCE FOR COLUMBUS COUNTY, and may be cited as the Manufactured/Mobile Home Park Ordinance.

Section A.5: Administration.

The Planning Department shall administer and enforce this Ordinance. The Planning Department may be provided with assistance of such other persons as necessary.

B. DEFINITIONS

Section B.1: Word Usage.

1. Words used in the present tense include the future tense.
2. Words used in the singular number include the plural and words used the plural number include the singular.
3. The word "shall" is always mandatory and not merely directory.
4. The word "may" is permissive.
5. The words "used" or "occupied" include the words intended, designed or arranged to be used or occupied.
6. Masculine includes feminine and neuter.

Section B.2: Definitions.

1. Abandoned Vehicle: A motor vehicle which is left on private property without the consent of the owner, occupant or lessee of the property.
2. Adjacent: Having a common border such as a space or lot line or street right-of-way.
3. Building Inspections Department: Columbus County Building Inspector or designee.
4. Community or Municipal Sewage Disposal System: A sewage disposal system which is a single system of sewage collection, treatment and disposal owned and operated by a public utility or community association constructed and operated in compliance with applicable requirements of the North Carolina Department of Environment and Natural Resources.
5. County: Columbus County, North Carolina acting by and through its Board of County Commissioners or duly authorized designee(s).
6. Family: Members of the same family, which shall be limited to spouse, parents, step-parents, grandparents, step-grandparents, children, step-children, brothers, step-brothers, sisters, step-sisters, aunts, uncles, father-in-law, step-father-in-law, mother-in-law, step-mother-in-law, brother-in-law, step-brother-in-law, sister-in-law, step-sister-in-law.

7. Farm: Farming operations that include growing crops, raising livestock and poultry, and growing nursery plants. A farm does not include commercial operations related to agriculture, such as a store selling fertilizer, a meat-packing operation, or a commercial grain-drying operation.
8. Health Director: The Columbus County Health Director or authorized designee.
9. Household Solid Waste: Waste normally generated by households.
10. Human Habitation: Used or intended to be used by human beings for occupancy.
11. Individual Sewage Disposal System: A septic tank and absorption field sewage system approved by the Environmental Division of the Columbus County Health Department.
12. Junk: (i) Any motor vehicle that is partially dismantled or wrecked and cannot be self-propelled or moved in the manner in which it was originally intended to move; or (ii) machinery and/or materials in which no specific or expressly written purpose can be provided.
13. Letter Permitting Construction: A notice issued by the Planning Department upon approval of the proposed manufactured/mobile home park plan allowing the Operator to begin construction of the manufactured/mobile home park in conformity with the approved manufactured/mobile home park plan.
14. Letter of Compliance: A notice issued at the completion of the construction of the Manufactured/Mobile Home Park and annually thereafter by the Planning Department certifying that the Manufactured/Mobile Home Park has been inspected and found to be in compliance with this Ordinance.
15. Manufactured/Mobile Home: A movable or portable dwelling over 32 feet in length and over 8 feet wide, constructed to be towed on its own chassis and designed without a permanent foundation for year-round occupancy, which includes one or more components that can be retracted for towing purposes and subsequently expanded for additional capacity, or of two or more units separately towable but designed to be joined into one integral unit and not complying with the N.C. State Uniform Residential Building Code.
16. Manufactured/Mobile Home Park: Any lot or part thereof, or any parcel of land under common ownership, regardless of the number of separate tracts, upon where more than two (2) manufactured homes will be used for the purpose of renting a space with or without a manufactured home will be or are used for human habitation purposes, whether the manufactured/mobile homes are owned by the Operator of the manufactured/ mobile home park or owned by individual occupants. More than two (2) manufactured/mobile homes on land under common ownership for the purpose of renting a manufactured/mobile home or space where the placement of a third manufactured/mobile home is located within five hundred (500') feet of any manufactured/mobile home(s) on property under common ownership is defined as a manufactured/mobile home park. This definition does not apply to manufactured/mobile home(s) that are exempt by farm or family status as defined within this ordinance.

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17. Manufactured/Mobile Home Space: A plot of land within a manufactured/mobile home park designed for the accommodation of a single manufactured home in accordance with the requirements set forth in this Ordinance.
18. Operator: The person who owns or IS responsible for the operation of a manufactured/mobile home park.
19. Person: Any individual, firm, corporation, association or partnership.
20. Planning Board: The Board appointed by the Columbus County Board of Commissioners pursuant to NCGS 153A-321.
21. Planning Department: Columbus County Planning Director or designee.
22. Pre-existing Mobile Home Parks: A manufacture/mobile home park, as defined by this Ordinance, that was in operation and occupied at the time of the effective date of this Ordinance.
23. Public Water System: As defined by Article 10, Chapter 130A, and Section313 (10) of the North Carolina General Statutes.
24. Recreation Area or Park: An area of land and/or water resource that is developed for active and/or passive recreation pursuits with various man-made features that accommodate such activities.
25. Solid Waste: Garbage, refuse, rubble, trash or other discarded materials resulting from industrial, commercial and agricultural operations, from community activities and from household use of products and materials, but does not include solids or dissolved materials and domestic sewage or other significant pollutants and water resources such as silt, dissolved or suspended solids and industrial pollutants, dissolved or suspended solids and industrial waste effluents, dissolved materials and irrigation, return flows or other common water pollutants.
26. Technical Review Committee (TRC): A committee of representatives chosen by the Planning Department from various county and state departments and agencies involved with development to serve as a review resource of proposed development.
27. Tie Downs: Galvanized steel cables or strapping which "tie" a manufactured/mobile home and its steel frame to anchors embedded in the ground.
28. Tract: A piece of land whose boundaries have been described or delineated in a legal instrument or on a map submitted to the Planning Department as part of the application for a permit to construct or expand a manufactured/mobile home park.
29. Travel Trailer: A wheeled vehicular portable structure built on a chassis designed to be used as a temporary dwelling including, but not limited to, structures mounted on auto or truck bodies that are commonly referred to as campers.
30. Variance: A modification of the terms of this Ordinance where, as a result of conditions peculiar to the property, a literal enforcement of this Ordinance would result in an unnecessary hardship.
31. Wind Zone II: Structures built to withstand one hundred (100) miles per hour winds.
32. Wind Zone II Declaration Sticker: Map of the United States placed in a

manufactured/mobile home by manufacturer designating Wind Zone placement areas.

33. Wind Zone II Designation: Minimum rating designation required for all manufactured/mobile homes to be set up in Columbus County.

C. NON-CONFORMING MANUFACTURED/MOBILE HOME PARKS (PRE-EXISTING PARKS)

Section C.1: Minimum Standards.

Manufactured/mobile home parks existing at the time of adoption of this Manufactured/Mobile Home Park Ordinance for which the Operator is not applying for expansion of or an addition or alteration to such pre-existing manufactured/mobile home park, and do not meet the minimum standards contained in Section D. Minimum Standards shall have sixty (60) days from the effective date of this Ordinance to comply with the following requirements:

1. Provide street names to be used in the parks;
2. Signage for park;
3. Solid waste disposal plan;
4. Register with the Columbus County Tax Office;
5. Register with the Columbus County Health Director;
6. Register with Columbus County Planning Department; and
7. Provide a road maintenance disclosure statement.

Section C.2: Letter of Compliance.

1. Upon compliance with A. 1. Through 7 above and the payment of the appropriate fees, the Letter of Compliance will be issued.
2. Operators of all Manufactured/Mobile Home Parks existing at the time of adoption of this Ordinance shall be required to obtain and maintain a current Letter of Compliance. Failure of an Operator to renew the Letter of Compliance within thirty (30) days following the expiration of such Letter shall result in the permanent loss of the existing status. Once the Ordinance is adopted, Operators will have not more than sixty (60) days after adoption to obtain a Letter of Compliance. Any expansion of the manufactured/mobile home park, either in area or in the number of homes, shall also immediately result in the loss of existing status. Any manufactured/mobile home park which loses its existing status shall be required to meet all minimum standards contained in Section D: Minimum Standards before a new Letter of Compliance will be issued.

D. MINIMUM STANDARDS OF DESIGN, CONSTRUCTION AND LAYOUT FOR OTHER THAN PRE-EXISTING MANUFACTURED/MOBILE HOME PARKS

Section D.1: Minimum Manufactured/Mobile Home Park Size: All manufactured/mobile home parks created after the effective date of this Ordinance shall contain a gross land area of at least two (2) acres and shall contain at least three (3) manufactured/mobile home spaces for occupancy.

Section D.2: Phases of Development: Manufactured/Mobile Home Parks developed in phases shall be required to develop a minimum of three (3) spaces in the first phase and a minimum of four (4) spaces in all additional phases except where the remaining spaces to be developed are less than four (4). In such case, all remaining spaces must be developed in the final phase.

Section D.3: Drainage: No manufactured/mobile home park shall be so located that the drainage of the manufactured/mobile home park area will endanger any public or private water supply.

Section D.4: Flood Hazard: Manufactured/mobile home parks shall not be located in areas that are susceptible to regular flooding as noted on FEMA Maps. Existing manufactured/mobile home parks located in flood hazard areas shall not be allowed to add additional spaces or manufactured/mobile homes. Manufactured/mobile home spaces shall be graded so as to prevent water from ponding or accumulating on the premises.

Section D.5: Spaces: All new manufactured/mobile home parks or additions to existing manufactured/mobile home parks shall have manufactured/mobile home spaces complying with the following:

1. Where a community or municipal sewage disposal system is used, each manufactured/mobile home space shall be at least than forty (40) feet wide and not less than four thousand (4,000) square feet in size.
2. Where individual sewage disposal system is used, unless it is determined by the Health Director that additional area is needed, each manufactured/mobile home space shall be at least sixty (60) feet wide and not less than seven thousand two hundred (7,200) square feet in size for a single-wide unit; and no less than nine thousand six hundred (9,600) square feet in size for a double or triple-wide unit.
3. In all cases, the corners of every manufactured/mobile home space shall be plainly marked by comer markers. The distance between manufactured/mobile homes, including any enclosed extension thereof, shall be at least than fifteen (15) feet. No manufactured/mobile home shall be located closer than fifteen (15) feet to any property line of the manufactured/mobile home park or to any other structure on the premises and not closer than twenty-five (25) feet to any public street or highway right-of-way.

Section D.6: Access and Streets.

1. All manufactured/mobile home parks shall be provided with a network of streets, roads or driveways that will allow safe and convenient vehicular access to an improved public street from each manufactured/mobile home space. No Manufactured/Mobile Home Park space may have direct driveway access to public roads. Direct driveway access may not be misconstrued in the meaning as to serve other manufactured/mobile home park spaces as an entrance or a primary Manufactured/Mobile Home Park road.
2. All manufactured/mobile home park roads, streets, driveways and parking areas shall be constructed and maintained with an all-weather surface. The design and construction of the road cross section and associated drainage features shall be in compliance with the Division of Highways, North Carolina Board of Transportation Subdivision Roads / Minimum Design Standards with the exception that pavement surface (S9.5A or S9.5B) will not be required. Appropriate construction testing reports certifying compliance with N C DOT standards shall be provided to the Planning Department. As an alternative cross section to that specified in the referenced NCDOT standards, four (4") inches of ABC with a test certified sub-grade at ninety-eight (98%) percent compaction or six (6") inches of ABC with a non-certified compacted sub grade may be used.
3. Roads and streets within the manufactured/mobile home park shall have a minimum travel-way width of eighteen (18) feet and be aligned and graded to provide adequate drainage.
4. The intersection of the public street with the entrance way or private access road to the manufactured/mobile home park shall be designed to facilitate the free movement of traffic on the public street and to minimize the hazards caused by traffic entering or leaving the manufactured/mobile home park. All park entrance ways shall be hard surface, approved by the North Carolina Department of Transportation, and shall be well marked and lighted. All manufactured/mobile home spaces must be accessed through the use of the interior road network of the manufactured/mobile home park.
5. Through streets connecting two (2) public thoroughfares or extending to adjacent properties shall be built to minimum construction standards required by the North Carolina Department of Transportation for acceptance to the State Highway System. All through streets shall have approval by the North Carolina Department of Transportation.

Section D.7: Parking.

1. Each manufactured/mobile home park shall provide sufficient parking and maneuvering space so that the parking, loading or maneuvering of a manufactured/mobile home shall not necessitate the use of any public street, sidewalk or right-of-way or any private grounds not part of the manufactured/mobile home park.

2. Each manufactured/mobile home space shall have parking space a minimum of 10' x 20' in size, sufficient to accommodate at least two (2) passenger vehicles, on four (4) inches of compacted well graded aggregate base course.

Section D.8: Exterior Lighting.

Adequate lights shall be provided to illuminate streets, common driveways, walkways and dead-end streets for the safe movement of vehicles and pedestrians at night. Minimum requirements will be based on 0.4 foot candles per light, spaced at a maximum of two hundred (200) feet between lights, and nine thousand five hundred (9500) lumens at a twenty-five (25) foot mounting height. Utility Company (Progress Energy or BEMC) lighting shall be acceptable as exterior lighting.

Section D.9: Planting Strip.

The manufactured/mobile home park shall have a planting strip not less than ten (10) feet wide adjacent to the manufactured/mobile home park property line extending along the entire perimeter of the manufactured/mobile home park. The planting strip shall not be a portion of any manufactured/mobile home space, street or private drive. It shall be planted with evergreen and/or deciduous trees not more than eight (8) feet apart and must be at least four (4) feet in height when planted, and a minimum of eight (8) feet tall at maturity. Dead trees must be replaced. It shall be adequately landscaped with grass and shrubbery in such a manner as to be harmonious with the landscaping and/or adjacent properties and in keeping with the general character of the surrounding neighborhood. A privacy fence at least six (6) feet in height may meet the planting strip requirements in such instances where landscaping is impracticable or in instances where the Planning Department determines that a fence would be the most effective buffer. All required planting strips must be continually maintained by the Operator. Failure to maintain any required planting strip may cause the manufactured/mobile home park Letter of Compliance to be withheld or revoked. The planting strip requirement may be waived where a property line of the manufactured/mobile home park abuts a natural vegetative area.

Section D.11: Numbering and Park Signs.

1. The Operator is responsible for obtaining manufactured/mobile home park space numbers from the Columbus County E-911 Addressing Office.
2. The Operator shall be required to install manufactured/mobile home space numbers. These numbers shall be at least six (6) inches in height and three (3) inches in width so as to clearly identify each manufactured/mobile home space from the street. These numbers shall be displayed either on the manufactured/mobile home or on a post placed within the manufactured/mobile home space.

3. All streets within the manufactured/mobile home park will be named. The Operator shall obtain approval of all street names from Columbus County E-911 Addressing Office.
4. The Operator shall purchase all street signs through the Columbus County E-911 Addressing Office.
5. The Operator shall install such street signs in a manner so that the signs are visible and clearly identify the individual streets within the manufactured/mobile home park.
6. Street signs shall be erected before any manufactured/mobile homes enter the manufactured/mobile home park.
7. The Operator shall also be required to install a reflective or lighted manufactured/ mobile home park sign at all entrances which identifies the name of the manufactured/ mobile home park and lists a telephone number at which the Operator may be contacted. The sign must be visible from the road adjacent to the manufactured/mobile home park.
8. Each manufactured/mobile home park sign shall be a minimum of three (3) feet high and four (4) feet wide with letter/numbers at least six (6) inches high and three (3) inches wide, visible to traffic at entrances.

#### E. ADDITIONAL REQUIREMENTS AND RESTRICTIONS

##### Section E.1: Manufacture Date.

No manufactured/mobile home manufactured prior to July 1, 1976 shall be placed in a Manufactured/Mobile Home Park. A manufactured/mobile home that was manufactured prior to July 1, 1976, and is located in Columbus County as of the adoption of this Ordinance, may be moved to a new Manufactured/Mobile Home Park provided that all other regulations and codes are met.

##### Section E.2: Responsibilities and Duties of Operator.

1. The Operator shall be required to provide adequate supervision to maintain the manufactured/mobile home park in compliance with the requirements of this Ordinance. The Operator shall keep all park -owned facilities, improvements, equipment and all common areas in good repair and maintained in such a manner as to prevent the accumulation of storage of materials which could constitute a fire hazard or would cause insect or rodent breeding and harborage. Abandoned vehicle storage, the accumulation of junk, or the storage of possessions and/or equipment in the area beneath the manufactured/mobile homes is expressly prohibited in pre-existing and/or new manufacture/mobile home parks.
2. The Operator will use extermination methods and other measures that conform with the requirements of the Health Director to control insects and rodents.
3. The Operator will cause all lumber, pipes, and other building materials to be stored at least one (1) foot above the ground.

4. Where the potential for insect and rodent infestation exists, the Operator will cause all exterior openings in or beneath any structure to be appropriately screened with wire, mesh or other suitable materials.
5. The Operator will control the growth of brush, weeds, and grass so as to prevent harborage of ticks, chiggers, and other noxious insects. The manufactured/mobile home park will be maintained in such a manner as to prevent the growth of ragweed, poison ivy, poison oak, poison sumac, and other noxious weeds considered detrimental to health. Open areas shall be maintained free of heavy undergrowth of any description.
6. Prior to the issuance of a Letter of Compliance, the Operator will provide in writing a road disclosure statement regarding the maintenance of manufactured/mobile home park roads. The disclosure will outline the Operator's plan for road upkeep and maintenance. The disclosure statement is required for pre-existing manufactured/ mobile home parks as well as new Manufactured/Mobile Home Parks.
7. The Operator will ensure that all manufactured/Mobile Home Park roads will allow for unencumbered access for emergency and safety vehicles to enter and service emergency and safety needs of the residents of the manufactured/mobile home park.
8. The Operator shall be required to observe the placement of all manufactured/mobile homes and to guarantee that no home is occupied until a current Certificate of Occupancy is issued by the Building Inspections Department.
9. All applicable health regulations shall apply to manufactured/mobile home parks except where such regulations are in conflict with the provisions of this Ordinance, in which case the more restrictive provisions shall apply.
10. The Operator shall pay all applicable fees as set out in the "Schedule of Fees for Manufactured/Mobile Home Parks." These fees are determined by the Planning Department and prominently posted in the Planning Department. Such schedule shall be prepared and posted by the Planning Department no later than the first Monday after the adoption of this Ordinance. Fees are subject to change with the most recent fee changes shown on a new "Schedule of Fees for Manufactured/Mobile Home Parks," which shall be posted within five (5) days of the effective date of the change.
11. Failure to comply with any of these responsibilities and duties shall be cause to revoke or deny a manufactured/mobile home park Letter of Compliance.

Section E.3: Placement and Anchoring.

1. All manufactured/mobile homes within a manufactured/mobile home park shall be properly anchored, or provided with tie downs, in accordance with the State of North Carolina Regulations for Manufactured/Mobile Homes, manufacturer's instructions and meet all code requirements.
2. All manufactured/mobile homes within a manufactured/mobile home park shall be a minimum of Wind Zone II Certified as designated by the North Carolina Department of Insurance.

Section E.4: Skirting.

Each manufactured/mobile home shall be properly installed with skirting that is anchored down and of the type that is manufactured specifically for such use. The skirting shall be made of a material compatible with the siding of the manufactured/mobile home.

Section E.5: Utility and Solid Waste Disposal Requirements

1. Sewage Disposal: Every manufactured/mobile home shall be provided with an adequate sewage disposal system by connection to a public sewage system or a septic tank system constructed in compliance with State regulations and approved by the Health Director.
2. Solid Waste Collection and Disposal:
  - a) The Operators of manufactured/mobile home parks shall provide for the collection of solid waste from the containers furnished by Operator, and transport of solid waste to certified disposal sites.
  - b) All garbage and refuse in every manufactured/mobile home park shall be stored in suitable water-tight and fly-tight metal receptacles (commercial dumpsters), which shall be kept covered with tight-fitting metal covers or other methods approved by the Health Director. It shall be the responsibility of the Operator to see that all garbage and refuse is disposed of regularly and in a sanitary manner.

Section E.6: Residential Units Not to Be Travel Trailers.

The Operator shall not permit a travel trailer to locate within the manufactured/mobile home park if used for any dwelling purpose whatsoever.

Section E.7: Non-Residential Uses.

No part of the manufactured/mobile home park may be used for non-residential purposes, except uses that are required for the direct servicing and wellbeing of the manufactured/mobile home park residents and for the management and maintenance of the manufactured/mobile home park.

Section E.8: Assist County Tax Assessor.

The Operator shall be required to comply with North Carolina General Statute 105-316 (a) (1) which requires that as of January 1st, of each year, the Operator of the manufactured/mobile home park renting spaces for three (3) or more manufactured/mobile homes, furnish to the County Tax Assessor the name of the owner of and a description of each manufactured/mobile home located in the manufactured/mobile home park.

F. COMPLIANCE

Section F.1: Approval Required.

Until proper application has been made and approval granted by the Planning Board, no person shall:

1. construct or engage in the construction of any manufactured/mobile home park;
2. make any expansion of or addition or alteration to a manufactured/mobile home park that increases/decreases the number of manufactured/mobile homes within the manufactured/mobile home park;
3. alters the number of spaces available for manufactured/mobile homes within the manufactured/mobile home park; or
4. affects the facilities required within the manufactured/mobile home park.

Section F.2: Exception for Farms.

This Ordinance shall in no way regulate, restrict, prohibit or otherwise deter any farm, as defined within this Ordinance. The farm owner may request that his farm be exempt from this Ordinance by submitting to the Planning Department a notarized statement stating that the manufactured/mobile homes on the farm property will be used for farm labor housing, which also includes NC Department of Labor certified "Migrant Camps", or family. The farm owner shall provide additional documentation as requested by the Planning Board as supporting proof of the notarized statement.

Section F.3: Exception for Families.

This Ordinance shall in no way regulate, restrict, prohibit or otherwise deter families from occupying more than two (2) manufactured/mobile homes on a single tract of land. The family may request that the homes be exempt from this Ordinance by submitting to the Planning Department a notarized statement stating each and every manufactured/mobile home on the tract is owned and occupied by a family member as defined by in this Ordinance.

Section F.4: Enforcement.

1. If the Planning Department shall find that any of the provisions of this Ordinance are being violated, it shall notify the Operator of the violation in writing, specifying the nature of the violation and what corrective actions must be taken. The Operator shall take the corrective actions within thirty (30) days of receipt of the notice.
2. The Building Inspections Department shall take any action authorized by law to ensure compliance with or to prevent violation of the provisions of this Ordinance.

3. An annual inspection of all Manufactured/Mobile Home Parks shall be conducted by the Planning Department to ensure that all provisions of this Ordinance are being met. The Operator shall be advised, in writing, of any deficiencies. Once the deficiencies are corrected and the inspection fee is paid, a Letter of Compliance shall be issued by the Planning Department.
4. All manufactured/mobile home parks shall be inspected annually by the Health Director.
5. Violation of any provision of this Ordinance constitutes grounds for refusing to issue, renew, or to revoke a Letter of Compliance.

Section F.5: Variances.

The Planning Board may grant a variance from this Ordinance when the Planning Board determines that compliance with this Ordinance will create an undue hardship. In granting any variance, the Planning Board shall make the findings below, taking into account the nature of the proposed manufactured/mobile home park and the probable effect of the manufactured/mobile home park upon traffic conditions in the vicinity. No variance shall be granted unless the Planning Board finds the following facts:

1. There are special circumstances or conditions affecting said property such that the strict application of the provisions of this Ordinance would deprive the Operator of the reasonable use of the property; and
2. The variance is necessary for the preservation and enjoyment of a substantial property right of the Operator; and
3. The circumstances giving rise to the need for the variance are peculiar to the parcel and are not generally characteristic of other parcels in the jurisdiction of this Ordinance; and
4. The granting of the variance will not be detrimental to the health, safety and welfare of the public or injurious to adjacent property; and
5. The granting of the variance will not confer on the Operator any special privileges; and
6. The granting of the variance will not be in contradiction to other local, state or federal regulations.

Section F.6: Penalties/Fines.

1. Criminal: The Operator who violates any provision of this Ordinance shall be guilty of a misdemeanor and shall be subject to a fine of not more than two hundred dollars (\$200.00) or imprisonment not to exceed thirty (30) days, as provided by NCGS 14-4(a).
2. Civil: In lieu of or in addition to the criminal penalties outlined above, the Operator who violates any provision of this Ordinance may be subject to a civil penalty under NCGS 153-AI23(c), not to exceed two hundred dollars (\$200.00). Each day such violation shall be permitted to exist shall constitute a separate offense. If the Operator does not pay such penalty within thirty (30) days of notification of its assessment, it may be recovered by the County in a civil action in the nature of a debt. The Operator may contest said penalty

in the court of appropriate jurisdiction.

Section F.7: Right of Appeal.

If a Letter of Compliance is denied or revoked, the Operator may appeal the action of the Planning Department to the Planning Board. Such appeal may be made by submitting written notice to the Planning Department. The Planning Board decisions may be appealed to the court of appropriate jurisdiction as provided by law.

G. APPLICATION PROCEDURE

Section G.1: Application for Approval.

1. Sketch Plan: Prior to a formal application, the Operator is encouraged to meet with the Planning Department in order to discuss the proposed manufactured/mobile home park. At or prior to such meeting, the Operator shall provide to the Planning Department three (3) copies of a sketch plan of the proposed manufactured/mobile home park. The plan shall show existing and proposed roads, proposed spaces, significant natural features (such as, but not limited to, watercourses, wetlands, floodplains, steep slopes), proposed solid waste facilities and any proposed amenities. The sketch plan must be to a scale and in such detail to convey the intent of the proposed manufactured/mobile home park. The sketch plan may be prepared by the Operator or his/her designee. The sketch plan does not require a Professional Engineer's nor a Licensed Surveyor's seal. The Planning Department may request that the sketch plan be reviewed by the Technical Review Committee but such review is not a required step in the approval process.
2. Application: Prior to the construction of a manufactured/mobile home park, or the expansion of an existing manufactured/mobile home park, the Operator shall make application to the Planning Department for a permit to construct or expand such manufactured/mobile home park. The application shall be complete when accompanied by three (3) copies of the proposed manufactured/mobile home park plan and any associated fee remitted to the Planning Department. Such proposed manufactured/mobile home park plan must meet the requirements of Section 2 herein below. The complete application shall become a permanent part of the records of the Planning Board.
3. Proposed Manufactured/Mobile Home Park Plan Requirements: The proposed manufactured/mobile home park plan shall be drawn at a scale no smaller than one (1) inch = one hundred (100) feet and must be drawn and sealed by a registered engineer or licensed surveyor and shall include the following:
  - a. The name of the manufactured/mobile home park, the names and addresses of the Operator and the registered engineer or licensed surveyor;

## Columbus County North Carolina - Code of Ordinances

- b. Date, scale and approximate North arrow;
- c. Boundaries of the tract shown with bearings and distances;
- d. Streets, traffic circulation, walkways, driveways, recreation areas, parking spaces, service buildings, water courses, easements, manufactured/mobile home spaces and numbers, all structures to be located in the manufactured/mobile home park and total acreage of the manufactured/mobile home park;
- e. Vicinity map showing the location of the manufactured/mobile home park and the surrounding land usage;
- f. Names of adjacent property owners;
- g. The existing and proposed plans for surface water drainage, street lights, water supply and solid waste and sewage disposal facilities;
- h. A detailed plan for electrical installations prepared to meet the state and county codes;
- i. A detailed drawing to scale of not less than one (1) inch = ten (10) feet shall be prepared of a typical manufactured/mobile home space showing the location of the manufactured/mobile home, all utilities, the patio, concrete footing, walks, parking spaces, driveways, and all other improvements; and
- j. As necessary, provide information concerning phases of development.

### Section G.2: Review.

1. Planning Department: The Planning Department shall present the proposed manufactured/mobile home park plan for review to the Technical Review Committee (TRC) within fifteen (15) days of receipt of the complete application.
2. Technical Review Committee: The TRC shall make any comments and suggestions concerning the proposed manufactured/mobile home park and return the proposed manufactured/mobile home park plan along with such comments and suggestions to the Planning Department within fifteen (15) days of the TRC receiving the plan. The Planning Department shall present the complete application with the TRC's comments and suggestions to the Planning Board at its next regularly scheduled Planning Board meeting.
3. Planning Board: The Planning Board shall review the complete application to determine if the proposed manufactured/mobile home park plan is in accordance with the requirements set forth in this Ordinance.
  1. If the Planning Board determines that the complete application does not comply with the requirements herein, then the Planning Board shall disapprove the complete application, state the reasons for such disapproval and make recommended changes. The disapproval, the reasons for disapproval and the recommended changes shall be given to the Operator.
  2. If the Planning Board approves the complete application, one (1) approved copy of the proposed manufactured/mobile home park plan shall be sent to the Building

Inspections Department and one (1) approved copy of the proposed manufactured/mobile home park plan shall be given to the Operator. The Planning Board shall also notify the Planning Department of its approval of the complete application.

4. Appeal: The Operator may appeal the decision of the Planning Board disapproving the complete application by making written request for a hearing before the Planning Board. Such appeal must be received by the Planning Department within ten (10) calendar days from the date of such disapproval. Failure to make such appeal within the time specified causes the Operator to lose all right to appeal the decision of the Planning Board. The Planning Department shall submit such appeal to the Chairman of the Planning Board within seven (7) days of receipt of such appeal. A hearing shall be scheduled within forty-five (45) days from the receipt of the notice of appeal. Notice of such hearing shall be mailed by certified mail, return receipt requested at least fifteen (15) days prior to the scheduled hearing. At the hearing the Planning Board shall allow the Operator and any person(s) the Operator wishes to present to the Planning Board to give information to the Planning Board concerning whether the Planning Board should reverse its decision. If the Planning Board upholds its decision to disapprove the complete application, the Operator is precluded from resubmitting the complete application for a 12-month period from the date of the hearing.

### Section G.3: Permits.

1. Letter Permitting Construction
  - a. After receiving notice of the approval of the proposed manufactured/mobile home park plan from the Planning Board, the Planning Department shall issue a letter informing the Operator that he may proceed with the construction of the manufactured/mobile home park according to the plan as approved by the Planning Board. The letter allowing construction shall not be construed to entitle the Operator to offer space for rent or lease, or to operate a manufactured/mobile home park.
  - b. The letter permitting construction shall be valid for twelve (12) months from the date of issuance. The Operator shall begin construction of the manufactured/mobile home park within twelve (12) months from the issuance date of the initial letter permitting construction. If the Operator has not begun construction within twelve (12) months from the issuance letter allowing construction, the Operator may request in writing to the Planning Board for an extension of time to begin construction by showing reasonable cause for the delay in beginning construction. The Planning Board may grant an extension of time to the Operator upon a showing of reasonable cause. If the Planning Board denies the Operator's request for an extension of time, the letter permitting construction

expires and the Operator must then resubmit the complete application.

2. Letter of Compliance

- a. When the Operator has completed the construction of the manufactured/mobile home park, he shall notify the Planning Department in writing. The Planning Department shall make an onsite inspection.
- b. If the manufactured/mobile home park conforms to the manufactured/mobile home park plan approved by the Planning Board, the Planning Department shall issue the Operator a Letter of Compliance. The Letter of Compliance issued to the Operator shall constitute authority to operate the manufactured/mobile home park.
- c. If the manufactured/mobile home park does not conform to the approved manufactured/mobile home park plan, the Planning Department shall not issue the Letter of Compliance until the manufactured/mobile home park comes into conformity.
- d. The Building Inspections Department shall not issue a Certificate of Occupancy until after the Letter of Compliance has been issued by the Planning Department.

Section G.4: Annual Review.

The Letter of Compliance shall expire after a one (1) year period and must be renewed annually. For manufactured/mobile homes without a Certificate of Occupancy, the Building Inspections Department shall withhold Certificate of Occupancy Permits until a current Letter of Compliance is issued.

Section G.5: Development in Phases.

When a manufactured/mobile home park is to be developed in phases, the proposed manufactured/mobile home park plan may be submitted for the entire development. All existing phases of a manufactured/mobile home park must have a current Letter of Compliance in order for any additional phases to be approved. The Operator may request a Letter of Compliance be issued for each phase completed.

