PERSON COUNTY
PLANNING ORDINANCE

PERSON COUNTY, NORTH CAROLINA
v. June 1, 2026

ADOPTED BY THE PERSON COUNTY BOARD OF COUNTY COMMISSIONERS ON MAY 20, 1991 & RE-ADOPTED IN ITS ENTIRETY ON DECEMBER 6, 1993, TO INCORPORATE WATERSHED PROTECTION PROVISIONS

AMENDED:
(1) July 11, 1994
(2) September 7, 1994
(3) May 15, 1995
(4) November 6, 1995
(5) January 11, 1996
(6) February 19, 1996
(7) March 18, 1996
(8) June 3, 1996
(9) July 8, 1996
(10) August 5, 1996
(11) February 3, 1997
(12) March 17, 1997
(13) May 5, 1997
(14) July 7, 1997
(15) November 3, 1997
(16) June 15, 1998
(17) February 1, 1999
(18) March 8, 1999
(19) December 6, 1999
(20) August 7, 2000
(21) May 7, 2001
(22) June 4, 2001
(23) July 2, 2001
(24) November 5, 2001
(25) January 7, 2002
(26) May 6, 2002
(27) July 22, 2002
(28) February 3, 2003
(29) August 4, 2003
(30) November 17, 2003
(31) December 1, 2003
(32) November 1, 2004
(33) February 21, 2005
(34) June 6, 2005
(35) August 1, 2005
(36) March 13, 2006
(37) November 19, 2007
(38) December 3, 2007
(39) August 4, 2008
(40) September 2, 2008
(41) November 3, 2008
(42) December 1, 2008
(43) December 7, 2009
(44) February 15, 2010
(45) August 2, 2010
(46) December 6, 2010
(47) February 7, 2011
(48) September 6, 2011
(49) July 15, 2012
(50) June 23, 2013 (Accessory Buildings)

AMENDED:
(51) February 2014 (Definition of Professional Office)
(52) July 2014 (Stormwater Amendment)
(53) April 2015 (Remove Wireless Telecommunications Facilities)
(54) September 6, 2016 (Revise Table of Permitted Uses; Dimensional Requirements)
(55) October 2, 2017 (Revise Table of Uses to add distillery, brewery and solar energy systems; add definitions for those uses)
(56) September 9, 2019 (Revise Table of Uses to add Event Center; Add definition for Event Center)
(57) January 06, 2020 (Article VII, X, XIII, XIV, and Appendix B, including renumbering and definitions)
(58) October 5, 2020 (Note 2 and 10; Remove solar energy system regulations)
(59) November 16, 2020 (Amend Ind. requirements Section 70, Appendix B, Appendix C, Note 2)
(60) November 16, 2020 (Accessory structure req. Section 60, Appendix B Definitions)
(61) January 4, 2021 (Article VIII Section 81 Ingress and egress width)
(62) May 3, 2021 (160D Legislative Changes: All Articles and renumbering)
(63) August 4, 2025 (firearms training, cross references, permit validity, posting properties)
(64) November 3, 2025 (Camper/RV Parks, Lodging units)
(65) November 18, 2025
(66) January 5, 2026
(67) April 20, 2026
(68) June 1, 2026

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PERSON COUNTY DEPARTMENT OF PLANNING AND ZONING
Roxboro, NC 27573

Article I – Authority and Purpose

Section 1.1 – Authority

(Amended 5/3/21)

In pursuance of authority conferred by Sections 107, 109, 409, 702, 704, 705, 903, and 908 of Chapter 160D of the General Statutes of North Carolina as amended; THE BOARD OF COUNTY COMMISSIONERS OF PERSON COUNTY, NORTH CAROLINA DOES HEREBY ORDAIN AND ENACT INTO LAW THE FOLLOWING ARTICLES AND SECTIONS.

Section 1.2 – Purpose

This ordinance is enacted to promote and to protect the health, safety and welfare of the people within the designated planning jurisdiction of Person County. It is the intention of the Board of County Commissioners that the provisions of this ordinance will implement the purpose and intent of the adopted development plans of the County by encouraging the most desirable use of the land for residential, agricultural, commercial, industrial, conservation, public service, flood plain and drainage purposes, and the most appropriate use and occupancy of buildings, and by promoting good land use planning. This ordinance is enacted for the further purpose of 1) assuring clean, non-polluted drinking water, 2) protection of all our watersheds, 3) controlling hazardous waste, 4) orderly, planned growth vital to the economic future and livability of Person County, and 5) assuring adequate light and air.

Article II – Title

This ordinance shall be known and may be cited as *The Person County Planning Ordinance*.

Article III – Water Supply Watershed Protection Requirements

(Amended 2/15/2010; 5/3/21)

Section 3.1 – All Water Supply Watershed Protection

3.1-1 Intent

In 1989, the N.C. General Assembly ratified the Water Supply Protection Act mandating the protection of all water supplies within the State. Subsequently, water supply rules were adopted by the Environmental Management Commission in 1992 requiring local governments to adopt and enforce local ordinances complying with minimum watershed protection requirements.

These rules will be applied by Person County in accordance with the requirements of the North Carolina Environmental Management Commission. (Amended 11/3/97)

In General, this will be accomplished by establishing Watershed Protection Overlay Districts regulating land use, development density and built upon areas for lands located in a water supply watershed within Person County's Planning Jurisdiction, as described herein; and in conjunction with Federal, State Laws and Local Ordinances designed to protect water quality. (Amended 11/3/97)

3.1-2 Application Criteria

The Watershed Protection Overlay Districts, as established in Section 30-4, overlay other zoning districts established in this article. As of January 1, 1994, the new use of land, or new structure within any Watershed Protection Overlay District shall comply with the provisions of this Article as well as the use regulations applicable to the underlying zoning district. Whenever standards of the underlying district differ from the Watershed Protection Overlay District, the more restrictive provisions shall apply. (Amended 11/3/97)

3.1-3 Exemptions

3.1-3(a) Single Family Lot. A deeded single-family lot owned by an individual, established prior to January 1, 1994, regardless of whether a vested right has been established, shall not be subject to the restrictions of this Article. Nothing in this article shall be construed to require the recombination of nonconforming lots of record.

3.1-3(b) Existing Development. Existing development is not subject to the requirements of this Article. Existing developments include projects (structures, roads, etc.) that are built or at a minimum have established a vested right under North Carolina Zoning Law as of December 31, 1993, based on at least one of the following criteria:

1. Substantial expenditures of resources (time, labor, money) based on a good faith reliance upon having received a local government approval to proceed; or

2. Having an outstanding valid building permit in compliance with160D-102 and 100(d); or, (Rev. 5/3/21)

3. Meeting the court-created common law or constitutional standards of substantial expenditure of resources (time, labor, or money) based on a good faith reliance upon receiving valid approval from the Person County Board of Commissioners to proceed with the project.

3.1-3(c) Redevelopment of Project Sites. An existing development, as defined in this article, may be redeveloped after a natural disturbance or as part of the project redevelopment provided that the rebuilding activity does not have a net increase in the built-upon area.

A single-family residence, established prior to January 1, 1994, may be redeveloped without any restrictions from this article.

3.1-3(d)Expansions of Existing or New Development. Expansions to existing development or new development are permitted as follows:

1. Expansions to single-family residences built before January 1, 1994, are permitted without any restrictions from this article; and

2. Expansions to all other structures classified as existing development must meet the requirement of this article, except, the built-upon area of the existing development is not required to be included in the density calculations; and

3. Expansions to structures other than existing development must meet the density requirements for the entire project. For example, if the structure to be expanded is not grandfathered as "existing development" but was built after December 31, 1993, then the total project, including the existing built upon areas and expanded built upon areas, must meet the requirements of this Article.

3.1-4 Establishment of Watershed Overlay Districts

Eight (8) watershed protection overlay districts are hereby established, as listed in Table 31-4(a) land delineated on the "Official Person County Watershed Map", as adopted as referenced herein, for all lands within water supply watersheds of existing or potential drinking water supplies. All districts have been classified by the Environmental Management Commission as a WSII, WSIII, or WSIV water supply watershed. (Amended 11/3/97)

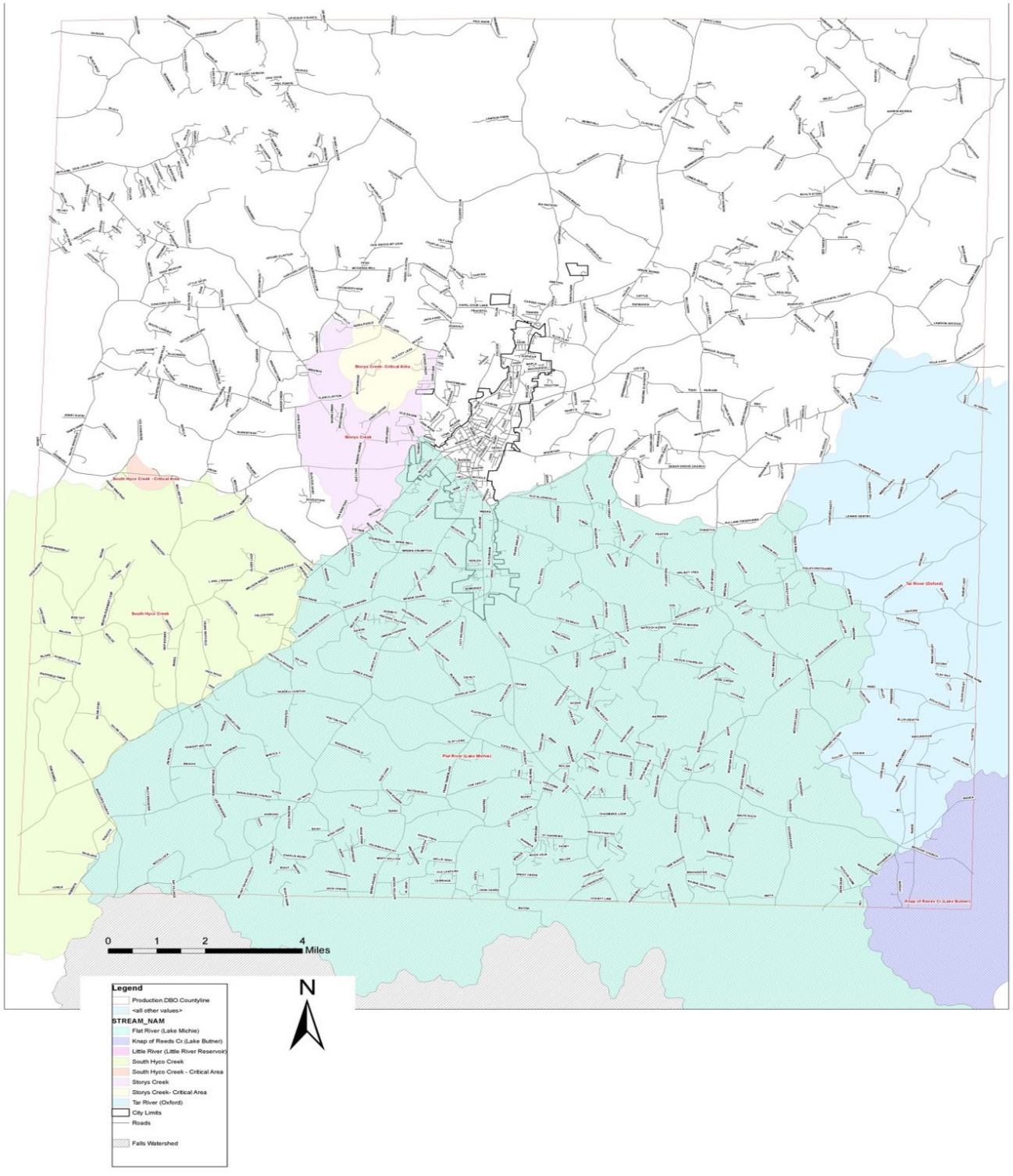


TABLE 3.1-4(a): WATERSHED PROTECTION OVERLAY DISTRICTS				
District		Class	Acreage	General Location
Storys-Ca	Storys Creek Critical Area	WSII	1,837	One-half mile to the normal pool elevation lake or to the ridgeline whichever is less
Storys-Bw	Storys Creek Balance of Watershed	WSII	4,654	The drainage basin of Storys Creek which is located in Person County
Knap-Bw	Knap of Reeds Creek Balance of Watershed	WSII	2,619	The portion of the drainage basin of Knap of Reeds Creek (Lake Butner) which is located in Person County
Little-Bw	Little River Balance of Watershed	WSII	74.00	The portion of the drainage basin of Little River Reservoir which is located in Person County
Hyco-Ca	South Hyco Creek Critical Area	WSII	246.00	One-half mile upstream from and draining to the intake located in South Hyco Creek
Hyco-Bw	South Hyco Creek Balance of Watershed	WSII	21646.00	The portion of the drainage basin, South Hyco Creek which is located in Person County
Flat-Bw	Flat River Balance of Watershed	WSIII	80074.00	The portion of the drainage basin of the Flat River which is located in Person County
Tar-Pa	Tar River Protected Area Watershed	WSIV	20117.00	The portion of the drainage basin of the Tar River which is located in Person County

3.1-5 Land Use Restrictions

All uses allowed in the underlying zoning districts are permitted except as stated in Table 3.1-5(a).

TABLE 3.1-5 (a): LAND USE RESTRICTIONS	
District	**Restriction**
Hyco-Ca Storys-Ca	No New Landfills*
Hyco-Bw Knap-Bw Little-Bw Flat-Bw	No New Discharging Landfill*
Tar-Pa	
* In view of state regulations and in view of state requirements for a permit from the Division of Water Quality and the Division of Solid Waste, the Person County Sludge Ordinance, which restricted the application of residuals, was rescinded by the Person County Board of Health in September of 1997. (Amended 11/3/97)	

3.1-6 Density and Built Upon Limits **

All structures not exempted by Section 3.1-3, shall comply with density or built upon requirements listed in Table 3.1-6(a) or Table 3.1-6(b), as appropriate.

DISTRICT	TABLE 3.1-6(A) RESIDENTIAL DEVELOPMENT	TABLE 3.1-6(B) NONRESIDENTIAL DEVELOPMENT
Storys-Ca Hyco-Ca	1 DU/2 acre or 6% built upon area.	Up to 6% built upon area.
Storys-Bw Hyco-Bw Knap-Bw Little-Bw	1 DU/1 acre or 12% built upon area Up to 70% built upon area for all residential uses other than single family provided minimize built upon surface area, direct stormwater runoff away from surface waters and incorporate best management practices to minimize water quality	Up to 24% built upon area. Up to 70% built upon area provided minimize built upon surface area, direct stormwater runoff away from surface waters and incorporate best management practices to minimize water quality

	impacts in 10% of the watershed. (amended 5/6/2002)	impacts in 10% of the watershed. (amended 5/6/2002)
Flat-Bw	1 DU/.5 acre or 24% built upon area. Up to 70% built upon area for all residential uses other than single family provided minimize built upon surface area, direct stormwater runoff away from surface waters and incorporate best management practices to minimize water quality impacts in 10% of the watershed. (amended 5/6/2002)	Up to 24% built upon area. Up to 70% built upon area provided minimize built upon surface area, direct stormwater runoff away from surface waters and incorporate best management practices to minimize water quality impacts in 10% of the watershed. (amended 5/6/2002)
Tar-Pa	1 DU/.5 acre or 24% built upon area.* 1 DU/.33 acre or 36% built upon area allowed for projects without curb/ gutter*.	Up to 24% built upon area*. Up to 36% built upon area for project without curb & gutter.
(Amended 11/3/97; 5/6/2002) Only new development activities that require an erosion and sedimentation plan under state law are required to meet the provisions of this ordinance when located in wsiv watershed. ** refer to article vii, table 75-table of dimensional requirements and this article.		

3.1-7 Cluster Residential Development
(Amended 02/15/2010)
Cluster residential developments are permitted on a project-by-project basis in compliance with the Subdivision Regulations of Person County provided that:

1. Project Density.
   Overall project density does not exceed the requirements stated in this Article.

2. Minimum Lot Requirement.
   Lots meet minimum requirements stated in this article.

3. Open Space.
   The remainder of the tract shall remain in a vegetated or natural state. The owner or developer shall provide, through legally enforceable means, for the perpetual preservation of land as open space. Such mechanism shall be approved by the Zoning Administrator and may include but shall not be limited to the recording of restrictive covenants or deeding of open space to the property owners' association. (Amended 11/3/97)

3.1-8 Buffer Areas
Buffers adjacent to perennial waters and public supply impoundments shall be provided as follows:

1. Perennial Waters.
   A minimum of a fifty (50) foot vegetative buffer, unless otherwise stated in this Article, shall be provided along all perennial streams and waters, as shown on the most recent version of U.S.G.S. 1:24,000 (7.5) scale topographic maps. The buffer shall be measured, as applicable, from either the edge of both sides of the steam or landward from the normal pool elevation of the perennial water. Projects that exceed the allowed built upon area shall provide a one hundred (100) foot vegetative buffer along perennial waters.

   Plats to contain the following language: “Written authorization from the North Carolina Division of Water Quality may be required for activities that are proposed to occur within the fifty-foot Neuse River Riparian buffer. Local program approvals do not authorize activities within the riparian buffer”.

   Whenever conflicts exist between Federal, State or Local laws, ordinance or rules, the more restrictive provision shall apply. (Amended 2/15/2010)

2. Public Water Supply Impoundments.
   A minimum fifty (50) foot buffer, as measured from the normal pool elevation, is required for all public water supply impoundments.

3. Development within the Buffer area.
   No new development is allowed within the buffer. Water dependent structures, other structures, such as flag poles, signs and security lights which result in only diminutive increase in impervious area and public projects such as road crossing and greenways may be allowed where no practical alternative exists. These activities should minimize built upon surface area, divert runoff away from surface waters and maximize the utilization of BMP's. (Amended 11/3/97)

3.1-9 Wastewater and Sewage Disposal

All residential, commercial, and industrial wastewater and sewage disposal shall be governed by applicable NC General Statues.

3.1-10 Activities Within Watershed Protection Overlay Districts

All activities within a water supply watershed shall comply with North Carolina Rules Governing Public Water Supplies, 15A NCAC 18B .1100, .1200 and .1500.

3.1-11 Watershed Protection Overlay District Boundary Interpretation

Where uncertainty exists as to the location of a Watershed Protection Overlay District Boundary, interpretations shall be made in accordance to this article. (Amended 11/3/97)

3.1-12 Best Management Practices (BMP) Required

DISTRICT	**LAND USE**
Storys-Ca Hyco-Ca	Agricultural[1], Forestry[2], Transportation[3]
Storys-Bw Hyco-Bw Knap-Bw Little-Bw Flat-Bw Tar-Pa	Forestry[2], Transportation[3]

[1]Agricultural activities are subject to the provisions of the Food Security Act of 1985 and the Food, Agriculture, Conservation and Trade Act of 1990. In critical areas, agricultural activities must maintain a 10' vegetated buffer or equivalent control, and animal operations over 100 animal units must be BMP's as determined by the Soil and Water Conservation Commission

[2]Silviculture activities are subject to the provisions of the forest practices guidelines regulated to water quality (15a NCAC 1i.0101-.0209) as NC Division of Forest Resources and existing environmental management commission rules administered by the N.C. Division of Water Quality. (amended 11/3/97)

[3]The department of transportation must use BMP's as described in their document 'best management practices for the protection of surface waters' and in compliance with the Sedimentation Pollution Control Act of 1973.

3.1-13 Administration

1. Appeals
   Decisions of the Zoning Administrator in the implementation of this Article may be appealed to the Person County Board of Adjustment in accordance with this Article.

2. Variances (Amended 11/3/97, 8/4/25)

a) A request for a Minor Variance from the State Watershed Protection Rules shall be reviewed by the Person County Board of Adjustment in accordance with this article.

i. In addition to the notification requirements stated in this article, the Zoning Administrator shall notify in writing each local government having jurisdiction in the watershed of the proposed minor variance. Said notice to include a description of the variance being requested.

ii. Local governments receiving notice of the variance request may submit comments to the Zoning Administrator prior to a decision by the Person County Board of Adjustment.

iii. Before the Board of Adjustment may grant a minor variance, it shall make the findings of fact required in this article.

iv. In accordance with of this article, the Board of Adjustment may prescribe appropriate conditions and safeguards to ensure that substantial justice has been done and that the public safety and welfare has been assured.

v. Every decision of the Board of Adjustment shall be subject to review by the Superior Court of Person County as stated in this article.

vi. Records of minor variance shall be forwarded to the Division of Water Quality for each calendar year, on or before January 1st of the following year.

b) A request for a Major Variance from the State Watershed Protection Rules shall be reviewed by the Board of Adjustment in the same manner as a minor variance; and the request shall be referred to the North Carolina Environmental Management Commission in accordance with the following procedures:

i. If the Board of Adjustment decides in favor of granting the major variance, the secretary to the Board of Adjustment shall prepare a preliminary record of the hearing with all deliberate speed and send to the Environmental Management Commission. The preliminary record of the hearing shall include: the variance application; the hearing notices; the evidence presented, motions, offers of proof, objections to evidence, and rulings on them; proposed findings and exceptions; the proposed decision, including all proposed conditions.

ii. If the Environmental Management Commission approves the major variance as proposed, approves the major variance with additional conditions, or denies the major variance, the Commission shall prepare a decision and send it to the Board of Adjustment.

iii. The Board of Adjustment shall prepare a final decision in accordance with the Environmental Management Commission's decision.