Section G.6: Appeal.

If a Letter of Compliance is denied or revoked, the Operator may appeal the action of the Planning Department to the Planning Board. Such appeal may be made by submitting written notice to the Planning Department. The Planning Board decisions may be appealed to the courts of appropriate jurisdiction as provided by law.

H. AMENDMENT

1. The provisions of this Ordinance may be amended, supplemented, changed, modified or repealed by the County.
2. The Planning Board shall consider and make recommendations to the County concerning each proposed amendment.

**ARTICLE 10. DEFINITIONS**

Definitions are presented in two (2) parts; Definitions Related to the Southeastern Community College Zoning Area; and Definitions Related to the General Use District Zoning Area. Some definitions are also included in the text of Article 9, Standards B and C.

Section 1. Rules of Construction:

- A. Words used in the present tense shall include the future tense.
- B. Words used in the singular number shall include the plural number and the plural singular.
- C. The word "shall" and "will" are mandatory and not discretionary.
- D. The word "may" is permissive.
- E. The word "lot" shall include the words "parcel", "plot" and "tract".
- F. The word "building" and "structures" are synonymous.
- G. The phrase "used for" shall include the terms "intended to be used", or "intended for" and "designed for" and "occupied for".
- H. Words used here in the masculine gender shall be interpreted to include the feminine gender.

Section 2. Definitions Related to Southeastern Community College Zoning Area.

Except where specifically defined herein, all words used in this Ordinance shall carry their customary meanings. Words used in the present tense include the future tense; the singular number includes the plural. The word shall is mandatory, not directory.

**Accessory Use.** A use customarily incidental and subordinate to the principal use or building and located on the same lot with such principal use or building.

**Building.** Any structure enclosed and isolated by exterior walls constructed or used for residence, business, industry, or other public or private purpose, or accessory thereto, and including tents, lunch wagons, dining cars, trailers, and mobile homes, and similar structures whether stationary or moveable.

**Building Accessory.** A subordinate building, the use of which is incidental to that of a principal building on the same plot.

**Building, Principal.** A building in which is conducted the principal use of the plot on which it is situated.

**Building Setback Line.** A line establishing the minimum allowable distance between the nearest portion of any building, excluding steps, gutters, and similar fixtures, and the property line when measured perpendicularly thereto.

**Building Height.** The vertical distance measured from the mean elevation of the proposed finished grade at the front of the building to the highest point of the coping of a flat roof; to the deck line of a mansard roof; or to the mean height level between the eaves and ridge of a gable, hip, or gambrel roof.

**District.** Any section of the Southeastern Community College Area in which zoning regulations are uniform.

**Dwelling.** A building or portion thereof designed, arranged or used for permanent living quarters for one or more families. The term "dwelling" shall not be deemed to include a motel, hotel, tourist home, house trailer, or other structures designed for transient resident.

**Dwelling Unit.** A building or portion thereof designed, arranged or used for living quarters for one family.

**Dwelling, Single Family.** A detached building designed or occupied exclusively by one family.

**Dwelling, Two Family.** A building or portion thereof designed for or occupied exclusively by two families living independently of each other and doing their own cooking therein, including apartment houses.

**Family.** One or more persons occupying a premise and living as a single housekeeping unit as distinguished from a group occupying a boarding house, lodging house or hotel.

**Garage, Private.** A garage used for storage purposes only and having a capacity of not more than three automobiles or not more than one automobile per family housed in the building to which such garage is accessory, whichever is the greater.

**Home Occupation.** Any use conducted entirely within a dwelling and carried on by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof, and no person, not a resident of the premises, is employed in connection with the home occupation. Such occupation shall be carried on solely within the main dwelling and shall not occupy more than twenty-five (25)

percent of the floor area the dwelling. Off-street parking shall be required.

**Junk Yard.** Any 1 and or area used, in whole or in part for commercial storage and/or sale of waste paper, rags, scrap, metal or other junk, and including storage of vehicles and machinery and dismantling or such vehicles or machinery.

**Lot.** A parcel of land occupied or to be occupied by one (1) main building or use, with its accessories and including the open spaces necessary to it. No area shall be counted as accessory to more than one (1) main building or use, and no area necessary for compliance with the open space requirements for one (1) main building or use shall be included or counted in the calculation of the open space accessory to any other main building or use. For the purpose of this Ordinance the word "lot" shall be taken to mean any number of contiguous lots or portions thereof, upon which one (1) principal building and its accessory buildings is located or intended to be located.

**Lot, Depth of.** The mean horizontal distance between the front and rear lot lines.

**Lot, Corner.** A lot or portion of a lot at the junction and abutting upon two (2) or more streets.

**Lot Lines.** The lines bounding a lot as defined herein.

**Lot, Width.** The mean horizontal distance between side lot lines.

**Nonconforming Use.** A building or land occupied by a use that does not conform with the use regulations of the district in which it is situated.

**Parking Space.** The storage space for one automobile of not less than eight (8) feet by twenty (20) feet plus the necessary access space. It shall always be located outside of the dedicated street right-of-way.

**Service Station.** Any building or land used for the dispensing, sale or offering for sale at retail of any automobile fuels, lubricants, or tires, except that indoor car washing, minor motor adjustment, and flat tire repair are only performed incidental to the conduct of the service station.

**Sign.** An advertising or announcement device used to attract attention or to disseminate information. Sign restrictions in this Ordinance shall not apply to the following: traffic control devices; legal notices, noncommercial use of flags and insignias; mailbox numbers and names; house numbers and names; and noncommercial names of premises or occupants thereof which have areas of one (1) square foot or less.

**Sign, Accessory.** An advertising service used to disseminate information concerning a person, place or thing, pertaining to the use of the land upon which it is located.

**Sign, Area.** The sign shall be computed by the smallest square, triangle, rectangle, circle, or combination thereof, which will encompass the entire advertising copy area.

**Sign, Independent.** One (1) advertising device used to disseminate information concerning a person, place, or thing, not pertaining to the use of the land upon which it is located.

**Story.** That portion of a building included between the surface of the floor next above it, or if there be no floor above it, then the space between such floor and the ceiling next above it.

**Street or Road.** A thoroughfare which affords the principal means of access to abutting property and has been accepted for maintenance by the State Highway Commission.

**Structures.** Anything constructed or erected, the use of which requires more or less permanent location on the ground, or attached to something having more or less permanent location on the ground.

**Tourist Home.** A dwelling wherein rooms are rented as a home occupation to provide overnight accommodations for transient guests.

**Yard.** An open space on the same lot with a principal building unoccupied and unobstructed from the ground upward except as otherwise provided herein.

**Yard, Front.** An open space on the same lot with a principal building between the front line of the building (exclusive of steps) and the front property or street right-of-way line and extending across the full width of the lot. The depth or the front yard shall be measured between the front line of the building and the front line of the lot. Covered porches, whether enclosed or unenclosed shall be considered as part of the main building and shall not project into a required yard.

**Yard, Rear.** An open space between the rear line of the principal building (exclusive of steps) and the rear line of the lot and extending the full width of the lot and may be used for accessory buildings. The depth of the rear yard shall be measured between the rear line of the lot or the center line of the alley, if there be an alley, and the rear line of the main building.

**Yard, Side.** An open unoccupied space on the same lot with a building between the side line of the building (exclusive of steps) and the side line of the lot and extending from the front yard line to the rear line. If there be no front yard the front boundary of the side yard shall be the front line of the lot and if there be no rear yard the rear boundary of the side yard shall be the rear line of the lot.

**Zoning Enforcement Officer.** The official charged with the enforcement of the Zoning Ordinance.

Section 3. Definitions Related to the General Use District Zoning Area.

Words and terms set forth below shall have the meanings ascribed to them. Any word, term(s) or phrase used in this Ordinance not defined below shall have the meaning ascribed to such word, term or phrase in the most recent editions of Merriam-Webster's Dictionary, Black's Law Dictionary unless, in the opinion of the Administrator, established customs or practices in Columbus County justify a different or additional meaning. Furthermore, for the purpose of this Ordinance, certain words, terms and phrases are herein defined as follows:

***Adult Business.*** An adult business shall be defined as any business activity, club or other establishment which permits its employees, members, patrons or guests on its premises to exhibit any specified anatomical areas before any other person or persons. This includes any establishment that, as their primary business, is involved in the sale of adult oriented literature, video recordings, etc.

***Asphalt Plants.*** A plant used for the manufacture of asphalt, macadam and other forms of coated road stone, sometimes collectively known as blacktop.

***Bona Fide Farms.*** A commercial agricultural use of a tract of five (5) or more acres used exclusively for the raising of crops, livestock, or other plants and animals, including orchards, vineyards, and nurseries, along with any buildings and structures that are customarily and necessarily incidental to such activities, as set forth in NCGS 105-277.1 et seq. This shall include the retail sale of agricultural products grown or raised on the premises or agricultural products purchased for resale. In addition, this Ordinance does not impose nor exercise any controls over croplands, timber lands, pasture lands, orchards, or idle or other farmlands. Nor does it exercise control over any farmhouse, bam, poultry house, or other farm buildings, including tenant or other houses for persons working on said farms, as long as such houses shall be in the same ownership as the farm and located on the farm. Residences for non-farm use or occupancy and other non-farm uses shall be subject to the provisions of this Ordinance.

***Cement Mixing Facilities.*** A facility that combines various ingredients to form concrete. Some of these inputs include sand, water, aggregate (rocks, gravel, etc.), fly ash, potash, and cement. This includes ready mix and central mix plants.

***Chemical Manufacturing.*** The mechanical or chemical transformation of materials and substances into new products, including the assembly of component parts and the blending of materials.

***Chemical Storage Facility.*** Chemical storage facilities are places for bulk storage of any raw chemicals not covered by other categories. They may be either gas, liquid, or solid. This does not include warehouse storage of packaged chemicals or chemical products.

**Comprehensive Land Use Plan.** A general plan for the future development of Columbus County, adopted by the Columbus County Board of Commissioners according to the provisions of the North Carolina General Statutes.

**Chipping Mill.** The conversion of wood or logs into wood chips.

**Electronic Gaming Ordinance.** A business enterprise, whether principal or accessory, where persons may play games on on-site machines/terminals/computers that reveal the results of sweepstakes or similar contests associated with the on-site purchase of internet time, phone time, office supply or other retail good; and where redeemable cash sweepstakes awards (government issued coins and bills in hand) in amounts of \$10.00 or more may be received. This definition does not apply to any game or process prohibited by N.C.G.S. §§ 14-304 through 14-309 or to any game regulated by the North Carolina Education Lottery Commission.

**Electrical Generating Facility.** An industrial facility also referred to as a power station, generating stations, power plants, power house or generating plant is an industrial facility for the generation of power.

**Explosive Manufacturing.** Explosive and emulsion manufacturing projects.

**Firing Range.** A specialized facility designed for firearms practice where ammunition is used. May be indoor or outdoor.

**Fuel Oil Bulk Storage.** Storage facilities where 30,000 gallons or greater of fuel is stored.

**Industrial Uses.** Any use or category of uses that meet the criteria set forth below for Heavy, Light, or Industrial Park uses:

1. Heavy Industrial -Intensive industrial processes that encompass more than one acre and generate EPA controlled discharges as part of their by product, and by their nature, create high decibel noise, smoke, or dust. May also include mining and related excavations and extractions of material for sale off site, asphalt plants, explosive manufacturing, chemical manufacturing, paper mills, and large scale wood processing operations.
2. Light Industrial -Industry that is less intensive and not otherwise covered by the definition of Heavy Industry. Examples may include, but not be limited to, small manufacturing, small spinning/sewing operations, solar farms, cement mixing facilities, warehousing, small scale craft and wood working facilities.
3. Industrial Park -Large tracts of land that are designated as an industrial park, typically operated by the County, that has water and sewer available to it.

***Intensive Livestock Operation/Animal Operation.*** Any enclosure, pen, feedlot, building, or group of buildings intended to be used, or actually used, to feed, confine, maintain, or stable a concentration of cattle, horses, sheep, poultry, or swine and that meet the following criteria as defined by N.C.G.S. 143-215.10B:

1. Anytime the total number of animals meets or exceeds the following threshold level:
  - Cattle -minimum 100 animals
  - Horses -minimum 75 animals
  - Swine -minimum 250 animals
  - Sheep/goats -minimum 1000 animals
  - Poultry -minimum 30,000 animals
2. Where dietary needs are met primarily by means other than grazing; and,
3. Where liquid animal waste is primarily handled through a liquid waste management system, or any agriculture feedlot activity with a liquid animal waste management system that discharges to the surface waters of the State.

Intensive livestock operations include any buildings, structures, excavations, or enclosed areas directly involved therein, including land used for pasture or feedlot purposes, and any animal waste storage structures, excavations or areas directly connected to or associated with such operations.

Intensive livestock operations typically include an enclosure, pen, feedlot, building or group of buildings intended for the confined feeding, breeding, raising or hold of animals where animal waste may accumulate or where vegetative cover cannot be maintained due to the concentration of animals.

***Junk, Storage, Recycling, Reclamation, or Salvage Yards.*** Any area, in whole or in part, where waste or scrap materials are bought, sold, exchanged, stored, baled, packaged, disassembled, or handled, including, however not limited to: scrap iron and other metals, scrap building/construction materials, plastic pipe, paper, rags, vehicles, vehicle parts and components, rubber tires, bottles, cans and household goods. The term includes junkyards and auto wrecking yards but does not include uses established entirely within enclosed buildings.

***Landfill (Demolition & Sanitary).*** A sanitary landfill is a site used for the disposal of solid wastes beneath layers of soil and other materials. A demolition landfill is a site that is used for the disposal of stumps, limbs, leaves, concrete, brick, wood, uncontaminated earth and other solid wastes resulting from construction, demolition or land clearing.

***Land Application of Waste.*** Land application of any human or animal waste, treated or untreated.

***Manufactured Mobile Home.*** A structure defined by the Manufactured/Mobile Home Park Ordinance for Columbus County as approved November 3, 2009 and as may be amended.

***Manufactured Home Park.*** A parcel (or contiguous parcels) of land as defined by the Manufactured/Mobile Home Park Ordinance for Columbus County as approved November 3, 2009 and as may be amended.

***Meat Packing Facility.*** A facility used for processing and packing meats to be sold for wholesale.

***Mining.*** The breaking or disturbing of surface soil or rock in order to remove minerals to make them suitable for commercial, industrial or construction use.

Mining does not include:

- Those aspects of deep mining not having significant effect on the surface, where the affected land does not exceed one acre in area;
- Excavation or grading when conducted solely in aid of on-site farming or of on-site construction for purposes other than mining, such as constructing a residence, garage, commercial or industrial building;
- Excavation or grading when conducted in aid of construction borrow pits in conjunction with site prep for an approved development;
- Mining operations where the affected land does not exceed one (1) acre in area;
- Plants engaged in processing minerals produced elsewhere and whose refuse does not affect more than one (1) acre of land; or,
- Removal of overburden and mining of limited amounts of any ores or mineral solids when done only for the purpose of and to the extent necessary to determine the location, quantity, or quality of any natural deposit, provided that no ores or mineral solids removed during exploratory excavation or mining are sold, processed for sale, or consumed in the regular operation of a business, and provided further that the affected land resulting from any exploratory excavation does not exceed one (1) acre in area.

***Nonconforming Use.*** The use of a building, mobile home, or land which does not conform to the use regulation of this Ordinance, either at the effective date of this Ordinance or as a result of subsequent amendments which may be incorporated. Any building or land use covered by this Ordinance that is not operational during a one (1) year period from adoption of this Ordinance shall be considered a nonconforming use.

**Propane or Gasoline Bulk Storage.** The storage of product at 30,000 gallons or greater for the purpose of an individual or corporation to sell various quantities for profit.

**Race Tracks (Includes Go-Cart, Motocross, etc.).** Any facility used for the purpose of racing vehicles such as cars, four-wheelers, dirt bikes, go-carts, etc.

**Recreation Vehicle (RV) Campgrounds.** Any site or tract of land upon which fifteen (15) or more recreational vehicle spaces are provided for temporary occupancy. A recreational vehicle park shall also be known as a campground or travel trailer park.

**Site Plan.** A specific and detailed plan of development meeting the requirements of this ordinance.

**Solar Farm/Park.** Any parcel of land one (1) acre or greater where solar panels are located for the purpose of selling power. (See Light Industrial)

**Wireless Communication Facility.** A Wireless Communication Facility is any unstaffed facility for the transmission and/or reception of wireless telecommunications services, usually consisting of an antenna array, connection cables, an equipment facility, and a support structure to achieve the necessary elevation.

**Wireless Telecommunication Tower.** Any tower or structure erected for the purpose of supporting, including, but not limited to, one or more antennas designed to transmit or receive television, AM/FM radio, digital, microwave, cellular, telephone, or similar forms of electronic communication. Alternative structures, as defined by this Ordinance, are considered towers by this definition. The following shall not be included in this definition:

- Amateur radio facilities with antennas mounted on supporting structures less than 100 feet in height;
- Residential antennas for receiving television or AM/FM radio broadcasts;
- Residential satellite dishes; or,
- Commercial or industrial satellite dishes that are less than 20 feet in height.”

Approved and Adopted by the Columbus County Board of Commissioners on the 5th day of May, 2017.

**PART 3 – SUBDIVISION REGULATIONS ORDINANCE**

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**ARTICLE 1 - INTRODUCTORY PROVISIONS**

Section 1. Title.

This ordinance shall be known and may be cited as the Subdivision Regulations of Columbus County, North Carolina, and may be referred to as the Subdivision Regulations.

Section 2. Purpose.

The Purpose of this ordinance is to establish procedures and standards for the development and subdivision of land within the territorial jurisdiction of Columbus County. It is further designed to provide for the orderly growth and development of Columbus County: for the coordination of transportation networks and utilities within proposed subdivisions with existing or planned streets and highways and with other public facilities; for the dedication or reservation of recreation areas serving residents of the immediate neighborhood within the subdivision and of rights-of-way or easements for street and utility purposes; and for the distribution of population and traffic in a manner that will avoid congestion and overcrowding and will create conditions that substantially promote the 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 re-subdivision of larger tracts into smaller parcels of land.

Section 3. Authority.

This ordinance is hereby adopted under the authority and provisions of the General Statutes of North Carolina, Chapter 153A, Article 18, Part 2.

Section 4. Jurisdiction.

The regulations contained herein, as provided in G.S. 153A, Article 18 shall govern each and every subdivision within Columbus County outside of the jurisdiction of any incorporated municipality.

Section 5. Prerequisite to Plat Recordation.

After the effective date of this ordinance, each individual subdivision plat of land within Columbus County's jurisdiction shall be approved by the Columbus County Planning Board.

Section 6. Acceptance of Streets.

Reserved.

Section 7. Thoroughfare Plans.

Where a proposed subdivision includes any part of a thoroughfare which has been designated as such upon the officially adopted thoroughfare plan of Columbus County, such thoroughfare shall be platted by the subdivider in the location shown on the plan and at the width specified in this ordinance.

Section 8. Adequate Public Facilities.

To insure public health, safety, and welfare, the Columbus County Planning Board and the Technical Review Committee shall review each proposed subdivision to determine if public facilities are adequate to serve the development. The public facilities include, but are not limited to schools, fire and rescue, law enforcement, and other county facilities. Applicable state standards and guidelines shall be followed for determining whether facilities are adequate. The Planning Board may recommend denial of a proposed subdivision if it determines that existing public facilities are not adequate.

Section 9. Zoning and Other Plans.

Proposed subdivisions must comply in all respects with the requirements of the zoning ordinance if in effect in the area to be subdivided, and other officially adopted plans.

**ARTICLE 2 - LEGAL PROVISIONS**

Section 1. General Procedure for Plat Approval.

After the effective date of this ordinance, except for as provided for in Article 5, Section 1, no subdivision plat of land within Columbus County jurisdiction shall be filed or recorded until it has been submitted to and approved by the Columbus County Planning Board as set forth in

Article 1, Section 5, and until this approval is entered in writing on the face of the plat by the Chairman and attested by Columbus County Clerk. The Register of Deeds shall not file or record a plat of a subdivision of land located within the territorial jurisdiction of Columbus County that has not been approved in accordance with these provisions, nor shall the Clerk of Superior Court order or direct the recording of a plat if the recording would be in conflict with this section.

Section 2. Statement of Owner.

The owner of land shown on a subdivision plat submitted for recording, or his authorized agent, shall sign a statement on the plat stating whether or not any land shown thereon is within the subdivision-regulation jurisdiction of Columbus County.

Section 3. Effect of Plat Approval on Dedications.

Pursuant to G.S. 153A-333, the approval of a plat does not constitute or effect the acceptance by the County or the public of the dedication of any street or other ground, public utility line, or other public facility shown on the plat shall not be construed to do so.

Section 4. Penalties for Violation.

- A. After the effective date of this ordinance, any person who, being the owner or agent of the owner of any land located within the territorial jurisdiction of this ordinance, thereafter subdivides his land in violation of this ordinance or transfers or sells land by reference to exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under the terms of this ordinance and recorded in the Office of the Columbus County Register of Deeds (excepting the presale or pre-leasing of unrecorded lots referencing an approved Preliminary Plat and subject to the requirements of Article 3, Section 3) 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 through its attorney or other official designated by the Board of Commissioners may enjoin illegal subdivision, transfer, or sale of land by action for injunction. Further, violators of this ordinance shall be subject, upon conviction, to fine and/or imprisonment as provided by G.S. 14-4.
- B. The violation of any provision of this ordinance shall subject the offender to a civil penalty in the amount of \$500.00 to be recovered by Columbus County. Violators shall be issued a written citation, which must be paid within ten (10) days.
- C. Each day's continuing violation of this ordinance shall be a separate and distinct offense.
- D. Notwithstanding Subsection 4.B above, this ordinance may be enforced by appropriate equitable remedies issuing from a court of competent jurisdiction.

- E. The County may cause building permits to be denied for lots that have been illegally subdivided.
- F. Nothing in this section shall be construed to limit the use of remedies available to Columbus County. Columbus County may seek to enforce this ordinance by using anyone, all, or a combination of remedies. 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.

Section 5. Severability.

Should any section or provision of this ordinance be decided by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

Section 6. Variances.

Where, because of severe topographical or other conditions peculiar to the site, strict adherence to the provisions of this ordinance would cause an unnecessary hardship, upon the written request of the subdivider, the Planning Board may recommend a variance hearing be set to consider such variance to the terms of this ordinance only to the extent that is absolutely necessary and not to an extent which violates the intent of this ordinance. The variance process shall follow the Developers Agreement process set by G.S. 160A-400.20 to 400.32 including all required public hearings and associated fees. The Board of Commissioners prior to making a decision regarding the variance request shall seek the written recommendation of the Technical Review Committee and the Planning Board. The schedule of fees for all variance requests shall be approved by the Board of Commissioners and posted in the Planning Department.

Section 7. Amendments.

The Board of Commissioners may from time-to-time amend the terms of this ordinance (but no amendment shall become effective unless it shall have been proposed by or shall have been submitted to the Planning Board for review and recommendation). The Planning Board shall have sixty (60) days from the time the proposed amendment is submitted to it within which to submit its report. If the Planning Board fails to submit a report within the specified time, it shall be deemed to have recommended approval of the amendment. The governing body shall adopt no amendment until they have held a public hearing on the amendment. Notice of the hearing shall be published in a newspaper of general circulation in the County at least once a week for two (2) successive calendar weeks prior to the hearing. The initial notice shall appear not more than twenty-five (25) nor less than ten (10) days prior to the hearing date. In computing the ten

(10) to twenty-five (25) day period, the date of publication is not to be counted, but the date of the hearing is.

Section 8. Development Moratoria.

The County may adopt temporary moratoria on any County development approval required by law. 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.

- A. Notice of Public Hearing. Except in cases of imminent and substantial threat to public health or safety, before adopting an ordinance imposing a development moratorium with a duration of sixty (60) days or any shorter period, the Board of County Commissioners shall hold a public hearing and shall publish a notice of the hearing in a newspaper having general circulation in the area not less than seven (7) days before the date set for the hearing. A development moratorium with a duration of sixty-one (61) days or longer, and any extension of a moratorium so that the total duration is sixty-one (61) days or longer, is subject to the published newspaper notice and hearing requirements required for an amendment to this ordinance as found in Section 7.
- B. Application of Moratorium on Existing/Pending Permits and Approvals. Absent an imminent threat to public health or safety, a development moratorium adopted pursuant to this Section shall not apply to development set forth in a site-specific or phased development plan approved pursuant to a granted vested right, or to development for which substantial expenditures have already been made in good faith reliance on a prior valid administrative or quasi-judicial permit or approval, or to preliminary or final subdivision plats that have been accepted for review by the County prior to the call for the public hearing to adopt the moratorium. Any preliminary subdivision plat accepted for review by the County prior to the call for public hearing, if subsequently approved, shall be allowed to proceed to final plat approval without being subject to the moratorium.
- C. Contents of Ordinance Adopting Moratorium. Any ordinance establishing a development moratorium must expressly include at the time of adoption each of the following:
- 1) A clear statement of the problems or conditions necessitating the moratorium and what courses of action, alternative to a moratorium, were considered by the County and why those alternative courses of action were not deemed adequate.
  - 2) A clear statement of the development approvals subject to the moratorium and how a moratorium on those approvals will address the problems or conditions leading to imposition of the moratorium.

- 3) An express date for termination of the moratorium and a statement setting forth why that duration is reasonably necessary to address the problems or conditions leading to imposition of the moratorium.
  - 4) A clear statement of the actions, and the schedule for those actions, proposed to be taken by the County during the duration of the moratorium to address the problems or conditions leading to imposition of the moratorium.
- D. Extension of Moratorium. No moratorium may be subsequently renewed or extended for any additional period unless the County shall have taken all reasonable and feasible steps proposed to be taken by the County in its ordinance establishing the moratorium to address the problems or conditions leading to the imposition of the moratorium and unless new facts and conditions warrant an extension. Any ordinance renewing or extending a development moratorium must expressly include, at the time of adoption, the findings set forth in Section 8.C, including what new facts or conditions warrant the extension.
- E. Judicial Review. Any person aggrieved by the imposition of a moratorium on development approvals required by law may apply to the appropriate division of the General Court of Justice for an order enjoining the enforcement of the moratorium, and the court shall have jurisdiction to issue that order. Actions brought pursuant to this Section shall be set down for immediate hearing, and subsequent proceedings in those actions shall be accorded priority by the trial and appellate courts. In any such action, the County shall have the burden of showing compliance with the procedural requirements of this Section.

Section 9. Abrogation.

It is not intended that this ordinance repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulations, or permits previously adopted or issued pursuant to law. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall govern.

Section 10. Re-Enactment and Repeal of Existing Subdivision Ordinance.

Reserved.

Section 11. Administrator.

The holder of the office of Columbus County Planning Director is hereby appointed to serve as Subdivision Administrator.

**ARTICLE 3 - PROCEDURE FOR REVIEW AND APPROVAL  
OF SUBDIVISION PLATS**

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Section 1. Plat Shall Be Required on Any Subdivision of Land.

Pursuant to G.S. 153A-330, a final plat shall be prepared, approved, and recorded pursuant to the provisions of this ordinance whenever any subdivision of land takes place.

Section 2. Approval Prerequisite to Plat Recordation.

Pursuant to G.S. 153A-331, no final plat of a subdivision within the jurisdiction of Columbus County as established in Section 104 of this ordinance shall be recorded by the Register of Deeds of Columbus County until it has been approved as provided herein. To secure such approval of a final plat, the subdivider shall follow the procedures established in this article.

Section 3. Presale/Prelease of Unrecorded Lots Permitted Upon Approval of Preliminary Plan/Plat.

- A. The subdivider, upon approval of a preliminary plan/plat, may enter into contracts to sell or lease the lots shown on the approved preliminary plan/plat, provided that the contract does all of the following:
- 1) Incorporates as an attachment a copy of the approved preliminary plan/plat referenced in the contract and obligates the owner to deliver to the buyer a copy of the approved and recorded final 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 plans/plats are possible, and that the contract or lease may be terminated without breach by the buyer or lessee if the final approved and recorded plat differs in any material respect from the approved preliminary plan/plat.
  - 3) Provides that if the approved and approved and recorded final plat does not differ in any material respect from the plan/plat referred to in the contract, the buyer or lessee may not be required by the seller or lessor or to close any earlier than five (5) days after the delivery of a copy of the final approved and recorded plat.
  - 4) Provides that if the approved and recorded final plat differs in any material respect from the approved preliminary plan/plat referred to in the contract, the buyer or lessee may not be required by the seller or lessor to close any earlier than fifteen (15) days after the delivery of the final approved and recorded plat, during which fifteen (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.
- B. The provisions of this Section shall not prohibit any owner or his/her agent from entering into contracts to sell or lease land by reference to an approved preliminary plan/plat for which a final plat has not been properly approved under this ordinance or recorded with the Office of the Columbus 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 requirements of this ordinance and recorded in the Office of the Columbus County Register of Deeds.

Section 4. Procedures for Review of Major and Minor Subdivisions.

All subdivisions shall be considered major subdivisions except those defined as minor subdivisions in this section. Major subdivisions shall be reviewed in accordance with the procedures in Sections 6 through 7. Minor subdivisions shall be reviewed in accordance with the provisions in Section 5. However, if the subdivider owns, leases, holds an option on, or holds any legal or equitable interest in any property adjacent to or located directly across a street, easement, road or right-of-way from the property to be subdivided, the subdivision shall not qualify under the abbreviated procedure. Furthermore, the abbreviated procedure may not be used a second time within three (3) years on any property less than fifteen hundred (1500) feet from the original property boundaries by anyone who owned, had an option on, or any legal interest in the original subdivision at the time the subdivision received preliminary of final plat

approval. A minor subdivision is defined as one involving no new public or private street or roads, or, right-of-way dedication, no easements, no extension of public water and/or sanitary sewerage systems other than to serve individual lots, where the entire tract to be subdivided will result in ten (10) or fewer lots after the subdivision is completed.

**CATEGORY: MINOR SUBDIVISIONS**

**Section 5. Procedure for Review of Minor Subdivision.**

A. **Preliminary Plan for Minor Subdivisions.** Prior to submission of a final plat, the subdivider shall submit to the Administrator five (5) copies of a Preliminary Plan of the proposed subdivision containing the following information:

- 1) A 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 existing street layout and right-of-way width, lot layout and size of lots;
- 6) The name, address and telephone number of the owner;
- 7) The name, if any, of the proposed subdivision;
- 8) Streets and lots of adjacent developed or platted properties;
- 9) The zoning classification (if applicable) of the tract and of adjacent properties;
- 10) A Statement from the Columbus County Health Department that a copy of the Preliminary Plan has been submitted to them, if septic tanks or other onsite water or waste water systems are to be used in the subdivision, and that all lots meet applicable requirements.

The Preliminary Plan shall be submitted to the Planning Director or his designee for review. The Planning Director or his designee shall review the Preliminary Plan for general compliance with the requirements of this ordinance and the zoning ordinance if applicable. The Planning Director 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 final plat. One (1) copy of the Preliminary Plan will be retained in the Planning Department's records and the remaining copies will be returned to the subdivider.

B. **Final Plat for Minor Subdivisions.** Upon approval of the Preliminary Plan by the Planning Director or his designee, the subdivider may proceed with the preparation of the final plat in accordance with the requirements of this ordinance.





If the final plat is disapproved by the Planning Director the reasons for such disapproval shall be stated in writing, specifying the provisions of this ordinance with which the final plat does not comply. One (1) copy of such reasons and one (1) print of the plat shall be retained by the Planning Director as part of the proceedings; 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 Planning Director. If the final plat is approved by the Planning Director, the original tracing and one (1) print of the plat shall be retained by the subdivider. One (1) reproducible tracing and one (1) print shall be filed with the County Clerk, and one (1) print shall be returned to the Planning Department for its records. The subdivider shall file the approved final plat with the Register of Deeds of Columbus County within 90 days of Planning Board approval; otherwise such approval shall be null and void.

- C. Utilities. Any minor subdivision approved administratively by the person designated as the Planning Director and not defined as a major subdivision will be required to hookup to an existing county water (and/or sanitary sewer system) where available within three hundred (300') feet of the subdivision property boundary. The provision does not apply to lots with an existing well at the time of adoption of this ordinance. If an existing well requires replacement, the property owner will be required to hookup to an existing county water system where available.

### **CATEGORY: MAJOR SUBDIVISIONS**

#### **Section 6. Sketch Plan Submission and Review for Major Subdivisions.**

- A. For every subdivision within the territorial jurisdiction established by Section 104 of this ordinance, the subdivider shall meet with the Planning Department in order to discuss the proposed subdivision. At or prior to such meeting, the Subdivider shall provide to the Planning Department three (3) copies of a Sketch Plan of the proposed subdivision.
- B. The sketch plan shall provide the required information as indicated on the "Plan / Plat Information Chart" in Section 308 and shall be to a scale and in such detail to convey the intent of the proposed subdivision. The sketch plan may be prepared by the subdivider or his/her designee.
- C. The sketch plan does not require a Professional Engineer's nor a Licensed Surveyor's seal.
- D. The Planning Department may request that the sketch plan be reviewed by the Technical Review Committee (TRC) but such review is not a required step in the approval process and is the option of the Planning Department.
- E. Review comments will be provided during the meeting and in writing within seven (7) days after the meeting unless the Planning Department requires that the TRC review the plan, in which case their comments shall be provided in writing within 15 days of initial submittal.

Section 7. Preliminary Plat Submission and Review for Major Subdivisions.

A. Submission Procedure

- 1) For every subdivision within the territorial jurisdiction established by Article 1, Section 4 of this ordinance and after Sketch Plan comments have been provided as per Section 6, the subdivider shall submit a preliminary plat which shall be reviewed and approved by the Board of County Commissioners before any construction or installation of improvements may begin.
- 2) Five (5) copies of the preliminary plat and any additional copies which the subdivision administrator determines are needed to be sent to other agencies shall be submitted to the administrator of this ordinance at least 21 days prior to the Planning Board meeting at which the subdivider desires the review of the preliminary plat.
- 3) Preliminary plats shall meet the specifications in Article 3, Section 8 and contain the following information:
  - a) A sketch vicinity map showing the location of the subdivision in relation to neighboring tracts, subdivisions, roads, and waterways;
  - b) The boundaries of the tract and the portion of the tract to be subdivided;
  - c) The total acreage to be subdivided;
  - d) The existing and proposed uses of the land within the subdivision and the existing uses of land adjoining it;
  - e) The proposed street layout with approximate pavement and right-of-way width, lot layout and size of lots;
  - f) The name, address, and telephone number of the owner;
  - g) The name, if any, of the proposed subdivision;
  - h) Streets and lots of adjacent developed or platted properties.
  - i) The zoning classification (if applicable) of the tract and of adjacent properties;
  - j) A statement from the Columbus County Health Department that a copy of the Preliminary Plan has been submitted to them, if septic tanks or other onsite water or waste-water systems are to be used in the subdivision.

B. Review by Other Agencies. After having received the preliminary plat from the subdivider, the subdivision administrator shall submit copies of the preliminary plat and any accompanying material to the Technical Review Committee (TRC). The TRC shall have ten (10) days to review and provide comments to the administrator. At the option of the administrator a meeting of the TRC may be required.

C. Procedure:

- 1) The Planning Board shall review the preliminary plat at or before its next regularly scheduled meeting which follows at least 21 days after the Administrator receives the preliminary plat from the subdivider.

- 2) The Planning Board shall, in writing, recommend approval, conditional approval with recommended changes to bring the plat into compliance, or disapproval with reasons within 45 days of its first consideration of the plat.
- 3) If the Planning Board recommends approval of the preliminary plat, it shall retain one (1) copy of the plat for its minutes, transmit three (3) copies of the plat to the administrator with its recommendation, and return the final copy to the subdivider.
- 4) If the Planning Board recommends conditional approval of the preliminary plat it shall keep one (1) copy of the plat for its minutes, transmit three (3) copies of the plat and its recommendation to the administrator, and return the remaining copy of the plat and its recommendation to the subdivider.
- 5) If the Planning Board recommends disapproval of the preliminary plat, it shall retain one (1) copy of the plat for its minutes, transmit three (3) copies of the plat and its recommendation to the administrator, and return the remaining copy of the plat and its recommendation to the subdivider.
- 6) If the preliminary plat is disapproved, the subdivider may make the recommended changes and submit a revised preliminary plat, or appeal the decision to the Board of County Commissioners.
- 7) If the Planning Board does not make a written recommendation within 45 days after its first consideration of the plat, the subdivider may apply to the Board of County Commissioners for approval or disapproval.
- 8) Once the Planning Board has provided the recommended action of the preliminary plat the subdivider shall request in writing that the Administrator place the Preliminary Plat on the agenda of next available Board of County Commissioner meeting. During such meeting the Administrator shall present the TRC comments and the Planning Board's recommendation. The subdivider shall be provided time for comments. The Board of Commissioners shall have 30 days to decide the status of the Preliminary Plat.

Section 8. Final Plat Submission and Review for Major Subdivisions.

- A. Preparation of Final Plat and Installation of Improvements. Upon approval of the preliminary plat by the Board of County Commissioners, the subdivider may proceed with the preparation of the final plat, and the installation of, or arrangement for required improvements in accordance with the approved preliminary plat and the requirements of this ordinance. Prior to approval of a final plat, the subdivider shall have installed the improvements specified in this ordinance or guaranteed their installation as provided herein. No final plat will be accepted or reviewed by the Planning Board unless accompanied by written notice by the County Clerk acknowledging compliance with any applicable improvement or guarantee standards of this ordinance. The final plat shall constitute only that portion of the preliminary plat which the subdivider proposes to record and develop at that time; such portion shall conform to all requirements of this ordinance.

B. Improvement Guarantee:

- 1) Agreement and Security Required. In lieu of requiring the completion, installation and dedication of all improvements prior to final plat approval, the County of Columbus may enter into an agreement with the subdivider whereby the subdivider shall agree to complete all required improvements. Once said agreement is signed by both parties and the security required herein is provided, the final plat may be approved by the Planning Board, if all other requirements of this ordinance are met. To secure this agreement, the subdivider shall provide, subject to the approval of the County Commissioners, a performance guarantee authorized by N.C.G.S 153-A-331 not exceeding 1.25 times the entire cost as provided herein.

If cash or other instrument is deposited in escrow with a financial institution as provided above, then the subdivider shall file with the County Commissioners an agreement between the financial institution and himself guaranteeing the following:

- a) That said escrow account shall be held in trust until released by the County Commissioners and may not be used or pledged by the subdivider in any other matter during the term of the escrow; and
  - b) That in the case of a failure on the part of the subdivider to complete said improvements the financial institution shall, upon notification by the County Commissioners, and submission by the County Commissioners to the financial institution of an engineer's estimate of the amount needed to complete the improvements, immediately either pay to the County the funds estimated to complete the improvement up to the full balance of the escrow account, or deliver to the County any other instruments fully endorsed or otherwise made payable in full to the County.
- 2) Default. Upon default, meaning failure on the part of the subdivider to complete the required improvements in a timely manner as spelled out in the performance guarantee the financial institution holding the escrow account shall, if requested by the County Commissioners pay all or any portion of the performance guarantee to the County of Columbus up to the amount needed to complete the improvements based on an engineering estimate. Upon payment, the County Commissioners, in its discretion, may expend such portion of said funds as it deems necessary to complete all improvements.
  - 3) Release of Guarantee Security. The County Commissioners may release a portion of any performance guarantee posted as the improvements are completed and recommended for approval by the Planning Board. Within 45 days after receiving the Planning Board recommendation, the County Commissioners shall approve said improvements. If the

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County Commissioners approve said improvements, then it shall immediately release any security posted.

- C. Submission Procedure. If the final plat is the same as the preliminary plat, with no changes, or if the preliminary plat was conditionally approved and those conditions are met in the final plat, the final plat may be administratively approved by the Planning Director or his designee. Otherwise, the subdivider shall submit the final plat, so marked, to the Administrator not less than ten (10) working days prior to the Planning Board meeting at which it will be reviewed; further, the final plat for the first stage of the subdivision shall be submitted not more than twelve (12) months after the date on which the preliminary plat was approved; otherwise such approval shall be null and void, unless a written extension of this limit is granted by the Planning Board on or before the twelfth month anniversary of the approval. The final plat shall be prepared by a Professional Land Surveyor currently licensed and registered in the State of North Carolina by the North Carolina State Board of Registration for Professional Engineers and 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 black or blue line paper prints. Material and drawing medium for the original shall be in accordance with the Standards of Practice for Land Surveying in North Carolina, where applicable, and the requirements of the Columbus County Register of Deeds. The final plat shall be of a size suitable for recording with the Columbus County Register of Deeds and shall be at scale of not less than one (1) inch equals two hundred (200) feet. Maps may be placed on more than one (1) sheet with appropriate match lines.

Submission of the final plat shall be accompanied by a filing fee of \$100.00. The final plat shall meet the specifications in Section 8 of this ordinance.

The following signed certificates shall appear on all five (5) copies of the final plat:

- 1) 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 Columbus and that I hereby adopt this plan of subdivision with my free consent, establish minimum building setback lines, and dedicate all streets, alleys, walks, parks, and other sites and easements to public or private use as noted. Furthermore, I hereby dedicate all sanitary sewer and water lines, if any, to the Utility entity.

\_\_\_\_\_”  
Owner

\_\_\_\_\_”  
Date

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The certificate of the Notary to the owner's signature shall read as follows:

“State of \_\_\_\_\_

County of \_\_\_\_\_

I, \_\_\_\_\_ a Notary Public of the State and County aforesaid, hereby certify that \_\_\_\_\_ personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed.

Witness my hand and notarial seal, this the \_\_ day of \_\_\_\_\_, 20\_\_.

Seal Stamp \_\_\_\_\_

Notary Public

My Commission expires: \_\_\_\_\_”

2) Certificate of Survey and Accuracy

In accordance with G.S. 47-30 there shall appear on each plat a certificate by the person under whose supervision such surveyor such plat was made, stating the origin of the information shown on the plat, including a recorded deed and plat references shown thereon. The ratio of precision as calculated by latitudes and departures before any adjustments must be shown. Any lines on the plat that were not actually surveyed must be clearly indicated and a statement included revealing the source of information. The execution of such certificate shall be acknowledged before any officer authorized to take acknowledgments by the Professional Land Surveyor preparing the plat. All plats to be recorded shall be probated as required by law for the registration of deeds. Where a plat consists of more than one sheet, only the first sheet must contain the certification and all subsequent sheets must be signed and sealed. The certificate required above shall include the source of information for the survey and data indicating the accuracy of closure of the plat before adjustments and shall be in substantially the following form:

"I \_\_\_\_\_, certify that this plat was drawn under my supervision from (an actual survey made under my supervision) (deed description recorded in Book \_\_, Page \_\_, etc.) (other); that the boundaries not surveyed are shown as broken lines plotted from information found in Book \_\_, Page \_\_; that this plat was prepared in accordance with G.S. 47-30 as amended. Witness my original signature, registration number, and seal this \_\_ day of \_\_\_\_\_, 20\_\_

Surveyor Seal or Stamp

Registration Number \_\_\_\_\_”

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3) Certificate of Approval of the Design and Installation of Streets, Utilities, and Other Required Improvements and Payment of Filing Fee

“I hereby certify that all streets, utilities and other required improvements have been installed in an acceptable manner and according to County specifications and standards in the \_\_\_\_\_ Subdivision or that guarantees of the installation of the required improvements in an amount and manner satisfactory to the County of Columbus has been received, and that the filing fee for this plat, in the amount of \$ \_\_\_\_\_ has been paid.”

\_\_\_\_\_  
Subdivision Administrator for Columbus County      Date

4) Certificate of Review Officer

“I, \_\_\_\_\_, Review Officer of Columbus County, certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.”

\_\_\_\_\_  
Review Officer      Date

The Planning Board shall review the final plat at or before its next regularly scheduled meeting which follows at least 25 days after the Administrator receives the final plat. The Planning Board shall recommend approval, conditional approval with modifications to bring the plat into compliance, or disapproval of the final plat with reasons within 25 days of its first consideration of the plat. If the Planning Board recommends approval of the final plat it shall retain one (1) copy and transmit all remaining copies of the plat and its written recommendations to the subdivider through the Administrator. If the Planning Board recommends conditional approval of the final plat with modifications to bring the plat into compliance, it shall retain one (1) print of the plat for its minutes, return its written recommendations and two (2) reproducible copies of the plat to the subdivider, and transmit one (1) print of the plat and its written recommendation to the Administrator. If the Planning Board recommends disapproval of the final plat, it shall instruct the subdivider concerning resubmission of a revised plat and the subdivider may make such changes as will bring the plat into compliance with the provisions of this ordinance, and resubmit same for reconsideration by the Planning Board, or appeal the decision to the Board of County Commissioners. Failure of the Planning Board to make a written recommendation within 45 days shall constitute grounds for the subdivider to apply to the Board of County Commissioners for approval. If the subdivider appeals to the Board of County Commissioners, the Commissioners shall review and approve or disapprove the final plat within 45 days after the plat and recommendations of Planning Board have been received by



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Section 9. Information to be Contained in or Depicted on Final Plats for Minor Subdivisions and Preliminary and Final Plats for Major Subdivisions.

The sketch, preliminary and final plats shall depict or contain the information indicated in the following table. An “X” indicates that the information is required.

<b>INFORMATION TITLE BLOCK CONTAINING:</b>	<b>SKETCH PLAN</b>	<b>PRELIMINARY PLAT</b>	<b>FINAL PLAT</b>
Property Designation	X	X	X
Name of Owner		X	X
Location (including township, county, state)	X	X	X
Dates of survey and drawing		X	X
Scale (feet per inch)	X	X	X
Bar Graph		X	X
Name, Address, Registration Number and Seal of Professional Land Surveyor		X	X
Name of Subdivider		X	X
A sketch vicinity map showing the relationship between the proposed subdivider and surrounding area	X	X	X
Corporate limits, township boundaries, county lines if on the subdivision tract	X	X	X
The names, address and telephone numbers of all owners, mortgages, Professional Land Surveyor, land planner architects, landscape architects, and professional engineers responsible for the subdivision		X	X
The registration numbers and seals of the professional engineers		X	X

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<b>INFORMATION</b>	<b>SKETCH PLAN</b>	<b>PRELIMINARY PLAT</b>	<b>FINAL PLAT</b>
Date of plat preparation		X	X
North arrow and orientation	X	X	X
The boundaries of the tract or portion thereof to be subdivided, distinctly and accurately represented with all bearings and distances shown Note: 1 approximate on sketch plan	X	X	X
The exact boundary lines of the tract to be subdivided, fully dimensioned by lengths and bearings, and the location of existing boundary lines of adjoining lands		X	X
The names of owners of adjoining properties		X	X
The names of any adjoining subdivisions of record or proposed and under review	X	X	X
Minimum building setback lines		X	X
The zoning classifications of the tract to be subdivided and adjoining properties (if applicable)	X	X	X
Existing property lines on the tract to be subdivided and on adjoining properties		X	X
Existing buildings or other structures, water courses, railroads, bridges, culverts, storm drains, both on the land to be subdivided and land immediately adjoining	X	X	
Proposed lot lines, lot and block numbers, and approximate dimensions	X	X	
The lots numbered consecutively throughout the subdivision		X	
Wooded areas, marshes, swamps, rock outcrops, ponds or lakes, streams or streambeds and any other natural features affecting the site	X	X	
The exact location of the flood hazard, floodway and floodway fringe areas from the county's FHBM or other FEMA maps		X	X
The following data concerning streets:			
Proposed streets	X	X	X
Existing and platted streets on adjoining properties and in the proposed subdivision	X	X	X
Rights-of-way, location and dimensions		X	X
Pavement widths		X	
Approximate grades		X	
Design engineering data for all comers and curves			X
Typical street cross sections		X	
Street names		X	X
Street maintenance agreement in accordance with Article 4, Section 5.A. of this Ordinance		X	X

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INFORMATION	SKETCH PLAN	PRELIMINARY PLAT	FINAL PLAT
Type of street dedication; all streets must be designated either "public" or "private" Where all public streets are involved which will not be dedicated to a municipality, the subdivider must submit the following documents to the N.C. Department of Transportation District Highway Office for review: a complete site layout, including any future expansion anticipated; horizontal I alignment indicating general curve data on site layout plan; vertical alignment indicated by percent grade, PI station and vertical curve length on site plan layout; the District Engineer may require the plotting of the ground profile and grade line for roads where special conditions or problems exist; typical section indicating the pavement design and width and the slopes, widths and details for either the curb and gutter or the shoulder and ditch proposed, drainage facilities and drainage areas.		X	X
Where streets are dedicated to public, but not accepted into a municipal or the state system before lots are sold, a statement explaining the status of the street in accordance with Article 4, Section 5. B. of this ordinance Where streets are dedicated to public, but not accepted into a municipal or the state system before lots are sold, a statement explaining the status of the street in accordance with Article 4, Section 5. B. of this ordinance.		X	X
If any street is proposed to intersect with a state maintained road, the subdivider shall apply for driveway. approval as required by the N.C. Department of Transportation, Division of Highways' Manual on Driveway Regulations. Evidence that the subdivider has obtained approval.		X	X
<b>The location and dimensions of all:</b> Utility and other easements		X	X
Areas to be dedicated to or reserved for public use	X	X	X
Areas to be used for purposes other than residential with the areas to be used for purposes other than residential with purpose of each stated		X	
The future ownership (dedication or reservation for public use to governmental body, for owners to duly constituted homeowners' association, or for tenants remaining in subdivider's ownership) of recreation and open space lands		X	X
<b>The plans for utility layouts including:</b> Sanitary sewers	X	X	
Storm Sewers		X	
Other drainage facilities, if any		X	
Water distribution lines	X	X	
Natural gas lines		X	
Telephone lines		X	

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<b>INFORMATION</b>	<b>SKETCH PLAN</b>	<b>PRELIMINARY PLAT</b>	<b>FINAL PLAT</b>
Electric lines Note: 1 Required on final plat only of minor subdivision		X	
Illustrating connections to existing systems, showing line sizes, the location of fire hydrants, blow-offs, manholes, force mains and gate valves		X	
Plans for individual water supply and sewage disposal systems, if any		X	
Profiles based upon Mean Sea Level datum for sanitary sewers and storm sewers		X	
Site calculations including:			
Acreage in total tract to be subdivided		X	X
Acreage in other nonresidential uses		X	X
Total number of parcels created		X	X
Acreage of smallest lot in subdivision Note: 1 On final plat show SF of all lots		X	
Linear feet in streets		X	
The name and location of any property or buildings within the proposed subdivision or within any contiguous property that is located on the U.S. Department of Interior's National Register of Historic Places	X	X	X
Sufficient engineering data to determine readily and reproduce on the ground every straight or curved line, street line, lot line, right-of-way line, easement line, and setback line, including dimensions, bearings, or deflection angles, radii, central angles, and tangent distance for the center line of curved property lines that are not the boundary line of curved streets. All dimensions shall be measured to the nearest one tenth of a foot and all angles to the nearest minute.		X	X
The accurate locations and descriptions of all monuments, markers and control points			X
A copy of any proposed deed restrictions or similar covenants. Such restrictions are mandatory when private recreation areas are established.		X	X
A copy of the erosion control plan submitted to the appropriate authority, if such a plan is required.		X	
Topographic map if required.		X	
All certifications required in Article 3, Section 7. (For major Subdivisions)		X	X
Any other information considered by either the subdivider, Planning Board, or County Commissioners to be pertinent to the review of the plat.		X	X

Section 10. Recombination of Land.

- A. Any plat or any part of any plat may be vacated by the owner at any time before the sale of any lot in the subdivision by a written instrument to which a copy of such plat shall be attached, declaring the same to be vacated.
- B. Such an instrument shall be approved by the same agencies as approved the final plat. The governing body may reject any such instrument which abridges or destroys any public rights in any of its public uses, improvements, streets or alleys.
- C. Such an instrument shall be executed, acknowledged or approved and recorded and filed in the same manner as a final plat; and being duly recorded or filed shall operate to destroy the force and effect of the recording of the plat so vacated, and to divest all public rights in the streets, alleys, and public grounds, and all dedications laid out or described in such plat.
- D. When lots have been sold, the plat may be vacated in the manner provided in subsections A through C above by all owners of the lots in such plat joining in the execution of such writing.

Section 11. Re-subdivision Procedures.

For any re-platting or re-subdivision of land, the same procedures, rules and regulations shall apply as prescribed herein for an original subdivision.

**ARTICLE 4 - REQUIRED IMPROVEMENTS, DEDICATIONS, RESERVATIONS,  
AND MINIMUM STANDARDS OF DESIGN**

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Section 1. General.

Each subdivision shall contain the improvements specified in this article, which shall be installed in accordance with the requirements of this ordinance and paid for by the subdivider, unless other means of financing is specifically stated in this ordinance. Land shall be dedicated and reserved in each subdivision as specified in this article. Each subdivision shall adhere to the minimum standards of design established by this article.

Section 2. Suitability of Land.

- 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 Columbus County Health Department, a structural engineer and a soils expert determine that the land is suitable for the purpose proposed.
- C. Flood Hazard: Subdivisions and all improvements within the subdivisions be designed, constructed and maintained in compliance with the Columbus County Flood Prevention regulations, Code of Ordinances Chapter 10, Part 1.

Section 3. Name Duplication.

The name of the subdivision shall not duplicate nor closely approximate the name of an existing subdivision within Columbus County.

Section 4. Subdivision Design.

A. Blocks.

- 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; 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 1,800 feet.
- 3) Blocks shall have sufficient width to allow two (2) tiers of lots of minimum depth except where single tier lots are required to separate residential development from a collector street or road, a nonresidential use, adjacent to the subdivision boundary, in nonresidential subdivisions, or where abutting a water area.

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- 4) Where deemed necessary by 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 shopping centers, religious or transportation facilities.
- 5) Block numbers shall conform to the County street numbering system.

B. Lots.

- 1) If applicable, all lots in new subdivisions shall conform to any zoning requirements of the district in which the subdivision is located. Conformance to zoning requirements means, among other things, that the smallest lot in the subdivision must meet all dimensional requirements of the zoning ordinance.

It is not sufficient merely for the average lot to meet zoning requirements. In un-zoned areas of the County, the following chart provides dimensional requirements.

	<b>PUBLIC WATER PUBLIC SEWER</b>	<b>PUBLIC WATER NO PUBLIC SEWER</b>	<b>NO PUBLIC WATER NO PUBLIC SEWER</b>
Min. Lot Size (Square Feet)	15,000	25,000	30,000
Min. Lot Width (Feet)	50	100	100
Min. Lot Depth (Feet)	200	200	200
Min. Front Setback (Feet)	50	50	50
Min. Side Setback (Feet)	15	15	15
Min. Side Setback (Abutting Street) (Feet)	20	20	20
Min. Rear Setback (Feet)	25	25	25

- 2) Lots shall meet any applicable requirements of the Columbus County Health Department.
- 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) Minimum lot width shall be measured at the lot's narrowest point. A cul-de-sac lot's width shall be measured at the required front building setback.
- 6) All lots must contain a minimum of 50 feet of road frontage on an existing public street or on a proposed public or private street that the developer is constructing as a part of the subdivision development. However, cul-de-sac lots may have 30 feet of street frontage if the lot is a minimum width of 50 feet at the front building setback.

C. Easements.

- 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 12 feet wide, or greater if required, for water and sanitary sewer lines and as required by the companies involved, for telephone, cable TV, 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.

Section 5. Streets.

- A. Type of Street Required. All subdivision lots shall abut on a public street. All public streets shall be designed and constructed to the standards of this ordinance and the Division of Highways, North Carolina Board of Transportation Subdivision Roads / Minimum Design Standards. Under certain circumstances, as approved by the Planning Board, private paved streets may be allowed providing a street disclosure statement is prepared by the seller and signed by the buyer and a homeowner's association is formed. Private streets serving five (5) or fewer lots may substitute compacted crushed aggregate (stone) for the pavement surface (S9.5A or S9.5B). In such cases, appropriate construction testing reports certifying compliance with NC DOT standards shall be provided to the Planning Department. Also, such alternative cross section to that specified in the referenced NCDOT standards shall be either four (4") inches of ABC with a test certified sub grade at ninety-eight (98%) percent compaction or six (6") inches of ABC with a non-certified compacted sub grade may be used. Public streets which are eligible for acceptance into the State Highway System shall be constructed to the standards necessary to be put on the State Highway System or the standard in this ordinance, whichever is stricter in regard to each particular item, and shall be put on such system. Streets which are not to be put on the State Highway System because there are too few lots or residences shall, nevertheless, be dedicated to the public and shall be in accordance with the standards in this ordinance or the standards necessary to be put on the State Highway System, whichever is stricter in regard to each particular item, so as to be eligible to be put on the system at a later date. A written maintenance agreement with provisions for maintenance of the street until it is put on the State system shall be included with the final plat. No lots may be sold until this provision is satisfied.
- B. Subdivisions 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 a municipal or the State system, before lots are sold, and statement explaining the status of the street shall be included with the final plat.

- C. Half-Streets. The dedication of half streets of less than sixty (60) feet 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. However, in circumstances where more than sixty (60) feet of right-of-way is required, a partial width right-of-way, not less than sixty (60) feet in width, may be dedicated when adjoining undeveloped property is owned or controlled by the subdivider; provided that the width of the partial dedication is such as to permit the installation of such facilities as may be necessary to serve abutting lots. When the adjoining property is subdivided, the remainder of the full required right-of-way shall be dedicated.
- D. Marginal Access Streets Frontage Road. Where a tract of land to be subdivided adjoins a principal arterial road Street, the subdivider may be required to provide a marginal access street frontage road parallel to the arterial street or reverse frontage on a minor street for the lots to be developed adjacent to the arterial. Where reverse frontage is established, private driveways shall be prevented from having direct access to the principal arterial.
- E. Access to Adjacent Properties. Where, in the opinion of the Planning Board, it is necessary to provide for street access to an adjoining property, proposed streets shall be extended by dedication to the boundary of such property and a temporary turnaround provided.
- F. Nonresidential Streets. The subdivider of a nonresidential subdivision shall provide streets in accordance with I.F -4 of the North Carolina Roads, Minimum Construction Standards, July 1, 1985; and the standards in this ordinance, whichever are stricter in regard to each particular item.
- G. Design Standards. The design of all streets and roads within the jurisdiction of this ordinance shall be in accordance with the accepted policies of the North Carolina Department of Transportation, Division of Highways, as taken or modified from the American Association of State Highway Officials (AASHO) manuals, with the exceptions as provided in Article 4, Section 5.A. The N.C. Department of Transportation, Division of Highways' Subdivision Roads Minimum Construction Standards, July 1, 1985 shall apply for any items not included in this ordinance, or where stricter than this ordinance. The following signed certificates shall appear on all copies of the final plat:

“Certificate of Ownership and Dedication I hereby certify that I am the owner or the property shown and described hereon, which is located in the subdivision jurisdiction of the County of Columbus and that I hereby adopt this plan of subdivision with my free consent, establish minimum building setback lines, and dedicate all streets, alleys, walks, parks, and other sites and easements to public or private use as noted. Furthermore, I hereby dedicate all sanitary sewer, storm sewer and water. \_\_\_\_\_ Owner”

H. 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 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 five (5) feet, and shall consist of a minimum thickness of four (4) inches of concrete. All sidewalks shall be placed in the right-of-way, unless the development is platted as a planned unit or group development. Sidewalks shall consist of a minimum of six (6) inches of concrete at driveway crossings.
- 3) Street Names. Proposed streets which are obviously in alignment with existing streets shall be given the same name. In assigning new names, duplication of existing names shall be avoided and in no case shall the proposed name be phonetically similar to existing names in the county irrespective of the use of a suffix such as street, road, drive, place, court, etc. All street names and addressing shall comply with Columbus County's 911-Addressing requirements. Street names shall be subject to the approval of Columbus County.
- 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.
- 5) Permits for Connection to State Roads. An approved permit is required for connection to any 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.

- 6) Offsets to Utility Poles. Poles for overhead utilities should be located clear of roadway shoulders, as close to the right-of-way as possible. On streets with curb and gutter, utility poles should be set back a minimum distance of six (6) feet from the face of curb.
- 7) Wheelchair Ramps. In accordance with N.C.G.S. 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 after September 1, 1973, 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.
- 8) Curb and Gutter. The subdivider may construct curb and gutter, but it is not required by this ordinance for plat approval.

Section 6. Utilities.

- A. Water and Sanitary Sewer Systems. Each proposed lot in all subdivisions within the county's jurisdiction shall be provided with an extension of the county water (and/or sanitary sewer) systems at the subdivider's expense if such system has capacity and is within one thousand feet (1,000') of the subdivision property boundary practical. A subdivision lot in the county's jurisdiction may be provided with extensions to a municipal system in lieu of the County system. Water and sanitary sewer lines, connections, and equipment shall be in accordance with the County standards. All lots in subdivisions not connected to municipal or county water and/or sanitary sewer systems must have a suitable source of water supply and sanitary sewage disposal, which complies with the regulations of the appropriate agencies.
- B. Storm Water Drainage System. The subdivider shall provide a surface water drainage system constructed to the standards of the North Carolina Department of Transportation, as reflected in Handbook for the Design of Highway Surface Drainage Structures, (1973), subject to review by the County Engineer/County Consulting Engineer.
- C. Streetlights. All subdivisions that have one or more public streets shall have streetlights installed at no more than 200 feet apart along each street. The subdivider is responsible for installation expenses. The long-term maintenance of the streetlights is to be assigned prior to the selling of any lots.
- D. Underground Wiring. Reserved.

Section 7. Buffering, Recreation and Open Space Requirements.

- A. Perennial streams shall be protected with a thirty-five foot (35') undisturbed conservation buffer running adjacent to the stream and indicated on the final plat.
- B. Proposed subdivisions adjacent to land uses other than residential shall establish, along its entire perimeter a twenty-five-foot (25') buffer as defined in Article 5. The Planning Board may consider berming, fencing or open space in lieu of the buffer.
- C. Proposed subdivisions with any lot less than 21,780 square feet shall provide fifteen percent (15%) open space. Such open space shall be designed to provide the conservation of natural features (streams, wetlands, mature trees, etc.), access to recreational spaces including manmade and natural water features, buffering, and stormwater management facilities.

Section 8. Other Requirements.

- A. Placement of Monuments. Unless otherwise specified by this ordinance, the Manual of Practice for Land Surveying as adopted by the N.C. State Board of Registration for Professional Engineers and Land Surveyors, under the provisions of Title 21 of the North Carolina Administrative Code, Chapter 56 (21 NCAC 56), shall apply when conducting surveys for subdivisions; to determine the accuracy for survey and placement of monuments, control comers, markers, and property comer ties; to determine the location, design, and material of monuments, markers, control comers, and property comer ties; and to determine other standards and procedures governing the practice of land surveying for subdivisions.
- B. Construction Procedures. No construction or installation of improvements shall commence in a proposed subdivision until the preliminary plat has been approved, and all plans and specifications have been approved by the appropriate authorities. No building, zoning or other permits shall be issued for erection of a structure on any lot not of record at the time of adoption of this ordinance until all the requirements of this ordinance have been met. The subdivider, prior to commencing any work within the subdivision, shall make arrangements with the administrator of this ordinance to provide for adequate inspection. The approving authorities having jurisdiction or their representatives shall inspect and approve all completed work prior to release of the surety.
- C. Oversized Improvements. The County of Columbus may require installation of certain oversized utilities or the extension of utilities to adjacent property when it is in the interest of future development. If the County requires the installation of improvements in excess of the standards adopted by reference, the County shall pay the cost differential between the improvement required and the standards in this ordinance.