3.1-14 Density Averaging
(added 8/4/03)
Density averaging involves the use of two noncontiguous parcels and is based on the idea that the development plans for a pair of parcels can be submitted together and treated as a single project for purposes of these regulations. The amount of development allowed for the paired parcels taken together cannot exceed the amount of development that would be allowed if the parcels were developed separately.

1. A Special Use Permit shall be obtained from the Board of Commissioners sitting as the Watershed Review Board to ensure that both parcels considered together meet the standards of the article and that potential buyers have notice of how the watershed regulations were applied to the parcel pair. Only buyers of both of the paired parcels may submit the application for Special Use Permit. A site plan for both parcels must be submitted and approved as part of the Special Use Permit. If such a permit is granted, no change in the development proposal authorized for either parcel shall be made unless the permit is amended. Upon issuance of such permit, one copy will be forwarded to the Local Government Assistance Unit of the Division of Water Quality. Included with the Special Use Permit will be a site plan, registered plats for both properties, a description of both properties and documentation reflecting the development restrictions to the parcel pair that will remain undeveloped.

2. Parcel pairs being submitted for approval under this provision shall be submitted for development approval as a single unitary proposal.

3. Sufficient information shall be submitted so that it may be determined that overall density of the paired parcel averaged density development, calculated either by dwelling units per acre or built-upon area, shall not exceed the density that would be allowed if the parcels were developed separately. The parcel pair shall be preferably in the same drainage area of the watershed. Parcels to be used in pairs may be located in the Balance of Watershed, Protected or Critical Areas. However, if one of the parcels is located in the Balance of Watershed or Critical Area and one is located in the Protected area, the Critical Area parcel shall not be developed. Density Averaging is not allowed between two parcels when both are in the Critical Area.

4. Buffers shall at a minimum meet the appropriate minimum statewide water supply watershed protection requirements on both parcels in the parcel pair according to the density of development occurring on each parcel.

5. Sufficient information shall be submitted so that it may be demonstrated that the parcels are designed to:

    a) Minimize stormwater runoff impact to the receiving waters by minimizing concentrated stormwater flow

    b) Maximize the use of sheet flow through vegetated areas

    c) Minimize impervious surface areas

    d) Locate development away from surface waters and drainage ways to the maximum extent practicable; and

    e) Convey stormwater from developed areas by vegetated swales to the maximum extent practical.

6. The undeveloped parcel(s) or portion(s) thereof shall remain in a vegetated or natural condition and shall be placed in a permanent conservation easement granted under G.S. 121-35 to the County, a land conservation organization or other entity capable of providing for the ongoing maintenance of the undeveloped property.

7. Applicants shall agree to bind themselves and their successors in title, individually and collectively, to maintain the pattern of development proposed for so long as the requirements of this section are applicable. Parties to enforcement of such agreement shall include Person County. No such agreement shall be accepted without approval of the County Attorney as to the legal sufficiency of the documents involved.

8. Undeveloped land areas proposed for incorporation into the density or impervious coverage area calculations shall meet the following criteria:

    a) Projects in the Balance of Watershed or Protected Area may incorporate undeveloped land elsewhere in the Balance of Watershed, Protected Area or Critical Area. The amount of additional undeveloped acreage required shall be determined by dividing the appropriate density or impervious coverage area factor into the number of dwelling units or impervious coverage area in excess of the amount permitted on the project site by these regulations to determine the amount of other land to be reserved as undeveloped so that the overall density or intensity of the project shall not exceed the density or intensity that would be allowed if the parcels were developed separately.

    b) (Deleted 08/04/2003)

    c) Undeveloped land included to meet the requirements of one project shall not be included as meeting the requirement of any existing or proposed project nor shall any land included in a parcel pair for which a watershed variance has been granted or would be required.

    d) The preservation of undeveloped floodplain land, steep slopes, or other environmentally sensitive lands within the Critical Area for this purpose is encouraged. All such land shall be properly vegetated.

9. The Planning Board sitting as the Watershed Review Board shall make written findings supported by appropriate calculations and documentation that the plan as a whole conforms to the intent and requirements of this section, and that the proposed agreement assures protection of the public interest and achievement of the objectives of this section.

10. At the time of the issuance of the Zoning Permit, the Special Use Permit and conservation easement, shall be caused to be recorded by the Planning Director in the office of the Register of Deeds and filed with the offices of the Planning Director, Building Inspector and the City Clerk. Notations shall be made by the Planning Director on the official Zoning Map and the approved development plans and or plats for future guidance in administration and as a public record.

11. The pattern of development and the agreement between the owners shall not be changed except by the issuance of a new or amended Special Use Permit in the manner herein established.

3.1-15 Definitions

Developed Parcel
Any parcel of a parcel pair that, under any approval granted under this part, may be developed to a development density or intensity that exceeds the maximum development density or intensity that would apply to the parcel if the paired-parcel average-density development option were not available.

Paired Parcel Averaged Density Development
A development proposal that includes a parcel pair meeting the development standards of this Section and that qualifies for local development approval under the density averaging provision of this article.

Undeveloped Parcel
The parcel in a parcel pair that is not developed. (added 8/4/2003)

Section 3.2 – Falls Watershed - Stormwater

General Provision (Added July 15, 2012; Amended 5/3/21)

3.2-1 Title

This ordinance shall be officially known as "The Falls Watershed Stormwater Ordinance for New Development." It is referred to herein as "this article."

3.2-2 Authority

The Person County Board of County Commissioners is authorized to adopt this ordinance pursuant to North Carolina law, including but not limited to Article 14, Section 5 of the Constitution of North Carolina; North Carolina General Statutes Chapter 143-214.7 and rules promulgated by the Environmental Management Commission thereunder; Chapter 143-215.6A; Chapter 160D-925;Chapter 160A, §§ 174and 185 and Chapter 143, Article 21, Part 6 (Floodway Regulation); [Chapter 143-214.5, Water Supply Watershed Protection]; [Chapter 160D Planning and Regulation of Development (Rev. 5/321).

3.2-3 Findings

It is hereby determined that:

Development and redevelopment alter the hydrologic response of local watersheds and increases stormwater runoff rates and volumes, flooding, soil erosion, stream channel erosion, nonpoint and point source pollution, and sediment transport and deposition, as well as reducing groundwater recharge;

These changes in stormwater runoff contribute to increased quantities of water-borne pollutants and alterations in hydrology that are harmful to public health and safety as well as to the natural environment; and, these effects can be managed and minimized by applying proper design and well-planned controls to manage stormwater runoff from development sites.

Further, the Commission has identified Falls of Neuse reservoir, a water supply reservoir, as nutrient sensitive waters; has identified all or a portion of the reservoir as impaired waters under the federal Clean Water Act due to exceedances of the chlorophyll a standard; and has promulgated rules (the "Falls Rules") to reduce the average annual loads of nitrogen and phosphorus delivered to Falls Reservoir from all point and nonpoint sources of these nutrients located within its watershed, including stormwater from new development in this jurisdiction;

Therefore, the Person County Board of County Commissioner's establishes this set of water quality and quantity regulations to meet the requirements of state and federal law regarding control of stormwater runoff and discharge for development.

32-4 Purpose

The purpose of this ordinance is to protect, maintain and enhance the public health, safety, environment and general welfare by establishing minimum requirements and procedures to control the adverse effects of nitrogen and phosphorus in stormwater runoff and nonpoint and point source pollution associated with new development and redevelopment in the watershed of Falls of Neuse reservoir. It has been determined that proper management of construction-related and post-development stormwater runoff will minimize damage to public and private property and infrastructure; safeguard the public health, safety, and general welfare; and protect water and aquatic resources.

This ordinance seeks to meet its general purpose through the following specific objectives and means:

1. Establishing decision-making processes for development that protects the integrity of watersheds and preserve the health of water resources;

2. Requiring that new development and redevelopment maintain the pre-development hydrologic response in their post-development state for the applicable design storm to reduce flooding, streambank erosion, nonpoint and point source pollution and increases in stream temperature, and to maintain the integrity of stream channels and aquatic habitats;

3. Establishing minimum post-development stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality;

4. Establishing design and review criteria for the construction, function, and use of structural stormwater BMPs that may be used to meet the minimum post-development stormwater management standards;

5. Encouraging the use of better management and site design practices, such as the use of vegetated conveyances for stormwater and the preservation of greenspace, riparian buffers and other conservation areas to the maximum extent practicable;

6. Establishing provisions for the long-term responsibility for and maintenance of structural and nonstructural stormwater BMPs to ensure that they continue to function as designed, are maintained appropriately, and pose no threat to public safety;

7. Establishing administrative procedures for the submission, review, approval and disapproval of stormwater management plans, for the inspection of approved projects, and to assure appropriate long-term maintenance.

32-5 Applicability and Jurisdiction

1. General
   Beginning with and subsequent to its effective date, this article shall be applicable to all development and redevelopment, including, but not limited to, site plan applications, subdivision applications, and grading applications, unless exempt pursuant to this article.

2. Exemptions
   Single-family and duplex residential and recreational development and redevelopment that cumulatively disturbs less than one-half acre and is not part of a larger common plan of development or sale is exempt from the provisions of this article Commercial, industrial, institutional, multifamily residential or local government development and redevelopment that cumulatively disturbs less than 12,000 square feet and is not part of a larger common plan of development or sale is exempt from the provisions of this article.

   Development and redevelopment that disturbs less than the above thresholds are not exempt if such activities are part of a larger common plan of development or sale and the larger common plan exceeds the relevant threshold, even though multiple, separate or distinct activities take place at different times on different schedules.

   Development that is exempt from permit requirements of Section 404 of the federal Clean Water Act as specified in 40 CFR 232 (primarily, ongoing farming and forestry activities) are exempt from the provisions of this article.

3. No Development or Redevelopment Until Compliance and Permit
   No development or redevelopment shall occur except in compliance with the provisions of this article or unless exempted. No development or redevelopment for which a permit is required pursuant to this article shall occur except in compliance with the provisions, conditions, and limitations of the permit.

4. Map
   The provisions of this ordinance shall apply within the areas designated on the map titled "Falls Watershed Stormwater Map of Person County, North Carolina" ("the Stormwater Map"), which is adopted simultaneously herewith. The Stormwater Map and all explanatory matter contained thereon accompanies and is hereby made a part of this article.

The Stormwater Map shall be kept on file by the Stormwater Administrator and shall be updated to take into account changes in the land area covered by this article and the geographic location of all engineered stormwater controls permitted under this article. In the event of a dispute, the applicability of this article to a particular area of land or BMP shall be determined by reference to the North Carolina Statutes, the North Carolina Administrative Code, and local zoning and jurisdictional boundary article.

3.2-6 Interpretation

1. Meaning and Intent
   All provisions, terms, phrases, and expressions contained in this article shall be construed according to the general and specific purposes set forth in Section 104, Purpose. If a different or more specific meaning is given for a term defined elsewhere in Person County Planning Ordinance, the meaning and application of the term in this article shall control for purposes of application of this article.

2. Text Controls in Event of Conflict
   In the event of a conflict or inconsistency between the text of this article and any heading, caption, figure, illustration, table, or map, the text shall control.

3. Authority for Interpretation
   The Stormwater Administrator has authority to determine the Interpretation of this article. Any person may request an interpretation by submitting a written request to the Stormwater Administrator, who shall respond in writing within 30 days. The Stormwater Administrator shall keep on file a record of all written interpretations of this article.

4. References to Statutes, Regulations, and Documents
   Whenever reference is made to a resolution, article, statute, regulation, manual (including the Design Manual), or document, it shall be construed as a reference to the most recent edition of such that has been finalized and published with due provision for notice and comment, unless otherwise specifically stated.

5. Computation of Time
   The time in which an act is to be done shall be computed by excluding the first day and including the last day. If a deadline or required date of action falls on a Saturday, Sunday, or holiday observed by Person County, the deadline or required date of action shall be the next day that is not a Saturday, Sunday or holiday observed by Person County. References to days are calendar days unless otherwise stated.

6. Delegation of Authority
   Any act authorized by this article to be carried out by the Stormwater Administrator of Person County may be carried out by his or her designee.

7. Usage
   Mandatory and Discretionary Terms

   a) The words “shall,” “must,” and “will” are mandatory in nature, establishing an obligation or duty to comply with the particular provision. The words “may” and “should” are permissive in nature.

b) Conjunctions
Unless the context clearly indicates the contrary, conjunctions shall be interpreted as follows: The word "and" indicates that all connected items, conditions, provisions and events apply. The word "or" indicates that one or more of the connected items, conditions, provisions or events apply.

c) Tense, Plurals, and Gender
Words used in the present tense include the future tense. Words used in the singular number include the plural number and the plural number includes the singular number, unless the context of the particular usage clearly indicates otherwise. Words used in the masculine gender include the feminine gender, and vice versa.

8. Measurement and Computation
Lot area refers to the amount of horizontal land area contained inside the lot lines of a lot or site.

3.2-7 Design Manual

1. Reference to Design Manual
The Stormwater Administrator shall use the policy, criteria, and information, including technical specifications and standards, in the Design Manual as the basis for decisions about stormwater permits and about the design, implementation and performance of engineered stormwater controls and other practices for compliance with this article.

The Design Manual includes a list of acceptable stormwater treatment practices, including specific design criteria for each stormwater practice. Stormwater treatment practices that are designed, constructed, and maintained in accordance with these design and sizing criteria will be presumed to meet the minimum water quality performance standards of the Falls Rules.

2. Relationship of Design Manual to Other Laws and Regulations
If the specifications or guidelines of the Design Manual are more restrictive or apply a higher standard than other laws or regulations, that fact shall not prevent application of the specifications or guidelines in the Design Manual.

3. Changes to Standards and Specifications
If the standards, specifications, guidelines, policies, criteria, or other information in the Design Manual are amended subsequent to the submittal of an application for approval pursuant to this article but prior to approval, the new information shall control and shall be utilized in reviewing the application and in implementing this article with regard to the application.

3.2-8 Relationship to other laws, regulations and private agreements

1. Conflict of Laws
This article is not intended to modify or repeal any other article, rule, regulation or other provision of law. The requirements of this article are in addition to the requirements of any other article, rule, regulation or other provision of law. Where any provision of this article imposes restrictions different from those imposed by any other article, rule, regulation or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human or environmental health, safety, and welfare shall control.

2. Private Agreements
   This ordinance is not intended to revoke or repeal any easement, covenant, or other private agreement. However, where the regulations of this ordinance are more restrictive or impose higher standards or requirements than such an easement, covenant, or other private agreement, the requirements of this article shall govern. Nothing in this article shall modify or repeal any private covenant or deed restriction, but such covenant or restriction shall not legitimize any failure to comply with this article. In no case shall Person County be obligated to enforce the provisions of any easements, covenants, or agreements between private parties.

3.2-9 Severability

If the provisions of any section, subsection, paragraph, subdivision or clause of this article shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision or clause of this article.

3.2-10 Effective Date and Transitional Provisions

1. Effective Date
   This article shall take effect on July 15, 2012.

2. Final Approvals, Complete Applications
   All development and redevelopment projects for which complete and full applications were submitted and approved by Person County prior to the effective date of this article and which remain valid, unexpired, unrevoked and not otherwise terminated at the time of development shall be exempt from complying with all provisions of this article dealing with the control and/or management of stormwater.

   A site-specific vesting plan (formerly phased development plan shall be deemed approved prior to the effective date of this article if it has been approved by all necessary government units, it remains valid, unexpired, unrevoked and not otherwise terminated, and it shows:

   a) For the initial or first phase of development or redevelopment, the type and intensity of use for a specific parcel or parcels, including at a minimum, the boundaries of the project and a subdivision plan that has been approved.

   b) For any subsequent phase of development or redevelopment, sufficient detail so that implementation of the requirements of this article to that phase of development would require a material change in that phase of the plan.

3. Violations Continue
   Any violation of provisions existing on the effective date of this article shall continue to be a violation under this article and be subject to penalties and enforcement under this article unless the use, development, construction, or other activity complies with the provisions of this article.

3.2-11 Administration and Procedures

Review and Decision-Making Entities

1. Stormwater Administrator
   a) Designation. A Stormwater Administrator shall be designated by Person County Board of County Commissioners to administer and enforce this article.

   b) Powers and Duties. In addition to the powers and duties that may be conferred by other provisions of Person County and other laws, the Stormwater Administrator shall have the following powers and duties under this article:

i. To review and approve, approve with conditions, or disapprove applications for approval of plans pursuant to this article.

ii. To make determinations and render interpretations of this article.

iii. To establish application requirements and schedules for submittal and review of applications and appeals, to review and make recommendations to the Person County Board of County Commissioners on applications for development or redevelopment approvals.

iv. To enforce the provisions of this article in accordance with its enforcement provisions.

v. To maintain records, maps, forms and other official materials as relate to the adoption, amendment, enforcement, and administration of this article.

vi. To provide expertise and technical assistance to the Person County Board of County Commissioners and the Person County Board of Adjustment upon request.

vii. To designate appropriate other person(s) who shall carry out the powers and duties of the Stormwater Administrator.

viii. To take any other action necessary to administer the provisions of this article.

Review Procedures

1. Permit Required; Must Apply for Permit
   A stormwater permit is required for all development and redevelopment unless exempt pursuant to this article. A permit may only be issued subsequent to a properly submitted and reviewed permit application, pursuant to this section.

2. Effect of Permit
   A stormwater permit shall govern the design, installation, and construction of stormwater management and control practices on the site, including engineered stormwater controls and elements of site design for stormwater management other than engineered stormwater controls.

   The permit is intended to provide a mechanism for the review, approval, and inspection of the approach to be used for the management and control of stormwater for the development or redevelopment site consistent with the requirements of this article, whether the approach consists of engineered stormwater controls or other techniques such as low-impact or low-density design. The permit does not continue in existence indefinitely after the completion of the project; rather, compliance after project construction is assured by the maintenance provisions of this article.

3. Authority to File Applications
   All applications required pursuant to this Code shall be submitted to the Stormwater Administrator by the landowner or the land owner's duly authorized agent.

4. Establishment of Application Requirements, Schedule, and Fees

   a) Application Contents and Form
      The Stormwater Administrator shall establish requirements for the content and form of all applications and shall amend and update those requirements from time to time. At a minimum, the stormwater permit application shall describe in detail how post-development stormwater runoff will be controlled and managed, the design of all stormwater facilities and practices, and how the proposed project will meet the requirements of this article.

b) Submission Schedule
The Stormwater Administrator shall establish a submission schedule for applications. The schedule shall establish deadlines by which complete applications must be submitted for the purpose of ensuring that there is adequate time to review applications, and that the various stages in the review process are accommodated.

c) Permit Review Fees
The Person County Board of County Commissioners shall establish permit review fees as well as policies regarding refund of any fees upon withdrawal of an application, and may amend and update the fees and policies from time to time.

d) Administrative Manual
For applications required under this Code, the Stormwater Administrator shall compile the application requirements, submission schedule, fee schedule, a copy of this article, and information on how and where to obtain the Design Manual in an Administrative Manual, which shall be made available to the public.

5. Submittal of Complete Application
Applications shall be submitted to the Stormwater Administrator pursuant to the application submittal schedule in the form established by the Stormwater Administrator, along with the appropriate fee established pursuant to this section.

An application shall be considered as timely submitted only when it contains all elements of a complete application pursuant to this article, along with the appropriate fee. If the Stormwater Administrator finds that an application is incomplete, the applicant shall be notified of the deficient elements and shall be provided with an opportunity to submit a complete application. However, the submittal of an incomplete application shall not suffice to meet a deadline contained in the submission schedule established above.

6. Review
The Stormwater Administrator shall review the application and determine whether the application complies with the standards of this article.

a) Approval
If the Stormwater Administrator finds that the application complies with the standards of this article, the Stormwater Administrator shall approve the application. The Stormwater Administrator may impose conditions of approval as needed to ensure compliance with this article. The conditions shall be included as part of the approval.

b) Fails to Comply
If the Stormwater Administrator finds that the application fails to comply with the standards of this article, the Stormwater Administrator shall notify the applicant and shall indicate how the application fails to comply. The applicant shall have an opportunity to submit a revised application.

c) Revision and Subsequent Review
A complete revised application shall be reviewed by the Stormwater Administrator after its re-submittal and shall be approved, approved with conditions or disapproved.

If a revised application is not re-submitted within thirty (30) calendar days from the date the applicant was notified, the application shall be considered withdrawn, and a new submittal for the same or substantially the same project shall be required along with the appropriate fee for a new submittal. One re-submittal of a revised application may be submitted without payment of an additional permit review fee. Any re-submittal after the first re-submittal shall be accompanied by a permit review fee additional fee, as established pursuant to this article.