- D. Soil Erosion and Sediment Control. Prior to the approval of the Preliminary Plan the subdivider shall provide evidence of approval from the North Carolina Department of Environmental and Natural Resources (DENR) of an Erosion and Sediment Control Plan.
- E. Stormwater Management Plan. Prior to the approval of the Preliminary Plan the subdivider shall provide evidence of approval from the North Carolina Department of Environmental and Natural Resources (DENR) of a Stormwater Management Plan.

## ARTICLE 5 - DEFINITIONS

### Section 1. "Subdivision Defined".

For the purposes of this ordinance, "subdivision" means all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future) and shall include all divisions of land involving the dedication of a new street or a change in existing street; but the following shall not be included within this definition nor be subject to any regulations enacted pursuant to this ordinance.

- a) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the County as shown in this ordinance.
- b) The division of land into parcels greater than ten (10) acres where no street right-of-way dedication is involved;
- c) The public acquisition by purchase of strips of land for the widening or opening of streets, and
- d) The division of a tract in single ownership whose entire area is no greater than two (2) acres into not more than three (3) lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the county as shown in this ordinance;

### Section 2. Other Definitions.

For the purpose of this ordinance, certain words or terms used herein shall be defined as follows:

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

***Buffer.*** A strip of land of specified width. The buffer must be in addition to and not part of any required lot area. It shall be planted with evergreen and/or deciduous trees not more than eight (8) feet apart and must be at least four (4) feet in height when planted, and a minimum of eight (8) feet tall at maturity. It shall be adequately landscaped with grass and shrubbery in such a manner as to be harmonious with the landscaping and/or adjacent properties and in keeping with

the general character of the surrounding neighborhood. A privacy fence at least six (6) feet in height may meet the buffer requirements in such instances where landscaping is impracticable or in instances where the Subdivision Administrator determines that a fence would be the most effective buffer. The planting requirement may be waived where a property line of the subdivision abuts a natural vegetative area that provides equal buffering.

***Building Setback Line.*** A line parallel to the front property line in front of which no structure shall be erected. Setbacks shall be figured from the right-of-way line.

***Dedication.*** A gift, by the owner, or a right to use of land for a specified purpose or purposes. Because a transfer of property rights is entailed, dedication must be made by written instrument, and is completed with an acceptance.

***Easement.*** A grant by the property owner of a strip of land for a specified purpose and use by the public, a corporation, or persons.

***Family.*** Members of the same family, which shall be limited to spouse, parents, step-parents, grandparents, step-grandparents, children, step-children, brothers, step-brothers, sisters, step-sisters, aunts, uncles, father-in-law, step-father-in-law, mother-in-law, step-mother-in-law, brother-in-law, step-brother-in-law, sister-in-law, step-sister-in-law.

***Half-Street.*** A street whose centerline coincides with a subdivision plat boundary, with one half (1/2) the street right-of-way width being contained within the subdivision plat. Also, any existing street to which the parcel of land to be subdivided abuts on only one side.

***Lot.*** A portion of a subdivision, or any other parcel of land, intended as a unit of transfer of ownership or for development or both.

***Lot of Record.*** A lot which is part of a subdivision, a plat of which has been recorded in the Office of the Register of Deeds of Columbus County prior to the adoption of this ordinance, or a lot described by metes and bounds, the description of which has been so recorded prior to the adoption of this ordinance.

***Lot Types:***

***Corner Lot.*** A lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lines to the lot meet at an interior angle of less than one hundred thirty-five (135) degrees.

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

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

**Through Lot or "Double Frontage Lot".** A lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as double frontage lots.

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

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

**Official Maps or Plans.** Any maps or plans officially adopted by the Board of Commissioners.

**Open Space.** An area (land and/or water) generally lacking in man-made structures and reserved for enjoyment in its unaltered state.

**Planned Unit Development.** A definition compatible with the local zoning ordinance should be inserted here.

**Plat.** A map or plan of a parcel of land which is to be, or has been subdivided.

**Private Driveway.** A roadway serving two (2) or fewer lots, building sites or other division of land and not intended to be public ingress or egress.

**Private Street.** An undedicated private right-of-way which affords access to abutting properties and requires a subdivision streets disclosure statement in accordance with G.S. 136-102.6.

**Reservation.** A reservation of land does not involve any transfer of property rights. It simply constitutes an obligation to keep property free from development for a stated period of time

**Street.** A dedicated and accepted public right-of-way for vehicular traffic (or a private road only if permitted by this ordinance). The following classifications shall apply:

***Rural Roads:***

***Principal Arterial.*** A rural link in a network of continuous routes serving corridor movements having trip length and travel density characteristics indicative of substantial statewide or interstate travel and existing solely to serve traffic. This network would consist of interstate routes and other routes designed as principal arterials.

***Minor Arterial.*** A rural link in a network joining cities and larger towns and providing intrastate and intercounty service a relatively high overall travel speeds with minimum interference to through movement.

***Major Collector.*** A road which serves major intracounty travel corridors and traffic generators and provides access to the arterial system.

***Minor Collector.*** A road which provides service to small local communities and links locally important traffic generators with their rural hinterland.

***Local Road.*** A local road serves primarily to provide access to adjacent land and for travel over relatively short distances.

***Specific Type Rural Streets:***

***Residential Collector Street.*** A local access street which serves as a connector street between local residential streets and the thoroughfare system. Residential collector streets typically collect traffic from 100 to 400 dwelling units.

***Local Residential Street.*** Cul-de-sacs, loop streets less than 2,500 feet in length, or streets less than one mile in length that do not connect thoroughfares, or serve major traffic generators, and do not collect traffic from more than 100 dwelling units.

***Cul-de-sac.*** A short street having but one end open to traffic and the other end being permanently terminated and a vehicular turnaround provided.

***Frontage Road.*** A local street or road that is parallel to a full or partial access controlled facility and functions to provide access to adjacent land.

***Alley.*** A strip of land, owned publicly or privately, set aside primarily for vehicular service access to the back or side of properties otherwise abutting on a street.

***Subdivider.*** Any person, firm, or corporation who subdivides or develops any land deemed to be a subdivision as here in defined.

Section 3. Word Interpretation.

For the purpose of this ordinance, certain words shall be interpreted as follows:

- Words used in the present tense include the future tense. –
- Words used in the singular number include the plural and words used in the plural number include the singular, unless the natural construction of the wording indicates otherwise. –
- The word "person" includes a firm, association, corporation, trust, and company as well as an individual. -The word "used for" shall include the meaning "designed for". –
- The word "structure" shall include the word "building". –
- The word "lot" shall include the words "plot", "parcel", or "tract". –
- The word "shall" is always mandatory and not merely directory.

Section 4. Gift Lots Defined.

For the purpose of interpreting these regulations, when a land owner makes a gift to a family member of a parcel of land divided from the land owner's property, the transaction shall not be deemed to be for the purpose of sale or building development. The resulting transaction shall therefore not be subject to any regulations enacted pursuant to this ordinance. A gift lot shall also be interpreted to include the division of land to heirs of an estate following the death of the land owner. However, this exemption applies to only this original "gift" division of the property and does not exempt any further or future division of the property by the heirs or any other owners of the property. All persons wishing to claim this "gift lot" exemption may be required to provide legal documentation proving the relationship between property grantee and grantor(s) (i.e., birth certificates, death certificates, Social Security records, marriage certificates, tax records, etc.).

**ARTICLE 6 – ENACTMENT**

The original Ordinance was adopted on February 15, 2010, with a motion by Commissioner Prevatte, and seconded by Commissioner Norris.

A text amendment was recommended by the Planning Board and approved, and the amended Ordinance was adopted on August 06, 2012, with a motion by Commissioner Bullard, and seconded by Commissioner Russ.

**PART 4 – VOLUNTARY AGRICULTURAL DISTRICTS ORDINANCE**

For Columbus County, North Carolina - Non-Coastal Regular Phase

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**PART 4 – VOLUNTARY AGRICULTURAL DISTRICTS**

**ARTICLE 1. TITLE**

This program, adopted by the Board of Commissioners of Columbus County, North Carolina, shall be known as the Columbus County Voluntary Agricultural Districts Ordinance.

**ARTICLE 2. AUTHORITY**

The articles and sections of this program ordinance are adopted pursuant to the authority conferred by Chapter 106, Article 61, Parts 1 and 2 of the North Carolina General Statute.

**ARTICLE 3. PURPOSE**

The purpose of this program ordinance is to promote the health, safety, rural agricultural values, and general welfare of the County, and more specifically, increase identity and pride in the agricultural community and its way of life; encourage the economic and financial health of agriculture; increase protection from non-farm development; and increase the protection of farms from suits and other negative impacts on properly managed farms.

#### ARTICLE 4. JURISDICTION

There will be seven (7) areas from which Voluntary Agricultural District Board members will be selected. Each Voluntary Agricultural District Board member will be selected by the Columbus County Commissioner representing the respective District at the time of selection of the Voluntary Agricultural District Board. The selection areas will cover all unincorporated land within Columbus County.

#### ARTICLE 5. DEFINITIONS

***Agricultural Board:*** The Columbus County Voluntary Agricultural District Board.

***Agricultural Land.*** Land that is a part of a farm unit that is actively engaged in the commercial production or growing of crops, plants, or animals under a sound management program. Agricultural land includes woodland and wasteland that is a part of the farm unit, but the woodland and wasteland included in the unit must be appraised under the use value schedules as woodland or wasteland. A farm unit may consist of more than one tract of agricultural land, but at least one of the tracts must meet the requirements in N. C. General Statute 105-277.3(a)(1), and each tract must be under a sound management program. If the agricultural land includes less than 20 acres of woodland, then the woodland portion is not required to be under a sound management program. Also, woodland is not required to be under a sound management program if it is determined that the highest and best use of the woodland is to diminish wind erosion of adjacent agricultural land, protect water quality of adjacent agricultural land, or serve as buffers for adjacent livestock or poultry operations.

***Agricultural land. (Effective for taxes imposed for taxable years beginning before July 1, 2008)*** Individually owned agricultural land consisting of one or more tracts, one of which consists of at least 10 acres that are in actual production and that, for the three years preceding January 1 of the year for which the benefit of this section is claimed, have produced an average gross income of at least one thousand dollars (\$1,000). Gross income includes income from the sale of the agricultural products produced from the land, any payments received under a governmental soil conservation or land retirement program, and the amount paid to the taxpayer during the taxable year pursuant to P.L. 108 357, Title VI, Fair and Equitable Tobacco Reform Act of 2004. Land in actual production includes land under improvements used in the commercial production or growing of crops, plants, or animals.

***Agricultural land. (Effective for taxes imposed for taxable years beginning on or after July 1, 2008)*** Individually owned agricultural land consisting of one or more tracts, one of which satisfies the requirements of this subdivision. For agricultural land used as a farm for aquatic species, as defined in North Carolina General Statute 106-758, the tract must meet the income requirement for agricultural land and must consist of at least five acres in actual production or

produce at least 20,000 pounds of aquatic species for commercial sale annually, regardless of acreage. For all other agricultural land, the tract must meet the income requirement for agricultural land and must consist of at least 10 acres that are in actual production. Land in actual production includes land under improvements used in the commercial production or growing of crops, plants, or animals. To meet the income requirement, agricultural land must, for the three years preceding January 1 of the year for which the benefit of this section is claimed, have produced an average gross income of at least one thousand dollars (\$1,000). Gross income includes income from the sale of the agricultural products produced from the land, any payments received under a governmental soil conservation or land retirement program, and the amount paid to the taxpayer during the taxable year pursuant to P.L. 108 357, Title VI, Fair and Equitable Tobacco Reform Act of 2004.

**Business entity.** A corporation, a general partnership, a limited partnership, or a limited liability company.

**Chairman:** Chairman of the Columbus County Voluntary Agricultural District Board.

**Conservation Agreement** means a right, whether or not stated in the form of a restriction, reservation, easement, covenant or condition, in any deed, will or other instrument executed by or on behalf of the owner of land or improvement thereon or in any order of taking, appropriate to retaining land or water areas predominantly in their natural, scenic or open condition or in agricultural, horticultural, farming or forest use, to forbid or limit any or all (i) construction or placing of buildings, roads, signs, billboards or other advertising, utilities or other structures on or above the ground, (ii) dumping or placing of soil or other substance or material as landfill, or dumping or placing of trash, waste or unsightly or offensive materials, (iii) removal or destruction of trees, shrubs or other vegetation, (iv) excavation, dredging or removal of loam, peat, gravel, soil, rock or other mineral substance in such manner as to affect the surface, (v) surface use except for agricultural, farming, forest or outdoor recreational purposes. or purposes permitting the land or water area to remain predominantly in its natural condition, (vi) activities detrimental to drainage, flood control, water conservation, erosion control or soil conservation, or (vii) other acts or uses detrimental to such retention of land or water areas.

**District:** A Voluntary Agricultural District established under the terms and conditions of this program by the Board of Commissioners.

**Forestland.** Land that is a part of a forest unit that is actively engaged in the commercial growing of trees under a sound management program. Forestland includes wasteland that is a part of the forest unit, but the wasteland included in the unit must be appraised under the use value schedules as wasteland. A forest unit may consist of more than one tract of forestland, but at least one of the tracts must meet the requirements in N. C. General Statute 105-277.3(a)(3), and each tract must be under a sound management program.

**Forestland.** Individually owned forestland consisting of one or more tracts, one of which consists of at least 20 acres that are in actual production and are not included in a farm unit.

**Holder** means any public body of this State, including the State, any of its agencies, any city, county, district or other political subdivision or municipal or public corporation, or any instrumentality of any of the foregoing, any agency, department, or instrumentality of the United States, any nonprofit corporation or trust, or any private corporation or business entity whose purposes include any of those stated in (1) and (3), covering the purposes of preservation and conservation agreements.

**Horticultural land.** Land that is a part of a horticultural unit that is actively engaged in the commercial production or growing of fruits or vegetables or nursery or floral products under a sound management program. Horticultural land includes woodland and wasteland that is a part of the horticultural unit, but the woodland and wasteland included in the unit must be appraised under the use value schedules as woodland or wasteland. A horticultural unit may consist of more than one tract of horticultural land, but at least one of the tracts must meet the requirements in N. C. General Statutes 105-277.3(a)(2), and each tract must be under a sound management program. If the horticultural land includes less than 20 acres of woodland, then the woodland portion is not required to be under a sound management program. Also, woodland is not required to be under a sound management program if it is determined that the highest and best use of the woodland is to diminish wind erosion of adjacent horticultural land or protect water quality of adjacent horticultural land. Land used to grow horticultural and agricultural crops on a rotating basis or where the horticultural crop is set out or planted and harvested within one growing season, may be treated as agricultural land as described in subdivision (1) of this section when there is determined to be no significant difference in the cash rental rates for the land.

**Horticultural land.** Individually owned horticultural land consisting of one or more tracts, one of which consists of at least five acres that are in actual production and that, for the three years preceding January 1 of the year for which the benefit of this section is claimed, have met the applicable minimum gross income requirement. Land in actual production includes land under improvements used in the commercial production or growing of fruits or vegetables or nursery or floral products. Land that has been used to produce evergreens intended for use as Christmas trees must have met the minimum gross income requirements established by the Department of Revenue for the land. All other horticultural land must have produced an average gross income of at least one thousand dollars (\$1,000). Gross income includes income from the sale of the horticultural products produced from the land and any payments received under a governmental soil conservation or land retirement program.

**Individually owned.** Owned by one of the following:

- (a) A **natural person.** For the purpose of this section, a natural person who is an income

beneficiary of a trust that owns land may elect to treat the person's beneficial share of the land as owned by that person. If the person's beneficial interest is not an identifiable share of land but can be established as a proportional interest in the trust income, the person's beneficial share of land is a percentage of the land owned by the trust that corresponds to the beneficiary's proportional interest in the trust income. For the purpose of this section, a natural person who is a member of a business entity, other than a corporation, that owns land may elect to treat the person's share of the land as owned by that person. The person's share is a percentage of the land owned by the business entity that corresponds to the person's percentage of ownership in the entity.

(b) A **business entity** having as its principal business one of the activities described in subdivisions (1), (2), and (3) and whose members are all natural persons who meet one or more of the conditions listed in this sub subdivision. For the purpose of this sub subdivision, the terms "having as its principal business" and "actively engaged in the business of the entity" include the leasing of the land for one of the activities described in subdivisions 1), (2), and (3) only if all members of the business entity are relatives.

- 1) The member is actively engaged in the business of the entity.
- 2) The member is a relative of a member who is actively engaged in the business of the entity.
- 3) The member is a relative of, and inherited the membership interest from, a decedent who met one or both of the preceding conditions after the land qualified for classification in the hands of the business entity.

(c) A **trust** that was created by a natural person who transferred the land to the trust and each of whose beneficiaries who is currently entitled to receive income or principal meets one of the following conditions:

- 1) Is the creator of the trust or the creator's relative.
- 2) Is a second trust whose beneficiaries who are currently entitled to receive income or principal are all either the creator of the first trust or the creator's relatives.

(d) A **testamentary trust** that meets all of the following conditions:

- 1) It was created by a natural person who transferred to the trust land that qualified in that person's hands for classification under North Carolina General Statute 105- 277.3.
- 2) At the time of the creator's death, the creator had no relatives as defined in this section as of the date of death.
- 3) The trust income, less reasonable administrative expenses, is used exclusively

for educational, scientific, literary, cultural, charitable, or religious purposes as defined in G.S. 105-278.3(d).

(e) Tenants in common, if each tenant is either a natural person or a business entity described in sub subdivision b. of this subdivision. Tenants in common may elect to treat their individual shares as owned by them individually in accordance with North Carolina General Statute 105-302(c)(9). The ownership requirements of North Carolina General Statute 105-277.3(b) apply to each tenant in common who is a natural person, and the ownership requirements of North Carolina General Statute 105-277.3(b1) apply to each tenant in common who is a business entity.

**Member.** A shareholder of a corporation, a partner of a general or limited partnership, or a member of a limited liability company.

**Present use value.** The value of land in its current use as agricultural land, horticultural land, or forestland, based solely on its ability to produce income and assuming an average level of management. A rate of nine percent (9%) shall be used to capitalize the expected net income of forestland. The capitalization rate for agricultural land and horticultural land is to be determined by the Use Value Advisory Board as provided in G.S. North Carolina General Statute 105-277.7.

**Preservation Agreement** means a right, whether or not stated in the form of a restriction, reservation, easement, covenant, condition or otherwise, in any deed, will or other instrument executed by or on behalf of the owner of the land or any improvement thereon, or in any other [order] of taking, appropriate to preservation of a structure or site historically significant for its architecture, archaeology or historical associations, to forbid or limit any or all (i) alteration, (ii) alterations in exterior or interior features of the structure, (iii) changes in appearance or condition of the site, (iv) uses not historically appropriate, or (v) other acts or uses supportive of or detrimental to appropriate preservation of the structure or site.

**Relative.** Any of the following:

- a) A spouse or the spouse's lineal ancestor or descendant.
- b) A lineal ancestor or a lineal descendant.
- c) A brother or sister, or the lineal descendant of a brother or sister. For the purposes of this sub subdivision, the term brother or sister includes stepbrother or stepsister.
- d) An aunt or an uncle.
- e) A spouse of a person listed in paragraphs a. through d. For the purpose of this subdivision, an adoptive or adopted relative is a relative and the term "spouse" includes a surviving spouse.

**Sound management program.** A program of production designed to obtain the greatest net return from the land consistent with its conservation and long term improvement.

**Technical Review Committee:** A five (5) member committee. One (1) member each appointed by the Columbus Soil and Water Conservation District, the Columbus County Cooperative Extension Service, the Columbus County Planning Board, the Columbus County Farm Bureau Board, and the Columbus County USDA Farm Service Agency Committee.

**Unit.** -One or more tracts of agricultural land, horticultural land, or forestland. Multiple tracts must be under the same ownership and be of the same type of classification. If the multiple tracts are located within different counties, they must be within 50 miles of a tract qualifying under Chapter 105, Article 12 of the North Carolina General Statute.

## **ARTICLE 6. QUALIFICATIONS AND CERTIFICATION OF FARMLAND**

### Section A. Requirements.

In order for farmland to qualify for participation under the terms of this program, it shall meet all of the following requirements:

- (1) The farmland shall be real property.
- (2) The farm property shall be participating in the farm present-use-value taxation program established by Chapter 105, Article 12 of the North Carolina General Statute.
- (3) The property shall be certified by USDA Farm Service Agency and reviewed by the USDA Natural Resources Conservation Service, the Columbus County Cooperative Extension Service, and the Columbus Soil and Water Conservation District as being a farm on which at least two-thirds of the land is composed of soils that:
  - (a) have good farming qualities.
  - (b) are favorable for crops, livestock, ornamentals, Christmas trees or timber common to Columbus County.
- (4) The property, if highly erodible land exists on the farm, is managed in accordance with the USDA Natural Resources Conservation Service defined erosion control practices that are addressed to said highly erodible land.
- (5) The property is the subject of a conservation agreement, as defined in Chapter 106, Article 61, Part 4 of the North Carolina General Statutes, between the County and the owner of such land that prohibits non-farm use or development of such land for a period of at least ten years, except for the creation of not more than three lots that meet applicable County watershed and subdivision regulations, or the regulations of any municipality which apply to the farm property. The property owner may voluntarily revoke this conservation agreement by submitting a written request to the Board in accordance with Article 8 of this Ordinance.

### Section B. Certification.

The owner of the farm seeking to qualify his property for participation in this farmland preservation program ordinance shall submit written evidence that the property conforms to the requirements of Article 6 of this program. This written information shall be submitted to the Chairman of the Voluntary Agricultural District Board or the designated staff person on forms provided by the Board. The certification shall be submitted at the same time the owner applies for inclusion in a district.

## **ARTICLE 7. APPLICATION, APPROVAL AND APPEAL PROCEDURES FOR VOLUNTARY AGRICULTURAL DISTRICTS**

### Section A. Creation of Voluntary Agricultural Districts.

In order to implement the purposes stated in Article 3 in, this program provides for the creation of Voluntary Agricultural Districts, which shall meet all the following standards:

(1) The landowner(s) requesting inclusion in the district shall execute an agreement with the County to sustain agriculture in the district in accordance with Article 6, Section A (5) of this program. Said agreement shall be in a form which is reviewed and approved by the Voluntary Agricultural District Board.

(2) For each district created under the terms of this program, one of the existing Voluntary Agricultural District Board members shall be assigned to represent the district.

### Section B. Application to Participate.

A landowner may apply to participate in the program by making application to the chairman of the Voluntary Agricultural District Board or to a designated staff person of the Columbus Soil and Water Conservation District, 45 Government Complex Road, Suite B, Whiteville, NC 28472. The application shall be on forms provided and approved by the Columbus County Voluntary Agricultural District Board.

### Section C. Membership Fee for Participation.

A onetime membership fee as approved by the Voluntary Agricultural District Board will be due from each participant and shall be submitted with the application. This membership/application fee provides the landowner with one (1) Voluntary Agricultural District Membership sign to be placed on the property. Additional signs may be purchased through the Voluntary Agricultural District. The fee for said signs will be set by the Voluntary Agricultural District Board.

### Section D. Approval Process.

Upon review by the technical review committee of the written certification and application submitted by the property owner, the Voluntary Agricultural District Board shall meet within

180 calendar days to review or approve said application. The Voluntary Agricultural District Board or representative agent thereof shall notify the applicants by first class mail of said approval or disapproval of participation in the district.

Notification of new Agricultural Districts shall be sent to the County Tax Assessor quarterly.

Section E. Appeal.

If an application is denied by the Voluntary Agricultural District Board, the petitioner has thirty (30) calendar days to record an appeal of the decision to the Clerk to the Board of the Columbus County Board of Commissioners. Such appeal shall be presented in writing signed by the applicant or his or her Agent and presented to the Clerk to the Board of Commissioners. The decision of the Board of Commissioners is final. If an application is disapproved by the Voluntary Agricultural District Board and the Board of Commissioners, the membership/application fee will be returned to the said applicant.

**ARTICLE 8. REVOCATION OF CONSERVATION AGREEMENTS.**

By written notice to the Voluntary Agricultural District Board, a landowner of qualifying farmland may revoke the preservation agreement formulated pursuant to Article 6, Section A (5) of this program, or the Voluntary Agricultural District Board may revoke same preservation agreement based on noncompliance by the landowner. Such revocation shall result in loss of qualifying farm status, and consequently, loss of eligibility to participate in a Voluntary Agricultural District and the benefits thereof.

Revocation by a landowner of a preservation agreement and the resulting loss of qualifying farmland status for the purpose of participation in a Voluntary Agricultural District shall in no way affect the eligibility of the land to be taxed at its present use value as provided in Chapter 105, Article 12 of the North Carolina General Statute.

If a Voluntary Agricultural District is removed or demised, all signage shall be returned to the Voluntary Agricultural District Board. If a portion of a district is removed for any reason after being established by this program, the remaining qualified farms may remain in the program, provided they meet all other requirements except the minimum area requirements of Article 7, Section A (1).

## **ARTICLE 9. AGRICULTURAL BOARD**

### Section A. Creation.

In accordance with Chapter 106, Article 61, Parts 1 and 2 of the North Carolina General Statute, the Board of Commissioners hereby establishes a Voluntary Agricultural District Board to implement the provisions of this program ordinance.

### Section B. Appointments and Memberships.

The Voluntary Agricultural District Board shall consist of only seven (7) members appointed by the Columbus County Board of Commissioners upon recommendation and nomination by the County Commissioner representing said District.

(1) **Requirements.** Each Voluntary Agricultural District Board member shall be a resident of Columbus County. Each Voluntary Agricultural District Board member shall be actively engaged in farming or own qualifying farmland in Columbus County.

(2) **Membership.**

(a) The Voluntary Agricultural District Board shall consist of no less than seven (7) members which will be appointed by the Columbus County Board of Commissioners. One (1) shall be appointed from each of the seven (7) districts served by each County Commissioner at the time of appointment.

(b) In addition, there will be a five (5) member non-voting advisory Technical Review Committee. One (1) member each appointed by the Columbus Soil and Water Conservation District, the Columbus County Cooperative Extension Service, the Columbus County Planning Board, the Columbus County Farm Bureau Board, and the USDA Farm Service Agency Board.

(c) The seven (7) members may be selected for appointment by the Board of Commissioners from the names of individuals submitted to the Board of Commissioners by the Columbus County Cooperative Extension Service, the Columbus Soil and Water Conservation District, the USDA Farm Service Agency Committee, the Columbus County Planning Department, Columbus County Farm Bureau, or other farm related farming organizations, with an effort to have the broadest geographical and commodity representation possible. Said submitted names are advisory only to the Board of Commissioners.

3) **Tenure.** The initial seven (7) members of the Voluntary Agricultural District Board shall consist of two (2) members appointed for a term of one year, two (2) members appointed for a term of two years, and three (3) members appointed for a term of three years. Thereafter, all appointments to the Voluntary Agricultural District Board will be for a period of three (3) years with reappointment permitted for no more than two consecutive terms. The terms for the appointment of the initial Voluntary Agricultural District Board will be determined by lottery procedure determined by this ordinance.

(4) **Vacancies.** Any vacancy on the Voluntary Agricultural District Board is to be filled by the Board of Commissioners for the remainder of the unexpired term following the same procedure as for the initial appointment.

(5) **Removal for Cause.** Any member of the Voluntary Agricultural District Board may be removed for cause by the Board of Commissioners upon written charges and after a public hearing by the Board of Commissioners.

(6) **Funding.** Appropriations for Performance of Duties. Funds may be appropriated by the Board of Commissioners to the Voluntary Agricultural District Board to perform its duties. As needed, a budget request will be presented to the County Finance Office annually following procedures as determined by the Board of Commissioners.

#### Section C. Procedures.

The Voluntary Agricultural District Board shall adopt rules of procedure which are consistent with the enabling legislation and other applicable statutes.

(1) **Chairperson.** The Board shall elect a chairperson and vice-chairperson each year at its first meeting of the fiscal year. The chairman and vice-chairman shall be subject to re-election. The chairperson shall preside over all regular or special meetings of the Board. In the absence or disability of the chairperson, the vice-chairperson shall preside and shall have and exercise all the powers of the chairperson so absent or disabled. Additional officers may be elected as needed.

(2) **Jurisdiction and Procedures; Supplementary Rules.** The jurisdiction and procedures of the Board are set out in this article, except that the Board may adopt supplementary rules of procedure not inconsistent with this article or with other provisions of law.

(3) **Board Year.** The Board shall use the County fiscal year (July 1 through June 30) as its meeting year.

(4) **Meetings.** Meetings of the Board, following such notice as required by this article, shall be held at the call of the Chairperson and at such other times as the Board in its rules of procedure may specify. A called meeting shall be held at least semi-annually. A quorum shall consist of a majority of the members of the Board.

(5) **Voting.** The concurring vote of a majority of the members of the Board shall be necessary to reverse any order, requirement, decision, or determination of any administrative official or agency to decide in favor of an applicant or to pass upon any other matter on which it is required to act under this article.

(6) **Records.** The Board shall keep minutes of the proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions all of which shall be immediately filed in the office of the Board and shall be a public record.

(7) **Administrative Services.** The Cooperative Extension Service Office shall serve the Voluntary Agricultural District Board for recordkeeping, correspondence, and application procedures under this article together with such other services the Board needs to complete its duties.

(8) **Rules of Procedure.** Other than as specifically differentiated or described by this, or subsequent, Ordinance, the Voluntary Agricultural District Board shall abide procedurally by Suggested Rules of Procedure for the Board of County Commissioners, Third Edition by Joseph S. Ferrell, North Carolina Institute of Government.

#### Section D. Duties.

The Voluntary Agricultural District Board shall:

- (1) Review and approve applications for qualified farmland and Voluntary Agricultural Districts; and
- (2) Advise the Board of Commissioners on projects, programs, or issues affecting the agricultural economy or activities within the County and that will affect agricultural districts; and
- (3) Perform other related tasks or duties assigned by the Board of Commissioners; and
- (4) Review and make recommendations to the Columbus County Board of Commissioners concerning proposed amendments to this ordinance; and
- (5) Develop a county-wide farmland protection plan as defined in Chapter 106, Article 61, Part 4 of the North Carolina General Statute for presentation to the Board of Commissioners; and
- (6) Study additional methods of farmland preservation and make recommendations to the Board of Commissioners.

**ARTICLE 10. LAND USE INCENTIVES TO VOLUNTARY AGRICULTURAL DISTRICT FORMATION**

Section A. Purpose.

The purpose of this section is to help meet the needs of agriculture as an industry and prevent conflicts between Voluntary Agricultural District participants and non-farm landowners in proximity to districts. Nothing in this document should be viewed as a change in the status of the numerous non-farm landowners currently located throughout the county. Those landowners retain the same rights and standing held prior to the enactment of a Voluntary Agricultural District.

Section B. Public Notification.

(1) Upon certification of qualifying farmland and designation of real property as a Voluntary Agricultural District, the title to that qualifying farmland and real property, which is contained in the Columbus County Land Records System, shall be changed to include a notice reasonably calculated to alert any person researching the title of a particular tract that such tract is located within one-half (1/2) aerial mile of a Voluntary Agricultural District. All notice procedures shall be governed by North Carolina law.

(2) The Voluntary Agricultural District Board, in cooperation with the County, shall take measures as set forth below to provide notification to property owners, residents, and other interested persons in and adjacent to any designated Voluntary Agricultural District with a goal of informing all current and potential residents and property owners in and adjacent to a Voluntary Agricultural District that farming and agricultural activities may take place in this district any time during the day or night.

(a) Members of the Voluntary Agricultural District are encouraged to place signs on their individual farms denoting their agricultural district membership in a way calculated to reasonably notify the public and adjoining landowners of the presence of the farm property.