Applications for Approval

1. Concept Plan and Consultation Meeting
   Before a stormwater management permit application is deemed complete, the Stormwater Administrator or developer may request a consultation on a concept plan for the post-construction stormwater management system to be utilized in the proposed development project. This consultation meeting should take place at the time of the preliminary plan of subdivision or other early step in the development process. The purpose of this meeting is to discuss the stormwater management measures necessary for the proposed project, as well as to discuss and assess constraints, opportunities and potential approaches to stormwater management designs before formal site design engineering is commenced. Local watershed plans, and other relevant resource protection plans should be consulted in the discussion of the concept plan.

   To accomplish this goal, the following information should be included in the concept plan, which should be submitted in advance of the meeting:

   a) Existing Conditions / Proposed Site Plans
      Existing conditions and proposed site layout sketch plans, which illustrate at a minimum: existing and proposed topography; perennial and intermittent streams; mapping of predominant soils from soil surveys (if available); stream and other buffers and features used in designing buffers and meeting any applicable buffer requirements; boundaries of existing predominant vegetation; proposed limits of clearing and grading; and location of existing and proposed roads, buildings, parking areas and other impervious surfaces.

   b) Natural Resources Inventory
      A written or graphic inventory of natural resources at the site and surrounding area as it exists prior to the commencement of the project. This description should include a discussion of soil conditions, forest cover, geologic features, topography, wetlands, and native vegetative areas on the site, as well as the location and boundaries of other natural feature protection and conservation areas such as lakes, ponds, floodplains, stream buffers and other setbacks (e.g., drinking water well setbacks, septic setbacks, etc.). Particular attention should be paid to environmentally sensitive features that provide particular opportunities or constraints for development and stormwater management.

   c) Stormwater Management System Concept Plan
      A written or graphic concept plan of the proposed post-development stormwater management system including: preliminary selection and location of proposed engineered stormwater controls; low-impact design elements; location of existing and proposed conveyance systems such as grass channels, swales, and storm drains; flow paths; location of floodplain/floodway limits; relationship of site to upstream and downstream properties and drainages; and preliminary location of any proposed stream channel modifications, such as bridge or culvert crossings.

2. Stormwater Management Permit Application
   The stormwater management permit application shall detail how post-development stormwater runoff will be controlled and managed and how the proposed project will meet the requirements of this article, including Section 3, Standards. All such plans shall be prepared by a qualified registered North Carolina professional engineer, surveyor, soil scientist or landscape architect, and the engineer, surveyor, soil scientist or landscape architect shall perform services only in their area of competence, and shall verify that the design of all stormwater management facilities and practices meets the submittal requirements for complete applications, that the designs and plans are sufficient to comply with applicable standards and policies found in the Design Manual, and that the designs and plans ensure compliance with this article.

The submittal shall include all of the information required in the submittal checklist established by the Stormwater Administrator. Incomplete submittals shall be treated pursuant to this article.

3. As-Built Plans and Final Approval
   Upon completion of a project, and before a certificate of occupancy shall be granted, the applicant shall certify that the completed project is in accordance with the approved stormwater management plans and designs and shall submit actual "as-built" plans for all stormwater management facilities or practices after final construction is completed.

   The plans shall show the final design specifications for all stormwater management facilities and practices and the field location, size, depth, and planted vegetation of all measures, controls, and devices, as installed. The designer of the stormwater management measures and plans shall certify, under seal, that the as-built stormwater measures, controls, and devices are in compliance with the approved stormwater management plans and designs and with the requirements of this article. A final inspection and approval by the Stormwater Administrator shall occur before the release of any performance securities.

4. Other Permits
   No certificate of compliance or occupancy shall be issued by the Person County Department of Inspections without final as-built plans and a final inspection and approval by the Stormwater Administrator, except where multiple units are served by the stormwater practice or facilities, in which case the Person County Building Inspections Department may elect to withhold a percentage of permits or certificates of occupancy until as-built plans are submitted and final inspection and approval has occurred.

Approvals

1. Effect of Approval
   Approval authorizes the applicant to go forward with only the specific plans and activities authorized in the permit. The approval shall not be construed to exempt the applicant from obtaining other applicable approvals from local, state, and federal authorities.

2. Time Limit/Expiration
   An approved plan shall become null and void if the applicant fails to make substantial progress on the site within one year after the date of approval. The Stormwater Administrator may grant a single, one-year extension of this time limit, for good cause shown, upon receiving a written request from the applicant before the expiration of the approved plan.

In granting an extension, the Stormwater Administrator may require compliance with standards adopted since the original application was submitted unless there has been substantial reliance on the original permit and the change in standards would infringe the applicant's vested rights.

Appeals

1. Right of Appeal
   Any aggrieved person affected by any decision, order, requirement, or determination relating to the interpretation or application of this article made by the Stormwater Administrator, may file an appeal to the Board of Adjustment within 30 days. Appeals of variance requests shall be made as provided in the section on Variances. In the case of requests for review of proposed civil penalties for violations of this article, the Board of Adjustment shall make a final decision on the request for review within 90 days of receipt of the date the request for review is filed.

3.2-12 Standards

General Standards

All development and redevelopment to which this article applies shall comply with the standards of this section. The approval of the stormwater permit shall require an enforceable restriction on property usage that runs with the land, such as a recorded deed restriction or protective covenants, to ensure that future development and redevelopment maintains the site consistent with the approved project plans.

1. Nitrogen and Phosphorus Loading

   a) Nitrogen and phosphorus loads contributed by the proposed new development shall not exceed the following unit-area mass loading rates: 2.2 and 0.33 pounds per acre per year for nitrogen and phosphorus, respectively.

   b) Notwithstanding 15A NCAC 2B.104 (q), redevelopment subject to this article that would replace or expand existing structures or improvements and would result in a net increase in built-upon area shall have the option of either meeting the loading standards identified in subsection (a) or meeting a loading rate that achieves the following nutrient loads compared to the existing development: 40 percent and 77 percent reduction for nitrogen and phosphorus, respectively.

   c) The developer shall determine the need for engineered stormwater controls to meet these loading rate targets by using the approved accounting tool.

2. Nitrogen and Phosphorus Standard is Supplemental
   The nitrogen and phosphorus loading standards in this article are supplemental to, not replacements for, stormwater standards otherwise required by federal, state or local law, including without limitation any riparian buffer requirements applicable to the location of the development. This includes, without limitation, the riparian buffer protection requirements of 15A NCAC 2B.0233 and .0242.

3. Control and Treatment of Runoff Volume
   Stormwater systems shall be designed to control and treat the runoff generated from all surfaces by one inch of rainfall. The treatment volume shall be drawn down pursuant to standards specific to each practice as provided in the Design Manual. To ensure that the integrity and nutrient processing functions of receiving waters and associated riparian buffers are not compromised by erosive flows, stormwater flows from the development shall not contribute to degradation of waters of the State. At a minimum, the development shall not result in a net increase in peak flow leaving the site from pre-development conditions for the one-year, 24-hour storm event.

4. Partial Offset of Nutrient Control Requirements
   Development subject to this article shall attain nitrogen and phosphorus loading rate reductions on-site that meet the following criteria prior to using an offsite offset measure:

   - 30 percent or more reduction in both nitrogen and phosphorus loading from the untreated conditions for any single-family, detached and duplex residential development disturbing one half acre but less than one acre.

   - 50 percent or more reduction in both nitrogen and phosphorus loading from the untreated conditions for any single-family, detached and duplex residential development disturbing more than one acre.

   - 30 percent or more reduction in both nitrogen and phosphorus loading from the untreated condition for other development, including multi-family residential, commercial and industrial development disturbing 12,000 square feet but less than one acre.

- 50 percent or more reduction in both nitrogen and phosphorus loading from the untreated condition for other development, including multi-family residential, commercial and industrial development disturbing more than one acre.

A developer subject to this article may achieve the additional reductions in nitrogen and phosphorus loading required by this article by making offset payments to the NC Ecosystem Enhancement Program contingent upon acceptance of payments by that Program. A developer may use an offset option provided by (the local government in which the development activity occurs). A developer may propose other offset measures to Person County, including providing his or her own offsite offset or utilizing a private seller. All offset measures permitted by this article shall meet the requirements of 15A NCAC 02B .0282 and 15A NCAC 02B .0240.

Evaluation of Standards for Stormwater Control Measures

1. Evaluation According to Contents of Design Manual
   All stormwater control measures, stormwater systems and stormwater treatment practices (also referred to as Best Management Practices, or BMPs) required under this article shall be evaluated by the Stormwater Administrator according to the policies, criteria, and information, including technical specifications and standards and the specific design criteria for each stormwater practice, in the Design Manual. The Stormwater Administrator shall determine whether proposed BMPs will be adequate to meet the requirements of this article.

2. Determination of Adequacy; Presumptions and Alternatives
   Stormwater treatment practices that are designed, constructed, and maintained in accordance with the criteria and specifications in the Design Manual and the approved accounting tool will be presumed to meet the minimum water quality and quantity performance standards of this article. Whenever an applicant proposes to utilize a practice or practices not designed and constructed in accordance with the criteria and specifications in the Design Manual, the applicant shall have the burden of demonstrating that the practice(s) will satisfy the minimum water quality and quantity performance standards of this article. The Stormwater Administrator may require the applicant to provide the documentation, calculations, and examples necessary for the Stormwater Administrator to determine whether such an affirmative showing is made.

Dedication of BMPS, Facilities & Improvements
Person County may accept dedication of any existing or future stormwater management facility for maintenance, provided such facility meets all the requirements of this article and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

Variances

1. Any person may petition Person County for a variance granting permission to use the person's land in a manner otherwise prohibited by this article. For all proposed major and minor variances from the requirements of this article, the local Board of Adjustment shall make findings of fact showing that:

   a) There are practical difficulties or unnecessary hardships that prevent compliance with the strict letter of the article;

   b) The variance is in harmony with the general purpose and intent of the local watershed protection article and preserves its spirit; and

   c) In granting the variance, the public safety and welfare have been assured and substantial justice has been done.

2. In the case of a request for a minor variance, Person County Board of Adjustment may vary or modify any of the regulations or provisions of the article so that the spirit of the article shall be observed, public safety and welfare secured, and substantial justice done may impose reasonable and appropriate conditions and safeguards upon any variance it grants.

3. The Person County Board of Adjustment may attach conditions to the *major* or *minor* variance approval that support the purpose of the local watershed protection article. If the variance request qualifies as a major variance, and the Person County Board of Adjustment decides in favor of granting the major variance, the Board shall then prepare a preliminary record of the hearing and submit it to the Commission for review and approval. If the Commission approves the major variance or approves with conditions or stipulations added, then the Commission shall prepare a Commission decision which authorizes Person County to issue a final decision which would include any conditions or stipulations added by the Commission. If the Commission denies the major variance, then the Commission shall prepare a decision to be sent to Person County. Person County shall prepare a final decision denying the major variance.

4. Appeals from the local government decision on a major or minor variance request are made on certiorari to the local Superior Court. Appeals from the Commission decision on a major variance request are made on judicial review to Superior Court.

5. On request of the Stormwater Administrator, any *person* who petitions Person County for a variance under this article shall provide notice to the affected local governments of the variance request as required under the Falls Rule, 15A NCAC 2B.0104(r). For purposes of this notice requirement, "affected local governments" means any local governments that withdraw water from Lake Falls or its tributaries downstream of the site of the proposed variance. If the proposed variance is in a Water Supply Watershed area classified as WS II, WS III or WS IV, "affected local governments" also includes any other local governments in the same water supply watershed as the proposed variance. The notice shall provide a reasonable period for comments and shall direct the comments to be sent to the Stormwater Administrator. The person petitioning for the variance shall supply proof of notification in accordance with this article to the Stormwater Administrator.

3.2-13 Maintenance

General Standards for Maintenance

1. Function of BMPs as Intended
   The owner of each engineered stormwater control installed pursuant to this article shall maintain and operate it so as to preserve and continue its function in controlling stormwater quality and quantity at the degree or amount of function for which the engineered stormwater control was designed.

2. Annual Maintenance Inspection and Report
   The person responsible for maintenance of any engineered stormwater control installed pursuant to this article shall submit to the Stormwater Administrator an inspection report from one of the following persons performing services only in their area of competence: a qualified registered North Carolina professional engineer, surveyor, landscape architect, soil scientist, aquatic biologist, or person certified by the North Carolina Cooperative Extension Service for stormwater treatment practice inspection and maintenance. The inspection report shall contain all of the following:

   a) The name and address of the land owner;

   b) The recorded book and page number of the lot of each engineered stormwater control;

   c) A statement that an inspection was made of all engineered stormwater controls;

d) The date the inspection was made;

e) A statement that all inspected engineered stormwater controls are performing properly and are in compliance with the terms and conditions of the approved maintenance agreement required by this article; and

f) The original signature and seal of the engineer, surveyor, or landscape architect.

All inspection reports shall be on forms supplied by the Stormwater Administrator. An original inspection report shall be provided to the Stormwater Administrator beginning one year from the date of as-built certification and each year thereafter on or before the date of the as-built certification.

3. Unmanned Public Utilities
The Stormwater Administrator may approve inspection requirements for unmanned public utilities that are less stringent than those set out in the Design Manual, provided an annual inspection is conducted at least once per calendar year and, after each 1-year, 24-hour storm. An alternate inspection frequency for unmanned public utilities may be approved to achieve the aims of the stormwater article and/or to protect health and safety. For the purposes hereof, "public utility" shall be defined as set out in Article 1, Chapter 62 of the North Carolina General Statutes. (Added July 2014)

Operation and Maintenance Agreement

1. In General
Prior to the conveyance or transfer of any lot or building site to be served by a engineered stormwater control pursuant to this article, and prior to issuance of any permit for *development* requiring a engineered stormwater control pursuant to this article, the applicant or owner of the site must execute an operation and maintenance agreement that shall be binding on all subsequent owners of the site, portions of the site, and lots or parcels served by the engineered stormwater control. Until the transference of all property, sites, or lots served by the engineered stormwater control, the original owner or applicant shall have primary responsibility for carrying out the provisions of the maintenance agreement.

The operation and maintenance agreement shall require the owner or owners to maintain, repair and, if necessary, reconstruct the engineered stormwater control, and shall state the terms, conditions, and schedule of maintenance for the engineered stormwater control. In addition, it shall grant to Person County a right of entry in the event that the Stormwater Administrator has reason to believe it has become necessary to inspect, monitor, maintain, repair, or reconstruct the engineered stormwater control; however, in no case shall the right of entry, of itself, confer an obligation on Person County to assume responsibility for the engineered stormwater control.

The operation and maintenance agreement must be approved by the Stormwater Administrator prior to plan approval, and it shall be referenced on the final plat and shall be recorded with the county Register of Deeds upon final plat approval. A copy of the recorded maintenance agreement shall be given to the Stormwater Administrator within fourteen (14) days following its recordation.

2. Special Requirement for Homeowners' and Other Associations
For all engineered stormwater controls required pursuant to this article and that are to be or are owned and maintained by a homeowners' association, property owners' association, or similar entity, the required operation and maintenance agreement shall include all of the following provisions:

a) Acknowledgment that the association shall continuously operate and maintain the stormwater control and management facilities.

b) Establishment of an escrow account, which can be spent solely for sediment removal, structural, biological or vegetative replacement, major repair, or reconstruction of the engineered stormwater controls. If engineered stormwater controls are not performing adequately or as intended or are not properly maintained, Person County, in its sole discretion, may remedy the situation, and in such instances Person County shall be fully reimbursed from the escrow account. Escrowed funds may be spent by the association for sediment removal, structural, biological or vegetative replacement, major repair, and reconstruction of the engineered stormwater controls, provided that Person County shall first consent to the expenditure.

c) Both developer contribution and annual sinking funds shall fund the escrow account. Prior to plat recordation or issuance of construction permits, whichever shall first occur, the developer shall pay into the escrow account an amount equal to fifteen (15) percent of the initial construction cost of the engineered stormwater controls. Two-thirds (2/3) of the total amount of sinking fund budget shall be deposited into the escrow account within the first five (5) years and the full amount shall be deposited within ten (10) years following initial construction of the engineered stormwater controls. Funds shall be deposited each year into the escrow account. A portion of the annual assessments of the association shall include an allocation into the escrow account. Any funds drawn down from the escrow account shall be replaced in accordance with the schedule of anticipated work used to create the sinking fund budget.

d) The percent of developer contribution and lengths of time to fund the escrow account may be varied by Person County depending on the design and materials of the stormwater control and management facility.

e) Granting to Person County a right of entry to inspect, monitor, maintain, repair, and reconstruct engineered stormwater controls.

f) Allowing Person County to recover from the association and its member's any and all costs Person County expends to maintain or repair the engineered stormwater controls or to correct any operational deficiencies. Failure to pay Person County all of its expended costs, after forty-five days written notice, shall constitute a breach of the agreement. In case of a deficiency, Person County shall thereafter be entitled to bring an action against the association and its members to pay or foreclose upon the lien hereby authorized by the agreement against the property, or both. Interest, collection costs, and attorney fees shall be added to the recovery.

g) A statement that this agreement shall not obligate Person County to maintain or repair any engineered stormwater controls, and Person County shall not be liable to any person for the condition or operation of engineered stormwater controls.

h) A statement that this agreement shall not in any way diminish, limit, or restrict the right of Person County to enforce any of its article as authorized by law.

i) A provision indemnifying and holding harmless Person County for any costs and injuries arising from or related to the engineered stormwater control, unless Person County has agreed in writing to assume the maintenance responsibility for the BMP and has accepted dedication of any and all rights necessary to carry out that maintenance.

Inspection Program

Inspections and inspection programs by Person County may be conducted or established on any reasonable basis, including but not limited to routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to, reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in BMPs; and evaluating the condition of BMPs.

If the owner or occupant of any property refuses to permit such inspection, the Stormwater Administrator shall proceed to obtain an administrative search warrant pursuant to G.S. 15-27.2 or its successor. No person shall obstruct, hamper or interfere with the Stormwater Administrator while carrying out his or her official duties.

Performance Security for Installation and Maintenance

1. May Be Required
   Person County may, at its discretion, require the submittal of a performance security or bond with surety, cash escrow, letter of credit or other acceptable legal arrangement prior to issuance of a permit in order to ensure that the engineered stormwater controls are:

   a) Installed by the permit holder as required by the approved stormwater management plan, and/or

   b) Maintained by the owner as required by the operation and maintenance agreement.

2. Amount

   a) Installation
      The amount of an installation performance security shall be the total estimated construction cost of the BMPs approved under the permit, plus 25%.

   b) Maintenance
      The amount of a maintenance performance security shall be the present value of an annuity of perpetual duration based on a reasonable estimate of the annual cost of inspection, operation and maintenance of the BMPs approved under the permit, at a discount rate that reflects the jurisdiction's cost of borrowing minus a reasonable estimate of long-term inflation.

3. Uses of Performance Security

   a) Forfeiture Provisions
      The performance security shall contain forfeiture provisions for failure, after proper notice, to complete work within the time specified, or to initiate or maintain any actions which may be required of the applicant or *owner* in accordance with this article, approvals issued pursuant to this article, or an operation and maintenance agreement established pursuant to this article.

   b) Default
      Upon default of the owner to construct, maintain, repair and, if necessary, reconstruct any engineered stormwater control in accordance with the applicable permit or operation and maintenance agreement, the Stormwater Administrator shall obtain and use all or any portion of the security to make necessary improvements based on an engineering estimate. Such expenditure of funds shall only be made after requesting the owner to comply with the permit or maintenance agreement. In the event of a default triggering the use of installation performance security, Person County shall not return any of the unused deposited cash funds or other security, which shall be retained for maintenance.

   c) Costs in Excess of Performance Security
      If Person County takes action upon such failure by the applicant or *owner*, Person County may collect from the applicant or *owner* the difference between the amount of the reasonable cost of such action and the amount of the security held, in addition to any other penalties or damages due.

d) Refund
Within sixty days of the final approval, the installation performance security shall be refunded to the applicant or terminated, except any amount attributable to the cost (plus 25%) of landscaping installation and ongoing maintenance associated with the BMPs covered by the security. Any such landscaping shall be inspected one (1) year after installation with replacement for compliance with the approved plans and specifications and, if in compliance, the portion of the financial security attributable to landscaping shall be released.

4. Notice to owners

a) Deed Recordation and Indications on Plat
The applicable operations and maintenance agreement, conservation easement, or dedication and acceptance into public maintenance (whichever is applicable) pertaining to every engineered stormwater control shall be referenced on the final plat and shall be recorded with the county Register of Deeds upon final plat approval. If no subdivision plat is recorded for the site, then the operations and maintenance agreement, conservation easement, or dedication and acceptance into public maintenance, whichever is applicable shall be recorded with the county Register of Deeds so as to appear in the chain of title of all subsequent purchasers under generally accepted searching principles.

b) Signage
Where appropriate in the determination of the Stormwater Administrator to assure compliance with this article, engineered stormwater controls shall be posted with a conspicuous sign stating who is responsible for required maintenance and annual inspection. The sign shall be maintained so as to remain visible and legible.

5. Records of Installation and Maintenance Activities
The owner of each engineered stormwater control shall keep records of inspections, maintenance, and repairs for at least five years from the date of creation of the record and shall submit the same upon reasonable request to the Stormwater Administrator.