(b) Information identifying approved districts shall be provided to the Columbus County Register of Deeds Office, the Columbus Soil and Water Conservation District, the Cooperative Extension Service Office, the Farm Service Agency, the Columbus County Planning Department, and the Columbus County Tax Department. Notice information for each department listed in this section shall be found at the; Columbus Soil and Water Conservation District 45 Government Complex Road, Suite B Whiteville, NC 28472 Phone: 910-642-2196 Ext. 3 Fax: 910-642-6766

(c) The following notice shall be displayed in a prominent position in the Office of the Register of Deeds and the public access area in the Columbus County Tax Department in accordance with North Carolina law:

**“NOTICE TO REAL ESTATE PURCHASERS IN COLUMBUS COUNTY OF VOLUNTARY AGRICULTURAL DISTRICTS**

Columbus County has established Voluntary Agricultural Districts to protect and preserve agricultural lands and activities. These districts have been developed and mapped to inform all purchasers of real property that certain agricultural activities, including but not limited to pesticide spraying, manure spreading, machinery and truck operations, livestock operations, sawing, and similar activities may take place in these districts any time during the day or night. Maps and/or information on the location and establishment of these districts can be obtained from the Cooperative Extension Service Office, County Planning Department, Register of Deeds, Natural Resources Conservation Service, the Farm Service Agency Office, and the County Tax Department.”

(3) Limit of Liability --In no event shall the County or any of its officers, employees, or agents be held liable in damages for any misfeasance, malfeasance, or nonfeasance occurring in good faith, either intentionally or by negligence, in connection with the duties or obligations imposed by this ordinance.

(4) No Cause of Action --In no event shall any cause of action arise out of the failure of any person, including a person researching the title of a particular tract, to report to any person the proximity of the tract to a qualifying farm or Voluntary Agricultural District as defined in this ordinance.

Section C. Expenditure of County Funds for Non-Farm Uses.

Prior to expending any monies which would convert land in a Voluntary Agricultural District to non-farm uses, the County or any other local unit of government shall submit to the Voluntary Agricultural District Board detailed information showing that said governmental unit has considered alternatives.

Section D. No Districts in Designated Growth Corridors.

Voluntary Agricultural Districts will not be permitted in designated growth corridors as delineated on the official County planning map without the approval of the Board of Commissioners. Upon request, districts located in growth corridors designated after the effective date of this program may be allowed to remain. Upon request, districts located in growth corridors designated after the effective date of this program may be allowed to expand to include adjoining property purchased by a landowner presently participating in the Columbus County

Voluntary Agricultural District Ordinance. Any requests made under this Section, should be made through the Planning Board, 111 Washington Street, Whiteville, NC 28472. The approval of the Board of Commissioners will be on a case by case basis.

#### **ARTICLE 11. SUBDIVISION ORDINANCE AND ZONING ORDINANCE REVIEW**

Developers of major subdivisions or planned unit developments shall designate on preliminary development plans, the existence of the Voluntary Agricultural Districts within one-half (1/2) aerial mile of the proposed development.

#### **ARTICLE 12. PUBLIC HEARINGS**

##### Section A. Purpose.

Pursuant to Chapter 106, Article 61, Parts 1 and 2 of the North Carolina General Statute, which provides that no state or local public agency or governmental unit may formally initiate any action to condemn any interest in qualifying farmland within a Voluntary Agricultural District until such agency or unit has requested the Voluntary Agricultural District Board to hold a public hearing on the proposed condemnation.

##### Section B. Procedure.

1. Upon receiving a request, the Voluntary Agricultural District Board shall publish notice describing the proposed action in the appropriate newspapers of Columbus County within five (5) business days of the request, and will in the same notice notify the public of a public hearing on the proposed condemnation, to be held within ten (10) calendar days of receipt of the request.
2. The Voluntary Agricultural District Board shall meet to review:
  - a.) Whether the need for the project has been satisfactorily established by the agency or unit of government involved, including a review of any fiscal impact analysis conducted by the agency involved; and
  - b) Whether there are alternatives to the proposed action that have less impact and are less disruptive to the agricultural activities of the District within which the proposed action is to take place.
- 3) The Voluntary Agricultural District Board shall consult with the County Agricultural Extension Agent, the Natural Resources Conservation Service District Conservationist, and any other individuals, agencies, or organizations deemed by the Voluntary Agricultural District Board to be necessary for its review of the proposed action.

4) Within five (5) business days after the hearing, the Voluntary Agricultural District Board shall make a report containing its findings and recommendations regarding the proposed action. The report shall be made available to the public prior to its being conveyed to the decision-making body of the agency proposing the acquisition. This report will be published describing the action in the appropriate newspapers of Columbus County.

5) There will be a period of ten (10) calendar days allowed for public comment on the report of the Voluntary Agricultural District Board.

6) After the ten (10) calendar day period for public comment has expired, the Voluntary Agricultural District Board shall submit a final report containing all of its findings and recommendations regarding the proposed action to the decision-making body of the agency proposing the acquisition.

7) The total time period, from the day that a request for a hearing has been received to the day that a final report is issued to the decision-making body of the agency proposing the acquisition, shall not exceed thirty (30) calendar days. If the agency agrees to an extension, the agency and the Voluntary Agricultural District Board shall mutually agree upon a schedule to be set forth in writing and made available to the public.

8) Pursuant to Chapter 106, Article 61, Parts 1 and 2 of the North Carolina General Statute, the Board of Commissioners shall not permit any formal initiation of condemnation by local agencies while the proposed condemnation is properly before the Voluntary Agricultural District Board.

### **ARTICLE 13. NORTH CAROLINA AGENCY NOTIFICATION**

#### Section A. Consultation with N.C. Department of Agriculture and Consumer Services and Other Agencies.

The Voluntary Agricultural District Board may consult with the Cooperative Extension Service Office, the USDA Natural Resources Conservation Service Office, the USDA Farm Service Agency Office, the N. C. Department of Agriculture and Consumer Services, and any other such agency the Voluntary Agricultural District Board deems necessary to properly conduct its business.

Section B. Recording the Program Ordinance.

An official copy of this program ordinance shall be recorded with the North Carolina Commissioner of Agriculture's Office after adoption. On July 1 of each calendar year, the Voluntary Agricultural District Board shall submit a written report to the Commissioner of Agriculture, including the status, progress and activities of the County's Farmland Preservation program and Voluntary Agricultural Districting information regarding:

- (1) Number of landowners enrolled;
- (2) Number of acres applied;
- (3) Number of acres certified;
- (4) Number of acres denied; and
- (5) Date certified.

**ARTICLE 14. LEGAL PROVISIONS**

Section A. Severability, Conflict with Other Ordinances and Statutes, and Amendments.

(1) **Severability.** If any article, section, subsection, clause, phrase or portion of this ordinance is for any reason invalid or unconstitutional as determined by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

(2) **Conflict with other ordinances and statutes.** Pursuant to relevant North Carolina law, whenever the provisions of this ordinance conflict with other ordinances of Columbus County, the Board of Commissioners shall determine which ordinance shall govern. Whenever the provisions of any federal or state statute require more restrictive provisions than are required by this ordinance, the provisions of such statute shall govern.

(3) **Amendments.** This ordinance may be amended from time to time after a public hearing, notice of which shall be sent to program participants by first class mail thirty (30) calendar days prior to the hearing, and in consultation with the Voluntary Agricultural District Board to the Board of Commissioners.

**ARTICLE 15. ENACTMENT**

The ordinance establishing the provisions of this Part was passed by the Board of Commissioners on November 3, 2008.

# **CHAPTER 11 – FIRE PROTECTION, HAZARDOUS MATERIALS & PUBLIC SAFETY**

## **COLUMBUS COUNTY FIRE PREVENTION AND PROTECTION ORDINANCE**

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### **PART 1 - ADMINISTRATION**

#### **ARTICLE 1-TITLE**

These regulations shall be known as the "Fire Prevention and Protection Ordinance of Columbus County, North Carolina," and may be cited as such and referenced to herein as the code.

#### **ARTICLE 2 - INTENT**

It is the intent of the code to prescribe regulations consistent with nationally recognized good practice for the safeguarding of life and property from the hazards of fire and explosion within the jurisdiction of the county. The code shall not be construed to hold the county responsible for any damage to persons or property by reason of the inspection or re-inspection authorized herein, failure to inspect or re-inspect or the permits issued or denied as herein provided, or by reason of the approval or disapproval of any equipment authorized herein.

### **ARTICLE 3 -CODE AND AMENDMENTS**

For the purpose of prescribing regulations governing conditions hazardous to life and property from fire, explosion, or exposure to hazardous materials, the North Carolina Fire Prevention Code and appendices of said code, along with the North Carolina Amendments of said code is hereby adopted by reference and is set forth herein as the Fire Code for the County. Any Amendments to the aforementioned code, which are adopted, amended, and published by the North Carolina Building Code Council, shall be effective in the County at the time such amendments are declared in effect by the North Carolina State Building Code Council.

### **ARTICLE 4 -APPLICABILITY**

The provisions of this ordinance shall apply to all buildings and occupancies in the North Carolina Building Code Volume 1, General Construction and the North Carolina Building Code Volume V, Fire Prevention and any other building referenced by this ordinance. The provisions of this code shall apply equally to existing as well as new buildings.

#### Section 1. Inapplicability of Code.

Where the North Carolina Fire Prevention Code or its references are inapplicable to a specific occupancy of process, the appropriate NFPA (National Fire Protection Association) or other nationally recognized standard shall be used.

#### Section 2. Copy on File.

A copy of the fire prevention and protection ordinance, and all technical codes and standards adopted by reference shall be available for public inspection at the fire marshal's office.

### **ARTICLE 5- JURISDICTION**

In accordance to the general statutes of the State of North Carolina and the provisions of the Columbus County Fire Prevention and Protection Ordinance, it will be the responsibility of the Columbus County Fire Marshal's Office to issue all fire prevention permits, conduct all fire inspections for the county and enforce the provisions of the North Carolina Building Code Volume V, Fire Prevention and the Columbus County Fire Prevention and Protection Ordinance in the unincorporated areas of the county.

#### Section 1. Contracting for Services.

Where a Columbus County Municipality or Sanitary District who is legally obligated to provide fire inspection services to a specified area cannot do so, they may contract with the County Fire Marshal's office to provide these services. Any area contracted to the fire marshal's office for fire

inspection services shall be bound to all the provisions of the Columbus County Fire Prevention and Protection Ordinance.

Section 2. Exception to Contracting for Services.

Where a municipality provides fire inspection services and only requires the assistance of the Fire Marshal's office due to the inability to inspect a building whose occupancy requires a more qualified Inspector than supplied by the municipality, then the provisions of this ordinance shall not apply.

**ARTICLE 6 - DEFINITIONS**

Section 1. Definitions and Abbreviations.

For the purpose of this code, certain abbreviations, terms, phrases, words, and their derivatives shall be construed as set forth in this and following sections.

Words used in the present tense include the future. Words in the masculine gender include the feminine and neuter. Words in the feminine and neuter gender include the masculine. The singular number includes the plural and the plural includes the singular.

*Fire Code Official* means the Fire Chief or other designated authority charged with administration and enforcement of the code, or a duly authorized representative that holds a certification certificate issued by the North Carolina Code Qualifications Board.

Section 2. Terms Not Defined.

Where terms are not defined in this code and are defined in the International Fire Code, International Building Code, International Fuel Gas Code, International Mechanical Code or International Plumbing Code, such terms shall have the meanings ascribed to them as in those codes. Where terms are not defined through the methods authorized, such terms shall have ordinarily accepted meanings such as the context implies.

**PART 2 – EXISTING BUILDING INSPECTIONS**

**ARTICLE 1 -FREQUENCY OF INSPECTION**

Inspection schedules of existing buildings shall be in accordance with Section 106 of the N.C. Fire Prevention Code, and shall be conducted no less frequently than described in the schedule below:

<b><u>OCCUPANCY CLASSIFICATION</u></b>	<b><u>INSPECTION FREQUENCY</u></b>
Public Schools	Every Six Months
Hazardous	Every Year
Institutional	Every Year
High Rise	Every Year
Assembly	Every Year
Residential* (Excludes one and two family dwellings)	Every Year
Industrial	Every two (2) years
Educational (Except Public Schools)	Every two (2) years
Foster Care Home (G.S. 131-D)	Every two (2) years
Group Care Home	Every two (2) years
Business	Every three (3) years
Mercantile	Every three (3) years
Storage	Every three (3) years
Churches and Synagogues	Every three (3) years

\*The North Carolina Fire Code definition of a residential occupancy is a multi-family building; the Fire Code does not apply to one and two family dwellings.

\*For Scheduled Inspection Fee see Columbus County Fire Protection and Prevention Fee Schedule approved by Columbus County Commissioners.

### **PART 3 - PERMITS, PLAN REVIEW & FEES**

#### **Section 1. Definition.**

*Permit* is an official document issued by the Fire Marshal's Office authorizing performance of a specified activity, use, operation or installation. This includes, but is not limited to the following types: Use Permit, Special Use Permit, Burning Permit, Operational Permit, Construction Permit and Permits for Fire Protection Systems, Storage Tanks, and any other items needing a permit.

#### **Section 2. Required Permits.**

In accordance with the detailed requirements of the County, a permit shall be obtained from the Fire Marshal's Office pursuant to the procedure set forth in Chapter 1, Section 105 of the N.C. Fire Prevention Code, along with the N.C. Amendments and this ordinance. Permits shall be obtained to conduct those activities or operations as set forth in the permit and service fee schedule as approved by the Columbus County Board of Commissioners. An operational permit must be obtained from the Columbus County Fire Marshal's Office as per the schedule of fees as adopted by the Columbus County Board of Commissioners.

- A. Renewal. All permits will be valid for a period of 1, 2, or 3 years and will be renewable upon completion of fire inspection in accordance with Section 105 of the NC Fire Prevention Code. Renewal fees will be based on fee schedule proposed for inspections in accordance with Section 105.

#### **Section 3. Information Required with Applications.**

An application for a permit shall be filed with the Fire Marshal's Office on a form furnished for that purpose, provided by the County and shall include the applicant's answers in full to inquiries set forth in such forms. Applications for permits shall be accompanied by appropriate fees and such data as may be required by the Fire Marshal or Fire Code Official.

- A. Contractor's License Required. When the General Statutes requires that general construction, plumbing, mechanical, electrical, fire protection, or gas work be performed by the appropriately licensed individual(s), no permit for such type work shall be issued to an unlicensed person or firm.

- B. Additional Data. The Fire Marshal's Office may require details, computations, stress diagrams, professional certification and other data necessary to describe the construction or installation of a system.
- C. Plan Review. Plan reviews shall apply to all buildings and occupancies in the N.C. Building Code General Construction and the N.C. Fire Prevention Code. This review will be for the determination of compliance with this ordinance and the Fire Code, and shall be completed within a reasonable time of receipt of plans. If the Fire Marshal's Office review of these plans indicates the need for a fire permit, as outlined in this ordinance and the Fire Code or if there are corrections to be made to the plans, the building permit shall not be issued until the fire permit has been applied for or until the corrections are made to the plans. This plan review shall not apply to one and two family dwellings.

Section 4. Penalties.

See Civil Penalties Schedule in Chapter 5 of this ordinance.

Section 5. Revocation.

The Fire Marshal and or Fire Code Official may revoke a permit upon determination that the permit holder, or any agents or employees of the permit holder, has violated any provision of the N.C. Building Code Fire Prevention or of this Ordinance, or any stated condition of the permit. The Fire Marshal or Fire Code Official shall advise the permit holder, in writing, of the reason for the revocation.

Section 6. Nontransferable.

Any permits issued shall not be transferable. Permits shall be valid only as specified on the permit for the time period, use, and/or project specified. Permits shall be valid only for the individual listed on the permit application.

**PART 4 - UNSAFE BUILDINGS**

Section 1. Unsafe, Defective Buildings or Systems.

All buildings or service systems, which are unsanitary, constitute a fire hazard, or constitute a hazard to safety or health, bad conditions of walls, overload floors, defective construction, decay, unsafe wiring or heating system, inadequate means of egress are considered unsafe. All such unsafe building or service systems shall be abated by repair and rehabilitation or by demolition in accordance with the provisions of the technical codes. (G.S. 153A-365, 153A-366, 153A-367, 153A-368, 153A-369, 153A-370 and 153A-371).

- A. Summary Abatement. Where conditions exist that are deemed hazardous to life and property, the Fire Marshal or Fire Code Official is authorized to abate summarily such hazardous conditions that are in violation of this code.
- B. Abatement. The owner, operator or occupant of a building or premises deemed unsafe by the code official shall abate or cause to be abated or corrected such unsafe conditions either by repair, rehabilitation, demolition or other approved corrective action.

## **PART 5 – CIVIL PENALTIES**

### Section 1. Civil Penalties.

Any person who shall violate any of the provisions of the N.C. Fire Prevention Code or this ordinance adopted by the Columbus County Board of Commissioners, or fail to comply therewith, or who shall violate or fail to comply with any order made there under, or who shall build in violation of any detailed statement of specifications or plans submitted and approved there under or any certificate or permit issued there under, shall be subject to penalties as specified below as approved by the Columbus County Board of Commissioners. These penalties shall be recovered by the County in a Civil Action in the nature of debt if the offender does not pay the penalties within a period of 30 days after the issuance of the notice of violation. The notice of violation shall be in writing, signed by the Fire Marshal and/or the Fire Official charged with the enforcement of the N.C. Fire Prevention Code or this ordinance, and shall be delivered or mailed to the offender either at his/her residence or place of business or at the location where the violation occurred. Each day's continuing violation shall be a separate and distinct offense. Any action to recover such penalties may be joined in an action for appropriate equitable remedy, including injunctions and orders of abatement and including an action to recover damages by the County in abating, correcting, limiting, and otherwise dealing with the harmful effects of the offending action. Civil penalties are assessed in accordance with North Carolina G.S. 153A and G.S. 160A.

\* For Civil Penalty Schedule see Columbus County Fire Protection and Prevention Fee Schedule approved by Columbus County Commissioners.

Violation(s) consisting of locked and/or blocked exits, impedance of the occupants to quickly evacuate a structure or premise, or conditions posing imminent danger to the occupants on or about the premise or Violation(s) of Occupancy Limits established pursuant to the North Carolina State Building and/or Fire Code must be corrected during the time of the inspection if at all possible

## **PART 6 - REPORTING A HAZARD OR VIOLATION**

### Section 1. Hazards and Violations.

The Fire Marshal's Office will respond to any complaint regarding a life safety hazard, illegal burning, and any other fire code violation or fire ordinance violation in Columbus County.

- A. How to report a hazard or violation. A hazard or violation may be reported at any time. They may be reported directly to the Fire Marshal's Office at 910-640-6610. If it is after normal business hours, please call (910) 640-1428.
- B. Required Information for Complaints. All complaints will require the following information to be recorded in order for the complaint to be processed:
1. Name of the person filing the complaint
  2. Address and phone number of person filing complaint
  3. Location of hazard or violation
  4. Type of problem, hazard or violation
- C. Records. A written record of all complaints will be maintained in the Fire Marshal's Office. A report will be attached to the complaint stating any violations or hazards found and what actions were taken.

## **PART 7 - COLLECTION OF FEES**

### Section 1. Inspection Fees (New Construction).

In the event additional fees are required to be assessed during a construction project, any and all fees must be paid in full prior to the issuance of the buildings Certificate of Occupancy. Occupying a building that has not been issued a Certificate of Occupancy will constitute a civil penalty for each day of continued offense.

### Section 2. Inspection Fees (Existing Buildings).

The fee for an inspection of an existing building shall be assessed and an invoice will be supplied to the owner, occupant, or designee. Subjects will have thirty (30) days to remit payment. After thirty (30) days the bill will be placed in a past due status and a second invoice will be sent to the subject. After a period of sixty (60) days of non-payment, the account will be subject to a 10% late fee and the account will be placed on hold and no additional inspections or permits will be issued, civil action will be taken through the court system after a period of ninety 90 days.

**PART 8 - FORMS**

**REPORTING A HAZARD or VIOLATION FORM**

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**Name of Person Filing Complaint**

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**Address of Person Filing Complaint**

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**Phone Number of Person Filing Complaint**

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**Location of Hazard (address -name of business -name of owner or operator if known)**

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**Type of Problem, Hazard or Violation Reported**

A written record of all complaints will be maintained in the Fire Marshal's Office. A report will be attached to the complaint stating any violations or hazards found and what actions were taken.

**Fire Marshal Use Only**

Date of resulting inspection: \_\_\_/\_\_\_/\_\_\_ Was property found to be in violation? Yes\_\_\_No\_\_\_

Comments/Resolution\_\_\_\_\_

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**PART 9 - FALSE ALARM ORDINANCE**

**ARTICLE 1. PURPOSE**

- A. The purpose of this ordinance is to encourage alarm users and alarm companies to maintain the operational reliability of alarm systems and to properly use alarm systems in order to reduce or eliminate false/accidental alarm dispatches of fire apparatus.
- B. This ordinance governs systems intended to summon a fire response, establishes a fee associated with penalties for violations.

**ARTICLE 2. DEFINITIONS**

For the purpose of this Chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***Alarm.*** means the activation of an alarm signal that produced either an audible sound that can be heard from the interior or exterior of a commercial or residential building, structure, or premise housing the alarm system, or the emission of a signal to a direct monitoring service which in turn notifies the Columbus County Communications Center or directly notifies local officials that an alarm has been activated.

***Alarm Business.*** means the business by any individual, partnership or corporation serving, repairing, altering, replacing, moving or installing any alarm system, or causing to be sold, leased, maintained, serviced, repaired, altered, replaced, moved or installed any alarm system in or on any commercial or residential building, structure or premises, and shall not include any other activity of the business.

***Alarm Dispatch Request.*** means a notification to public safety officials by an alarm company that an alarm has been activated at an alarm site.

***Alarm Installation.*** means any alarm device or combination of devices installed for one or more commercial or residential buildings, structures or premises.

***Alarm System.*** means a device or series of devices, including but not limited to, systems interconnected with a radio frequency signal, which are designed to warn of fire by emitting or transmitting a remote or local audible, visual, or electronic signal indicating an alarm condition that may require attention by a fire department.

***Automatic Telephone Dialing Device or Digital Alarm Communication System.*** An alarm system that automatically sends a prerecorded voice message or coded signal over regular telephone lines by direct connection or any other digital method indicating the existence of the emergency situation that the alarm system is designed to detect.

***False Fire Alarm.*** means any transmitted alarm signal in which there is no sign of smoke, fire or water-flow conditions.

### **ARTICLE 3 - GENERAL REGULATIONS**

- A. The alarm user shall maintain the premises and the alarm system in a manner that will minimize or eliminate false/accidental alarm dispatches and activate the alarm only for the occurrence of events it was designed to report.
- B. The alarm user shall respond or cause a responsible representative to respond to the alarm site within 30 minutes when notified by officials.
- C. Each alarm user shall furnish to the county in writing the names and telephone number of at least one, but no more than five, persons authorized and able to deactivate the alarm system.
- D. The alarm user shall adjust the mechanism or cause the mechanism to be adjusted so that an alarm signal audible on the exterior of the alarm site shall sound no longer than (15) minutes, requiring an automatic reset.

### **ARTICLE 4 - ALARM RESPONSE**

#### **Section 1. False Alarms.**

It shall be determined that three (3) or more fire false alarm within a 12-month period is excessive and constitutes a public nuisance. The county will allow three (3) fire false alarm response to any alarm user within any calendar year without penalty. A civil penalty shall be issued for any excess false alarm responses as follows:

**Fire False Alarms- Fees:**

4th False Alarm: \$ 50.00

5th False Alarm: \$ 75.00

6th False Alarm: \$100.00

7th False Alarm: \$150.00

8th False Alarm: \$200.00

9th False Alarm: \$250.00

10 or more False Alarms: \$500.00

- A. No fee shall be assessed if the false/accidental alarm dispatch is:
1. Caused by a hurricane, tornado or lightning strike where there is clear evidence of physical damage to the alarm system.
  2. Activated by an electrical power outage to the electric meter on the commercial or residential building housing the activated alarm system.
  3. An alarm system activated during alarm system tests conducted by the Fire Marshal's Office for the purpose of computing alarm times.
  4. Caused by an actual fire.
  5. Activated by smoke condition without fire.
  6. Sprinkler water flow has tripped system due to a sprinkler head activating with or without fire.

## **PART 10 – COLUMBUS COUNTY OPEN BURNING**

### **ARTICLE 1. DEFINITIONS**

***Open Burning*** means the burning of leaves, grass clippings, and other natural, unprocessed vegetation in which the products of combustion pass into the open air without passing through any type of chimney or duct.

***Recreational Fire*** means an outdoor fire utilized for the cooking of food for human consumption.

***Structure*** For the purpose of this section of the ordinance, a structure shall be defined as an occupied building.

***Illegal Burning.*** The burning of trash, paper, plastics, lumber, tires, chemicals and other man-made materials.

### **ARTICLE 2. OPEN BURNING - WHERE ALLOWED**

Open burning may be allowed not within 50 feet of any structure, and provisions shall be made to prevent the fire from spreading to within 50 feet of any structure. It is the burners responsibility to ensure that the fire is maintained on their property and not allowed to spread to adjoining property.

#### **Section 1. Exceptions.**

- A. Fires in approved containers that are not less than 15 feet (4572 mm) from a structure.
- B. The minimum required distance from a structure shall be 25 feet (7620 mm) where the pile size is 3 feet (914 mm) or less in diameter and 2 feet (610 mm) or less in height.

Section 2. Notification Required.

Notification is required for all open burning when the vegetation to be burned is piled such that the pile size exceeds five (5) feet wide x five (5) feet long x five (5) feet high, or when the vegetation burns longer than five (5) hours. Two (2) or more piles on a single piece of property shall be considered a single pile. Notification is also required when the vegetation to be burned is larger than six (6) inches in diameter. A phone number will be established for the public to utilize to make notification of open burning.

Section 3. Notification Requirement Exceptions.

Exceptions to the notification requirement specified in Article 2, section 2 are as follows:

- A. Agriculture, silviculture, or burning of land for wildland management.
- B. Fires set for the training of firefighting personnel.
- C. Recreational fires.

Section 4. Accordance with Applicable State and Federal Air Quality and Waste Disposal Laws.

Open burning in Columbus County shall be conducted in accordance with all applicable State and Federal Air Quality and Solid Waste Disposal Laws, and shall also be in accordance with the North Carolina Fire Prevention Code.

Section 5. Prohibited Open Burning.

In accordance with Section 307.2.2 of the North Carolina Fire Prevention Code, open burning permitted by this ordinance that is deemed to be offensive or objectionable due to smoke or odor emissions shall be prohibited.

Section 6. Illegal Open Burning.

In accordance with North Carolina Administrative Code 15A 2D .1900 "Open Burning", any person found in violation of this section shall be subject to the Civil Penalties outlined in Part 5 of this chapter.

Section 7. Attendance to Open Burning.

Open burning must be constantly attended at all times by a competent person. In accordance with Section 307.4 of the North Carolina Fire Prevention Code, a minimum of one portable fire extinguisher with a minimum 4-A rating or other approved onsite fire-extinguishing equipment such as dirt, sand, water barrel, garden hose or water truck shall be available for immediate utilization.

Section 8. Extinguishment of Open Burning.

Any open burning found to be in violation of this Section, the North Carolina Fire Prevention Code or any State or Federal law shall be extinguished immediately by the responsible party, and open burning will be immediately discontinued.

**ARTICLE 3- BURNING BAN**

In the event that the Columbus County Fire Marshal's Office issues a ban on outdoor burning within 100 feet of a structure, then in accordance to state law all Open Burning shall be immediately discontinued until such ban is lifted by the Columbus County Fire Marshal's Office. During this ban, no open burning shall be conducted at all within 100 feet of a structure; this includes any outdoor burning at residences. A civil citation may be issued for violations.

Section 1. Conditions Warranting a Burning Ban.

A burning ban on outdoor burning within 100 feet of a structure may be issued by the Columbus County Fire Marshal's Office in the event that atmospheric conditions or local circumstance make such fire hazardous.

A. Atmospheric conditions that warrant a burning ban include, but are not limited to:

1. Extended periods of low humidity (below 50%)
2. High winds
3. Elevated temperatures
4. Lack of substantial rainfall.

B. Local conditions that may warrant a burning ban include, but are not limited to:

1. Flammable and/or combustible liquid spills or leaks close to a burning site.
2. A hazardous materials incident where the proximity of the burn site could cause a possible ignition source or prove hazardous to operations controlling the incident.
3. The proximity of adjacent structures or other such hazards.

Section 2. Notification of Burning Ban.

In the event a burning ban is issued, citizens shall be notified through the news media or in person that a burning ban is in place, and fires shall be extinguished immediately. In conjunction with North Carolina Forest Service burning ban, the Columbus County Fire Marshal's Office shall issue a burning ban of all-open burning within 100 feet of a structure and all fires shall be extinguished immediately. The local press shall be notified by the Fire Marshal's Office that such ban is in effect and that no permits will be issued until such ban is lifted and no open burning will be allowed.

Section 3. Repeal of Burning Ban.

Any burning ban issued by the Fire Marshal's Office shall be repealed in the same manner.

Section 4. Civil Penalties.

Any person found in violation of this Section of the Columbus County Fire Prevention and Protection Ordinance shall be subject to the Civil Penalties outlined in Chapter 11, Part 5 of this Ordinance. Failure to make notification of open burning that falls under jurisdiction of this section shall constitute a violation.

**PART 11 - UNIFORM PROPERTY ADDRESSING AND DISPLAY**

Section 1. Uniform Property Address and Address Display.

New and existing buildings shall have approved address numbers, building numbers, or approved building identification placed in a position to be plainly legible and visible from the street or road fronting the property

Section 2. Address Numbers Requirements.

Address numbers shall be a minimum of 4 inches high with a minimum stroke width of 0.5 inch. Number shall be Arabic numerals or alphabet letters, and shall contrast with their background.

Section 3. Numbering in Accordance with International Fire Code.

Addressing for all buildings shall be in accordance with Section 505.1 of the 2000 International Fire Code

**PART 12 – HAZARDOUS MATERIAL AND SUBSTANCE ABATEMENT**

**ARTICLE 1 – PURPOSE AND AUTHORITY**

The County of Columbus (hereinafter "County") Fire Marshall or his designee shall have the authority to summarily abate, control, contain, remove, or remedy hazardous materials or substances which are emitted into the environment or are left unattended in such a manner as to endanger the health, safety or welfare of the general public or the environment. The County fire Marshall or his designee shall have the authority to enter public or private property, with or without the owner's consent, to respond to such hazardous materials emergencies. The County Fire Marshall or his designee shall determine the type, amount and quantity of equipment and personnel required to adequately abate, control, contain, remove, or remedy all hazardous materials or substances which are emitted into the environment or which are left unattended in

such a manner as to endanger the health, safety or welfare of the general public or the environment.

## ARTICLE 2 - DEFINITIONS

For the purposes of this section the following definitions shall apply, unless a different meaning appears from the context:

***Hazardous material or substance*** means any material or substance defined as a hazardous material under North Carolina General Statute Section 166A-21 (see Article 5 of this ordinance), and also includes any material or substance which, when discharged in any quantity, may present a danger to either the health, safety or welfare of the general public, or the environment.

***Exercising or having control over*** means, but not be limited to, any person using, transferring, storing, possessing or transporting a hazardous material or substance immediately prior to release of such hazardous material or substance on to the land or into the air or the waters within the county limits.

***Hazardous material and-substance response*** means the sending of any fire department and/or rescue department equipment, *that receives any funding by County*, and/or personnel to abate, control, contain, remove, or remedy any hazardous material or substance which endanger the health, safety or welfare of the general public or the environment.

***Person*** means any individual, firm, partnership, association, institution, corporation, organization, unit of local government, governmental agency, or any other group acting as a unit.

## ARTICLE 3 – HAZARDOUS MATERIAL RESPONSIBILITY; FEES AND CHARGES

### Section 1. Financial and Liability Responsibility.

Any property owner and/or person exercising or having control over any hazardous material or substance, or property owner and/or person that create a hazardous material or substance emergency shall be held financially responsible and liable for the response, abatement, control, containment, removal, and remedial costs incurred by the County and any County fire department during the emergency. The property owner and/or the person exercising control over such hazardous material or substance shall assist the fire department in the abatement, control, containment, removal and remedial measures associated with the hazardous material emergency. Assistance shall consist of, but not be limited to, any or all of the following:

- A. Compliance with the direction of the fire department and/or rescue department.
- B. Supply of emergency response plan information for the site.
- C. Supply of emergency response equipment, personnel and materials available on site.

- D. Informing fire department and/or rescue department personnel of all matters pertaining to the incident.

**ARTICLE 4 – HAZARDOUS MATERIALS PENALTIES AND PAYMENT**

Section 1. Payment and Collection of Penalties.

- A. The cost incurred by the County and any County fire department and/or rescue department in responding to, abating, controlling, containing, removing, or otherwise remedying a hazardous material or substance emergency shall be assessed to the responsible party as set forth in Article 3 above, which assessment shall be in writing and delivered to the responsible party and/or its registered agent by personal delivery, first-class United States Mail, commercial delivery carrier or by registered or certified United States Mail return receipt requested, and shall be paid within thirty (30) days of receipt thereof.
- B. Failure to pay the charges as assessed shall give the county the right to levy a lien upon the land, property or the premises where the hazardous material or substance emergency arose and said lien shall be collected as unpaid taxes as provided in North Carolina General Statute Section 153A-140 (See Article 6 of this Ordinance).
- C. All assessed charges or portions thereof not paid within thirty (30) days after the receipt of a statement of charges, shall bear interest at the rate of eight (8) percent per annum until paid. If the statement of charges is delivered to the responsible party by first class mail, three days shall be added to the prescribed period within which payment shall be made. If a statement of charges is delivered to the responsible party by first-class United States Mail, three days shall be added to the prescribed period within which payment shall be made.
- D. All reasonable attorneys' fees and costs of collection shall be added to charges not paid within the required time period.

Section 2. Enactment.

The above Ordinance was approved and adopted, after the second reading, by the Columbus County Board of Commissioners on February 19, 2007, upon motion by Commissioner Memory, seconded by Commissioner McKenzie, and the motion unanimously carried. This information will be recorded in Minute Book 29, at Pages \_\_\_\_ - \_\_\_\_.

**ARTICLE 5 - DEFINITIONS**

***Hazardous materials emergency response team or hazmat team*** means an organized group of persons specially trained and equipped to respond to and control actual or potential leaks or spills of hazardous materials.

***Hazardous material*** means any material defined as a hazardous substance under 29 Code of Federal Regulations § 1910.120(a)(3).

***Hazardous materials incident or hazardous materials emergency*** means an uncontrolled release or threatened release of a hazardous substance requiring outside assistance by a local fire department or hazmat team to contain and control.

***Regional response team*** means a hazmat team under contract with the State to provide response to hazardous materials emergencies occurring outside the hazmat team's local jurisdiction at the direction of the Department of Crime Control and Public Safety, Division of Emergency Management.

***Secretary*** means the Secretary of the Department of Crime Control and Public Safety.

***Technician-level entry capability*** means the capacity of a hazmat team, in terms of training and equipment as specified in 29 Code of Federal Regulations § 1910.120; to respond to a hazardous materials incident requiring affirmative measures, such as patching, plugging, or other action necessary to stop and contain the release of a hazardous substance at its source.

***Terrorist incident*** means activities that occur within the territorial jurisdiction of the United States, involve acts dangerous to human life that are a violation of the criminal laws of the United States or of any state, and are intended to do one of the following:

- A. Intimidate or coerce a civilian population.
- B. Influence the policy of a government by intimidation or coercion.
- C. Affect the conduct of a government by mass destruction; assassination, or kidnapping.

**ARTICLE 6 - ABATEMENT OF PUBLIC HEALTH NUISANCES**

Section 1. Abatement of public health nuisances.

A county shall have authority, subject to the provisions of Article 57 of Chapter 106 of the General Statutes to remove, abate, or remedy everything that is dangerous or prejudicial to the public health or safety. Pursuant to this section, a board of commissioners may order the removal of a swimming pool and its appurtenances upon a finding that the swimming pool or its appurtenances is dangerous or prejudicial to public health or safety. The expense of the action shall be paid by the person in default, and, if not paid, shall be a lien upon the land or premises where the nuisance arose, and shall be collected as unpaid taxes. The authority granted by this section may only be exercised upon adequate notice, the right to a hearing, and the right to appeal to the General Court of Justice. Nothing in this section shall be deemed to restrict or repeal the authority of any municipality to abate or remedy health nuisances pursuant to G.S. 160A-174, 160A-193, or any other general or local law. This section shall not affect bona fide farms, but any use of farm property for nonfarm purposes is subject to this section.

## CHAPTER 12 - SOLID WASTE

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### **PART 1 - MANAGEMENT OF SOLID WASTES**

#### **ARTICLE 1 - PURPOSE AND STATUTORY AUTHORITY**

The purpose of this Ordinance is to regulate the storage, collection and disposal of solid wastes in Columbus County. This Ordinance is adopted pursuant to the authority contained in G.S. 153A-121, 153A-132.1 and 153A-136.

#### **ARTICLE 2 - DEFINITIONS**

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

***Board*** means Board of Commissioners of Columbus County.

***Bulky Waste*** means large items of solid waste such as household appliances, furniture, automobiles, large auto parts, and such other oversize wastes whose large size precludes or complicates their handling by normal solid waste collection, processing or disposal methods.

***Collection*** means the act of removing solid wastes from a point of generation to a central storage point or to a disposal site, and from a central storage point to a disposal site.

***Commercial Solid Waste*** means solid wastes generated by stores, offices, restaurants, warehouses and other non-manufacturing activities.

***Construction and Demolition Waste*** means waste building materials, packaging, and rubble resulting from construction, remodeling, repair, and demolition operations on pavement, houses, commercial buildings, and other structures.

***Division of Health Services*** means Division of Health Services of the N.C. Department of Human Resources.

***Garbage*** means all putrescible solid wastes, including food wastes and food containers, animal and vegetable matter, animal offal, carcasses, and recognizable industrial by-products, but excluding sewage and human wastes.

**Hazardous Wastes** means wastes, or a combination of wastes, in a solid, liquid, contained gaseous, or semi-solid form that may cause, or contribute to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness, taking into account the toxicity of such waste, its persistence and degradation, its potential for accumulation or concentration in tissue, and other factors that may otherwise cause or contribute to adverse acute or chronic effects on the health of persons or other organisms.

**Health Director** means the director of the Columbus County Health Department or his/her authorized representative.

**Industrial Solid Waste** means solid wastes generated by industrial processes and manufacturing.

**Infectious Waste** means any of the following:

- A. Equipment, instruments, utensils, and formities of a disposable nature from the rooms of patients who are suspected to have or have been diagnosed as having a communicable disease and must therefore, be isolated as required by public health agencies;
- B. Laboratory wastes, such as pathological specimens (e.g., all tissues, specimens of blood elements, excreta, and secretions from patients or laboratory animals) and disposable formites (any substance that may harbor or transmit pathogenic organisms) attendant thereto;
- C. Surgical operating room pathologic specimens and disposable formites attendant thereto, and similar disposable materials from outpatient areas and emergency rooms.

**Institutional Solid Waste** means solid waste generated by educational, health care, correctional, and other institutional facilities.

**Person** means any individual, firm, partnership, corporation, association, governmental unit or agency, or other legal entity.

**Radioactive Waste** means any wastes that emit ionizing radiation spontaneously.

**Refuse** means solid wastes, excluding garbage and ashes, collected from residences, commercial establishments, and institutions.

**Solid Waste** means hazardous or non-hazardous garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, institutional, commercial and agriculture operations, and from community activities.

**However, the term Solid Waste does not include:**

- A. Fowl and animal fecal waste;

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B. Solid or dissolved material in:

1. Domestic sewage and sludge generated by the treatment thereof in sanitary sewage disposal systems which have a design capacity of more than 3,000 gallons or which discharge effluents to the surface waters;
2. Irrigation return flows; and
3. Wastewater discharges and the sludge incidental thereto and generated by the treatment thereof which are point sources subject to permits granted under Section 402 of the Clean Water Act, as amended (PL 92-500), and permits granted under GS 143-215.1 by the Environmental Management Commission;

C. Oils and other liquid hydrocarbons controlled under Article 21 A of Chapter 143, North Carolina General Statutes;

D. Any radioactive material as defined by the North Carolina Radiation Protection Act, G. S. 104E-1 through G. S. 104E-23; or (e) mining refuse covered by the North Carolina Mining Act, G. S. 74-76 through G. S. 74-68, and regulated by the North Carolina Mining Commission.

***Solid Waste Collector*** means any person who collects, transports or disposes of solid wastes for hire.

***Solid Waste Disposal Site*** means a location at which solid wastes are disposed of by incineration, sanitary landfill or other approved methods.

***Solid Waste Receptacle*** means a large metal container used for the temporary storage of solid wastes and capable of being automatically emptied into collection vehicles.

***Solid Waste Department*** means Columbus County Solid Waste Department.

***Residential Convenience Center*** means a facility to receive residential bulky waste: residential leaf and limb debris: white goods brown goods and other solid waste which is not considered to be residential in nature.

***Roll-Out Cart*** means a container supplied for the purpose of the collection of residential landfill waste.

***Transfer Station*** means a facility to recycle County waste for processing and shipment to a Sub Title "D" Landfill.

**ARTICLE 3 - STORAGE AND DISPOSAL OF SOLID WASTE**

Section 1. Storage and Disposal.

- A. No owner, occupant, tenant, or lessee of any property may deposit," store, or permit to accumulate any solid wastes upon his/her property that is not stored or disposed of in a manner prescribed by this ordinance.
- B. The owner, occupant, tenant, or lessee of any property shall remove or cause to be removed all solid wastes from his/her property at least once each week (seven (7) day period).
- C. Garbage should be stored in County-provided containers.
- D. Refuse shall be stored in a manner that will not provide harborage to rodents and vermin and will not create a fire hazard.
- E. No owner, occupant, tenant, or lessee of a building or dwelling, other than a licensed junk dealer, may place or leave, or cause to be placed or left outside the building or dwelling any bulky wastes for longer than 72 hours.
- F. No owner, occupant, tenant, or lessee of any building or dwelling may leave outside the building or dwelling, in a place accessible to children, any abandoned or unattended icebox, refrigerator or other receptacle that has an air-tight door without first removing the door.
- G. Solid waste shall be disposed of only in one of the following ways:
  - 1. In a sanitary landfill approved by the Division of Health Services;
  - 2. In an incinerator that has all required local, state, and federal air pollution control permits;
  - 3. A household may dispose of solid wastes generated at his/her residence on his/her property in a manner approved by County Solid Waste Plan.
  - 4. By any other method, including reclamation and recycling processes, that have been approved by the Division of Health Services and the Columbus County Health Department.
- H. In addition to the methods listed in Section G., above, refuse may be deposited of in solid waste receptacles provided by the County.
- I. Construction and demolition wastes may be disposed of at disposal sites approved by the Division of Health Services and the Columbus County Health Director.

- J. Infectious, hazardous, and radioactive wastes shall be disposed of according to written procedures approved by the Division of Health Services and the Columbus County Civil Preparedness Office (Now Emergency Management).
- K. Any person collecting and transporting solid wastes generated on his/her property for disposal at an approved disposal site shall comply with Article 7, Sections 3 and 4 of this Ordinance concerning vehicles and containers.

#### **ARTICLE 4 - LANDFILL MANAGEMENT**

##### **Section 1. Columbus County Solid Waste System**

- A. The Solid Waste System of Columbus County may be used for the disposal wastes by any person who is a resident of Columbus County during regular hours of operation of the Solid Waste facilities as set by the Columbus County Solid Waste Department Head. Solid wastes shall be disposed of in the manner and according to the adopted procedures required manager Columbus County or their representative.
- B. The following wastes may be disposed at their prescribed and licensed area at Columbus County Landfill.
  - 1. Bulky wastes;
  - 2. Construction and demolition wastes;
  - 3. Tires, unless they have been quartered or shredded;
  - 4. Infectious wastes;
  - 5. Wet sludge;
  - 6. Trees and stumps;

#### **ARTICLE 5 - SOLID WASTE RECEPTACLES**

##### **Section 1. Solid Waste Provisions.**

- A. Columbus County's Solid Waste Contractor will provide each household in the unincorporated areas of the County with a roll-out poly cart for the citizens' trash disposal and in any area that is incorporated at the request of the governing body of that incorporated area.
- B. Columbus County will maintain five (5) Convenience Center areas for the purpose of the taking bulky waste, white goods, tires, leaf and limb and other non-household items.
- C. Commercial, industrial, and institutional solid waste may not be disposed of at the residential convenience centers.

- D. The following wastes shall not be deposited in Residential Roll-out Containers:
1. Hazardous wastes;
  2. Liquid wastes;
  3. Infectious wastes;
  4. Radioactive wastes;
  5. Bulky wastes;
  6. Tires;
  7. Construction and demolition wastes;
  8. Burning or smoldering materials, or any other materials that could create a fire hazard;
  9. Trees or stumps.

**ARTICLE 6 - CORRUGATED CARDBOARD BANNED**

Section 1. Ban of Corrugate Cardboard.

It shall be unlawful to dispose of any mixed load of solid waste containing more than ten (10%) percent corrugated cardboard by weight or volume in the Columbus County Transfer Station. A load of solid waste originating from a single source shall contain no corrugated cardboard. This ban does not apply to corrugated cardboard that is proven not to be recyclable.

Section 2 Penalties and Fines.

Violation of the corrugated cardboard ban will be subject to the following fine or fines:

<b>OFFENSE NUMBER</b>	<b>FINE</b>
First	Written Warning
Second	Double Tipping Fee
Third and Subsequent	Triple Tipping Fee

Section 2. Definitions.

***Recyclable Corrugated Cardboard*** means clean cardboard with a fluted middle layer. Boxes with staples, tape, invoice sleeves and printing are recyclable and subject to the ban.

***Exempt Corrugated Cardboard*** means any of the following:

- A. Wax coated cardboard;
- B. Cardboard soiled with grease, food waste or chemicals;
- C. Cardboard adhered to polystyrene or plastic; and
- D. Poster board, pasteboard tubing or paperboard such as cereal boxes.

Section 3. Enactment.

The above Ordinance Amendment was passed by the Board of Commissioners of Columbus County, on July 6, 1999, upon motion by Commissioner Norris, seconded by Commissioner Britt and passed unanimously, and is recorded in the Minutes of said meeting, Book 25, page 229.

**ARTICLE 7 – LICENSING OF SOLID WASTE COLLECTORS**

Section 1. License Issuance.

- A. No person or municipal corporation shall engage in business as a solid waste collector except under a license issued by the Health Director pursuant to this Ordinance.
- B. Applications for licenses to engage in the business of solid waste collection shall be filed with the Health Director on forms approved by the Columbus County Health Director. Municipal corporations do not have to comply with Subsection B through F of this section. The applicant shall furnish the following information:
  - 1. Name and address of the applicant and whether a sole proprietorship, corporation, or partnership, with disclosure of the ownership interest;
  - 2. A list of the equipment possessed, available, or to be obtained by the applicant;
  - 3. Number of employees the applicant expects to use in the business;
  - 4. Experience of the applicant in solid waste collection;
  - 5. Balance sheet or equivalent financial statement as of the close of the applicant's business year, showing the net worth of the business;
  - 6. Schedule of fees the applicant plans to charge.
- C. Before issuing a license pursuant to this section, the Health Director shall inspect or cause to be inspected all facilities and equipment the applicant plans to use in the solid waste collection business.
- D. The Columbus County Health Director may issue the applicant a license only when:
  - 1. He/she finds that the applicant's facilities, equipment and proposed operating methods are in compliance with this Ordinance and;
  - 2. Applicant is in compliance with applicable regulations of the Commission for Health Services and;
  - 3. That the applicant will perform solid waste collection in an efficient and sanitary manner.

Section 2. Conditions of License.

- A. A condition of the license shall be that the licensee shall serve every person who contracts with him/her for solid waste collection in such a manner that the licensee does not cause the person to be in violation of this Ordinance.
- B. If the health director denies an applicant a license, the applicant may request a hearing before the Columbus County Health Director. The Columbus County Health Director shall keep summary minutes of the hearing and at least one week after the hearing shall give the applicant written notice of his/her decision either granting the license or affirming his/her denial of the license. The applicant may appeal the health director's decision to the County Clerk within ten days of receipt of the Columbus County Health Director's decision following the hearing. After a hearing on the appeal, the Board shall either affirm the denial or direct the health director to issue the license.
- C. A license shall be valid for a period of one year from the date of issuance.
- D. A licensee shall submit a monthly report to the Columbus County Health Director containing the following information:
  - 1. Number of customers added or deleted;
  - 2. Changes in routes;
  - 3. New and replacement equipment;
  - 4. Any other information requested by the Columbus County Health Director and pertinent to the solid waste collection business.
- E. No license issued pursuant to this Ordinance shall be assignable.

Section 3. Solid Waste Vehicles and Containers.

- A. Vehicles and containers used by persons or municipal corporations for the collection and transportation of solid waste shall be covered, leak proof, durable, and easily cleanable.
- B. They shall be cleaned as often as necessary to prevent a nuisance and insect breeding and shall be maintained in good repair.
- C. Vehicles shall display in letters at least three inches high the name and address of the licensee or the municipality.
- D. Vehicles and containers used for the collection and transportation of solid waste shall be loaded and moved in such a manner that the contents will not leak, or spill, and shall be covered to prevent the blowing of material and thus disposing of the same on the highway. If spillage or leakage should occur, the material shall be recovered immediately by the licensee or employees of a municipality and returned to the vehicle or container, and the area properly cleaned.

Section 4. Violation of Solid Waste Collection and Revocation of License.

When the Columbus County Health Director or the Columbus County Board of Commissioners finds that a licensee or a municipality has violated this ordinance or the conditions of his/her license, he/she or it shall give the licensee or a municipality written notice of the violation and inform him/her or it that if another violation occurs within thirty days, the license will be revoked and the privilege to use the Columbus County Landfill suspended. If another violation occurs within the thirty-day period, or if the continuing violation is not corrected within ten days, the Health Director or the Columbus County Board of Commissioners shall give the licensee written notice that his/her license is revoked and the privilege to use the Columbus County Landfill will be revoked. Upon receipt of the notice of revocation, the licensee shall stop collecting, transporting, or disposing of solid wastes and a municipality shall not use the Columbus County Landfill. The health director or Columbus County Board of Commissioners may reinstate a revoked license after the revocation has been in effect for thirty days if he/she finds that the conditions causing the violation have been corrected. A licensee whose license has been revoked by the Columbus County Health Department may appeal the revocation to the Board by giving written notice of appeal to the County Clerk within ten days of receiving notice of revocation from the health director. After a hearing on the appeal, the Board shall either affirm the revocation or direct the health director to reinstate the license.

**ARTICLE 8 - PENALTIES**

Any person violating this Ordinance shall be guilty of a misdemeanor punishable by a fine of fifty (\$50.00) dollars and not to exceed two hundred (\$200.00) dollars or imprisonment for not more than thirty (30) days or both. Each day's violation shall be treated as a separate offense.

Section 1. Enactment.

The above ordinance was passed by the Board of County Commissioners on January 5 1998, upon motion by Commissioner Spruell R. Britt and seconded by Commissioner Norris Lynwood Norris, and is recorded in the minutes of that meeting, Minute Book No. 24 pages 349 -356.

**PART 2 - ASSESSMENT AND COLLECTION OF**  
**SOLID WASTE USER FEES**

**ARTICLE 1 - SOLID WASTE USER FEES**

Section 1. Cost Recovery of Solid Waste Collection.

The costs of collection and disposal of Solid Waste in Columbus County shall be recovered from the citizens through user and tipping fees.

- A. As of January 1, 1998, Columbus County will not operate a landfill for the purpose of disposing of household and commercial solid waste. The mode of operation will be one of a Transfer Station to take in the household and commercial solid waste, transport to a Sub Title O Landfill and disposal in a Sub Title D Landfill. Columbus County will maintain operations for LCID (Land Clearing and Inert Debris) and C&D (Construction and Demolition) in Columbus County.
- B. The cost of collection and disposal of solid waste shall be recovered from the citizens of the County in the form of a user fee or tipping fee. These fees are regulated for municipal incorporated areas, as well as those unincorporated areas of Columbus County. Where necessary, in incorporated areas, the fees will be prorated to reflect the collection method in the incorporated areas.
- C. There shall be a Solid Waste tipping fee imposed on all industrial accounts and commercial Solid Waste haulers.
- D. The amounts to be charged as Solid Waste collection fees, landfill use fees and tipping fees shall be established and adjusted as necessary by the Columbus County Board of Commissioners. These fees shall be recorded in the official minutes of the Board Meeting at which the charges and/or changes were adopted. These fees shall be made available to the public as a Fee Schedule, updated as necessary by any changes.
- E. The total revenue derived from the Solid Waste collection fees, landfill use fees, and Solid Waste tipping fees shall be set to recover the full costs of Solid Waste collection and disposal in Columbus County.
- F. The Solid Waste collection fees and landfill use fees shall be billed annually on the Ad Valorem tax notices mailed and/or sent to Columbus County residents. The Solid Waste tipping fee shall be determined at the landfill site, through a system using either weight or volume. The Solid Waste tipping fee is to be paid at the same time the solid waste is delivered to the landfill

unless there is an account for the hauler. Invoices shall be sent monthly by Columbus County to the Solid Waste tipping fee account holders.

Section 2. Refund or Release of User Fees.

- A. The maximum Refund or Release for User Fees will be no more than five (5) years if proof of either of the following is submitted to the Columbus County Tax Office:
  - 1. Structure was vacant for the entirety of the time frame in question;
  - 2. Structure was served by a commercial hauler for the entirety of the time frame in question.
- B. If neither of the above stated qualifications can be satisfied, a release or refund of user fee will be granted for only two (2) years.
- C. In the event that property is double listed, the Refund or Release of User fees will be determined by the number of years the said property was double listed.
- D. All refunds and releases will be approved by the Solid Waste Analyst.

**ARTICLE 2 – COLLECTION OF FEES**

Section 1. Responsibility of Imposing Solid Waste User Fees.

The Solid Waste collection fee shall be imposed by the Columbus County Tax Office. In accordance with NCGS 153A-293, these user fees will be collectable in the same manner as property taxes (i.e. by garnishment of wages, attachment of bank accounts, foreclosure on real property, and/or attachment of personal property). These fees will become delinquent and a lien on real property on January 6 of each year.

Section 2. Property Where Collection Fees are Imposed.

- A. The Solid Waste collection fee shall be imposed by the Columbus County Tax Office on:
  - 1. All primary single family residences, churches, offices and other entities using push-cart trash containers, within Columbus County, except for those residences within incorporated areas which have Solid Waste collection services.
  - 2. All businesses within Columbus County which are not served by Commercial solid waste haulers or town collection services including manufactured/mobile home parks and apartment complexes.
  - 3. All non-seasonal motels and campgrounds, which are not served by commercial solid waste haulers or town collection services, at a rate per room or hookup equal to one-third the full rate established for primary residences.

4. All seasonal motels and campgrounds, which are not served by commercial solid waste haulers or town collection services, at a rate per room or hook-up equal to one-third the full-rate established for primary residences.
- B. Any person who lives outside a municipality or within a municipality that is served by County solid waste and disposal, who requests a new roll-cart trash container will pay a fee to the County. A pro-rata portion of the yearly fee will be paid by purchaser, which amount will be determined by the number of months remaining in the year from the time of purchase.

### **ARTICLE 3 – LANDFILL FEES**

#### Section 1. Landfill Fees.

- A. The Landfill fee shall be imposed by the Columbus County Tax Office on:
1. All primary single family residences, churches, offices and other entities using push-cart containers within Columbus County.
  2. All businesses within Columbus County which are not served by commercial solid waste haulers.
  3. All non-seasonal motels and campgrounds, which are not served by commercial solid waste haulers, at a rate per room or hookup equal to one-third of the full rate established for primary residences.
  4. All seasonal motels and campgrounds, which are not served by commercial solid waste haulers, at a rate per room or hookup equal to one-third the full rate established for primary residences.

### **ARTICLE 4 – EXEMPTION FROM USER FEES**

#### Section 1. Exemption Categories.

- A. Certain categories or exemption from the Solid Waste User Fees may be developed and implemented within the authority of this Ordinance.
- B. These exemption categories shall be established and adjusted as necessary by the Columbus County Board of Commissioners, shall be recorded in the official minutes of the Board Meeting at which the changes were adjusted.
- C. There will be no user fee applied if the Real or Personal Property Tax Account has zero balance as a result of the Elderly and Disabled exemptions authorized by NCGS 105-277.1.

Section 2. Enactment.

This Ordinance replaces and supersedes all previous ordinances and amendments and shall have an effective date as of the signature of the Chairman of the Columbus County Board of Commissioners.

The above Ordinance was passed by the Columbus County Board of Commissioners on September 4, 2007, upon motion by Commissioner McKenzie, seconded by Commissioner Gore and passed unanimously, and recorded in the minutes of said meeting, Book 30, Page 508 -510.

**PART 3 - COLUMBUS COUNTY LANDFILL**

**ARTICLE 1 - DEFINITIONS**

Unless a different meaning is required by the context, the following definitions shall apply throughout this Ordinance.

**Board** means the Board of Commissioners for the County of Columbus.

**CERCLA/SARA** means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Pub. L. No. 96-510,94 Stat. 2767, 42 U.S.C. 9601 et seq., as amended, and the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499,100 stat. 1613, as amended.

**Disposal** means 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 thereof may enter the environment or be emitted into the air or discharged into any waters, including but not limited to ground waters.

**Garbage** means all putrescible wastes, including animal offal and carcasses, and recognizable industrial by-products, but excluding sewage and human waste.

**Landfill** means a disposal facility or a part of a disposal facility where solid waste is placed in or on land and which is not a land treatment facility, a surface impoundment, an injection well, a hazardous waste long-term storage facility or a surface storage facility.

**Closure** means the cessation of operation of a solid waste management facility and the act of securing the facility so that it will pose no significant threat to human health or the environment.

**Operator** means any person, including the owner, who is principally engaged in, and is in charge of, the actual operation, supervision, and maintenance of a solid waste management facility and includes the person in charge of a shift or periods of operation during any part of the day.

**Person** means an individual, corporation, company, association, partnership, unit of local government, state agency, federal agency, limited liability, partnership, limited liability corporations, or all other legal entities.

**RCRA** means the Resource Conservation and Recovery Act of 1976, Pub. L. 94-580.90 Stat. 2795, U.S.C. Section 6901 et. seq., as amended.

**Refuse** means all non-putrescible waste.

**Sanitary Landfill** means a facility for disposal of solid waste on land in a sanitary manner in accordance with the rules concerning sanitary landfills adopted by the State of North Carolina and the County of Columbus or any appropriate federal agency.

**Sludge** means any solid, semisolid or liquid waste generated from a municipal, commercial, institutional or industrial wastewater treatment plant, water supply treatment plant or air pollution control facility, or any other waste having similar characteristics and effects.

**Solid Waste** means any hazardous or nonhazardous garbage, refuse or sludge from a waste treatment plant, water supply treatment plant or air pollution control facility, domestic sewage and sludge generated by the treatment thereof in sanitary sewage collection, treatment and disposal systems, and other material that is either discarded or is being accumulated, stored or treated prior to being discharged, or has served its original intended use and is generally discarded, including solid, liquid, semisolid or contained gaseous material resulting from industrial, institutional, commercial and/or agricultural operations, and from community activities.

A. The term does not include:

1. Fecal waste from fowls and animals other than humans;
2. Solid or dissolved material in:
  - a) Domestic sewage sludge and generated by treatment thereof in sanitary sewage collection, treatment and disposal systems designed to discharge effluents to the surface waters;
  - b) Irrigation return flows; and
  - c) Wastewater discharges and the sludges incidental to and generated by treatment which are point sources subject to permits granted under Section 402 of the Water Pollution Control Act, as amended, [P.L. 92-500], and permits granted under N.C.G.S. 143-215.1 by the Environmental Management Commission. However, any sludges that meet the criteria for hazardous waste under RCRA shall also be a solid waste for the purposes of this ordinance;
  - d) Oils and other liquid hydrocarbons controlled under Article 21A of Chapter 143 of the General Statutes for the State of North Carolina. However, any oils or other liquid

hydrocarbons that meet the criteria for hazardous waste under RERA shall also be a solid waste for the purposes of this Ordinance;

- e) Any source, special nuclear or byproduct material as the Atomic Energy Act of 1954, as amended [42 U.S.C. Section 2011]; and
- f) Mining refuse covered by the North Carolina Mining Act, N.C.G.S. 74-46 through 74-68 and regulated by the North Carolina Mining Commission [as defined under N.C.G.S. 143B-290]. However, any specific mining waste that meets the criteria for hazardous waste under RCRA shall also be a solid waste for the purposes of this Ordinance.

***Solid Waste Disposal Site*** means any place at which solid wastes are disposed of by incineration, sanitary landfill or any other method.

***Solid Waste Management*** means purposeful, systematic control of the generation, storage, collection, transport, separation, treatment, processing, recycling, recovery and disposal of solid waste.

All additional definitions set out in N.C.G. S. 290[a] which are not specifically set forth herein but which may be utilized in this Ordinance, as amended, or any franchise issued hereunder. Such definitions being incorporated herein by reference thereto.

## **ARTICLE 2 - GRANT OF FRANCHISE**

### **Section 1. Landfill Operator**

- A. Prior to obtaining from the North Carolina Department of Environment and Natural Resources ["DENR"] a new permit, a renewal of a permit, or a substantial amendment to a permit for a sanitary landfill located, all or in part, in Columbus County, the operator of such landfill shall, in accordance with the provisions of this Ordinance, apply for and obtain from the Board a franchise to operate such landfill, subject only to the exclusionary provisions of Paragraph D of this Section.
- B. Any person operating or maintaining a sanitary landfill in Columbus County pursuant to a contractual agreement with Columbus County in effect at the time of adoption of this Ordinance, and who, pursuant to activity authorized under such agreement, becomes subject to this Ordinance based on a need to file an application with DEHNR for a new permit, a renewal of a permit, or a substantial amendment to a permit for a sanitary landfill, shall be entitled to obtain a franchise under this Ordinance for the sole purpose of compliance with G.S. 130A-290. However, the provisions of this Ordinance and any franchise issued under it shall apply to such person only to the extent that it does not limit, affect, alter, modify, revoke or invalidate any aspect of that person's existing contract with Columbus County.

C. An application for a franchise submitted pursuant to this Ordinance shall be filed with the Board or its designee, and shall include, but not necessarily be limited to, the following information:

1. Name and address of the applicant and whether a sole proprietorship, corporation, including a limited liability company or a limited liability partnership, with disclosure of the ownership interests;
2. A designation of the population to be served, including a description of the geographic area;
3. A description of the volume and characteristics of the waste stream; and
4. A projection on the useful life of the landfill.

D. This Ordinance shall not apply to any new permit, renewal of a permit, or a substantial amendment to a permit for a sanitary landfill which was issued by DENR prior to the adoption of this Ordinance.

### **ARTICLE 3 - COMPLIANCE WITH OTHER LAWS**

Any person granted a franchise hereunder shall, as the condition of the franchise, comply with the Columbus County Solid Waste Ordinance and any other Columbus County ordinances which now or hereafter relate thereto and with all laws and regulations of the State of North Carolina and the United States of America with respect to the operation of the particular sanitary landfill for which a franchise may be granted pursuant to this Ordinance.

### **ARTICLE 4 – FRANCHISE TERM**

A franchise shall be for a term of years not to exceed the maximum allowable by law at the time of the filing of a franchise application pursuant to this Ordinance. Provided, however, that any franchise granted hereunder shall not be for a term less than two (2) years. Any person who has been granted a franchise for a sanitary landfill hereunder shall be subject to the provisions and requirements of this Ordinance.