6. Nuisance
The owner of each stormwater BMP, whether engineered stormwater control or non-engineered stormwater control, shall maintain it so as not to create or result in a nuisance condition.

7. Maintenance Easement
Every engineered stormwater control installed pursuant to this article shall be made accessible for adequate maintenance and repair by a maintenance easement. The easement shall be recorded and its terms shall specify who may make use of the easement and for what purposes.

3.2-14 Enforcement and Violations
General

1. Authority to Enforce
The provisions of this article shall be enforced by the Stormwater Administrator, his or her designee, or any authorized agent of Person County. Whenever this section refers to the Stormwater Administrator, it includes his or her designee as well as any authorized agent of Person County.

2. Violation Unlawful
Any failure to comply with an applicable requirement, prohibition, standard, or limitation imposed by this article, or the terms or conditions of any permit or other development approval or authorization granted pursuant to this article, is unlawful and shall constitute a violation of this article.

3. Each Day a Separate Offense
   Each day that a violation continues shall constitute a separate and distinct violation or offense.

4. Responsible Persons/Entities
   Any person who erects, constructs, reconstructs, alters (whether actively or passively), or fails to erect, construct, reconstruct, alter, repair or maintain any structure, BMP, engineered stormwater control, practice, or condition in violation of this article shall be subject to the remedies, penalties, and/or enforcement actions in accordance with this section. Persons subject to the remedies and penalties set forth herein may include any architect, engineer, builder, contractor, developer, agency, or any other person who participates in, assists, directs, creates, causes, or maintains a condition that results in or constitutes a violation of this ordinance, or fails to take appropriate action, so that a violation of this article results or persists; or an owner, any tenant or occupant, or any other person, who has control over, or responsibility for, the use or development of the property on which the violation occurs.

For the purposes of this article, responsible person(s) shall include but not be limited to:

1. Person Maintaining Condition Resulting In or Constituting Violation
   An architect, engineer, builder, contractor, developer, agency, or any other *person* who participates in, assists, directs, creates, causes, or maintains a condition that constitutes a violation of this article, or fails to take appropriate action, so that a violation of this article results or persists.

2. Responsibility for Land or Use of Land
   The owner of the land on which the violation occurs, any tenant or occupant of the property, any person who is responsible for stormwater controls or practices pursuant to a private agreement or public document, or any person, who has control over, or responsibility for, the use or development of the property.

3.2-15 Remedies and Penalties

The remedies and penalties provided for violations of this article, whether civil or criminal, shall be cumulative and in addition to any other remedy provided by law, and may be exercised in any order.

1. Remedies

   a) Withholding of Certificate of Occupancy
      The Stormwater Administrator or other authorized agent may refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the site and served by the stormwater practices in question until the applicant or other responsible *person* has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.

   b) Disapproval of Subsequent Permits and Development Approvals
      As long as a violation of this article continues and remains uncorrected, the Stormwater Administrator or other authorized agent may withhold, and the Planning Director may disapprove, any request for permit or development approval or authorization provided for by this article or the (zoning, subdivision, and/or building regulations, as appropriate) for the land on which the violation occurs.

   c) Injunction, Abatements, etc.
      The Stormwater Administrator, with the written authorization of the County Manager may institute an action in a court of competent jurisdiction for a mandatory or prohibitory injunction and order of abatement to correct a violation of this article. Any person violating this article shall be subject to the full range of equitable remedies provided in the General Statutes or at common law.

d) Correction as Public Health Nuisance, Costs as Lien, etc.
If the violation is deemed dangerous or prejudicial to the public health or public safety and is within the geographic limits prescribed by North Carolina G.S. §160A-193, the Stormwater Administrator, with the written authorization of the *County Manager* may cause the violation to be corrected and the costs to be assessed as a lien against the property.

e) Stop Work Order
The Stormwater Administrator may issue a stop work order to the *person*(s) violating this article. The stop work order shall remain in effect until the *person* has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein. The stop work order may be withdrawn or modified to enable the *person* to take the necessary remedial measures to cure such violation or violations.

2. Civil Penalties
The Stormwater Administrator may assess a civil penalty against any person who violates any provision of this article or of a permit or other requirement pursuant to this article. Civil penalties may be assessed up to the full amount of penalty authorized by G.S. 143-215.6A.

3. Criminal Penalties
Violation of this article may be enforced as a criminal matter under North Carolina law.

3.2-16 Procedures

1. Initiation/Complaint
Whenever a violation of this article occurs, or is alleged to have occurred, any *person* may file a written complaint. Such complaint shall state fully the alleged violation and the basis thereof, and shall be filed with the Stormwater Administrator, who shall record the complaint. The complaint shall be investigated promptly by the Stormwater Administrator.

2. Inspection
The Stormwater Administrator shall have the authority, upon presentation of proper credentials, to enter and inspect any land, building, structure, or premises to ensure compliance with this article.

3. Notice of Violation and Order to Correct
When the Stormwater Administrator finds that any building, structure, or land is in violation of this article, the Stormwater Administrator shall notify, in writing, the property *owner* or other *person* violating this article. The notification shall indicate the nature of the violation, contain the address or other description of the site upon which the violation is occurring, order the necessary action to abate the violation, and give a deadline for correcting the violation. If civil penalties are to be assessed, the notice of violation shall also contain a statement of the civil penalties to be assessed, the time of their accrual, and the time within which they must be paid or be subject to collection as a debt.

The Stormwater Administrator may deliver the notice of violation and correction order by any means authorized for the service of documents by Rule 4 of the North Carolina Rules of Civil Procedure. If a violation is not corrected within a reasonable period of time, as provided in the notification, the Stormwater Administrator may take appropriate action under this article to correct and abate the violation and to ensure compliance with this article.

4. Extension of Time
A person who receives a notice of violation and correction order, or the *owner* of the land on which the violation occurs, may submit to the Stormwater Administrator a written request for an extension of time for correction of the violation. On determining that the request includes enough information to show that the violation cannot be corrected within the specified time limit for reasons beyond the control of the *person* requesting the extension, the Stormwater Administrator may extend the time limit as is reasonably necessary to allow timely correction of the violation, up to, but not exceeding 60 days.

The Stormwater Administrator may grant a 30-day extension in addition to the foregoing extension if the violation cannot be corrected within the permitted time due to circumstances beyond the control of the *person* violating this article. The Stormwater Administrator may grant an extension only by written notice of extension. The notice of extension shall state the date prior to which correction must be made, after which the violator will be subject to the penalties described in the notice of violation and correction order.

5. Enforcement after Time to Correct
   After the time has expired to correct a violation, including any extension(s) if authorized by the Stormwater Administrator, the Stormwater Administrator shall determine if the violation is corrected. The Stormwater Administrator may act to impose one or more of the remedies and penalties authorized by this article whether or not the violation has been corrected.

6. Emergency Enforcement
   If delay in correcting a violation would seriously threaten the effective enforcement of this article or pose an immediate danger to the public health, safety, or welfare, then the Stormwater Administrator may order the immediate cessation of a violation. Any person so ordered shall cease any violation immediately. The Stormwater Administrator may seek immediate enforcement, without prior written notice, through any remedy or penalty authorized by this article.

3.2-17 Definitions

Terms Defined

When used in this article, the following words and terms shall have the meaning set forth in this section, unless other provisions of this article specifically indicate otherwise.

Approved Accounting Tool

The accounting tool for nutrient loading approved by the *EMC* for the relevant geography and development type under review.

Built Upon Area (BUA)

That portion of a development project that is covered by impervious or partially impervious surface including, but not limited to, buildings; pavement and gravel areas such as roads, parking lots, and paths; and recreation facilities such as tennis courts. "Built-upon area" does not include a wooden slatted deck, the water area of a swimming pool, or pervious or partially pervious paving material to the extent that the paving material absorbs water or allows water to infiltrate through the paving material. The project site or area must exclude any land adjacent to the area disturbed by the project that has been counted as pervious by any other development regulated under a federal, state or local stormwater regulation.

Commission

The North Carolina Environmental Management Commission, in the Department.

Department

The North Carolina Department of Environment and Natural Resources.

Design Manual

The stormwater design manual approved for use in this part of the Falls Watershed by the *Department* for the proper implementation of the requirements of the Falls Watershed stormwater program. All references herein to the *Design Manual* are to the latest published edition or revision.

Development

Any land-disturbing activity that increases the amount of built-upon area or that otherwise decreases the infiltration of precipitation into the soil.

Division
The Division of Water Quality in the Department.

Existing Development
Development not otherwise exempted by this article that meets one of the following criteria:

1. It either is built or has established a statutory or common-law vested right as of the effective date of this article; or

2. It occurs after the effective date of this article, but does not result in a net increase in built-upon area and does not decrease the infiltration of precipitation into the soil.

Engineered Stormwater Control
A physical device designed to trap, settle out, or filter pollutants from stormwater runoff; to alter or reduce stormwater runoff velocity, amount, timing, or other characteristics; to approximate the pre-development hydrology on a developed site; or to achieve any combination of these goals. Engineered stormwater control includes physical practices such as constructed wetlands, vegetative practices, filter strips, grassed swales, and other methods installed or created on real property. "Engineered stormwater control" is synonymous with "structural practice," "stormwater control facility," "stormwater control practice," "stormwater treatment practice," "stormwater management practice," "stormwater control measures," "structural stormwater treatment systems," and similar terms used in this article. It is a broad term that may include practices that do not require design by a professionally licensed engineer.

Land disturbing activity
Any use of the land that results in a change in the natural cover or topography that may cause or contribute to sedimentation.

Larger common plan of development or sale
Any area where multiple separate and distinct construction or land-disturbing activities will occur under one plan. A plan is any announcement or piece of documentation (including but not limited to a sign, public notice or hearing, sales pitch, advertisement, loan application, drawing, permit application, zoning request, or computer design) or physical demarcation (including but not limited to boundary signs, lot stakes, or surveyor markings) indicating that construction activities may occur on a specific plot.

Major variance
A variance from the minimum statewide watershed protection or Falls rules that results in the relaxation, by a factor greater than five percent of any buffer, density or built-upon area requirement under the high density option; any variation in the design, maintenance or operation requirements of a wet detention pond or other approved stormwater management system; or relaxation by a factor greater than 10 percent, of any management requirement under the low density option. For provisions in this article that are more stringent than the state's minimum water supply protection rules and Falls rules, a variance to this article is not considered a major variance as long as the result of the variance is not less stringent than the state's minimum requirements.

Minor variance
A variance from the minimum statewide watershed protection or Falls rules that results in a relaxation, by a factor of up to five percent of any buffer, density or built-upon area requirement under the high density option; or that results in a relaxation by a factor up to 10 percent, of any management requirement under the low density option.

1-year, 24-hour storm
The surface runoff resulting from a 24-hour rainfall of an intensity expected to be equaled or exceeded, on average, once in 12 months and with a duration of 24 hours.

Outfall
A point at which stormwater (1) enters surface water or (2) exits the property of a particular owner.

Owner
The legal or beneficial owner of land, including but not limited to a mortgagee or vendee in possession, receiver, executor, trustee, or long-term or commercial lessee, or any other person or entity holding proprietary rights in the property or having legal power of management and control of the property. "Owner" shall include long-term commercial tenants; management entities, such as those charged with or engaged in the management of properties for profit; and every person or entity having joint ownership of the property. A secured lender not in possession of the property does not constitute an owner, unless the secured lender is included within the meaning of "owner" under another description in this definition, such as a management entity.

Person
Includes, without limitation, individuals, firms, partnerships, associations, institutions, corporations, municipalities and other political subdivisions, and governmental agencies.

Redevelopment
Any development on previously-developed land. Redevelopment of structures or improvements that (i) existed prior to December 2006 and (ii) would not result in an increase in built-upon area and (iii) provides stormwater control at least equal to the previous development is not required to meet the nutrient loading targets of this article.

Stormwater system
All engineered stormwater controls owned or controlled by a person that drain to the same outfall, along with the conveyances between those controls. A system may be made up of one or more stormwater controls.

Substantial progress
For the purposes of determining whether sufficient progress has been made on an approved plan, one or more of the following construction activities toward the completion of a site or subdivision plan shall occur: obtaining a grading permit and conducting grading activity on a continuous basis and not discontinued for more than thirty (30) days; or installation and approval of on-site infrastructure; or obtaining a building permit for the construction and approval of a building foundation. "Substantial progress" for purposes of determining whether an approved plan is null and void is not necessarily the same as "substantial expenditures" used for determining vested rights pursuant to applicable law.

Section 3.3 – Flood Damage Prevention

Non-Coastal Regular Phase

3.3-1 Statutory Authority, Findings of Fact, Purpose and Objectives
Statutory Authorization.
County: The Legislature of the State of North Carolina has in North Carolina General Statutes 160D, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare.

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

Findings of fact.

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

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

Purpose
It is the purpose of this article 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.

Objectives
The objectives of this article are to:

1. Protect human life, safety, and health;

2. Minimize expenditure of public money for costly flood control projects;

3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

4. Minimize prolonged business losses and interruptions;

5. Minimize damage to public facilities and utilities (i.e. water and gas mains, electric, telephone, cable and sewer lines, streets, and bridges) that are located in flood prone areas;

6. Minimize damage to private and public property due to flooding;

7. Make flood insurance available to the community through the National Flood Insurance Program;

8. Maintain the natural and beneficial functions of floodplains;

9. Help maintain a stable tax base by providing for the sound use and development of flood prone areas; and

10. Ensure that potential buyers are aware that property is in a Special Flood Hazard Area.

3.3-2 Definitions.

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

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

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

Alteration of a watercourse
Means a dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

Appeal
Means a request for a review of the Floodplain Administrator's interpretation of any provision of this ordinance.

Area of Future-Conditions Flood Hazard
Means the land area that would be inundated by the 1-percent-annual-chance (100- year) flood based on future-conditions hydrology.

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

Area of Special Flood Hazard
See *Special Flood Hazard Area (SFHA)*

Basement
Means any area of the building having its floor subgrade (below ground level) on all sides.

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

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

Building
See *Structure*

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.

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

Design Flood
See *Regulatory Flood Protection Elevation.*

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

Development Activity
Means any activity defined as Development which will necessitate a Floodplain Development Permit. This includes buildings, structures, and non-structural items, including (but not limited to) fill, bulkheads, piers, pools, docks, landings, ramps, and erosion control/stabilization measures.

Digital Flood Insurance Rate Map (DFIRM)
Means the digital official map of a community, issued by the Federal Emergency Management Agency (FEMA), on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.

Disposal
Means, as defined in NCGS 130A-290(a)(6), the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

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

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

Existing building and existing structure
Means any building and/or structure for which the "start of construction" commenced before February 19, 1990, the initial effective date of the floodplain management regulations adopted by the community.

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 February 19, 1990, the initial effective date of the floodplain management regulations adopted by the community.

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

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. This term describes Federal, State or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

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

Flood-resistant material
means any building product [material, component or system] capable of withstanding direct and prolonged contact (minimum 72 hours) with floodwaters without sustaining damage that requires more than low-cost cosmetic repair. Any material that is water-soluble or is not resistant to alkali or acid in water, including normal adhesives for above-grade use, is not flood-resistant. Pressure-treated lumber or naturally decay-resistant lumbers are acceptable flooring materials. Sheet-type flooring coverings that restrict evaporation from below and materials that are impervious, but dimensionally unstable are not acceptable. Materials that absorb or retain water excessively after submergence are not flood-resistant. Please refer to Technical Bulletin 2, Flood Damage-Resistant Materials Requirements, and available from the FEMA. Class 4 and 5 materials, referenced therein, are acceptable flood-resistant materials.

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

Floodway encroachment analysis
means an engineering analysis of the impact that a proposed encroachment into a floodway or non-encroachment area is expected to have on the floodway boundaries and flood levels during the occurrence of the base flood discharge. The evaluation shall be prepared by a qualified North Carolina licensed engineer using standard engineering methods and models.

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 that the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge openings, and the hydrological effect of urbanization of 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, limited to a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

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

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

Historic Structure
Means any structure that is:

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".

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

1. Letter of Map Amendment (LOMA): An official amendment, by letter, to an effective National Flood Insurance Program map. A LOMA is based on technical data showing that a property had been inadvertently mapped as being in the floodplain, but is actually on natural high ground above the base flood elevation. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.

2. Letter of Map Revision (LOMR): A revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.

3. Letter of Map Revision Based on Fill (LOMR-F): A determination that a structure or parcel of land has been elevated by fill above the BFE and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.

4. Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.

Light Duty Truck
Means any motor vehicle rated at 8,500 pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less as defined in 40 CFR 86.082-2 and is:

1. Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or

2. Designed primarily for transportation of persons and has a capacity of more than 12 persons; or

3. Available with special features enabling off-street or off-highway operation and use.

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

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

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

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

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

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

New Construction
means structures for which the "start of construction" commenced on or after February 19, 1990, the effective date of the initial floodplain management regulations and includes any subsequent improvements to such structures.

Non-Conversion Agreement
Means a document stating that the owner will not convert or alter what has been constructed and approved. Violation of the agreement is considered a violation of the ordinance and, therefore, subject to the same enforcement procedures and penalties. The agreement must be filed with the recorded deed for the property. The agreement must show the clerk's or recorder's stamps and/or notations that the filing has been completed.

Non-Encroachment Area
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 September 14, 1990, the effective date of the initial Flood Insurance Rate Map.

Pre-FIRM
Means construction or other development for which the "start of construction" occurred before September 14, 1990, the effective date of the initial Flood Insurance Rate Map.

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

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

Recreational Vehicle (RV)
Means a vehicle, which is:
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.

5. Is fully licensed and ready for highway use.

Reference Level
Is the top of the lowest floor for structures within Special Flood Hazard Areas designated as Zones A, AE, AH, AO and A99.

Regulatory Flood Protection Elevation
Means the "Base Flood Elevation" plus the "Freeboard". In "Special Flood Hazard Areas" where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE plus two (2) feet 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 any facility involved in the disposal of solid waste, as defined in NCGS 130A-290(a) (35).

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

Special Flood Hazard Area (SFHA)
Means the land in the floodplain subject to a one percent (1%) or greater chance of being flooded in any given year, as determined in 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 damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

Substantial Improvement
Means any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one-year period for which the cost equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

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.

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

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

Variance
Is a grant of relief from the requirements of this ordinance.

Violation
Means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this ordinance 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 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.

3.3-3 General Provisions
Lands to which this article applies.
This article shall apply to all Special Flood Hazard Areas within the jurisdiction of Person County.

Basis for establishing the special flood hazard areas.
The Special Flood Hazard Areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its FIS dated December 6, 2019, shown on FIS for Person County and associated DFIRM panels, including any digital data developed as part of the FIS, which are adopted by reference and declared a part of this article, and all revisions thereto after January 1, 2021. Future revisions to the FIS and DFIRM panels that do not change flood hazard data within the jurisdictional authority of Person County are also adopted by reference and declared a part of this article. Subsequent Letter of Map Revisions (LOMRs) and/or Physical Map Revisions (PMRs) shall be adopted within 3 months.

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

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 article and other applicable regulations.

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.

Interpretation.
In the interpretation and application of this article, 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.

Warning and disclaimer of liability.
The degree of flood protection required by this article 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 article 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 article shall not create liability on the part of Person County or by any officer or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made hereunder.

Penalties for violation.
Violation of the provisions of this article or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a Class 1 misdemeanor pursuant to NC G.S. § 143-215.58. Any person who violates this article or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than $100.00 or imprisoned for not more than thirty (30) days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent Person County from taking such other lawful action as is necessary to prevent or remedy any violation.

3.3-4 Administration.
Designation of floodplain administrator.
The Zoning Administrator, hereinafter referred to as the "Floodplain Administrator", is hereby appointed to administer and implement the provisions of this article. In instances where the Floodplain Administrator receives assistance from others to complete tasks to administer and implement this article, the Floodplain Administrator shall be responsible for the coordination and community's overall compliance with the National Flood Insurance Program and the provisions of this article.

Floodplain development application, permit and certification requirements.

1. Application Requirements. Application for a Floodplain Development Permit shall be made to the Floodplain Administrator prior to any development activities located within Special Flood Hazard Areas. The following items shall be presented to the Floodplain Administrator to apply for a floodplain development permit:

    a) A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:

i. the nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;

ii. the boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in this article, 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 this article

iv. the boundary of the floodway(s) or non-encroachment area(s) as determined in this article

v. the Base Flood Elevation (BFE) where provided as set forth in this article

vi. the old and new location of any watercourse that will be altered or relocated as a result of proposed development;

vii. the certification of the plot plan by a registered land surveyor or professional engineer.

b) Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to:

i. Elevation in relation to NAVD 1988 of the proposed reference level (including basement) of all structures;

ii. Elevation in relation to NAVD 1988 to which any non-residential structure in Zone AE, A, AH, A99 or AO will be flood-proofed; and

iii. Elevation in relation to NAVD 1988 to which any proposed utility systems will be elevated or floodproofed.

c) If floodproofing, a Floodproofing Certificate (FEMA Form 81-65) with supporting data and an operational plan that includes, but is not limited to, installation, exercise, and maintenance of floodproofing measures.

d) A Foundation Plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this article 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 automatic equalization of hydrostatic flood forces on walls in accordance with this article when solid foundation perimeter walls are used in Zones A, AE, AH, AO and A99;

e) Usage details of any enclosed areas below the lowest floor.

f) Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage;

g) Certification that all other Local, State and Federal permits required prior to floodplain development permit issuance have been received.

h) Documentation for placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure that the provisions of this article 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 complete description of the development to be permitted under the floodplain development permit (e.g. house, garage, pool, septic, bulkhead, cabana, pier, bridge, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials, etc.).

b) The Special Flood Hazard Area determination for the proposed development in accordance with available data specified in this article.

c) The regulatory flood protection elevation required for the reference level and all attendant utilities.

d) The regulatory flood protection elevation required for the protection of all public utilities.

e) All certification submittal requirements with timelines.

f) A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse unless the requirements of this article have been met.

g) The flood openings requirements, if in Zones A, AO, AE, AH or A99.

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. 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

i. If non-residential floodproofing is used to meet the regulatory flood protection elevation requirements, a Floodproofing Certificate (FEMA Form 81-65), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to mean sea level. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit. Failure to

c) Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;

d) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and

e) Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the NC Building Code and this article is required.

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 article have been satisfied.

2. Review all proposed development within Special Flood Hazard Areas to assure that all necessary Local, State and Federal permits have been received.

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 maintained.

5. Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of this article 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 and substantially improved structures, in accordance with this article

7. Obtain actual elevation (in relation to mean sea level) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with the provisions of this article

8. Obtain actual elevation (in relation to mean sea level) of all public utilities in accordance with the provisions of this article

9. When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the provisions of this article

10. Where interpretation is needed as to the exact location of boundaries of the Special Flood Hazard Areas, floodways, or non-encroachment areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.

11. When Base Flood Elevation (BFE) data has not been provided in accordance with this article, 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 this article in order to administer the provisions of this article.

12. When Base Flood Elevation (BFE) data is provided but no floodway or non-encroachment area data has been provided in accordance with this article obtain, review, and reasonably utilize any floodway data or non-encroachment area data available from a Federal, State, or other source in order to administer the provisions of this article.

13. When the lowest floor and the lowest adjacent grade of a structure or the lowest ground elevation of a parcel 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 article and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.

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 article 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 article, the Floodplain Administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing or in charge of the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.

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, and specifications; for refusal or failure to comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable State or local law may also be revoked.

18. Make periodic inspections throughout the special flood hazard areas within the jurisdiction of the community. The Floodplain Administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.

19. Follow through with corrective procedures of this article.

20. Review, provide input, and make recommendations for variance requests.

21. Maintain a current map repository to include, but not limited to, the FIS Report, FIRM and other official flood maps and studies adopted in accordance with this article, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify State and FEMA of mapping needs.

22. Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-F) and Letters of Map Revision (LOMR).

Corrective Procedures

1. Violations to be Corrected: When the Floodplain Administrator finds violations of applicable State and local laws, it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.

2. Actions in Event of Failure to Take Corrective Action: If the owner of a building or property shall fail to take prompt corrective action, the Floodplain Administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:

    a) That the building or property is in violation of the floodplain management regulations;

    b) That a hearing will be held before the floodplain administrator at a designated place and time, not later than ten (10) days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and

    c) That following the hearing, the Floodplain Administrator may issue an order to alter, vacate, or demolish the building; or to remove fill as applicable.

3. Order to Take Corrective Action: If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator shall find that the building or development is in violation of the Flood Damage Prevention article, 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 180 calendar days. Where the Floodplain Administrator finds that there is imminent danger to life or other property, they may order that corrective action be taken in such lesser period as may be feasible.

4. Appeal: Any owner who has received an order to take corrective action may appeal the order to the local elected governing body by giving notice of appeal in writing to the Floodplain Administrator and the clerk within ten (10) days following issuance of the final order. In the absence of an appeal, the order of the Floodplain Administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.

5. Failure to Comply with Order: If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a Class I misdemeanor pursuant to NC G.S. § 143-215.58 and shall be punished at the discretion of the court.

Variance Procedures

1. The Board of Adjustment as established by Person County, hereinafter referred to as the "appeal board", shall hear and decide requests for variances from the requirements of this article.

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 this article, provided provisions of this article have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

   c) Any other type of development, provided it meets the requirements of this Section.

4. In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this article, 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 article 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 article, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this article.

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 article.

    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 article.

10. No 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.

33-5 Provisions for Flood Hazard Reduction

General Standards

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

1. All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.

2. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage in accordance with the FEMA Technical Bulletin 2, Flood Damage-Resistant Materials Requirements.

3. All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.

4. All new electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall be located at or above the RFPE or designed and installed to prevent water from entering or accumulating within the components during the occurrence of the base flood. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, water heaters, and electric outlets/switches.

    a) Replacements part of a substantial improvement, electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall also meet the above provisions.

    b) Replacements that are for maintenance and not part of a substantial improvement, may be installed at the original location provided the addition and/or improvements only comply with the standards for new construction consistent with the code and requirements for the original structure.

5. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

6. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into flood waters.

7. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

8. Nothing in this article shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this article 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 article.

9. 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 this article A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated or floodproofed to at least the regulatory flood protection elevation and certified in accordance with the provisions of this article

10. All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.

11. All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

12. All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.

13. All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

14. When a structure is partially located in a special flood hazard area, the entire structure shall meet the requirements for new construction and substantial improvements.

15. When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest base flood elevation shall apply.

Specific Standards
In all Special Flood Hazard Areas where Base Flood Elevation (BFE) data has been provided, as set forth in this article, 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 this article.

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 article. Structures located in A, AE, AH, AO, and A99 Zones may be floodproofed to the regulatory flood protection elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the regulatory flood protection elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. For AO Zones, the floodproofing elevation shall be in accordance with this article. 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 this article, along with the operational and maintenance plans.

3. Manufactured Homes.

    a) New and replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the regulatory flood protection elevation, as defined in this article.

    b) Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by certified engineered foundation system, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance pursuant to NCGS 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis thirty-six (36) inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above thirty-six (36) inches in height, an engineering certification is required.

    c) All enclosures or skirting below the lowest floor shall meet the requirements this article

    d) An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the Floodplain Administrator and the local Emergency Management coordinator.

4. Elevated Buildings. Fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor:

a) Shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas;

b) Shall not be temperature-controlled or conditioned;

c) Shall be constructed entirely of flood resistant materials at least to the regulatory flood protection elevation;

d) Shall include, in Zones A, AO, AE, AH and A99, flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria:

i. A minimum of two flood openings on different sides of each enclosed area subject to flooding;

ii. The total net area of all flood openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding;

iii. If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;

iv. The bottom of all required flood openings shall be no higher than one (1) foot above the 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 the existing structure and the addition and/or improvements must comply with the standards for new construction.

b) Additions to post-FIRM structures with no modifications to the existing structure other than a standard door in the common wall shall require only the addition to comply with the standards for new construction.

c) Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

i. Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction.

ii. A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

d) Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a one (1) year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started must comply with the standards for new construction. For each building or structure, the one (1) year period begins on the date of the first improvement or repair of that building or structure subsequent to the effective date of this article. Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The requirement does not, however, include either:

i. Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assume safe living conditions.

ii. Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

6. Recreational Vehicles. Recreational vehicles shall either:

a) Temporary Placement

i. Be on site for fewer than 180 consecutive days; or

ii. Be fully licensed and ready for highway use. (A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions.)

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

7. Temporary Non-Residential Structures. Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the Floodplain Administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning notification. The following information shall be submitted in writing to the Floodplain Administrator for review and written approval:

a) A specified time period for which the temporary use will be permitted. Time specified may not exceed three (3) months, renewable up to one (1) year;

b) The name, address, and phone number of the individual responsible for the removal of the temporary structure;

c) The time frame prior to the event at which a structure will be removed (i.e., minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);

d) A copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and

e) Designation, accompanied by documentation, of a location outside the Special Flood Hazard Area, to which the temporary structure will be moved.

8. Accessory Structures. When accessory structures (sheds, detached garages, etc.) are to be placed within a Special Flood Hazard Area, the following criteria shall be met:

a) Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);

b) Accessory structures shall not be temperature-controlled;

c) Accessory structures shall be designed to have low flood damage potential;

d) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;

e) Accessory structures shall be firmly anchored in accordance with the provisions of this article

f) All service facilities such as electrical shall be installed in accordance with the provisions of this article and

g) Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below regulatory flood protection elevation in conformance with the provisions of this article

i. An accessory structure with a footprint less than 150 square feet that satisfies the criteria outlined above does not require an elevation or floodproofing certificate. Elevation or floodproofing certifications are required for all other accessory structures in accordance with this article

9. Tanks. When gas and liquid storage tanks are to be placed within a Special Flood Hazard Area, the following criteria shall be met:

a) Underground tanks. Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty;

b) Above-ground tanks, elevated. Above-ground tanks in flood hazard areas shall be elevated to or above the Regulatory Flood Protection Elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area;

c) Above-ground tanks, not elevated. Above-ground tanks that do not meet the elevation requirements of this article shall be permitted in flood hazard areas provided the tanks are designed, constructed, installed, and anchored to resist all flood-related and other loads, including the effects of buoyancy, during conditions of the design flood and without release of contents in the floodwaters or infiltration by floodwaters into the tanks. Tanks shall be designed, constructed, installed, and anchored to resist the potential buoyant and other flood forces acting on an empty tank during design flood conditions.

d) Tank inlets and vents. Tank inlets, fill openings, outlets and vents shall be:

i. At or above the Regulatory Flood Protection Elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and

ii. Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

10. Other Development.

a) Fences in regulated floodways and NEAs that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of this article.

b) Retaining walls, sidewalks and driveways in regulated floodways and NEAs. Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of this article.

c) Roads and watercourse crossings in regulated floodways and NEAs. Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of this article.

Standards For Floodplains Without Established Base Flood Elevations.
Within the Special Flood Hazard Areas designated as Approximate Zone A and established in this article, where no Base Flood Elevation (BFE) data has been provided by FEMA, the following provisions, in addition to the provisions of this article, shall apply:

1. No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of twenty (20) feet each side from top of bank or five times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

2. The BFE used in determining the regulatory flood protection elevation shall be determined based on the following criteria:

a) When 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 article and shall be elevated or floodproofed in accordance with standards in this article.

b) When floodway or non-encroachment data is available from a Federal, State, or other source, all new construction and substantial improvements within floodway and non-encroachment areas shall also comply with the requirements of this article.

c) 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 in accordance with this article and utilized in implementing this article.

d) 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 or floodproofed (nonresidential) to or above the Regulatory Flood Protection Elevation, as defined in this article.

Standards for riverine floodplains with BFE but without established floodways or non-encroachment areas.
Along rivers and streams where BFE data is provided by FEMA or is available from another source but neither floodway nor non-encroachment areas are identified for a Special Flood Hazard Area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:

1. Standards of this article; and

2. Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community.

Floodways and non-encroachment areas
Areas designated as floodways or non-encroachment areas are located within the Special Flood Hazard Areas established in this article. 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 this article, shall apply to all development within such areas:

1. No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless:

   a) It is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood, 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 this article is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this article.

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 this article and

   b) The no encroachment standard of this article

Standards for areas of Shallow Flooding (Zone Ao).
Located within the Special Flood Hazard Areas established in this article, 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 this article, 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 2 feet, above the highest adjacent grade; or at least 2 feet above the highest adjacent grade if no depth number is specified.

2. Non-residential structures may, in lieu of elevation, be floodproofed to the same level as required in this article 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 in accordance with this article

3. Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

Standards for areas of Shallow Flooding (Zone Ah).
Located within the Special Flood Hazard Areas established in this article, are areas designated as shallow flooding areas. These areas are subject to inundation by 1-percent-annual-chance shallow flooding (usually areas of ponding) where average depths are one (1) to three (3) feet. Base Flood Elevations are derived from detailed hydraulic analyses are shown in this zone. In addition to this article, all new construction and substantial improvements shall meet the following requirements:

1. Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

3.3-6 Legal Status Provisions.
Effect on rights and liabilities under the Existing Flood Damage Prevention article.
This article in part comes forward by re-enactment of some of the provisions of the flood damage prevention article enacted February 19, 1990 as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this article shall not affect any action, suit or proceeding instituted or pending. All provisions of the flood damage prevention article of Person County enacted on February 19, 1990, as amended, which are not reenacted herein are repealed.

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 article; 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 article.

Severability
If any section, clause, sentence, or phrase of the article is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this article.

Effective Date
This article shall become effective upon adoption.

Adoption Certification
I hereby certify that this is a true and correct copy of the Flood Damage Prevention article as adopted by the Board of County Commissioners of Person County, North Carolina. This article shall become effective upon adoption and supersedes any previous versions of the article.

Adopted, this, the 6th day of January 2020.

Article IV - Bona Fide Farms

The provisions of this article shall apply to all land as shown on the Official Planning Map(s) of Person County, North Carolina. This article shall in no way regulate, restrict, or prohibit any bona fide farm and its related uses, but any use of such property for non-farm purposes shall be subject to such regulations.

On-site marketing of farm products produced on the premises shall be exempt from the provisions of this article where compliance with Table of Permitted Uses, Note One is assured.

Article V - Establishment of Districts

Section 5.1 – Interpretation of District Boundaries

1. The locations and boundaries of each of the planning districts shall be shown on the map accompanying this article and made a part hereof, entitled, "Official Planning Map, Person County, North Carolina," and adopted by the Board of County Commissioners. The Planning Map and all the notations, references and amendments thereto, and other information shown are hereby made a part of this article nance. The Planning Map shall be kept on file in the office of Planning and Zoning and shall be available for inspection by the public.

2. Where uncertainty exists with respect to the location of certain boundaries of districts as shown on the Official Planning Map, the following rules shall apply:

    a) Boundaries indicated as approximately following the centerline of streets, highways, alleys, streams, rivers, lakes, or other bodies of water shall be construed to follow such centerlines.

    b) Boundaries indicated as approximately following platted lot lines shall be construed to follow such lot lines.

    c) Distances not specifically indicated on the Official Planning Map shall be determined by the scale of the map.

    d) Where physical and cultural features existing on the ground are at variance with those shown on the Official Planning Map, or in other circumstances not covered by subsections 50-2(a) through 50-2 (c) above, the Board of Adjustment shall interpret the district boundaries.

    e) Where a district boundary line divides a lot which was in single ownership at the time of passage of this article, the Board of Adjustment may permit the extension of the regulations for either portion of the lot not to exceed two hundred and fifty (250) feet beyond the district line into the remaining portion of the lot.

Article VI – Application of District Regulations

(Amended 11/17/2003; 08/2/2010; 5/3/21)

Section 6.1 – General Regulations

1. Except as hereinafter provided, the regulations set by this article within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land.

2. Notwithstanding nonconforming uses as herein defined, no building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof, shall hereafter be erected, constructed, reconstructed, moved or structurally altered except in conformity with all the regulations as specified herein for the district in which it is located.

3. No part of a yard or other open space required about or in connection with any building for the purpose of complying with this article shall be included as a part of a yard or other open space similarly required for any other building or use.

4. No yard setbacks or lot existing at the time of passage of this article shall be reduced in dimension or area below the minimum requirements set forth herein.

5. Unless otherwise specified in this article, accessory buildings may be allowed within five (5) feet of rear and side yard lot lines (Amended 6/3/2013)

6. *(Deleted 6/3/2013)*

7. Accessory structures may be placed in the front yard, if at least 25ft from the front property line. For lots located on NC and US highways, accessory structures may be placed in the front yard, if at least 40ft from the front property line. (Added 6/3/2013)

8. Accessory buildings shall be allowed on a lot upon which a primary dwelling, multifamily dwelling, business use or industrial use exists. (Added 6/3/2013) Accessory buildings shall also be allowed on lots adjacent to and under common ownership to the parcel where the principal structure is located or within 1,000 feet of the aforementioned parcel (as measured from property line to property line) to the extent that the principal use itself would be allowed. (Amended 11/16/20)

9. 1 and 2 shall not apply to any barns, hay sheds, or similar structures existing prior to the adoption of this amendment; however, this article shall apply to any new construction of these structures. (Added 6/3/2013)

10. Campers and Recreational Vehicles shall not be used for dwelling purposes on individual lots but can be stored provided they are registered to the owner of the lot and there is an existing dwelling. There shall only be one camper/recreational vehicle stored per lot. A Special Use Permit will be required for storage of more than one camper/recreational vehicle and property owner, and camper/recreational vehicle owner must be the same. (Added 8/2/2010; amended 5/3/21)

11. Use of one camper/recreational vehicle shall be permitted as an accessory dwelling on an improved lot or on an unimproved lot or tract for a period not to exceed two continuous weeks. A four-week interval shall be required between each allowed use. A tract of land owned by a single owner may not be subdivided into multiple lots for the purpose of evading this section. (Added 8/2/2010)

12. Nothing in this article shall be construed to interfere with the operation of any valid covenant or condition which runs with the land or shall be construed to allow noncompliance with any building or environmental law, rule or article. (Added 8/2/2010).

Section 6.2 – Residential Density Options

(Amended 11/18/2025)

1. In the R and RC district, any lot may contain a second dwelling unit in the form of an attached duplex, garage apartment, or other accessory dwelling provided adequate water and wastewater systems are available for the total number of bedrooms proposed.

2. In the RC district, any lot may contain multiple dwelling units when all of the following conditions exist:

    a) The density of the parcel remains at or below the density of 1 dwelling per acre.

    b) Adequate well and septic sites exist for the total number of bedrooms proposed in all dwellings, as evidenced by approval from Environmental Health.

    c) Each dwelling has legal access to a public or improved private road either through direct frontage on the right of way or across a platted access easement.

    d) A scaled drawing is presented documenting the layout of a division of the tract to place each dwelling on a separate lot in a manner complaint with the Subdivision Regulations in place at the time of permit application for the second or subsequent dwelling. The division does not need to be recorded or prepared by a formal survey.

    e) For the purposes of this section, the following dwelling types are authorized to be collocated on a single lot in any combination if otherwise compliant with this section:

        i. Single family dwelling

        ii. Garage apartments and other accessory dwelling units or tiny homes built to the residential building code.

        iii. Manufactured Home, Class A, (provided the total number of all manufactured homes on the parcel does not meet the definition of a mobile home park)

        iv. Manufactured Home Class B (provided the total number of all manufactured homes on the parcel does not meet the definition of a mobile home park)

Article VII – District Regulations

Description Of General Use and Conditional Districts
(Amended 8-17-92, 11/16/20; 5/3/21)

Words used in 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.

The word person includes a firm, joint venture, association, organization, partnership, corporation, trust and company, as well as an individual.

The word lot includes the word "plot" or "parcel".

The word "building" includes the word "structure".

The word "shall" is always mandatory and not merely directory.

The words "uses" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged, or designed to be used or occupied."

The words "Planning Map" or "Official Person County Planning Map" shall mean the planning map of Person County, North Carolina.

The following general use zoning districts are hereby established:

1. R Residential District: The purpose of this district is to provide for single family residential uses and compatible development.

2. B-2 Neighborhood Shopping: The purpose of this district shall be to provide for small clusters of retail service and other commercial development which would be compatible with nearby residential areas.

3. B-1 Highway Commercial Business District: The purpose of this district shall be to provide for commercial and light industrial development which operates in a relative quiet, clean and non-noxious manner.

4. GI General Industrial District: The purpose of this district shall be to provide suitable locations for wholesale, distribution, warehousing, fabrication and processing of both light and heavy industrial production natures. (Amended 11/16/20)

5. AP Airport District: The purpose of this district shall be to provide an overlay district which establishes land use regulations for areas adjacent to the Person County Executive Airport. Specific requirements for the Airport District are set forth in this article.

6. RC Rural Conservation District: The purpose of this district shall be to provide for only limited land use controls in areas with limited nonagricultural development.

The following Conditional Districts are hereby established.

1. A Conditional District, bearing the designation CD, is hereby established as a companion district for every district established in Section 70-1 (a-f). These districts are CD-R, CD-B-2, CD-B-1, CD-GI, CD-AP, and CD-R-C. All regulations which apply to a general use zoning district also apply to the companion special use district. All other regulations which may be offered by the property owner and approved by Person County as part of the rezoning process, shall also apply.

Section 7.1 – Definitions

(Amended 09/09/2019, 11/16/20; 5/3/21, 8/4/25, 11/3/25, 11/18/25)

Accessory Building
An accessory building, structure or use is a building or structure or use on the same lot or site with, or of a nature customarily incidental or subordinate to, and of a character related to the principal use or structure except as specifically provided elsewhere in the Ordinance. Accessory buildings are, but not limited to: sheds, garages, lean-to, storage building, carports, pool, but not to include well houses (not to exceed 6' x 6'), and gazebo or pool house if attached to footprint of pool. (Amended 6/3/2013, 11/16/20)

Accessory Use
A subordinate use clearly incidental to the principal use of a zoning lot. (Def. Addition 1/11/96)

Administrative Decision
Decisions made in the implementation, administration, or enforcement of development regulations that involve the determination of facts and the application of objective standards set forth in local government development regulations. These are sometimes referred to as ministerial decisions or administrative determinations. (Added 5/3/21)

Agriculture or Farm Use
The science or art of cultivating the soil and its fruits, especially in large areas or fields, and the rearing, feeding, and management of livestock thereon, including every process and step necessary and incidental to the completion of products there from for consumption or market and the incidental turning of them to account. This includes tenant housing built for farm workers, but not to the construction of houses built for family members or others who do not make their living from the farm; and to the storage, processing, and sale of agricultural products raised on the premises.