### **ARTICLE 5 - TERMINATION/SUSPENSION OF FRANCHISE**

#### Section 1. Franchise Termination/Suspension.

The Board may, terminate or suspend, upon notice and hearing, all or any portion of a franchise granted hereunder for any of the following reasons:

- A. Failure of the operator to comply with any provision of this Ordinance, any franchise document issued in connection herewith, making any false or misleading statements or the application or any other documents, or any regulations of DENR or of the United States of America which

are applicable to a sanitary landfill operated pursuant to the proposed or requested franchise;  
and

- B. Failure of the operator to comply with provisions of CERCLP/SARA or RCRA which are applicable to a sanitary landfill operated pursuant to the proposed or requested franchise.

## **ARTICLE 6 - PENALTIES**

### Section 1. Penalties and Fines.

- A. Any person violating this Ordinance shall be guilty of a misdemeanor punishable by a fine and/or imprisonment not to exceed the maximum allowable by law at the time of the violation. Each day's violation shall be treated as a separate offense.
- B. Any violation of this Ordinance shall subject the offender to judicial enforcement of this Ordinance by an appropriate equitable remedy issuing from a court of competent jurisdiction, or by mandatory or prohibitory injunction and order of abatement, issuing from or through a court of competent jurisdiction, wherein the offender is commanded to correct or cease the violation[s].

## **ARTICLE 7 - SEVERABILITY**

If any sentence, clause, paragraph, subsection, or section of this Ordinance shall be judged by a court of competent jurisdiction as invalid and of no legal affect, such decision (s) shall not affect the remaining sentences, clauses, paragraphs, subsections, or sections of this Ordinance, and the same shall thereafter be construed as if that portion declared invalid and of no effect had never been included in the Ordinance.

## **ARTICLE 8 - ENACTMENT**

The above Columbus County Landfill Franchise Ordinance was adopted by the Columbus County Board of Commissioners on February 1, 1999, to become effective February 1, 1999, upon motion by Commissioner Britt, seconded by Commissioner Norris and passed unanimously and recorded in the Minutes of said meeting. Book 25, Pages 21-27.

## **CHAPTER 13- UTILITIES SEWER AND WASTEWATER COLLECTION**

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### **PART 1 - GENERAL PROVISIONS**

#### **ARTICLE 1. PURPOSE AND POLICY.**

This ordinance sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for Columbus County, hereafter referred to as the County, and enables the County to comply with all applicable State and Federal laws, including the Clean Water Act (33 United States Code §1251 et seq.) and the General Pretreatment Regulations (40 CFR, Part 403).

#### Section 1. Objectives

The objectives of this ordinance are:

- A. To prevent the introduction of pollutants and wastewater discharges into the county wastewater system that will interfere with the operation of the system or contaminate the resulting sludge;
- B. To prevent the introduction of pollutants and wastewater discharges into the county wastewater system which will pass through the system, inadequately treated, into any waters of the State or otherwise be incompatible with the system;
- C. To promote reuse and recycling of industrial wastewater and sludges from the county system;
- D. To protect both county personnel who may be affected by sewage, sludge, and effluent in the course of their employment as well as protecting the general public;
- E. To provide for equitable distribution of the cost of operation, maintenance and improvement of the county wastewater system; and
- F. To ensure that the county complies with its NPDES or Non-Discharge Permit conditions, sludge use and disposal requirements and any other Federal or State laws to which the county wastewater system is subject.

This ordinance provides for the regulation of direct and indirect contributors to the county wastewater system, through the issuance of permits to certain non-domestic users and through enforcement of general requirements for the other users, authorizes monitoring and enforcement activities, requires user reporting and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

This ordinance shall apply to all users of the county wastewater system, as authorized by N.C.G.S. 160A-312 and/or 153A-275]. The County shall designate an administrator of the Publicly Owned Treatment Works or POTW and pretreatment program hereafter referred to as the County Manager. Except as otherwise provided herein, the POTW Director shall administer, implement, and enforce the provisions of this ordinance. Any powers granted to or imposed upon the County Manager may be delegated by the County Manager to other County personnel. By discharging wastewater into the County wastewater system, industrial users agree to comply with the terms and conditions established in this Ordinance, as well as any permits, enforcement actions, or orders issued hereunder.

## **PART 2 – DEFINITIONS AND ABBREVIATIONS**

### **ARTICLE 1 - DEFINITIONS**

Unless the context specifically indicates otherwise, the following terms and phrases, as used in this ordinance, shall have the meanings hereinafter designated:

***Act or "the Act"*** means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. §1251, et seq.

***Approval Authority*** means the Director of the Division of Water Resources of the North Carolina Department of Environment and Natural Resources or his designee.

***Authorized Representative of the Industrial User:***

A. If the industrial user is a corporation, authorized representative shall mean:

1. The President, Secretary, or a Vice-President of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or
2. The Manager of one or more manufacturing, production, or operation facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and where authority to sign documents

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has been assigned or delegated to the manager in accordance with corporate procedures.

- a) If the industrial user is a partnership or sole proprietorship, an authorized representative shall mean a general partner or the proprietor, respectively.
- b) If the industrial user is a Federal, State or local government facility, an authorized representative shall mean a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
- c) The individuals described in subsection 1.2a and 2b above may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the County.
- d) If the designation of an authorized representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of this section must be submitted to the County Manager prior to or together with any reports to be signed by an authorized representative.

***Biochemical Oxygen Demand (BOD)*** means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20° centigrade, usually expressed as a concentration (e.g. mg/l).

***Building Sewer*** means a sewer conveying wastewater from the premises of a user to the POTW.

***Bypass*** means the intentional diversion of waste streams from any portion of a user's treatment facility.

***Categorical Standards*** means National Categorical Pretreatment Standards or Pretreatment Standard.

***Control Authority*** Refers to the POTW organization of the POTW organizations Pretreatment Program approval has not been withdrawn.

***Environmental Protection Agency, or EPA*** means the US. Environmental Protection Agency, or where appropriate the term may also be used as a designation for the Administrator or other duly authorized official of said agency.

***Food Service Establishment*** means any food service facility, with the exception of private residences, discharging kitchen or food preparation wastewater such as restaurants, motels, hotels, cafeterias, delicatessens, meat cutting preparation, bakeries, catering establishments, hospitals,

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schools, bars, food courts, food manufacturers, grocery stores, lounges, nursing homes, churches, Bed & Breakfast Homes and Inns, etc. and any other facility that, in the opinion of the Utilities Director would require a grease trap installation by virtue of its operation. The definition includes, but is not limited to, any establishment required to have a North Carolina Department of Health food service license.

***Grab Sample*** means a sample which is taken from a waste stream on a one-time basis without regard to the flow in the waste stream and over a period of time not to exceed 15 minutes.

***Grease*** means a material either liquid or solid, composed primarily of fat, oil and grease from animal or vegetable sources. The terms "fats, oil, and grease (FOG)", "oil and grease" or "oil and grease substances" shall all be included within this definition.

***Grease Interceptor or Grease Traps*** means devices located underground, outside or under sinks or fixtures of the food service establishments designed to collect, contain or remove food wastes and grease from the waste stream while allowing the balance of the liquid waste to discharge to the wastewater collection system. Grease Interceptors and Grease Traps shall have a means of inspection, cleaning and maintenance. For the purpose of this definition, the terms are used interchangeably, however, grease interceptors are usually large and normally located outside the establishment while grease traps are normally sized for under-the-counter use and located inside the establishment under sinks and fixtures.

***Holding Tank Waste*** means any waste from holding tanks, including but not limited to such holding tanks as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

***Indirect Discharge or Discharge*** means the discharge or the introduction from any nondomestic source regulated under section 307(b), (c), or (d) of the Act, (33 U.S.C. 1317), into the POTW (including holding tank waste discharged into the system).

***Industrial User or User*** means any person which is a source of indirect discharge.

***Interference*** means the inhibition, or disruption of the POTW treatment processes, operations, or its sludge process, use, or disposal, which causes or contributes to a violation of any requirement of the POTW's NPDES or Non-Discharge Permit or prevents sewage sludge use or disposal in compliance with specified applicable State and Federal statutes, regulations, or permits. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with section 405 of the Act, (33 U.S.C. 1345) or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA)(42 U.S.C. §6901, et seq.), the Clean Air Act, the Toxic Substances Control Act, the Marine Protection Research and Sanctuary Act (MPRSA) or more stringent state criteria (including those contained in any State sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the

POTW.

**Medical Waste** means isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

**National Categorical Pretreatment Standard or Categorical Standard** means any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act (33 U.S.C. §1317) which applies to a specific category of industrial users, and which appears in 40 CFR Chapter 1, Subchapter N, Parts 405-471.

**National Prohibitive Discharge Standard or Prohibitive Discharge Standard** means absolute prohibitions against the discharge of certain substances; these prohibitions appear in Part 3, Article 1 of this ordinance and are developed under the authority of 307(b) of the Act and 40 CFR, section 403.5.

**New Source** means:

- A. Any building, structure, facility, or installation from which there may be a discharge of pollutants, the construction of which commenced after the publication of proposed categorical pretreatment standards under section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with section 307(c), provided that:
  - 1. The building, structure, facility, or installation is constructed at a site at which no other source is located; or
  - 2. The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
  - 3. The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.
- B. Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of Section A. 2 or 3 above but otherwise alters, replaces, or adds to existing process or production equipment.
- C. For purposes of this definition, construction of a new source has commenced if the owner or operator has:
  - 1. Begun, or caused to begin, as part of a continuous on-site construction program:
    - a) Any placement, assembly, or installation of facilities or equipment; or

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- b) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
2. Entered into a binding contractual obligation for the purchase of facilities or equipment that are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this definition.

***Noncontact Cooling Water*** means water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

***National Pollution Discharge Elimination System, or NPDES, Permit*** means a permit issued pursuant to section 402 of the Act (33 U.S.C. § 1342), or pursuant to N.C.G.S. 143-215.1 by the State under delegation from EPA.

***Non-discharge Permit*** means a permit issued by the State pursuant to G.S. 143-215.1(d) for a waste which is not discharged directly to surface waters of the State or for a wastewater treatment works which does not discharge directly to surface waters of the State.

***Pass Through*** means a discharge which exits the POTW into waters of the State in quantities or concentrations which, alone or with discharges from other sources, causes a violation, including an increase in the magnitude or duration of a violation, of the POTW's NPDES, collection system, or Non-Discharge Permit, or a downstream water quality standard.

***Person*** means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. This definition includes all Federal, State, and local government entities.

***PH*** means a measure of the acidity or alkalinity of a substance, expressed as standard units, and calculated as the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

***Pollutant*** means any "waste" as defined in N.C.G.S. 143-213(18) and dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, county, and agricultural waste and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, metals, BOD, COD, toxicity, or/and odor).

***POTW Director*** means the chief administrative officer of the Control Authority and his/her delegate.

**POTW Treatment Plant** means that portion of the POTW designed to provide treatment to wastewater.

**Pretreatment** means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW collection system and/or treatment plant. The reduction or alteration may be obtained by physical, chemical, or biological processes, or process changes or other means, except as prohibited by 40 CFR Part 403.6(d).

**Pretreatment Program** means the program for the control of pollutants introduced into the POTW from non-domestic sources which was developed by the County in compliance with 40 CFR 403.8 and approved by the approval authority as authorized by N.C.G.S. 143-215.3(a)(14) in accordance with 40 CFR 403.11.

**Pretreatment Requirements** means any substantive or procedural requirement related to pretreatment, other than a pretreatment standard.

**Pretreatment Standards** means any prohibited discharge standards, categorical standards, or local limit which applies to an industrial user.

**Publicly Owned Treatment Works (POTW) or County Wastewater System** means a treatment works as defined by section 212 of the Act, (33 U.S.C. §1292) which is owned in this instance by the County. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of county sewage or industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances only if they convey wastewater to the POTW treatment plant. For the purposes of this ordinance, "POTW" shall also include any sewers that convey wastewaters to the POTW from persons outside the County who are, by contract or agreement with the County, or in any other way, users of the POTW of the County.

**Severe Property Damage** means substantial physical damage to property, damage to the user's treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

**Significant Industrial User or SIU** means an industrial user that discharges wastewater into a publicly owned treatment works and that:

- A. Discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewaters); or
- B. Contributes more than 5% of any design or treatment capacity (i.e., allowable pollutant load) of the wastewater treatment plant receiving the indirect discharge, or

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- C. Is subject to Categorical Pretreatment Standards under 40 CFR Part 403.6 and 40 CFR chapter I, Subchapter N, Parts 405-471; or
- D. Is found by the County, the Division of Water Resources or the U.S. Environmental Protection Agency (EPA) to have the potential for impact, either singly or in combination with other contributing industrial users, on the wastewater treatment system, the quality of sludge, the system's effluent quality, or compliance with any pretreatment standards or requirements.

***Significant Noncompliance*** means a status of noncompliance defined as follows:

- A. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six (66) percent or more of all the measurements taken for the same pollutant parameter (not including flow) during a six (6) month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement including instantaneous limits, as defined by 40 CFR Part 403.3(1);
- B. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three (33) percent or more of all the measurements taken for the same pollutant parameter during a six (6) month period equal or exceed the product of the numeric Pretreatment Standard or Requirement including instantaneous limits, as defined by 40 CFR Part 403.3(1) multiplied by the applicable TRC; (TRC = 1.4 for BOD, TSS, fats, oil and grease, 1.2 for all other pollutants (except flow and pH));
- C. Any other violation of a Pretreatment Standard or Requirement as defined by 40 CFR Part 403.3(1) (daily maximum, long-term average, instantaneous limit, or narrative standard) that the Control Authority and/or POTW determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);
- D. Any discharge of a pollutant or wastewater that has caused imminent endangerment to human health, welfare or to the environment or has resulted in either the Control Authority's or the POTW's, if different from the Control Authority, exercise of its emergency authority under 40 CFR Part 403.8(f)(1)(vi)(B) and Section [8.1(e)] of this SUO to halt or prevent such a discharge;
- E. Violations of compliance schedule milestones, contained in a pretreatment permit or enforcement order, for starting construction, completing construction, and attaining final compliance by 90 days or more after the schedule date.
- F. Failure to provide reports for compliance schedule, self-monitoring data, baseline monitoring reports, 90-day compliance reports, and compliance reports within 45 days from the due date.
- G. Failure to accurately report noncompliance.

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H. Any other violation or group of violations that the control authority considers to be significant.

**Slug Load or Discharge** means any discharge at a flow rate or concentration which has a reasonable potential to cause Interference or Pass-Through, or in any other way violates the POTW's regulations, local limits, or Industrial User Permit conditions. This can include but is not limited to spills and other accidental discharges; discharges of a non-routine, episodic nature; a non-customary batch discharge; or any other discharges that can cause a violation of the prohibited discharge standards in Part 3, Article 1 of this ordinance.

**Standard Industrial Classification (SIC)** means a classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1987.

**Storm Water** means any flow occurring during or following any form of natural precipitation and resulting therefrom.

**Suspended Solids** means the total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering.

**Upset** means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities lack of preventive maintenance, or careless or improper operation.

**Wastewater** means the liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, mobile sources, treatment facilities and institutions, together with any groundwater, surface water, and storm water that may be present, whether treated or untreated, which are contributed into or permitted to enter the POTW.

**Wastewater Permit** means as set forth in Article 4, section 2 of this ordinance.

**Waters of the State** means all streams, rivers, brooks, swamps, sounds, tidal estuaries, bays, creeks, lakes, waterways, reservoirs and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the State or any portion thereof.

Section 2. Interpretation of terms and definitions.

A. This ordinance is gender neutral and the masculine gender shall include the feminine and vice-versa.

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- B. Shall is mandatory; may is permissive or discretionary.
- C. The use of the singular shall be construed to include the plural and the plural shall include the singular as indicated by the context of its use.

**ARTICLE 2 - ABBREVIATIONS**

The following abbreviations when used in this ordinance, shall have the designated meanings:

BOD	Biochemical Oxygen Demand
CFR	Code of Federal Regulations
COD	Chemical Oxygen Demand
EPA	Environmental Protection Agency
gpd	Gallons per day
l	Liter
mg	Milligrams
mg/l	Milligrams per liter
N.C.G.S.	North Carolina General Statutes
NPDES	National Pollution Discharge Elimination System
O&M	Operation and Maintenance
POTW	Publicly Owned Treatment Works
RCRA	Resource Conservation and Recovery Act
SIC	Standard Industrial Classification
SIU	Significant Industrial User
SWDA	Solid Waste Disposal Act
TSS	Total Suspended Solids
TKN	Total Kjeldahl Nitrogen
U.S.C	United States Code.

**PART 3 -GENERAL SEWER USE REQUIREMENTS**

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**ARTICLE 1 – PROHIBITED DISCHARGE STANDARDS**

Section 1. Prohibitions described.

- A. General Prohibitions. No user shall contribute or cause to be contributed into the POTW, directly or indirectly, any pollutant or wastewater which causes interference or pass through. These general prohibitions apply to all users of a POTW whether or not the user is a significant industrial user or subject to any National, State, or local pretreatment standards or requirements.
- B. Specific Prohibitions. No user shall contribute or cause to be contributed into the POTW the following pollutants, substances, or wastewater:
1. Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, waste streams with a closed cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 CFR 261.21.
  2. Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference but in no case solids greater than one half inch (1/2") in any dimension.
  3. Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through.
  4. Any wastewater having a pH less than 5.0 or more than 12 or wastewater having any other corrosive property capable of causing damage to the POTW or equipment.
  5. Any wastewater containing pollutants, including oxygen-demanding pollutants, (BOD, etc.) in sufficient quantity, (flow or concentration) either singly or by interaction with other

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pollutants, to cause interference with the POTW.

6. Any wastewater having a temperature greater than 150° F (66° C), or which will inhibit biological activity in the POTW treatment plant resulting in Interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104° F (40° C).
  7. Any pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems.
  8. Any trucked or hauled pollutants, except at discharge points designated by the County Manager in accordance with Article 3, section 8 of this ordinance.
- C. Storing wastes. Pollutants, substances, wastewater, or other wastes prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the county wastewater system. All floor drains located in process or materials storage areas must discharge to the industrial user's pretreatment facility before connecting with the system.
- D. Users who cause or contribute to interference or pass through. When the County Manager determines that a user(s) is contributing to the POTW, any of the above-enumerated substances in such amounts which may cause or contribute to interference of POTW operation or pass through, the County Manager shall:
1. Advise the user(s) of the potential impact of the contribution on the POTW in accordance with Article 8, section 1, and;
  2. Take appropriate actions in accordance with Article 4, section 1 for such user to protect the POTW from interference or pass through.

### **ARTICLE 2- NATIONAL CATEGORICAL PRETREATMENT STANDARDS**

#### Section 1. Compliance with applicable standards.

Users subject to categorical pretreatment standards are required to comply with applicable standards as set out in 40 CFR Chapter 1, Subchapter N, Parts 405-471 and incorporated herein.

- A. Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the County Manager may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).
- B. When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the County Manager shall impose an alternate limit using the combined waste stream formula in 40 CFR 403.6(e).
- C. A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating

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to its discharge are fundamentally different from the factors considered by EP A when developing the categorical pretreatment standard.

- D. A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.
- E. A user may request a removal credit adjustment to a categorical standard in accordance with 40 CFR 403.7.

Section 2. Local Limits.

- A. An industrial waste survey is required prior to a user discharging wastewater containing in excess of the following average discharge limits:

BOD	250	mg/l
TSS 1	250	mg/l
NH3	25	mg/l
Arsenic	0.003	mg/l
Cadmium	0.003	mg/l
Chromium	0.05	mg/l (total chromium)
Copper	0.061	mg/l
Cyanide	0.015	mg/l
Lead	0.049	mg/l
Mercury	0.0003	mg/l
Nickel	0.021	mg/l
Silver	0.005	mg/l
Zinc	0.175	mg/l

- B. Industrial Waste Survey information will be used to develop user-specific local limits when necessary to ensure that the POTW's maximum allowable headworks loading are not exceeded for particular pollutants of concern. User-specific local limits for appropriate pollutants of concern shall be included in wastewater permits. The County Manager may impose mass based limits in addition to, or in place of concentration based limits.

Section 3. State Requirements

State requirements and limitations on discharges shall apply in any case where they are more stringent than Federal requirements and limitations or those in this ordinance.

Section 4. Right of Revision

The County reserves the right to establish limitations and requirements which are more stringent than those required by either State or Federal regulation if deemed necessary to comply with the objectives presented in Part 1, section 1 of this ordinance or the general and specific prohibitions in Part 3, Article 1 of this ordinance, as is allowed by 40 CFR 403.4.

Section 5. Dilution

No user shall ever increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the National categorical pretreatment standards, unless expressly authorized by an applicable pretreatment standard, or in any other pollutant-specific limitation developed by the County or State.

Section 6. Pretreatment of Wastewater

A. Pretreatment Facilities Users shall provide wastewater treatment as necessary to comply with this ordinance and wastewater permits issued under Article 4, section 2 of this ordinance and shall achieve compliance with all National categorical pretreatment standards, local limits, and the prohibitions set out in Part 3, Article 1 of this ordinance within the time limitations as specified by EPA, the State, or the County Manager, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the County for review, and shall be approved by the County Manager before construction of the facility. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the County under the provisions of this ordinance. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be approved by the County Manager prior to the user's initiation of the changes.

B. Additional Pretreatment Measures

1. Whenever deemed necessary, the County Manager may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage waste streams from industrial waste streams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this ordinance.
2. The County Manager may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued

solely for flow equalization.

3. Grease, oil, and sand interceptors shall be provided when, in the opinion of the County Manager, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of type and capacity approved by the County Manager and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at their expense.
4. Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

Section 7. Accidental Discharge/Slug Control Plans

- A. The County Manager shall evaluate whether each significant industrial user needs a plan or other action to control and prevent slug discharges and accidental discharges as defined in Part 2, Article 1. All SIUs must be evaluated within one year of being designated an SIU. The County Manager may require any user to develop, submit for approval, and implant such a plan or other specific action. Alternatively, the County Manager may develop such a plan for any user.
- B. All SIUs are required to notify the POTW immediately of any changes at its facility affecting the potential for spills and other accidental discharge, discharge of a non-routine, episodic nature, a non-customary batch discharge, of a slug load. Also, see Article 5, sections 6. and 7.
- C. An accidental discharge/slug control plan shall address, at a minimum, the following:
  1. Description of discharge practices, including non-routine batch discharges;
  2. Description of stored chemicals;
  3. Procedures for immediately notifying the County Manager of any accidental or slug discharge, as required by Article 5, section 7 of this ordinance; and
  4. Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

Section 8. Hauled Wastewater

- A. Septic tank waste may be introduced into the POTW only at locations designated by the County Manager, and at such times as are established by the County Manager. Such waste shall not violate this ordinance or any other requirements established by the County. The County Manager may require septic tank waste haulers to obtain wastewater discharge

permits.

- B. The County Manager shall require haulers of industrial waste to obtain wastewater discharge permits. The County Manager may require generators of hauled industrial waste to obtain wastewater discharge permits. The County Manager also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this ordinance.
- C. Industrial waste haulers may discharge loads only at locations designated by the County Manager. No load may be discharged without prior consent of the County Manager. The County Manager may collect samples of each hauled load to ensure compliance with applicable standards. The County Manager may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.
- D. Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

Section 9. Requirement for Fats, Oil and Grease Interceptors and Grease Traps.

Oil and Grease Interceptors or Grease Traps shall be provided when, in the opinion of the County Manager, they are necessary for the proper handling of wastewater containing excessive amounts of fats, oil and grease; except that such interceptors or grease traps shall not be required for residential users. All interceptors or grease traps shall be of type and capacity approved by the County and shall be so located to be easily accessible for cleaning and inspection. Such interceptors or grease traps shall be installed, inspected, cleaned, maintained, and repaired regularly, as needed, by the owner, leaseholder or operator at their expense for continuous, satisfactory and effective operation.

Section 10. Standards and Requirements for Food Service Establishments

- A. General Requirements for Food Service Establishments:
  - 1. All Food Service Establishments shall provide means of preventing adverse impacts from grease and oil discharges to the POTW. This requirement is in addition to any applicable requirements of the North Carolina Plumbing Code.
  - 2. Grease interceptors shall be adequately sized, with no interceptor less than 1000 gallons total capacity unless such interceptors are not feasible to install and approved by the County. Grease interceptors will be designed, constructed and installed for adequate load-bearing capacity.

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3. For cases in which "outdoor" grease interceptors are infeasible to install, Food Service Establishments will be required to install approved "under-the-counter" grease traps.
4. A grease trap(s) may be installed in lieu of a grease interceptor, at the discretion of the County. This determination will be based on engineering concepts that dictate the grease interceptor installation is not feasible. The design and location of grease traps must be approved by the County prior to installation.
5. Alternative grease removal devices or technologies such as automatic grease removal systems shall be subject to approval by the County prior to installation. Approval of the device shall be based on demonstrated removal efficiencies and reliability of operation. The County may approve these types of devices depending on manufacturers' specifications on a case-by-case basis.
6. All grease traps or interceptors must be installed by a properly licensed plumbing contractor.
7. In the event a Food Service Establishment's grease handling facilities are nonexistent, under-designed or substandard in accordance with this Article, the owner will be notified of the deficiencies and of the required improvements necessary. The owner may be given a compliance deadline not to exceed six (6) months to correct deficiencies and to conform to the requirements of this standard.
8. The inlet chamber of interceptors will incorporate an open sanitary tee, which extends 16 inches below the operating water level of the vessel. The outlet chamber of the interceptor will incorporate an open sanitary tee that extends to within 12 inches of the bottom of the vessel. The sanitary tees (both inlet and outlet) will not be capped but open for visual inspection of the waste stream.
9. All grease interceptors, whether singular or two tanks in series, must have each chamber directly accessible from the surface to provide means for servicing and maintaining the interceptors in working order and operating condition.
10. Sizing of "under-the-counter" grease trap units will be in accordance with recommended ratings for commercial grease traps as published by the Plumbing and Drainage Institute or by other acceptable engineering practice or recommendation.
11. All pot and pan wash, pre-rinse sinks of automatic dishwashers, can wash, wok ovens, food prep sinks, mop sinks and other grease laden drains shall discharge to a grease interceptor or grease trap.
12. Where automatic dishwashers are installed, the discharge from those units will discharge directly into the building drainage system without passing through a grease interceptor or grease trap, unless otherwise directed by the County.
13. Where food waste grinders are installed, the waste stream from those units shall discharge directly into the building drainage system without passing through the grease interceptor or grease trap.
14. Grease interceptors are not to be installed within a drive-thru pick up area or underneath menu boards or in the vicinity of menu boards.

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15. No new Food Service Establishments will be allowed to initiate operations until all grease-handling facilities are installed, inspected and approved by the County. The County may elect to request from the appropriate building official that certificates of occupancy be withheld until compliance with the County's grease handling facility requirements are fully met.
16. Establishments whose grease handling facilities or methods are not adequately maintained to prevent fats, oils and grease (FOG) from entering the sewerage system in quantities which cause or contribute to interference shall be notified of any noncompliance and required to provide corrections as necessary.
17. All Food Service Establishment grease handling facilities shall be subject to review, evaluation, and inspection by County representatives during normal working hours. Results of inspections will be made available to owners, or operator. The County may make recommendations for corrective actions and improvements.
18. Food Service Establishments receiving unsatisfactory evaluation or inspections may be subject to penalties or other corrective actions as provided for in this Article.
19. Food Service Establishments that continue to violate the County's Fats, Oil and Grease Standards and Requirements may be subject to additional enforcement action including termination of services. Additionally, failure to comply may result in the notification of the Columbus County Health Department for request of enforcement action that may lead to revocation of food service permit.
20. Food Service Establishments whose operations cause or allow excessive FOG to be discharged or accumulate in the County's collection system may be liable to the County for costs related to County service calls for line blockages, line cleaning, line and pump repairs, etc. including all labor, materials and equipment costs. If the blockage results in a Sewer System Overflow (SSO) and the County is penalized for the SSO, the penalty may be passed along to the Food Service Establishment.
21. Regularly scheduled maintenance of grease interceptors and grease traps is required to insure adequate operation. In maintaining the grease interceptors and/or grease traps, the owner, leaseholder, or operator shall be responsible for the proper removal and disposal of grease by appropriate means and shall maintain an on-site record of dates and means of disposal.
22. The owner shall be responsible for ensuring that no grease from a grease interceptor or grease trap is reintroduced back into the interceptor or into the County sewerage system.
23. The exclusive use of enzymes, grease-consuming bacteria, grease solvents, emulsifiers, etc. (in lieu of physical cleaning) is not considered acceptable grease trap maintenance practice.
24. Any Food Service Establishment whose discharge to the sewerage system is determined by the County to cause interference in the conveyance or operation of the sewerage system may be required to sample the grease interceptor and/or grease trap discharge and have the sample analyzed for FOG at the expense of the owner, leaseholder, or operator.

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Results of such analyses shall be reported to the County.

25. All grease interceptors and/or grease traps shall be designed and installed to allow for complete access for inspection and maintenance of the inner chamber(s) and viewing and sampling of effluent discharged to the sewer system. These chambers shall not be visually obscured with soil, mulch, floorings or pavement of any substance.
26. Food Service Establishments shall adopt Best Management Practices (BMPs) for handling sources of floatable fats, oils and greases originating within their facility. The County may render advice regarding the minimization of wastes.

### B. Exceptions to the General Requirements for Food Service Establishments:

1. Under certain circumstances, the interceptor size and location may need special exception to this standard. If an exception to this standard is requested, the owner must demonstrate that the size and/or location of the grease interceptor or grease trap will not cause the facility any problems in meeting the discharge requirements of the County.

## ARTICLE 3 -FEES

### Section 1. Purpose

It is the purpose of this chapter to provide for the recovery of costs from users of the wastewater disposal system of the County for the implementation of the program established herein. The applicable charges or fees shall be set forth in a schedule of sewer use charges and fees by the County Manager and approved by the County Board of Commissioners. A copy of these charges and fees will be made available from the County Manager.

### Section 2. User Charges

A user charge shall be levied on all users including, but not limited to, persons, firms, corporations or governmental entities that discharge, cause or permit the discharge of sewage into the POTW.

- A. The user charge shall reflect, at least, the cost of debt service, operation and maintenance (including replacement) of the POTW.
- B. Each user shall pay its proportionate cost based on volume of flow.
- C. The Manager of the County shall review annually the sewage contributions of users, the total costs of debt service, operation and maintenance of the POTW and will make recommendations to the Councilor Board serving the County for adjustments in the schedule of charges and fees as necessary.
- D. Charges for flow to the POTW not directly attributable to the users shall be distributed among all users of the POTW based upon the volume of flow of the users.

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### Section 3. Surcharges

The amount of the surcharges will be based upon the volume of flow and the character and concentration of the constituents of the wastewater.

- A. The volume of flow used in determining the total discharge of wastewater for payment of user charges and surcharges shall be based on the following:
  - 1. Metered water consumption as shown in the records of meter readings maintained by the County; or
  - 2. If required by the County or at the individual discharger's option, other flow monitoring devices which measure the actual volume of wastewater discharged to the sewer. Such devices shall be accessible and safely located, and the measuring system shall be installed in accordance with plans approved by the County. The metering system shall be installed and maintained at the users' expense according to arrangements that may be made with the County.
  - 3. Where any user procures all or part of his water supply from sources other than the County, the user shall install and maintain at his own expense a flow-measuring device of a type approved by the County.
- B. The character and concentration of the constituents of the wastewater used in determining surcharges shall be determined by samples collected and analyzed by the County. Samples shall be collected in such a manner as to be representative of the actual discharge and shall be analyzed using procedures set forth in 40 CFR Part 136.
- C. The determination of the character and concentration of the constituents of the wastewater discharge by the County Manager or his duly appointed representatives shall be binding as a basis for charges.