Airport Elevation
609.4 feet above mean sea level.

Approach Surface
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 IV of this Ordinance. In plan the perimeter of the approach surface coincides with the perimeter of the approach zone.

Automobile Graveyard
Any commercial establishment tract of land which is maintained, used, or operated for storing, salvaging, keeping, buying and selling two or more wrecked, scrapped, ruined, dismantled or inoperable motor vehicles and which are not being restored to operation, regardless of the length of time which individual motor vehicles are stored or kept at said establishment. The phrase automobile graveyard" as used herein shall be interpreted to include all service stations and repair shops which have on their premises four or more wrecked scrapped, ruined, dismantled or inoperable motor vehicles which are not being restored to operation. Any accumulation of materials meeting this definition but without any commercial activity OR on property zoned Residential or Rural Conservation shall be a violation of this ordinance and Person County may pursue enforcement and abatement of the nuisance. (Added 11/18/25)

Automobile Repair Shop
An establishment which is maintained and operated for the primary purpose of making mechanical and/ or body repairs to motor vehicles (Added 11/18/25)

Automobile Service Station
An establishment which is maintained and operated for the primary purpose of making retail sales of fuels, lubricants, air, water, and other items for the operation and routine maintenance of motor vehicles and/ or for making mechanical repairs, servicing and/ or washing of motor vehicles. (Added 11/18/25)

Best Management Practice (BMP's)
A structural or nonstructural management-based practice used singularly or in combination to reduce nonpoint source inputs to receiving waters in order to achieve water quality protection goals.

Billboard
An off-premise advertising sign designed for the display of information and/or advertising. (Def. Added 3/17/97)

Board of Adjustment
A body appointed by the County Commissioners to perform the duties described in Section 144. (Amended 8/4/25)

Brewery
A legal establishment for the production and packaging of malt beverages for distribution, retail, wholesale, on or off-premise.

Buffer
Natural or vegetated area through which stormwater run-off flows in a diffuse manner so that the run-off does not become channelized and provided for infiltration of run-off and filtering of pollutants. The buffer is measured landward from the normal pool evaluation of impounded structures and from the bank of each side of perennial streams or rivers. The area shall be included in the calculation of minimum lot size required by this ordinance.

Building
Any structure used or intended for supporting or sheltering any use or occupancy (Amended 5/3/2021)

Building Line
A line running parallel (as determined by the actual location of the building on the lot), with the front, side or rear of a building. (Amended 2-1-93)

Built Upon Area
That portion of a development project that is covered by impervious or partially impervious cover including buildings, pavement, gravel areas (e.g. roads, parking lots, and paths), recreation facilities (e.g. tennis courts), etc. (Note: Wooden slatted decks and the water area of a swimming pool are considered pervious). (Amended 11/3/97)

Camper/Recreational Vehicle
A vehicular type unit designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. The basic entities are travel trailer, camping trailer, and truck camper and motor home. (Def. added 8/2/2010)

Camper/Recreational Vehicle Park
Any site or tract of land upon which two or more recreational vehicles or tent spaces are provided for occupancy according to the requirements set forth in this ordinance. (Def. added 8/2/2010)

Certificate of Occupancy
A statement signed by the Zoning Enforcement Officer setting forth that the building, structure, or use complies with the Planning Ordinance and any applicable construction codes, and that the same may be used for the purposes stated herein.

Commercial Modular Building
A manufactured building designed to be used as a multi-family dwelling unit (3 or more families) or as a commercial structure which has been constructed in and labeled indicating compliance with the North Carolina State Building Code. (Def. Added 5/5/97)

Conditional Zoning
A legislative zoning map amendment with site-specific conditions incorporated into the zoning map amendment. (Added: 5/3/21)

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

Construction Site Identification Sign
A sign which identifies architects, engineers, contractors, and other individual s or firms involved with construction on the premises, the name of the building or development and/or the expected completion date. (Def. Added 3/17/97)

Contractor or Construction Trade
One who accomplishes works or provides facilities under contract with another and specifically engages in a specialized construction trade or related field. This use includes but is not limited to: general construction contractors, plumbing, HVAC, electrical, sheet metal, roofing, glass, locksmith, carpet cleaning, exterminating, and other construction base of operations. This use does not include retail sales related to these trades unless such sales are clearly accessory to the primary use. (Added 11/18/25)

County Governmental Facility
A County owned building or land use for a public purpose or activity that protects the public health, safety or general welfare. (Ref. Added 2/3/97)

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 1/2 mile from the normal pool elevation of the reservoir in which the intake is located or to the ridgeline of the watershed whichever comes first; or 1/2 mile upstream and draining to the intake located in the stream or river (run-of-the-river), or to the ridgeline of the watershed (whichever comes first).

Data Center
A facility that provides a large group of networked computer servers for remote data storage, processing, and distribution of electronic data, conducting research, or developing prototypes for future use. (Added 11/18/25)

Determination
A written, final, and binding order, requirement, or determination regarding an administrative decision. (Added: 5/3/21)

Developer
A person, including a governmental agency or redevelopment authority, who undertakes any development and who is the landowner of the property to be developed or who has been authorized by the landowner to undertake development on that property. (Added 5/3/21)

Development
The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure. This includes 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 perception into the soil. (Rev. 5/3/21)

Development Approval
An administrative or quasi-judicial approval made pursuant to this Ordinance that is written and that is required prior to commencing development or undertaking a specific activity, project, or development proposal. Development approvals include, but are not limited to, zoning permits, site plan approvals, special use permits, variances, and certificates of appropriateness. The term also includes all other regulatory approvals required by regulations adopted pursuant to this Ordinance, including plat approvals, permits issued, development agreements entered into, and building permits issued. (Added 5/3/21)

Development Regulation
A unified development ordinance, zoning regulation, subdivision regulation, erosion and sedimentation control regulation, floodplain or flood damage prevention regulation, mountain ridge protection regulation, stormwater control regulation, wireless telecommunication facility regulation, historic preservation or landmark regulation, housing code, State Building Code enforcement, or any other regulation adopted pursuant to this Ordinance, or a local act or charter that regulates land use or development. (Added 5/3/21)

Discharging Landfill
A landfill which discharges treated leachate and which requires a National Pollution Discharge Elimination System (NPDES) permit. (Amended 11/3/97)

Distillery
A legal establishment for the manufacture, blending, fermentation, processing and packaging of distilled alcohol spirits for distribution, retail, or wholesale, on or off-premise. The establishment may have tours of the facility, tastings of the products produced on-site, and periodic events. Such facility must comply with all ABC commission laws and permits.

Double-Frontage Lot
A lot with street frontage along two opposite boundaries.

DU
A dwelling unit.

Dwelling
A building that contains one or two dwelling units used, intended or designed to be used, rented, leased, let or hired out to be occupied for living purposes. (Added 5/3/21)

Dwelling, Accessory
A dwelling unit constructed on a lot with a primary dwelling unit, built to the state residential building code, and generally of a smaller size while providing a complete living facility as defined in this ordinance. The accessory unit may be attached to the primary unit or freestanding. It may be located above or attached to another customary accessory structure on the lot. It may be a “tiny home” built to the North Carolina Residential Building Code. (Added 11/18/25)

Dwelling Unit
A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation. (Revised 5/3/21)

Erect
To build, construct, rebuild, reconstruct as the same are commonly defined.

Event Center
A commercial establishment and associated grounds engaged in the hosting and production of pre-planned events like weddings, corporate parties, or reunions. Typical accessory uses include kitchens or meal preparation space, limited overnight accommodations, photography studios, facilities to accommodate live or recorded music, on- and off-site parking and outdoor recreation facilities. (Amended 9/9/19)

Evidentiary Hearing
A hearing to gather competent, material, and substantial evidence in order to make findings for a quasi-judicial decision required by a development regulation adopted under this Ordinance. (Added 5/3/21)

Family
One or more persons related by blood, adoption or marriage, or a group of not more than five (5) persons not related by blood, adoption or marriage living together as a single housekeeping group in a dwelling unit.

Family Care Home
As defined in G.S. 160-D-907, a home with support and supervisory personnel that provides room and board, personal care and habitation services in a family environment for not more than six (6) resident handicapped persons. (Amended 8/4/25)

Firearms Training/Education Center
The use of a property for the discharge of archery devices and/or firearms, with a fee or membership basis, indoors or outdoors. The use shall not operate beyond daylight hours (sunrise to sunset). The purpose of the discharge may be for skills development, training or competition and subject to all local, state, and federal firearms laws. The use shall include classroom and/or practical training and education regarding ownership, safety, handling, and marksmanship for the individual's recreation, hunting, or self-defense purposes. (Def. Added 8/4/25)

Free Standing Sign
A sign that is attached to, erected on, or supported by some structure (such as a pole, mast, frame, braces in or upon the ground, or other structure) that is not itself an integral part of or attached to a building or other structure whose principal function is something other than the support of a sign. (Def. Added 3/17/97)

Frontage
All property abutting on one (1) side of a street measured along the street line.

Ground Sign
A sign placed upon the ground, or a free-standing sign, not exceeding eight (8) feet in height. (Def. Added 3/17/97)

Group Home for Developmentally Disabled Adults
A residence which provides care for two to nine adults who are developmentally disabled and who have or can develop self-help skills, are ambulatory, in need of a home and are able to participate in activities in the community.

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

Hazardous Material
Any substance or material in a particular form or quantity which the Secretary of Transportation finds may pose an unreasonable risk to health, safety, and property. Substances so designated may include explosive, radioactive materials, etiologic agents, flammable liquids or solids, poisons, oxidizing or corrosive materials, and flammable gases. Define via rule making process, under authority of PL 93-633.

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

Historic Preservation Commercial Use
A structure that is either nominated for or listed on the National Register of Historic Places or included in the North Carolina Plan for Historic Preservation as compiled by the North Carolina Division of Archives and History in which commercial use is being operated from the structure.

Home Occupation
Any business use conducted by the occupants of a dwelling unit, so that the use is clearly incidental and subordinate to the residential use and does not change the dwelling unit use or character as a permitted house, other than a small building- mounted sign attached to the dwelling unit. (Added 11/18/25)

Hotel or Motel
A building or group of buildings containing nine (9) or more individual rooms for the purpose of providing overnight accommodations to the general public for compensation, with or without meals that has common facilities for reservations and cleaning services, combined utilities, and on-site management and reception services. Hotels or motels may provide on-site parking, access to hotel rooms is provided through hallways, the building(s) may include meeting rooms, conference facilities, and recreation facilities for use by reservation. (Added 11/18/25)

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

Impervious Cover
A surface that does not allow precipitation to percolate through it.

Industrial Discharge
The discharge of industrial process treated wastewater or wastewater other than sewage and includes:

- Wastewater resulting from any process of industry or manufacture, or from the development of any natural resource;

- Wastewater resulting from processes of trade or business, including wastewater from laundromats and car washes, but not wastewater from restaurants;

- Stormwater will not be considered to be an industrial wastewater unless it is contaminated with industrial wastewater; or

- Wastewater discharged from a municipal wastewater treatment plant requiring a pretreatment program.

Industrial Use
A non-residential employment use engaged in the manufacturing and basic processing of materials or products predominately from extracted or raw materials or previously prepared materials. This use may also include processing, fabrication, assembly, treatment, packing, storage, sales and distribution of such products. For additional information, see Note 2 located after Appendix C Table of Permitted Uses. (Amended 11/16/20)

Junk
Scrap metal, rope, rags, batteries, paper, trash, rubber, debris, tires, waste, or junked, dismantled or wrecked motor vehicles or parts. A residential parcel of land in which an area of 600 square feet or more of "junk materials" are kept or stored at any given place whether for profit or not, shall be in violation of this ordinance. Materials enclosed in closed buildings, solid waste containers or rolling stock (i.e., rail cars, trailer or other containerized body not intended or designed to be self-propelled) are excluded. (Added 11/18/25)

Junkyard, Commercial
Any establishment or place of business which is maintained, operated, or used for storing, salvaging, keeping, buying or selling junk or for maintenance or operation of an automobile graveyard, but shall not include garbage dumps or county- operated sanitary landfills. (Added 11/18/25)

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

Larger Than Utility Runway
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.

LDN (Day Night Average Sound Level)
A method of estimating a measurable quantity of noise at airports and is based upon an Equivalent Sound Level (Leg).

Leg (Equivalent Sound Level)
An energy summation of the aggregate noise environment as measured in A - weighted sound level.

Lodging Unit
A dwelling unit or defined room(s) intended for one family and separated from other dwelling or lodging units that might be in the same structure and meant for temporary human occupation. Lodging units may or may not be complete dwelling units. All lodging units under this definition are to be occupied by residents who have a permanent home to which they intend to return. Sites with lodging units may not be used an event venue unless the site has been approved as an event center as defined by this ordinance. A Bed & Breakfast Home, per NCGS § 130A-247 (5a), or Short-Term Rental are types of lodging units. For this Ordinance, the following applies:

1. Bed & Breakfast – A home or lodge that provides overnight accommodations in up to eight individual rooms, with or without a meal (usually breakfast) served to guests, that is the permanent residence of the owner or manager of the business. This use may be permitted with a home occupation permit in any dwelling where the area of the guest rooms does not exceed 25% of the total heated floor area of the principle dwelling structure along with the other requirements for home occupations.

2. Short-Term Rental – The rental of a complete dwelling unit, camper, or recreational vehicle, with no separate staff, office, or managerial front desk. Campers and recreational vehicles may only be located within an approved park. This use may occur in any dwelling unit or park without further permitting.

Lot
Land area which is composed of a single parcel or contiguous parcel of land under same ownership and is recorded as such in the office of the Person County Register of Deeds.

Lot Area
The parcel of land enclosed within the boundaries formed by the property lines plus one-half of any alley abutting the lot between the boundaries of the lot, if extended.

Lot Depth
The depth of a lot, for the purpose of this Ordinance, is the distance measured in the mean direction of the side lines of the lot from the midpoint of the front line to the midpoint of the opposite lot line.

Lot Line, Front
Any boundary line of a lot running along a street right of way line.

Lot Line, Rear
The rear lot line, shall be the property line(s) which is (are) opposite the front property line. If no property line is deemed to be opposite the front property line and no minimum building line exists on the final plat to establish a rear lot line, then there shall be no rear lot line; however, the rear yard setback shall be maintained from the point (apex) on the property's perimeter which is the furthest removed from the midpoint of the front line. The rear yard minimum building line shall be a line perpendicular to a straight line connecting said apex and the midpoint of the front lot line.

Lot Line, Side
A boundary line which is not defined as a front or rear lot line.

Lot Of Record
A lot which has been recorded in the Office of the Register of Deeds of Person County or a lot described by metes and bounds, the description of which has been recorded in the aforementioned office.

Lot Width
The horizontal distance between the side lines measured along the front building line as specified by applicable front yard setback in this ordinance.

Major Variance from State Watershed Rules
A variance from the minimum statewide watershed protection rules that results in any one or more of the following:

1. The relaxation, by a factor greater than ten (10) percent of any requirement under the low density option;

2. The relaxation, by a factor greater than five (5) percent, of any buffer, density or built-upon area requirement under the high-density option;

3. Any variation in the design, maintenance or operation requirements of a wet detention pond or other approved stormwater management system. (Amended 11/3/97)

Minor Variance from State Watershed Protection Rules
A variance from the minimum statewide watershed protection rules that results in a relaxation, by a factor of up to five (5) percent of any buffer, density, or built-upon area requirement under the high density option; or that results in a relaxation by a factor of up to ten (10) percent, of any management requirement under the low density option.

Manufactured Home
A dwelling unit that (1) is not constructed in accordance with the standards set forth in the North Carolina State Building Code, and (2) is composed of one or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported to the home site on its own chassis, and (3) exceeds forty (40) feet in length and eight (8) feet in width.

Manufactured Home, Class A
A manufactured home that meets the following additional criteria:

1. The structure is made up of two or more sections designed to be installed or assembled into one unit at the building site;

2. The manufactured home has a length not exceeding four times its width, with length measured along the longest axis and width measured at the narrowest part of the other axis; and,

3. The pitch of the roof of the manufactured home has a minimum vertical rise of two and two tenths (2.2) feet for each twelve (12) feet of horizontal run and the roof is finished with a type of shingle that is commonly used in standard residential construction.

This definition includes typical "double-wide" manufactured homes and does not include modular housing as regulated by North Carolina State Building Code. (Rev. 5/5/97; 5/3/21)

Manufactured Home, Class B
A manufactured home that does not satisfy all of the criteria necessary to qualify the house as a Class A manufactured home. A Class B manufactured home is typically a "single-wide" manufactured home but may also include a double-wide (or triple-wide) manufactured home that does not meet all the criteria to be classified as a Class A manufactured home. (Revised 5/5/97; 5/3/21)

Mobile Home
An alternative term for a manufactured home. (Def. Added 5/5/97)

Mobile Home Park
Any lot upon which three (3) or more manufactured homes, occupied for dwelling or sleeping purposes, are located regardless of whether or not a charge is made for such accommodations. (Def. Added 5/5/97)

Modular Home
A manufactured building designed to be used as a one- or two-family dwelling unit which has been constructed in and labeled indicating compliance with the North Carolina State Building Code, Volume VII - Residential. (Def. Added 5/5/97)

Multiphase Developments
A development containing 100 acres or more that (i) is submitted for site plan approval for construction to occur in more than one phase and (ii) is subject to a master development plan with committed elements, including a requirement to offer land for public use as a condition of its master development plan approval (N.C.G.S. 160D-108). (Added 5/3/21)

Nonconforming Building
A building or structure that is not in conformance with the provisions (Section 72-Table of Dimensional Requirements) of the district in which it is located. (Added 6/3/2013) (Amended 8/4/25)

Nonconforming Lot
Surveyed and recorded lots that met existing zoning regulations when created but no longer conform with the adopted regulations. (Added 6/3/2013)

Nonconforming Use
A lawful use of land that does not comply with the use regulations for its zoning district but which complied with applicable regulations before adoption of this ordinance or the predecessor Person County Planning Ordinance. (Added 6/3/2013)

Non-Noxious
Any substance not physically harmful or destructive to the environment or health threatening.

Nonpoint Source Pollution
Pollution which enters waters mainly as a result of precipitation and subsequent run-off from lands which have been disturbed by man's activities and includes all sources of water pollution which are not required to have a permit in accordance with GS 143.215.1(c).

Non-Precision Instrument Runway
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.

Offices & Personal Services
An establishment where clients come to seek a variety of professional consultative services or personal care including but not limited to accountants, appraisers, architects, attorneys, financial consultants, hair salons, nail salons, real estate agencies. This use excludes medical and dental clinics. (Added 11/18/25)

Off-Premise Advertising Sign
Any sign advertising a product, business, or activity, sold, located, or conducted elsewhere than on the premises on which the sign is located, or which a product, service, business, or activity is sold, located, or conducted on such premises only incidentally, if at all. (Def. Added 3/17/97)

Off-Premise Directional Signs
Any off-premise sign indicating the location of or directions to a business, religious place of worship or other activity. The sign shall not include any information or message except the name of the business or activity, and directions or symbols indicating directions. If a sign exceeds the maximum area, it shall be construed as an off-premise advertising sign. (Def. Added 3/17/97)

Office
A building or portion of a building wherein services are performed involving predominantly administrative, professional or clerical operations. (Def. Added 12/6/99)

Offices / Professional
Offices of accountants, appraisers, architects, attorneys, financial consultants, dentists, physicians, real estate agencies and similarly recognized professionals. (Amended February 2014)

On-Premise Sign
Any sign or structure, pictorial or otherwise, regardless of size or shape, which directs attention to a business, profession, commodity, attraction, service, entertainment, idea, or concept conducted, offered, sold, manufactured, provided, or entertained at a location on the premises where the sign is located or to which it is affixed. (Def. added 3/17/97)

Planned Building Group
A Planned Group shall consist of two or more principal uses in one or more structures on the same zoning lot. A Planned Building Group shall be located on a minimum of a 2-acre lot. (Amended 1/11/96)

Planning Board
A body appointed by the County Commissioners to perform duties described in Section 143. (Amended 8/4/25)

Precision Instrument Runway
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
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 runways or when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that 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.

Principal Building / Use
The main building or use of a zoning lot. (Addition January 1996)

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 a reservoir or to the ridgeline of the watershed; or within 10 miles upstream and draining to the intake located directly in the stream or river or to the ridgeline of the watershed. (Amended November 1997)

Quasi-Judicial Decision
A decision involving the finding of facts regarding a specific application of a development regulation and that requires the exercise of discretion when applying the standards of the regulation. The term includes, but is not limited to, decisions involving variances, special use permits, certificates of appropriateness, and appeals of administrative determinations. Decisions on the approval of subdivision plats and site plans are quasi-judicial in nature if the regulation authorizes a decision-making board to approve or deny the application based not only upon whether the application complies with the specific requirements set forth in the regulation, but also on whether the application complies with one or more generally stated standards requiring a discretionary decision on the findings to be made by the decision-making board. (Added 5/3/21)

Real Estate Sign
A sign advertising the premises for sale, rent or lease. (Def. Added 3/17/97)

Residuals
Any solid or semi-solid waste generated from a wastewater treatment plant, water treatment plant or air pollution control facility permitted under the authority of the Environmental Management Commission. (Amended November 1997)

Sawmill Operations
An establishment often operating as a sawmill to break bulk timber into wood products, such as lumber and heavy timbers. (Added 11/18/25)

Setback
The distance between the minimum building line and the centerline of a street right of way; and where no street right of way is involved, the property line shall be used in establishing the setback.

Sign
Any identification, description, illustration, or device, illuminated or no illuminated, which is visible from any thoroughfare or road that directs attention to any realty, product, service, place, activity, person, institution, performance, commodity, firm, business, solicitation, idea or concept including permanently installed or situated merchandise or any emblem, painting, poster, bulletin board, pennant, placard or temporary sign designed to identify or convey information, with the exception state, municipal or national flags. (Def. Added 3/17/97)

Site Specific Vesting Plan
Any of the following development approvals including Special Use Permits, PUDs, subdivision plats, site plans, preliminary or general development plans, CD-rezonings, and formerly site specific and phased development plans. (Added 5/3/21)

Special Use Permit (SUP)
A permit issued to authorize development or land sues in a particular zoning district upon presentation of competent, material, and substantial evidence establishing compliance with one or more general standards requiring that judgment and discretion be exercised as well as compliance with specific standards. (Added 5/3/21)

Storage, Household and Commercial
Storage of goods and materials inside a substantially enclosed building. This use includes self-storage rentable by individuals, as well as storage of materials for other purposes. Distribution centers are classified with warehousing. (Added 11/18/25)

Storage, Open
Storage of goods and materials without protection from weather or significant enclosure. This use refers to materials that can withstand exposure to weather and retain value. Open storage of materials with limited value or with no regard to weather exposure are salvage operations. Uses include storage of pipe and lumber, gravel and mulch, and other raw or lightly processed materials. (Added 11/18/25)

Structure
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.

Temporary Construction Building
Any building or portion of a building used as a temporary field office for the coordination of a nearby construction project by the general contractor and/or subcontractors. No portion of a temporary construction building may be used as an accessory occupancy (such as a sales office) into which the general public would be allowed access. (Def. Added 5/5/97)

Temporary Sign
A sign that is used in connection with a circumstance, situation, or event that is designed, intended, or expected to take place or to be completed with a reasonably short or definite period after the erection of such sign. If a sign display area is permanent but the message displayed is subject to periodic changes, that sign shall not be regarded as temporary. (Def. Added 3/17/97) (Amended 8/4/25)

Temporary Workforce Housing
Temporary workforce housing is a form of affordable housing within campgrounds and recreational vehicle parks, where some units are rented to workers on area projects for a seasonal or per- project basis. The time period of the rental is longer than a typical vacation, but not necessarily a permanent or long-term arrangement. (Added 11/18/25)

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.

Uncovered
Not covered by a roof or other covering.

Use By Right
A use which is listed as an unconditionally permitted activity in this ordinance.

Variance
A modification or alteration of any of the requirements of this ordinance.

Vested Right
A right pursuant to the North Carolina General Statutes to undertake and complete the development and use of property under the terms and conditions of an approved site-specific vesting plan. (Amended 11/18/91; 5/3/21)

Visual Runway
A runway intended solely for the operation of aircraft using visual approach procedures.

Water Dependent Structure
Any structure for which the use requires access to or proximity to or citing within surface waters to fulfill its basic purpose, such as boat ramps, boat house, 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 contributing surface drainage to a specific point.

Water Supply Classifications
Classifications of Fresh Water Supplies for watersheds within Person County adopted by the Environmental Management Commission; definitions, as referenced in 15A NCAC 2B.0100 and .0200 as follows:

1. Class WS-II, waters protected as water supplies which are generally in predominately underdeveloped watershed; point source discharges of treated wastewater are permitted pursuant to Rules .0104 and .02ll of this Subchapter; local programs to control nonpoint sources and stormwater discharges of pollution area required; suitable of all Class C uses.

2. Class WS-III, waters protected as water supplies which are generally in low to moderately developed watershed; point source discharges of treatment of treated waste water area permitted pursuant to Rules .0104 and .0211 of this Subchapter; local programs to control nonpoint sources and stormwater discharges of pollution area required; suitable for all Class C uses.

3. WS-IV, water projected as water supplies which are generally in moderately to highly developed watershed; point source discharges of treated wastewater are permitted pursuant to Rules .0l04 and .0211 of this Subchapter; local programs to control nonpoint sources and stormwater discharges of pollution area required; suitable for all Class C uses.

a) Class C Uses, waters protected for secondary recreation, fishing, wildlife, fish and aquatic life propagation and survival, agriculture and other uses suitable for Class C.

Winery
A facility operated for the purpose of making wine. Associated with this process can include catering, lodging facilities, restaurants, live music venue, farm tours, winery tours, farmers market, petting zoo, corn maze, cheese processing, roasting of coffee and associated retail sales. (Added 11/1/2004)

Yard
Any open space on the same lot with a building and unoccupied from the ground vertically except by trees, shrubbery, fences, open fire escapes, chimneys, flues, cornices, eaves and bay windows. (Amended 2/1/93)

Yard, Front
A yard across lot, extending from the front building line to the front lot line or right-of-way. (Amended 2/1/93)

Yard, Rear
A yard located behind the rear building line and extending to rear lot line or right-of-way. (Amended 2/1/93)

Yard, Side
A yard between the side building line and side lot line or right-of-way, extending from the front building line to the rear building line. (Amended 2/1/93)

Zoning Administrator
Planning Director (aka County Planner) or designated representative.

Zoning Permit
A permit by the Person County Zoning Administrator or his authorized agents that a course of action to use or occupy a tract of land or a building or to erect, install, or alter a structure, building, or sign situated in the zoning jurisdiction of the County fully meets the requirements of this ordinance.

Section 7.2 – Table of Permitted Uses

(Amended: 5/18/92; 11/17/92; 4/4/94; 7/11/94; 2/19/96; 6/3/96; 7/8/96; 5/5/97; 12/6/99; 5/4/2001; 12/1/2003; 6/6/2005; 11/1/2004; 11/19/2007; 11/3/2008; 12/1/2008; 4/20/2015; 9/6/2016; 10/2/17; 10/5/20, 11/16/20; 5/3/21, 8/4/25, 11/3/25, 11/18/25)

Districts in which particular uses are permitted as a Use-By-Right are indicated by "X". Districts in which particular uses are permitted as a Use-By-Right with certain conditions are indicated by "X" with a reference to a footnote to this Table.

District in which particular uses are permitted as a special use upon approval of the Board of Commissioners are indicated by "S". See Section 153 for details in obtaining a Special Use Permit.

PRINCIPAL USES	ZONING DISTRICTS				
	R	B-2	B-1	GI	RC
Accessory Building	X	X	X	X	X
Accessory Uses Incidental to Any Permitted Use	X	X	X		X
AGRICULTURAL OR FARM USE EXEMPT FROM PLANNING ORDINANCE					
Aircraft Equipment, Parts and Supplies			X	X	X
Airport Operations	S	S	S	X	S
Airstrips, (Private) /Heliport Without Commercial Activity (Added 5/7/01)	X	X	X	X	X
Ambulance Service or Rescue Service	S	X	X	S	X
Amusement Parks			S		X
Animal Medical Care (Including Kennel Operations)		X	X		X
Auction		X	X		X
Automobile Off-Street Parking, (Commercial)		X	X	X	X
Automobile Parts and Accessory Sales		X	X		X
Automobile Rentals and Leasing		X	X	X	X
Automobile Repair and/or Body Work (Excluding commercial wrecking, dismantling, or storage of junk vehicles) Amended 12/01/2008			X		S
Automobile Sales, New and Used		S	X		X
Automobile Service Station Operations		X	X		X
Bank, Savings and Loan Company and Other Financial Activities		X	X	S	X
Barber or Beauty College Instruction		X	X		X
Bed and Breakfast Inns, Boarding and Rooming Houses	S	X			X
Boats and Accessories, Retail Sales and Service		S	X		X
Books and Printed Matter, Distribution			X		X
Bowling Alley		X	X		X
Brewery, Distillery, Winery (Added 10/2/17)	S	X	X	X	S
Bus Repair and Storage Terminal Activities (Amended 12/1/2008)			X		S
Bus Station Activities		S	X	X	X

PRINCIPAL USES	ZONING DISTRICTS				
	R	B-2	B-1	GI	RC
Camper/Recreational Vehicle Park (Amended 8/2/2010, 11/3/2025)	S	S	S		X
Carwash		X	X		X
Catering		X	X		X
Cemeteries - Church or Family	X	X	X	S	X
Cemeteries – Commercial	S	S	S		X
Church, Temples, Synagogues	X	X	X	X	X
Clinic Services, Medical and Dental	S	X	X	S	X
Club or Lodge	S	S	S		X
Commercial Modular Building (Adopted 5/5/97)		X	X		X
Contractor & Construction Trades with outside storage or equipment or supplies (Amended 11/19/2007)		S	X	X	X
Contractor & Construction Trades without outside storage or equipment or supplies			X		X
Convenience Stores	S	X	X		X
County Governmental Facility (Adopted 2/3/97)	S	X	X		X
Data Center (Added 11/18/25)		X	X	X	X
Day Care Center	S	X	X	X	X
Dwelling, Accessory	X				X
Dwelling, Single-Family	X	X	X		X
Dwelling, Multiple-Family (See Planned Building Group)	S	S	S		S
Eating and Drinking Facilities (Amended 12/1/2008)		X	X		S
Equipment Rental (Amended 11/16/20)		X	X	X	X
Event Center (Amended 09/09/2019)	S	X	X	X	X
Family Care Home	X	X	X		X
Farm Machinery Sales and Servicing		S	X		X
Fire Station and Law Enforcement Operations	S	X	X	X	X
Firearms Training/Education Center (Added 8/4/2025)					X
Funeral Home	S	X	X		X
Game and Sports Facilities (Amended 5-18-92)		S	S		
Golf Courses	S	X	X		X
Grocery, Wholesale			X		X
Group Home for Developmentally Disabled Adults	X	X	X		X
Gunsmith		X	X		X
Health Spas, Fitness Center (Amended 2/7/2011)		X	X		X
Historical Preservation Commercial Use	S	X	X		X
Home for the Aged	S	S	X		X

PRINCIPAL USES	ZONING DISTRICTS				
	R	B-2	B-1	GI	RC
Hospital or Sanitarium Care (Except for the Insane, Feeble-Minded and Addicted) (Amended 12/1/2008)		S	X		S
Hotel or Motel			X		X
Industrial, Light (Amended 11/16/20)		S	X	X	X
Industrial, Heavy (Amended 11/16/20)			S	X	
Karate and Other Martial Arts Instruction		X	X		X
Kennel Operations, Care		S	X		X
Library	S	X	X		X
Livestock Sales and Auctions (Amended 12/1/2008)			S		S
Lodging Unit (Added 11/3/25)	X	X	X	X	X
Manufactured Home for Temporary Dwelling During Construction of Permanent Dwelling (Adopted 5/5/97)	X	X	X		X
Manufactured Home (Individual) for Residential Occupancy - Class B (Rev. 5/5/97)	X	X	X		X
Manufactured Home (Individual) for Residential Occupancy - Class A (Rev. 5/5/97)	X	X	X		X
Manufactured Home Supplies and Equipment Sales		S	X		X
Manufactured Homes Under the Hardship Class A and B	X				X
Marinas		X	X		X
Mobile Home Park but Excluding Any Mobile Home Sales (Amended 11-17-92, 7/11/94)	S	S	S		S
Mobile Home Sales and Service			X		X
Modular Homes (Amended 11-17-92)	X	X	X		X
Moving and Storage Operations (Amended 12/1/2008)			X	X	X
Nonhazardous, Non-Toxic Solid Waste Disposal (Adopted 5/18/92)	S	S	S	S	S
Nursery Operation (Plant) - Agricultural	X	X	X		X
Nursing Home	S	S	X		X
Office and Personal Office (Adopted 12/6/99)		X	X	X	X
Planned Building Group (Added 12/1/03)	S	X	X		S
Post Office		X	X	X	X
Private Recreation Club or Swimming Club Activities Not Operated as a Business or Profit (Amended 12/1/2008)	S	S	S	S	S
Private Recreation Facilities for Profit (Amended 5/18/92, 7/8/96)	S	S	S	S	S
Public Recreations (Such as Community Center Buildings, Parks, Museums, Playgrounds, and Similar Facilities Operated on a Nonprofit Basis)	S	X	X		X
Public Utility Station, Bulk Station or Substations (Amended 12/1/2008)	S	S	S	S	S
Radio or Television Studio Activities Only			X		X
Radio, Telephone and TV Transmitting Tower (Amended 11/6/95)	S	X	X	X	S

PRINCIPAL USES	ZONING DISTRICTS				
	R	B-2	B-1	GI	RC
Railroad Passenger Station Operations (Amended 12/1/2008)			S	S	S
Railroad Yard Operations				X	X
Reception Centers for Recycling		S	X		X
Rest Home	S	S	X		X
Retail Sales with outdoor storage or display of merchandise		X	X		X
Retail Sales without outdoor storage or display of merchandise		X	X		X
Salvage Operation/Junkyard - Commercial				S	S
School, Private or Public (Elementary, Secondary, or Higher Level) (Amended 12/1/2008)	S	S	X	X	S
Stables, Horse (Amended 4/4/94)	X		S		X
Storage, Hazardous, Toxic and Radioactive Waste	Not Permitted in Any District				
Storage, Household and Commercial		S	X		X
Storage, Open (Amended 5-4-01)		S	S		S
Tanning Salons		X	X		X
Taxicab Stand Operations		X	X	X	X
Teaching of Art, Music, Dance, Dramatics, or Other Fine Arts	S	X	X		X
Temporary Construction Building (Amended 6/6/2005)	X	X	X	X	X
Theater Productions	S	X	X		X
Tire Recapping				X	X
Tire Sales Centers		X	X		X
Truck Stop					X
Truck Terminal Activities Repair and Hauling and/or Storage					X
Warehouse/Distribution Facilities			X	X	X

Notes to the Table of Permitted Uses

7.2-1 Note 1 – Industrial and Manufacturing Operations

(Amended 3/18/96; 2016; 10/06/2020, 11/16/20)

TYPE OF INDUSTRIAL USE	GENERAL DESCRIPTION, INTENT AND STANDARDS	EXAMPLES OF USES
LIGHT INDUSTRIAL (LI)	Light industrial uses are prohibited in the Residential (R) Zoning District. Industrial operations involving the manufacturing, processing, fabrication of acetylene gas (except for use on premises), ammunition, explosives, fireworks, gunpowder, or matches shall not be allowed in any district. (Amended 5/18/92) The intent of these categories is to provide development standards that promote the development of industrial and manufacturing operations without compromising the health, safety and welfare of properties adjacent to and in the vicinity of the project area. Included in this category are uses that shall have minimal impacts on the public health, safety and welfare. The distinctions used in this category closely follow the NAICS definitions. Manufacturing establishments are located in plants, factories, or mills and employ power-driven machines and materials-handling equipment. They may also employ workers who create new products by hand, without the characteristic machinery-intensive enterprise. Many manufacturing establishments process products of agriculture, forestry, fishing, mining, or quarrying as well as products of other manufacturing establishments. The subcategories reflect sectors with distinct production processes related to material inputs, production equipment, and employee skills. Most manufacturing establishments have some form of captive services (e.g., research and development, and administrative operations, such as accounting, payroll, or management). These are functionally the same as the primary establishment. However, when such services are provided by separate establishments, they will be evaluated as either light or heavy industrial in their own right. If needed, Person County Planning and Zoning staff should rely on the NAICS' activity dimension to differentiate between an office activity and a factory activity for such establishments. Vegetative and/or structural buffers shall be required when light industrial land uses are adjacent to or across from, any residential use regardless of the distance separating uses (For additional information, please see Sections 72 and 73) (Amended 8/4/25)	Manufacture, assembly, repair or servicing of light industrial goods and products; business or consumer machinery; equipment, products or by-products; Commercial bakery; Crematorium; Cold storage plant; Coal sales and storage; Manufacture, assembly and repair of computer components including semi-conductors; precision instruments; electrical/electronic; toys; wind energy component; telecommunication equipment; advanced textiles; transportation equipment components; Sheet metal shop; Bottling; Woodworking, cabinet making, and/or furniture manufacturing

TYPE OF INDUSTRIAL USE	GENERAL DESCRIPTION, INTENT AND STANDARDS	EXAMPLES OF USES
HEAVY INDUSTRIAL (HI)	Heavy industrial uses are prohibited in the Residential (R), Neighborhood Business (B-2) and Rural Conservation (RC) Zoning Districts. (Amended 11/16/20) Industrial operations involving the manufacturing, processing, fabrication of acetylene gas (except for use on premises), ammunition, explosives, fireworks, gunpowder, or matches shall not be allowed in any district. (Amended 5/18/92) Vegetative and/or structural buffers shall be required when heavy industrial land uses are adjacent to or across from, any residential use regardless of the distance separating uses (For additional information, please see Setback Requirements – Sections 72 and 73) (Amended 8/4/25) This District is generally for those industrial uses where the impacts to the public health, safety and/or welfare are greatest. These industrial uses typically have large land requirements and require the outdoor storage of materials. In addition to most of the industrial uses permitted as "Industrial, Light" uses, uses involving the primary processing of materials such as metal refining, plastics, pulp and paper, animal rendering, clay sand or gravel processing are included in this category. (Amended 11/16/20) The Director of Planning may use discretion to consider uses not specifically listed here as long as these meet the intent of the definition. The Planning Director shall provide a summary supporting of their interpretation for the record. The distinctions used in this category closely follow the NAICS definitions. Manufacturing establishments are located in plants, factories, or mills and employ power-driven machines and materials-handling equipment. They may also employ workers who create new products by hand, without the characteristic machinery-intensive enterprise. Many manufacturing establishments process products of agriculture, forestry, fishing, mining, or quarrying as well as products of other manufacturing establishments. The subcategories reflect sectors with distinct production processes related to material inputs, production equipment, and employee skills. Most manufacturing establishments have some form of captive services (e.g., research and development, and administrative operations, such as accounting, payroll, or management). These are functionally the same as the primary establishment. However, when such services are provided by separate establishments, they will be evaluated as either light or heavy industrial in their own right. If needed, Person County Planning and Zoning staff should rely on the NAICS' activity dimension to differentiate between an office activity and a factory activity for such establishments.	Animal Processing, Packing, Treatment and Storage Livestock Slaughtering, Processing of Food and Related Products Production of Chemicals, Rubber, Leather, Clay, Bone, Plastic, Stone, Glass Production of Fabrication of Metals or Metal Products (enameling, galvanizing, sawmill) Asphalt and concrete plants Power generating plants, including the storage of ore, coal, atmospheric gas, grain, petroleum and other materials used to produce power Hazardous material disposal Explosive Storage and Distribution Facilities Fertilizer Manufacture Quarry Operations Storage, Flammable

Industrial Additions:

1. If otherwise in compliance with applicable provisions of the article and other rules or regulations, the Zoning Administrator may approve or approve with conditions an application to expand a principal structure, or parking and circulation areas, by not more than 10 percent (10%) of those respective areas as reflected in a Special Use approved by the Board of Commissioners, or as in existence at the time zoning became effective as to the zoning lot, whichever is applicable. This ten percent limitation shall apply whether reached in one increment or in more than increment over time.

2. Prior to making a final decision on any such application, the applicant shall cause notice of the proposal in a form approved by the Administrator to be given by first class mail to all property owners within five hundred (500) feet, as shown on the County's tax records, of the zoning lot. The Zoning Administrator shall afford the notified property owners ten (10) days within which to comment before mailing a final decision on the application. The Zoning Administrator shall notify the Planning Boards at its next regular meeting of any application approved or approved with conditions under this section.

3. If, in the judgment of the Zoning Administrator, the application presents significant issues affecting the public health, safety and welfare, he/she shall refer the application to the Planning Board for approval, denial, or approved with conditions. In such cases, the applicant shall cause notice of the Planning Board meeting in a form approved by the Zoning Administrator to be given by first class mail to all property owners within five hundred (500) feet, as shown on the County's tax records, of the zoning lot.

4. If otherwise in compliance with applicable provisions of this article and other rules or regulations, the Planning Board may approve an application to expand a principal structure, or parking and circulation areas, by not more than fifteen percent (15%) of those respective areas as reflected in a Special Use approved by the Board of Commissioners, or as in existence at the time zoning became effective as to the zoning lot, whichever is applicable. This fifteen percent limitation shall apply whether reached in one increment or in more than one increment over time.