### Section 4. Pretreatment Program Administration Charges

The schedule of charges and fees adopted by the County may include charges and fees for:

- A. Reimbursement of costs of setting up and operating the Pretreatment Program;
- B. Monitoring, inspections and surveillance procedures;
- C. Reviewing slug control plans, including accidental and/or slug load discharge procedures and construction plans and specifications;
- D. Permitting;
- E. Other fees as the County may deem necessary to carry out the requirements of the

Pretreatment Program.

**ARTICLE 4 - WASTEWATER DISCHARGE PERMIT APPLICATION  
AND ISSUANCE**

Section 1. Wastewater Dischargers

It shall be unlawful for any person to connect or discharge to the POTW without first obtaining the permission of the County. When requested by the County Manager, a user must submit information on the nature and characteristics of its wastewater within thirty (30) days of the request. The County Manager is authorized to prepare a form for this purpose and may periodically require users to update this information.

Section 2. Wastewater Permits

All significant industrial users shall obtain a significant industrial user permit prior to the commencement of discharge to the POTW. Existing industrial users who are determined by the County Manager to be significant industrial users shall obtain a significant industrial user permit within 180 days of receiving notification of the County Manager's determination. Industrial users who do not fit the significant industrial user criteria may at the discretion of the County Manager be required to obtain a wastewater discharge permit for non-significant industrial users.

- A. Significant Industrial User Determination. All persons proposing to discharge non-domestic wastewater, or proposing to change the volume or characteristics of an existing discharge of non-domestic wastewater shall request from the County Manager a significant industrial user determination. If the County Manager determines or suspects that the proposed discharge fits the significant industrial user criteria he will require that a significant industrial user permit application be filed.
- B. Significant Industrial User Permit. Application Users required to obtain a significant industrial user permit shall complete and file with the County, an application in the form prescribed by the [County Manager], and accompanied by an application fee in the amount prescribed in the schedule of charges and fees. Significant industrial users shall apply for a significant industrial user permit within 90 days after notification of the County Manager's determination. The application shall include at a minimum:
1. Name of industrial user;
  2. Address of industrial user;
  3. Standard industrial classification (SIC) code(s) or expected classification and industrial user category;
  4. Wastewater flow;
  5. Types and concentrations (or mass) of pollutants contained in the discharge; (F)· major products manufactured or services supplied;

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6. Description of existing on-site pretreatment facilities and practices;
7. Locations of discharge points;
8. Raw materials used or stored at the site;
9. Flow diagram or sewer map for the industrial user;
10. Number of employees;
11. Operation and production schedules; and
12. Description of current and projected waste reduction activities in accordance with G.S. 143-215.1 (g);

- C. Application Signatories and Certification. All wastewater discharge permit applications and user reports must be signed by the current authorized representative of the user on file with the County and contain the following certification statement:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations. "

- D. Application Review and Evaluation. The County Manager will evaluate the data furnished by the user and may require additional information.
1. The County Manager is authorized to accept applications for the County and shall refer all applications to the POTW staff for review and evaluation.
  2. Within 30 days of receipt the County Manager shall acknowledge and accept the complete application; or if not complete, shall return the application to the applicant with a statement of what additional information is required.

- E. Tentative Determination and Draft Permit:

1. The POTW staff shall conduct a review of the application and an on-site inspection of the significant industrial user, including any pretreatment facilities, and shall prepare a written evaluation and tentative determination to issue or deny the significant industrial user permit.
2. If the staffs' tentative determination in Paragraph (1) above is to issue the permit, the following additional determinations shall be made in writing:
  - a) Proposed discharge limitations for those pollutants proposed to be limited;
  - b) A proposed schedule of compliance, including interim dates and requirements, for

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meeting the proposed limitations; and

- c) A brief description of any other proposed special conditions which will have significant impact upon the discharge described in the application.
3. The staff shall organize the determinations made pursuant to Paragraphs (1) and (2) above and the general permit conditions of the County into a significant industrial user permit.
- F. Permit supporting documentation. The Control Authority staff shall prepare the following documents for all Significant Industrial User permits.
1. An allocation table (AT) listing permit information for all Significant Industrial Users, including but not limited to permit limits, permit effective and expiration dates, and a comparison of total permitted flows and loads with Division approved maximum allowable loadings of the POTW, including flow, on forms or in a format approved by the Division. The AT shall be updated as permits are issued or renewed, and as permits are modified where the permitted limits or other AT information is revised.
  2. The basis, or rationale, for the pretreatment limitations, including the following:
    - a) documentation of categorical determination, including documentation of any calculations used in applying categorical pretreatment standards; and
    - b) documentation of the rationale of any parameters for which monitoring has been waived under 40 CFR Part 403. 12(e)(2).
- G. Final Action on Significant Industrial User Permit Applications:
1. The County Manager shall take final action on all applications not later than 90 days following receipt of a complete application.
  2. The County Manager is authorized to:
    - a) Issue a significant industrial user permit containing such conditions as are necessary to effectuate the purposes of this ordinance and N.C.G.S. 143-215.1;
    - b) Issue a significant industrial user permit containing time schedules for achieving compliance with applicable pretreatment standards and requirements;
    - c) Modify any permit upon not less than 60 days' notice and pursuant to section Article 4, section 2 of this ordinance;
    - d) Revoke any permit pursuant to Article 8 of this ordinance;
    - e) Suspend a permit pursuant to Article 8 of this Ordinance;
    - f) Deny a permit application when in the opinion of the County Manager such discharge may cause or contribute to pass-through or interference of the wastewater treatment plant or where necessary to effectuate the purposes of G.S. 143-215.1.

H. Permit Modification:

1. Modifications of permits shall be subject to the same procedural requirements as the issuance of permits except as listed below. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance
  - a) Changes in the ownership of the discharge when no other change in the permit is indicated,
  - b) A single modification of any compliance schedule not in excess of four months,
  - c) Modification of compliance schedules (construction schedules) in permits for new sources where the new source will not begin to discharge until control facilities are operational.
2. Within 9 months of the promulgation of a National categorical pretreatment standard, the wastewater discharge permit of users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. Where a user, subject to a National categorical pretreatment standard, has not previously submitted an application for a wastewater discharge permit as required by Article 4, section 2, the user shall apply for a wastewater discharge permit within 180 days after the promulgation of the applicable National categorical pretreatment standard.
3. A request for a modification by the permittee shall constitute a waiver of the 60-day notice required by G.S. 143-215.1(b) for modifications.

I. Permit Conditions:

1. The County Manager shall have the authority to grant a permit with such conditions attached as he believes necessary to achieve the purpose of this ordinance and N.C.G.S. 143-215.1. Wastewater permits shall contain, but are not limited to, the following:
  - a) A statement of duration (in no case more than five (5) years);
  - b) A statement of non-transferability;
  - c) Applicable effluent limits based on categorical standards or local limits or both;
  - d) Applicable monitoring, sampling, reporting, notification, and record keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on Federal, State and local law;
  - e) Requirements for notifying the POTW in the event of an accidental discharge or slug load as defined in Part 2, Article 1;
  - f) Requirements to implement a Plan or other controls for prevention of accidental discharges and/or slug loads as defined in Part 2, Article 1, if determined by the County Manager to be necessary for the User and,
  - g) Requirements for immediately notifying the POTW of any changes at its facility affecting the potential for spills and other accidental discharges, or slug load as defined in Part 2, Article 1. Also, see Article 5, sections 5 and 6;

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- h) A statement of applicable civil and/or criminal penalties for violation of pretreatment standards and requirements and any applicable compliance schedule.
2. In addition, permits may contain, but are not limited to, the following:
- a) Limits on the average and/or maximum rate of discharge, and/or requirements for flow regulation and equalization.
  - b) Limits on the instantaneous, daily and/or monthly average and/or maximum concentration, mass, or other measure of identified wastewater pollutants or properties.
  - c) Requirements for the installation of pretreatment technology or construction of appropriate containment devices, etc., designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works.
  - d) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the county wastewater system.
  - e) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the system.
  - f) Requirements for installation and maintenance of inspection and sampling facilities and equipment.
  - g) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for tests, and reporting schedules.
  - h) Requirements for immediate reporting of any instance of noncompliance and for automatic resampling and reporting within thirty (30) days where self-monitoring indicates a violation(s).
  - i) Compliance schedules for meeting pretreatment standards and requirements.
  - j) Requirements for submission of periodic self-monitoring or special notification reports.
  - k) Requirements for maintaining and retaining plans and records relating to wastewater discharges as specified in Article 5, Section 13 and affording the County Manager, or his representatives, access thereto.
  - l) Requirements for prior notification and approval by the County Manager of any new introduction of wastewater pollutants or of any significant change in the volume or character of the wastewater prior to introduction in the system.
  - m) Requirements for the prior notification and approval by the County Manager of any change in the manufacturing and/or pretreatment process used by the permittee.
  - n) A statement that compliance with the permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State pretreatment standards, including those which become effective during the terms of the permit.
  - o) Other conditions as deemed appropriate by the County Manager to ensure compliance with this ordinance, and State and Federal laws, rules, and regulations.
- J. Permit Duration. Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a

specific date.

- K. Permit Transfer. Wastewater permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation.
- L. Permit Reissuance. A significant industrial user shall apply for permit reissuance by submitting a complete permit application in accordance with Article 4, Section 2, a minimum of 180 days prior to the expiration of the existing permit.

## **ARTICLE 5 -REPORTING REQUIREMENTS**

### Section 1. Baseline Monitoring Reports

- A. Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the County Manager a report which contains the information listed in paragraph (B), below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the County Manager a report which contains the information listed in paragraph (B), below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.
- B. Users described above shall submit the information set forth below:
  - 1. Identifying Information. The name and address of the facility, including the name of the operator and owner.
  - 2. Environmental Permits. A list of any environmental control permits held by or for the facility.
  - 3. Description of Operations. A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.
  - 4. Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined waste stream formula set out in 40 CFR 403,6(e).
  - 5. Measurement of Pollutants:
    - a) The categorical pretreatment standards applicable to each regulated process.

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- b) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the County Manager, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Article 5, section 10 of this ordinance.
  - c) Sampling must be performed in accordance with procedures set out in Article 5, Section 11 of this ordinance and 40 CFR 403 .12(b) and (g), including 40 CFR 403.12(g) (4).
6. Certification. A statement, reviewed by the user's current authorized representative as defined in Part 2, Article 1. A; and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.
7. Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in Article 5, Section 2 of this ordinance.
8. Signature and Certification. All baseline monitoring reports must be signed and certified in accordance with Article 4, Section 2, C of this ordinance.

Section 2. Compliance Schedule Progress Reports

The following conditions shall apply to the compliance schedule required by Article 5, Section 1.B.7 of this ordinance:

- A. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events. leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);
- B. No increment referred to above shall exceed nine (9) months;
- C. The user shall submit a progress report to the County Manager no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if

appropriate, the steps being taken by the user to return to the established schedule; and

- D. In no event, shall more than nine (9) months elapse between such progress reports to the County Manager.

Section 3. Reports on Compliance with Categorical Pretreatment Standard Deadline

Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the County Manager a report containing the information described in Article 5, Section 1.B.4-6 of this ordinance. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Article A, Section 2. C. of this ordinance.

Section 4. Periodic Compliance Reports

County may sample and analyze user discharges in lieu of requiring the users to conduct sampling and analysis.

- A. All significant industrial users shall, at a frequency determined by the County Manager but in no case less than once every six months, submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the applicable flows for the reporting period. Sampling and analysis must be performed in accordance with procedures set out in Article 5, Sections 10 and 11 of this ordinance. All periodic compliance reports must be signed and certified in accordance with Article A, Section 2.C of this ordinance.
- B. All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.
- C. If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the County Manager, using the procedures prescribed in Article Section 10 of this ordinance, the results of this monitoring shall be included in the report.

Section 5. Reports of Changed Conditions

Each user must notify the County Manager of any planned significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least thirty (30) days before the change. The permittee shall not begin the changes until receiving written approval from the Control Authority and/or Municipality. Article 5, Section 6 D for other reporting requirements.

- A. The County Manager may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under Article 4, Section 2 of this ordinance.
- B. The County Manager may issue a wastewater discharge permit under Article 4, Section 2 of this ordinance or modify an existing wastewater discharge permit under Article 4, Section 2 of this ordinance in response to changed conditions or anticipated changed conditions.
- C. For purposes of this requirement, significant changes include, but are not limited to, flow or pollutant increases of twenty percent (20%) or greater, and the discharge of any previously unreported pollutants.

Section 6. Reports of Potential Problems

- A. In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, or a slug load, as defined in Part 2, Article 1, that may cause potential problems for the POTW, the user shall immediately telephone and notify the County Manager of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.
- B. Within five (5) days following such discharge, the user shall, unless waived by the County Manager, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this ordinance.
- C. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in paragraph A, above. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.

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- D. All SIDs are required to notify the POTW immediately of any changes at its facility affecting the potential for spills and other accidental discharge, discharge of a non-routine, episodic nature, a non-customary batch discharge, or a slug load as defined in Part 2, Article 1.

### Section 7. Reports from Unpermitted Users

All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the County Manager as the County Manager may require.

### Section 8. Notice of Violation/Repeat Sampling and Reporting

- A. If sampling performed by a user indicates a violation, the user must notify the County Manager within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the County Manager within thirty (30) days after becoming aware of the violation. If allowed by the County Manager, the user is not required to resample:
1. If the County Manager monitors at the user's facility at least once a month; or
  2. If the County Manager samples between the user's initial sampling and when the user receives the results of this sampling.
- B. If the County Manager has performed the sampling and analysis in lieu of the industrial user and the POTW sampling of the user indicates a violation, the County Manager shall repeat the sampling and obtain the results of the repeat analysis within thirty (30) days after becoming aware of the violations, unless one of the following occurs:
1. The County Manager monitors at the user's facility at least once a month; or
  2. The County Manager samples the user between their initial sampling and when the POTW receives the results of this initial sampling; or
  3. The County Manager requires the user to perform sampling and submit the results to the County Manager within the 30-day deadline of the POTW becoming aware of the violation.

### Section 9. Notification of the Discharge of Hazardous Waste

The County prohibits the discharge of any hazardous wastes without notification and approval of the County Manager.

- A. Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and State hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall

contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the waste stream discharge during the calendar month, and an estimation of the mass of constituents in the waste stream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred and eighty (180) days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharge. However, notifications of changed conditions must be submitted under Article 5, Section 5 of this ordinance. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of Article 5, Sections 1,3 and 4 of this ordinance.

- B. Dischargers are exempt from the requirements of paragraph A. above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specific in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.
- C. In the case of any new regulation under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the County Manager, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.
- D. In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.
- E. This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this ordinance, a permit issued thereunder, or any applicable Federal or State law.

#### Section 10. Analytical Requirements

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed by a laboratory certified by the state to perform the wastewater analyses in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard or unless otherwise performed in accordance with procedures approved by EPA or the County. If 40 CFR Part 136 does

not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA and County.

Section 11. Grab and Composite Sample Collection

- A. All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.
- B. Grab samples must be used for PH, cyanide, total phenol, oil and grease, sulfide volatile organic compounds, and any other pollutants as required by 40 CFR 136. The POTW shall determine the number of grabs necessary to be representative of the User's discharge. See 40 CFR 403.12 (g) (5) for additional grab sample number requirement of BMR and 90 Day Compliance Reports. Additionally, the County Manager may allow collection of multiple grabs during a 24-hour period which are composited prior to analysis as allowed under 40 CFR136.
- C. Composite Samples: All wastewater composite samples shall be collected with a minimum of hourly aliquots or grabs for each hour that there is a discharge. All wastewater composite samples shall be collected using flow proportional composite collection techniques, unless time-proportional composites or grab sampling is authorized by the County Manager. When authorizing time-proportional composite or grabs, the samples must be representative and the decision to allow the alternative sampling must be documented.

Section 12. Timing

Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

Section 13. Record Keeping

Users subject to the reporting requirements of this ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this ordinance and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration

of any litigation concerning the user or the County, or where the user has been specifically notified of a longer retention period by the County Manager.

Section 14. Electronic Reporting

The County Manager may develop procedures for receipt of electronic reports for any reporting requirements of this Ordinance. Such procedures shall comply with 40 CFR Part 3. These procedures shall be enforceable under Section 8 of this Ordinance.

**ARTICLE 6 - COMPLIANCE MONITORING**

Section 1. Monitoring Facilities

The County requires the user to provide and operate at the user's own expense, monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer and/or internal drainage systems. The monitoring facility should normally be situated on the user's premises, but the County may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.

There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the requirements of the County and all applicable local construction standards and specifications. Construction shall be completed within 90 days following written notification by the County.

Section 2. Inspection and Sampling

The County will inspect the facilities of any user to ascertain whether the purpose of this ordinance is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the County, approval authority and EPA or their representative ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination and copying or in the performance of any of their duties. The County, approval authority and EP A shall have the right to set up on the user's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that upon presentation of suitable

identification, personnel from the County, approval authority and EP A will be permitted to enter, without delay, for the purposes of performing their specific responsibilities. Denial of the County's, approval authority's, or EP A's access to the user's premises shall be a violation of this ordinance. Unreasonable delays may constitute denial of access.

Section 3. Search Warrants

If the County, approval authority, or EPA has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the County designed to verify compliance with this ordinance or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the County, approval authority, or EPA may seek issuance of a search warrant from the court having jurisdiction within the County.

**ARTICLE 7 - CONFIDENTIAL INFORMATION**

Section 1. Information and data

- A. Information and data provided by an industrial user to the County Manager pursuant to this ordinance identifying the nature and frequency of a discharge, shall be available to the public without restriction. All other information which may be so submitted by an industrial user to the County Manager in connection with any required reports shall also be available to the public unless the industrial user or other interested person specifically identifies the information as confidential upon submission and is able to demonstrate to the satisfaction of the County Manager that the disclosure of such information or a particular part thereof to the general public would divulge methods or processes entitled to protection as trade secrets.
- B. Information provided by an industrial user to the County Manager that is determined to be entitled to confidential treatment shall be made available upon written request to the Division of Water Resources or any state agency for uses related to the Pretreatment Program, the National Pollutant Discharge Elimination System (NPDES) Permit, collection system permit, stormwater permit, and/or Non-discharge permit, and for uses related to judicial review or enforcement proceedings involving the person furnishing the report.
- C. Information and data received by the Division or other state agency under paragraph B. above shall be subject to the processes set forth in G.S. 143-215.3C.

**ARTICLE 8 - ENFORCEMENT**

Section 1. Administrative Remedies

- A. Notification of Violation. Whenever the County Manager finds that any industrial user has violated or is violating this Ordinance, wastewater permit, or any prohibition, limitation or requirements contained therein or any other pretreatment requirement the County Manager may serve upon such a person a written notice stating the nature of the violation. Within 30 days from the date of this notice, an explanation for the violation and a plan for the satisfactory correction thereof shall be submitted to the County by the user. Submission of this plan does not relieve the discharger of liability for any violations occurring before or after receipt of the notice of violation.
- B. Consent Orders. The County Manager is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. Such orders will include specific action to be taken by the discharger to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as an administrative order issued pursuant to Article 8, Section 1. D. below.
- C. Show Cause Hearing. The County Manager may order any industrial user who causes or is responsible for an unauthorized discharge, has violated this ordinance or is in noncompliance with a wastewater discharge permit to show cause why a proposed enforcement action should not be taken. In the event the County Manager determines that a show cause order should be issued, a notice shall be served on the user specifying the time and place for the hearing, the proposed enforcement action, the reasons for such action, and a request that the user show cause why this proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days before the hearing. Service may be made on any agent or officer of a corporation.

The County Manager shall review the evidence presented at the hearing and determine whether the proposed enforcement action is appropriate.

A show cause hearing under this section is not a prerequisite to the assessment of a civil penalty under Article 8, Section 2. nor is any action or inaction taken by the County Manager under this section subject to an administrative appeal under Article 10.

- D. Administrative Orders. When the County Manager finds that an industrial user has violated or continues to violate this ordinance, permits or orders issued hereunder, or any other pretreatment requirement the County Manager may issue an order to cease and desist all such violations and direct those persons in noncompliance to do any of the following:

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1. Immediately comply with all requirements;
  2. Comply in accordance with a compliance time schedule set forth in the order;
  3. Take appropriate remedial or preventive action in the event of a continuing or threatened violation;
  4. Disconnect unless adequate treatment facilities, devices or other related appurtenances are installed and properly operated within a specified time period.
- E. Emergency Suspensions. The County Manager may suspend the wastewater treatment service and/or wastewater permit when such suspension is necessary in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons or the environment, interferes with the POTW or causes the POTW to violate any condition of its NPDES or Non-discharge permit. Any user notified of a suspension of the wastewater treatment service and/or the wastewater permit shall immediately stop or eliminate the contribution. A hearing will be held within 15 days of the notice of suspension to determine whether the suspension may be lifted or the user's waste discharge permit terminated. In the event of a failure to comply voluntarily with the suspension order, the County Manager shall take such steps as deemed necessary including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. The County Manager shall reinstate the wastewater permit and the wastewater treatment service upon proof of the elimination of the noncompliant discharge. The industrial user shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the County Manager prior to the date of the above-described hearing.
- F. Termination of Permit or Permission to Discharge. The County Manager may revoke a wastewater discharge permit or permission to discharge for good cause, including, but not limited to, the following reasons:
1. Failure to accurately report the wastewater constituents and characteristics of his discharge;
  2. Failure to report significant changes in operations, or wastewater constituents and characteristics;
  3. Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring; or,
  4. Violation of conditions of the permit or permission to discharge, conditions of this ordinance, or any applicable State and Federal regulations.

Noncompliant industrial users will be notified of the proposed termination of their wastewater permit and will be offered an opportunity to show cause under Article 8, Section 1 of this ordinance why the proposed action should not be taken.

Section 2. Civil Penalties

- A. Any user who is found to have failed to comply with any provision of this ordinance, or the orders, rules, regulations and permits issued hereunder, may be assessed a civil penalty up to twenty-five thousand dollars (\$25,000) per day per violation.

Penalties between \$10,000 and \$25,000 per day per violation may be assessed against a violator only if:

1. For any class of violation, only if a civil penalty has been imposed against the violator within the five years preceding the violation, or
  2. In the case of failure to file, submit, or make available, as the case may be, any documents, data, or reports required by this ordinance, or the orders, rules, regulations and permits issued hereunder, only if the County Manager determines that the violation was intentional and a civil penalty has been imposed against the violator within the five years preceding the violation.
- B. In determining the amount of the civil penalty, the County Manager shall consider the following:
1. The degree and extent of the harm to the natural resources, to the public health, or to public or private property resulting from the violation;
  2. The duration and gravity of the violation;
  3. The effect on ground or surface water quantity or quality or on air quality;
  4. The cost of rectifying the damage;
  5. The amount of money saved by noncompliance;
  6. Whether the violation was committed willfully or intentionally;
  7. The prior record of the violator in complying or failing to comply with the pretreatment program;
  8. The costs of enforcement to the County.
- C. Appeals of civil penalties assessed in accordance with this section shall be as provided in Article 10.

Section 3. Other Available Remedies

Remedies, in addition to those previously mentioned in this ordinance, are available to the County Manager who may use any single one or combination against a noncompliant user. Additional available remedies include, but are not limited to:

- A. Criminal Violations. The District Attorney for the applicable Judicial District may, at the request of the County, prosecute noncompliant users who violate the provisions of N.C.G.S. 143-215.6B. [Note: Under North Carolina law, it is a crime to negligently violate any term, condition, or requirement of a pretreatment permit, or negligently fail to apply for a

pretreatment permit, issued by local governments (G.S. 143-215.6B(f)), to knowingly and willfully violate any term, condition, or requirement of a pretreatment permit, or knowingly and willfully fail to apply for a pretreatment permit, issued by local governments (G.S. 143-215.6B(g)), to knowingly violate any term, condition, or requirement of a pretreatment permit issued by local governments, or knowingly fail to apply for a pretreatment permit, knowing at the time that a person is placed in imminent danger of death or serious bodily injury, (G.S. 143-215.6B(h)), and to falsify information required under Article 21 of Chapter 143 of the General Statutes (G.S. 143-215.6B(i)).

- B. Injunctive Relief. Whenever a user is in violation of the provisions of this ordinance or an order or permit issued hereunder, the County Manager, through the County Attorney, may petition the Superior Court of Justice for the issuance of a restraining order or a preliminary and permanent injunction which restrains or compels the activities in question.
- C. Water Supply Severance. Whenever an industrial user is in violation of the provisions of this ordinance or an order or permit issued hereunder, water service to the industrial user may be severed and service will only recommence, at the user's expense, after it has satisfactorily demonstrated ability to comply.
- D. Public Nuisances. Any violation of the prohibitions or effluent limitations of this ordinance or of a permit or order issued hereunder, is hereby declared a public nuisance and shall be corrected or abated as directed by the County Manager. Any person(s) creating a public nuisance shall be subject to the provisions of the appropriate ordinances of the County governing such nuisances, including reimbursing the POTW for any costs incurred in removing, abating or remedying said nuisance.

#### Section 4. Remedies Nonexclusive

The remedies provided for in this ordinance are not exclusive. The County Manager may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the County's enforcement response plan. However, the County Manager may take other action against any user when the circumstances warrant. Further, the County Manager is empowered to take more than one enforcement action against any noncompliant user.

### **ARTICLE 9 - ANNUAL PUBLICATION OF SIGNIFICANT NONCOMPLIANCE**

At least annually, the County Manager shall publish in a newspaper of general circulation that provides meaningful public notice within the jurisdiction(s) served by the POTW, a list of those industrial users which were found to be in significant noncompliance, also referred to as reportable noncompliance, in 15A NCAC 2H .0903(b) (34), with applicable pretreatment standards and

requirements, during the previous 12 months.

## **ARTICLE 10 - ADJUDICATORY HEARINGS**

### **Section 1. Hearings**

The local government may conduct hearings in accordance with its regular hearing procedure.

A. **Initial Adjudicatory Hearing.** An applicant whose permit is denied, or is granted subject to conditions he deems unacceptable, a permittee/user assessed a civil penalty under Article 8, Section 2, or one issued an administrative order under Article 8, Section 1 shall have the right to an adjudicatory hearing before the County Manager or other hearing officer appointed by the County Manager upon making written demand, identifying the specific issues to be contested, to the County Manager within 30 days following receipt of the significant industrial user permit, civil penalty assessment, or administrative order. Unless such written demand is made within the time specified herein, the action shall be final and binding and further appeal is barred. For modified permits, only those parts of the permit being modified may be adjudicated. The hearing officer shall make a final decision on the contested permit, penalty, or order within 45 days of the receipt of the written demand for a hearing. The County Manager shall transmit a copy of the hearing officer's decision by registered or certified mail as described in paragraph C. below. The terms and conditions of a permit under appeal shall be as follows.

1. **New Permits.** Upon appeal, including judicial review in the General Courts of Justice, of the terms or conditions of a newly issued permit, the terms and conditions of the entire permit are stayed and the permit is not in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.
2. **Renewed Permits.** Upon appeal, including judicial review in the General Courts of Justice, of the terms or conditions of a renewed permit, the terms and conditions of the existing permit remain in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.
3. **Terminated Permits.** Upon appeal, including judicial review in the General Courts of Justice, of a terminated permit, no permit is in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.

B. **Final Appeal Hearing.** Any decision of a hearing officer made as a result of an adjudicatory hearing held under paragraph A. above may be appealed, to the Councilor Board serving the County upon filing a written demand within 10 days of receipt of notice of the decision. Hearings held under this Subdivision shall be conducted in accordance with Local hearing procedures. Failure to make written demand within the time specified herein shall bar further appeal. The Councilor Board serving the County shall make a final decision on the appeal within 90 days from receipt of the demand filed under paragraph A. and shall transmit a written

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copy of its decision by registered or certified mail as described in paragraph C. below. The decision is a final decision for the purpose of seeking judicial review.

- C. Official record. When a final decision is issued under paragraph B. above, the Councilor Board serving the County shall prepare an official record of the case that includes:
1. All notices, motions, and other like pleadings;
  2. A copy of all documentary evidence introduced;
  3. A certified transcript of all testimony taken, if testimony is transcribed. If testimony is taken and not transcribed, then a narrative summary of any testimony taken.
  4. A copy of the final decision of the Councilor Board serving the County.
- D. Judicial Review. Any person against whom a final order or decision of the Councilor Board serving the County is entered, pursuant to the hearing conducted under paragraph B. above, may seek judicial review of the order or decision by filing a written request for review by the Superior Court of Columbus County within 30 days after receipt of notice by registered or certified mail of the order or decision, but not thereafter, along with a copy to the County. Within 30 days after receipt of the copy of the written request for review by the Court, the Councilor Board serving the County shall transmit to the reviewing court the original or a certified copy of the official record.

### **ARTICLE 11 - AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS**

#### Section 1. Upset

- A. An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of paragraph B. below, are met.
- B. A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
1. An upset occurred and the user can identify the cause(s) of the upset;
  2. The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
  3. The user has submitted the following information to the County Manager within twenty-four (24) hours of becoming aware of the upset [if this information is provided orally, a written submission must be provided within five (5) days:
    - a) A description of the indirect discharge and cause of noncompliance;
    - b) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
    - c) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

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- C. In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.
- D. Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.
- E. Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

### Section 2. Prohibited Discharge Standards Defense

A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in Part 3, Article 1, Section 1. A. section 2.1 (a) of this ordinance or the specific prohibitions in Part 3, Article 1, Section 1, B. 2., 3. and 5 through 7. of this ordinance if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

- A. A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or
- B. No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the County was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

### Section 3. Bypass

- A. Allowance of a bypass. A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs B and C of this section.
- B. Notice required:
  - 1. If a user knows in advance of the need for a bypass, it shall submit prior notice to the County Manager, at least ten (10) days before the date of the bypass, if possible.
  - 2. A user shall submit oral notice to the County Manager of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5)

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days of this time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The County Manager may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

### C. Bypass prohibited.

1. Bypass is prohibited, and the County Manager may take an enforcement action against a user for a bypass, unless:
  - a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
  - b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
  - c) The user submitted notices as required under paragraph B of this section.
2. The County Manager may approve an anticipated bypass, after considering its adverse effects, if the County Manager determines that it will meet the three conditions listed in paragraph C.1. of this section.

### **ARTICLE 12 – SEVERABILITY**

If any provision, paragraph, word, section or article of this ordinance is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections, and chapters shall not be affected and shall continue in full force and effect.

### **ARTICLE 13 - CONFLICT**

All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this ordinance are hereby repealed to the extent of such inconsistency or conflict.

### **ARTICLE 14 -EFFECTIVE DATE**

#### Section 1. Enactment

This Sewer Use Ordinance, Columbus County, was approved and adopted, after the second reading, by the Columbus County Board of Commissioners on June 02, 2014, upon motion by Commissioner Prevatte, seconded by Commissioner McDowell, and the motion unanimously passed. This information will be recorded in Minute Book 33, at Pages 846 -\_\_.

**COLUMBUS COUNTY WATER AND SEWER DISTRICT III**

The Columbus County Water and Sewer District III Authority Board, meeting in Regular Session on the 2<sup>nd</sup> day of June 2003, does hereby adopt and establish the following Ordinance to expand the customer base of the County's water system in Water and Sewer District III, promote uniformity in the provision of water service throughout the County of Columbus, and attempt to anticipate and meet the future needs of the water service customers of the County.

All owners of developed property within Columbus County on which there are situated one or more residential dwelling units or commercial establishments served, or to be served by a water line or sewer collection line owned or operated by Columbus County, or on behalf of Columbus County shall be required to connect said owner's premises with the water line or sewer collection line respectively, owned or operated by Columbus County or on behalf of Columbus County. Columbus County may fix the charges for these connections. These charges shall be set according to a fixed schedule of fees as determined by Columbus County. A fixed schedule of fees as approved shall be maintained in the Office of the Clerk to the Board of Commissioners and in the Office of the Clerk to the Utilities Operations.