7.2-2 Note 2 - Airport Overlay

Use specifically permitted only in the Airport Overlay, provided in accordance with applicable article provisions.

7.2-3 Note 3 – Private Airstrip/Heliport

(Added May 7, 2001)

Private airstrip/heliport without commercial activity. No zoning permit required.

7.2-4 Note 1, 3, 4, 6, 7, 7A, and 8

Deleted 11/18/25

7.2-5 Note 10

Deleted 10/5/20

Section 7.3 – Table of Dimensional Requirements

(Amended 9/16/91, 2/1/93, 6/15/98, 1/07/02; 8/4/08; 9/6/16; 5/3/21)

	Without Central Water & Sewer	With Central Water	With Central Sewer	With Central Water & Sewer	Planned Building & Group
Minimum Lot Size in Square Feet	43,560	20,000	15,000	6,000	8,000 sq. ft. (see note #1)
Minimum Lot Width in Feet	100	100	75	60	100
Minimum Front Yard requirement When property abuts US/NC Highways (see notes 2,5,6,7,8)	40*	40*	40*	40*	60
All other road types (see note 2,5,6,7,8)	25*	25*	25*	25*	
Minimum Side Yard Requirement (See Note 1,2,6,7,8)	20	15	10	8	15 feet (see note #2)
Corner Lot Minimum Side Yard Requirement When property abuts US or NC highway (See Note 4,6,8)	40*	40*	40*	40*	60*
Corner Lot Minimum Side Yard Requirement All other road types (See Note 4,6,7)	25*	25*	25*	25*	
Minimum Rear Yard (See note 4,5,6,7,8)	25	25	15	10	25
Double Frontage Lots Minimum Rear Yard* (See Note 3,6,7,8)	50*	50	35	25	25
Building Heights	50**	50**	50**	50**	50**

* From right-of-way

** Structures for light or heavy industrial (LI or HI) uses not subject to height restrictions but must submit certification that proposed building height meets the ability of local fire and rescue teams to serve the facility. Certification in the form of a letter signed by the fire inspector. Uses not included in the Light or Heavy Industrial category exceeding 50 feet may apply for a special permit for approval. The following uses are not controlled by the height limitation: belfries, spires, cupolas, domes, monuments, observation towers, chimney, smokestacks, water towers, conveyors, flag poles, television and radio masts, aerials, and towers.

Section 7.4 – Landscape Buffers

1. To mitigate health, safety, and welfare concerns, landscaping and buffers may be required as a condition of approval for projects requiring a Special Use Permit.

2. For Industrial Uses located adjacent to or across any right of way from residential properties, a vegetative buffer is required.

    - For heavy industrial uses, the buffer shall be at least 150' wide

    - For light Industrial Uses, the buffer shall be at least 50' wide

3. Buffers shall include at a minimum, evergreen shrubs and a combination of deciduous and evergreen trees.

    - Every 500 square feet of buffer shall include one evergreen or deciduous tree that shall have a height and spread of at least 30' within 10 years; and,

    - 5 evergreen shrubs, or 3 evergreen and 2 deciduous shrubs, with a height and spread of at least 5' in 10 years.

    - Existing vegetation may be counted toward the required plantings when identified on a landscape plan and certified by an arborist, landscape architect, landscape designer. Plants identified for the buffer must be protected from all land disturbing activities and construction at a distance equal to the drip line of the plant(s) to be used toward the buffer.

4. Landscape plans shall be completed by a registered landscape architect or licensed landscape designer.

Notes:

1. 8,000 square feet for the first two dwelling units and 2,500 sq. ft. for each additional dwelling unit.

2. Minimum setback for the first story and 10 additional feet for each additional unit.

3. Zero (0) yard requirement adjacent to the contour line of Hyco Lake, Lake Roxboro (located on the Person/Caswell County line) and Mayo Lake.

4. Measured from the closest point of the building to the property line or right-of-way.

5. No structure need be setback more than the average of the two (2) directly adjacent primary use structures on either side.

6. Uncovered stoops, decks and steps may extend into any required yard area no more than one half the required yard depth or width for lots without central water and sewer and with central water except no encroachment will be allowed adjacent to US or NC Highways. (Added 08/04/2008; 01/06/2020)

7. Unless otherwise specified in this article, accessory buildings may be allowed within five (5) feet of rear and side yard lot lines. See Note 8 if property is located on an NC or US route. (Amended 6/3/2013)

8. Accessory structures may be placed in the front yard, if at least 25ft from the front property line. For lots located on NC and US highways, accessory structures may be placed in the front yard, if at least 40ft from the front property line. (Added 6/3/2013)

Section 7.5 – Setback Requirements
(Amended 9/6/2016; 5/3/21)

1. Where a B-1, B-2, or GI District abuts the R district
   All business or industrial uses which abut said districts shall be set back a minimum of 50 feet from the abutting exterior property lines.

2. Setbacks shall be measured:

   a) From the property line

   b) From the road right of way

   c) From the edge of the structure to the property line or other legal boundary

Section 7.6 – Cluster Development
(Added 8/1/2005; Amended: 12/07/09; 5/3/21)

Purpose
Clustering of residential lots is intended to encourage subdivision design that is more efficient and better suited to the natural features of the land than a conventional subdivision, by regulating lots based on the lot density standards rather than minimum lot size standards and by requiring that part of the subdivision not devoted to lots and roads be set aside as usable open space. This allows smaller lots to be concentrated on those parts of the subdivision best suited to accommodate development with the least adverse impact. Clustering also allows smaller and less costly network of roads and utilities and reduces the amount of impervious surface and stormwater runoff. The open space provided by clustering can be used to provide recreational opportunities for the subdivision's residents, to conserve and protect significant natural areas and environmentally sensitive areas, and to preserve important historic resources.

Minimum Subdivision Site Size
Clustering of lots shall not be allowed on any tract of land less than ten (10) acres in size.

Minimum Lot Size
All lots shall be a minimum of 6,000 square feet of usable land (not to include any right of way or easements). For single-family or multi-family attached structures, there shall be no minimum lot area. (Amended: 12/07/09)

Setback Requirements

1. The minimum building setbacks for single family detached dwellings are as follows:
   - Front yard on Subdivision main artery; 25 feet
   - Front yard on cul-de-sac or parking lots; 10 feet
   - Rear yard; 15 feet
   - Side yard; 8 feet

2. Minimum building setback for single family attached dwellings or multifamily structures are as follows:
   - Front yard; 25 foot minimum for single family detached. Multi-family; 25 foot minimum for first story and 10 additional feet for each additional story.
   - Rear yard; 10 feet
   - Side yard; can be reduced to zero
   - All setbacks shall be shown on the plat.

Accessory Structures

1. Accessory Structures are allowed only on lots of 20,000 square feet or more and only one structure per lot.

2. All setbacks for accessory structures must be in compliance with Section 72.

Minimum Road Design
Roads may be designed to meet NCDOT specifications for subdivisions, Traditional Neighborhood Development Guidelines (TND) or to a lesser design approved by the County Commissioners. All roads are to be paved. The width of all travel ways, parking areas and road base to be approved within the subdivision process and is required on the plat.

All Cluster Development shall have access off of a NCDOT Secondary Road, State or Federal Highway.

Open Space
Land within the subdivision site not contained in lots, streets, or utility easements, shall be in one or more parcels dedicated or reserved as permanent open space. The total are of parcels dedicated or reserved as permanent open space shall make up at least thirty (30) percent of the subdivision.

1. The open space shall be subject to a Conservation Easement conveyed to Person County setting aside the said open space from future development and, in areas subject to Watershed article, the said conservation easement shall limit use as it relates to water quality regulations. The title to the open space shall be conveyed to a property owner's association, homeowners' association or other legal entity (public agency or nonprofit organization) that is capable of and willing to accept responsibility for managing open space for its intended purpose.

2. Ownership of the Open Space is not restricted but any transfer of ownership of this property is subject to the conservation easement and any other conditions of the special use permit which created the Open Space.

3. The design of the open space shall consider protecting water quality, conserving farm and forest land, providing wildlife habitat and preserving the natural aesthetics of the area.

Article VIII – Use Specific Requirements

Section 8.1 – Site Plan Required

1. New development shall provide a site plan meeting the specifications of this section subject to this article when the proposed development involves development or redevelopment for anything other than a single family or two-family dwelling and related accessory structures on single family and two-family lots.

2. The purpose of these requirements is to promote the orderly development of certain activities within the county and to ensure that such activities are developed in a manner harmonious with surrounding properties and in the interest of the general public welfare. More specifically, the site plan shall be used to review the project's compatibility with its environment; to review the ability of the project's traffic circulation system to provide for the convenient and safe internal and external movement of vehicles and pedestrians.

3. The Planning Director may waive any specific site plan specification provided it is not averse to the purpose of this article, and the applicant establishes that in his specific case an undue hardship would result from a strict enforcement of this article, or that the requirement is unreasonable. The Planning Director also may ask for additional information if deemed necessary by the Director to evaluate the site. The Planning Director may allow a scaled drawing based on survey instead of a professionally rendered plan when the scale of development or redevelopment is minor in relation to the entire site. New construction of a primary building or complete redevelopment of a site is required to provide a professionally prepared plan.

4. Every site plan shall be prepared in accordance with the following specifications:

    a) May be prepared by a North Carolina registered land surveyor, engineer, architect or landscape architect. Any component of a site plan that depicts new landscape materials to be installed or the quality of existing landscaping being retained shall be prepared by a registered landscape architect or licensed landscape designer.

    b) The proposed title of the project and the name of the engineer, architect, surveyor and/or developer, the developer, and a signature panel for the Planning Director's approval.

    c) The north point, scale, date, and vicinity map. Tax Map and Parcel Number and Township.

    d) Existing zoning and zoning district boundaries on the property in question and on immediately surrounding properties.

    e) The present use of all contiguous or abutting properties.

    f) The boundaries of the property involved by bearings and distances.

    g) All existing property lines, existing streets, buildings, watercourses, waterways or lakes and other existing physical features in or adjoining the project.

    h) Topography of the project area with contour intervals of ten feet or less.

    i) The location and sizes of sanitary and storm sewers, gas lines, water mains, culverts, and other underground structures, and easements for these facilities. Location of proposed or existing fire hydrants.

j) The location, dimensions and character of construction of proposed streets, alleys, driveways and the location, type and size of ingress and egress to the site.

k) The location of all existing and proposed off-street parking and parking bays, loading spaces and walkways, indicating types of surfacing, size, angle of stalls, width of aisles, and a specific schedule showing the number of parking spaces. All parking and travel ways shall be paved. Vehicular travel lanes or driveways shall not be less that twenty feet in width for two-way traffic and twelve feet for one-way traffic. Non-residential structures without permanent on-site employees may be permitted to have a twelve-foot wide paved or gravel vehicular travel lane or driveway. (Amended 1/4/21)

l) The location, height, type and materials of all existing and proposed fences, walls, screen planting and landscaping details of all buildings and grounds, and the location, height and character of all outdoor lighting systems, inclusive of wattage and illumination.

m) The location of all proposed buildings and structures, accessory and main; number of stories and height, proposed general use for each building; and the number, size and type of dwelling units where applicable.

n) Proposed finished grading by contour supplemented where necessary by spot elevations.

o) One-hundred-year floodplain areas per *Federal Emergency Management Agency (FEMA)*

p) The location, character, size, height and orientation of proposed signs.

q) The location and dimensions of proposed recreation, open space, and required amenities and improvements.

r) Location of proposed solid waste facilities.

s) Proposed schedule of development.

t) Show total impervious surface. Show Best Management Practices where applicable.

u) When building heights exceed 50' certified approval from the fire inspector is required stating that the structure can be served by the local fire department.

v) Any use-specific requirements listed in this article.

5. The Planning Director May Request the Following Information when Deemed Necessary or Prudent to Evaluate the Impacts of the Proposed Development

a) Slope. Grade and cross-section of drives, sidewalks, malls, etc.

b) Profiles of publicly maintained water and sewer lines.

c) Profiles: Cross sections and slopes of on-site and off-site ditches carrying water run-off.

d) Erosion and Sediment Control Plans.

e) Lighting plan

6. Additional requirements for Radio, Telephone, and TV transmitting towers when not a Special Use

    a) Towers located in B1, B2 or GI Districts require a Special Use Permit if located adjacent to a residential use.

    b) Setbacks for Radio, Telephone and TV Transmitting Towers will be equal to the height of the tower unless the fall-zone is certified to be less than the height of the tower.

    c) Lattice towers, or self-supporting towers, with a triangular base tapered to the top and engineered with breakpoints may be setback a distance ½ their height.

    d) At a minimum, towers in all Districts are subject to the standards of the Table of Dimensional Requirements (Table 72).

    e) There are no height limitations for towers except as specified by the Federal Aviation Administration (FAA) in the vicinity of the Person County Airport.

Section 8.2 – Special Use Permits

In addition to the requirements of this article, site plans that accompany a Special Use Permit application must contain this additional information and the information required based on the proposed use.

1. Planned Building Groups, Commercial and Residential

    a) The development shall be on a minimum of a 2-acre lot.

    b) It shall be exempt from the lot and yard dimensional requirements of this article provided that the intensity of the development is no greater and the preservation of open spaces no less than allowed for other development in the same district. (Revised 1/11/96)

    c) Mobile Home Parks are not Planned Building Groups, see Manufactured Home Park requirements below.

    d) Proposed provisions for storm drainage and sanitary sewage as approved by the appropriate governmental agency.

    e) Size and proposed location of any signs.

    f) Proposed water system and firefighting facilities such as hydrants and sprinkler connections.

    g) Proposed solid waste facilities.

    h) The location, dimensions and type of surfacing for drives, sidewalks, malls, etc. All parking and travel ways to be paved. (Amended 5/6/2002)

    i) The location and heights of all fences, walls and hedges.

    j) Show proposed water and sewer lines and size. (Amended 5/6/2002)

    k) Lighting plans inclusive of wattage and illumination.

    l) Location of traffic control devices.

    m) Location and amount of recreation areas.

n) Location and approximate size of existing and proposed structures within the site and all buildings and structures within 500 feet in addition to public or private easements or rights-of-way adjoining or intersecting such property.

o) Location and extent of proposed parking and loading areas.

p) Land contours at 10-foot intervals.

q) Proposed points of ingress and egress and proposed patterns of internal automobile and pedestrian circulation.

r) Proposed schedule of development.

s) Parking and loading - Off-street parking shall be provided in ratio to two and one-half (2 1/2) spaces per family unit for residential groups and at a ratio of one-half (1/2) parking space per 100 square feet of building area for planned business groups. One loading space for each 10,000 square feet of enclosed building space must be provided in planned commercial building groups. All parking areas shall have a stabilized surface with parking spaces and traffic lanes clearly marked.

t) Screening and fencing-a screen not less than six feet high of dense plant material and/or fence may be required.

u) Recreation areas for planned residential groups Play areas shall be provided for all apartment and condominiums with over five (5) dwelling units. A minimum play area of 2,000 square feet having a minimum width of 40 feet shall be provided for the first six (6) to twenty-five (25) dwelling units. An additional fifty-six (56) square feet of recreation area shall be provided for each unit in excess of twenty-five (25) units. The distribution and number of individual play areas shall be determined by the arrangement of the units, topography and other physical features. Swimming pools and their accessory areas shall not constitute any part of the open space requirements and no part of the required play area shall be used for any other purpose.

v) There shall be maintained at least thirty (30) linear feet of open space between individual buildings in a residential building group.

w) Where the length of a dead-end street exceeds two hundred (200) feet and where there exists six (6) or more dwelling units, an area must be provided for the turnaround of fire fighting vehicles on a stabilized surface. This area shall not be used for parking.

x) Locations for fire hydrants must be shown within 1000 feet, as measured along the access drive from every dwelling unit in a residential building group. All hydrants must be served by a water main of sufficient size. In no case shall the minimum size main be less than six (6) inches in diameter.

2. Additional requirements for Campers/Recreational Vehicle Park

a) A minimum lot size of two acres is required.

b) A proposed park must contain at least 2,500 square feet of land area for each proposed tent or trailer space.

c) A minimum fifty-foot undisturbed buffer from all property lines, excluding driveway access.

d) Each campsite shall contain a stabilized parking pad of either pavement or gravel and one off- street parking space.

e) A sanitary source of drinking water shall be not more than 200 feet, toilet facilities not more than 400 feet and wash houses not more than 1500 feet from any tent or trailer space. This provision shall not apply where community water and sewer connections are provided to trailers having self-contained kitchens and bathroom facilities. (Added 8/2/2010)

3. Commercial Junkyard or Automobile Graveyard

a) The storage area shall be fenced to screen the view of the stored materials from public roads and public uses (schools, playgrounds, recreational properties, etc.) on adjacent properties in any of the following manners:

i. Maintenance of existing or planted natural vegetation

ii. A fence that is either solid in construction or a wire fence in conjunction with vegetation to achieve a visibly solid barrier. Any fence serving this purpose shall be maintained in good condition.

iii. Landscaping supplementing a wire fence shall be planted:
- On at least one side of the wire fence
- As close as practical to said fence
- At intervals evenly spaced and in close proximity to each other so that a continuous, unbroken hedgerow will exist to a height of at least six (6) feet along fence surrounding the stored materials when the vegetation reaches maturity.

iv. Vegetation providing a visual barrier shall be maintained using good husbandry techniques, including but not limited to, proper pruning, proper fertilizer and proper mulching, so that the vegetation will reach maturity as soon as practical and will have maximum density in foliage. Dead or diseased vegetation shall be replaced at the next appropriate planting time.

v. Other natural barriers including topography or other natural means.

b) All wrecked, scrapped, ruined, dismantled or inoperable motor vehicles and junk shall be stored behind the required screening.

c) An identification sign at the entrance of the facility of not less than fifteen (15) square feet in area.

4. Mobile Home Park
In addition to the requirements of site plans of this article, an application for a mobile home park shall provide:

a) Certifications for outside reviews. These certifications may be presented with the application to the Planning Department or the staff may circulate the application to the noted departments. Departments will have 20 working days to provide comments, including any reasons for denial. The absence of a recommendation from any agency within the above-prescribed time period shall be considered as a favorable recommendation:

i. Certification of approval of water supply system plans by the Person County Environmental Health Department.

ii. Certification of approval of sewage collections systems and treatment facilities plans by the state of North Carolina or Person County Environmental Health Department, as appropriate.

iii. Certification of approval of the North Carolina Department of Environmental Quality relative to erosion and sedimentation control.

b) The transfer of title of a mobile home space or spaces either by sale or by any other manner shall be prohibited within a mobile home park as long as the mobile home park is in operation.

c) Mobile home park identification signs shall not exceed thirty-two (32) square feet in area. Only direct, non-flashing lighting shall be used for illumination.

d) A fifty (50) foot buffer strip adjacent to all property lines which do not abut a public or private road. The zone shall contain planted evergreen trees or shrubbery with a height at maturity of at least five (5) feet or a solid fence or wall at least five (5) feet in height. This strip shall be depicted on the mobile home park plan with the following note: "This strip is reserved for the planting of trees and shrubs by the owner; the location of structures hereon is prohibited".

e) Within each mobile home park, one mobile home space for each whole multiple of fifty spaces may be used as a location for an administrative office. For example:

I-99	mobile home park spaces	1 administrative space
100-149	mobile home park spaces	2 administrative spaces
150-199	mobile home park spaces	3 administrative spaces

f) Convenience establishments of a commercial nature shall be limited to food stores and/or coin operated laundries. These may be permitted in mobile home parks subject to the following restrictions:

i. Such establishments shall be subordinate to the residential use and character of the park.

ii. Such establishments shall present no visible evidence of their commercial character from any portion of any residential district out-side the park.

iii. Such establishments shall be designed to serve the trade and service needs of the park residents only.

g) The design standards for streets within mobile home parks shall comply with either the minimum construction standards for secondary roads as required by the North Carolina Division of Highways or with minimum construction standards of private subdivision roads as specified herein.

h) The State of North Carolina will not add any proposed roads within a mobile home park to the secondary road system; consequently, the developer shall construct all roads within the mobile home park serving less than fifty (50) spaces in accordance with a policy entitled "Minimum Construction Standards for Private Roads, Person County, North Carolina." However, if fifty (50) or more spaces are proposed, all roads located within the park shall be paved in accordance with a North Carolina Department of Transportation publication entitled "Subdivision Roads, Minimum Construction Standards", dated May 1, 1983.

i) All private roads limited within a mobile home park shall be maintained by the park owner.

j) Two (2) automobile parking spaces shall be provided within each mobile home space and shall not be located within any public right-of-way or within any street in the park,

k) Cul-de-sacs shall serve no more than twenty-five (25) lots.

l) Any mobile home park with fifty (50) or more spaces shall have a minimum of two entrances which provide ingress and egress.

m) All mobile homes shall be located on individual mobile home spaces and each lot shall be clearly numbered so as to be seen from the access street.

n) Mobile home parks existing on Feb 17, 1986 shall be allowed to continue provided, however, that mobile home parks existing at the time of the adoption of this article shall not be allowed to expand or increase in any manner unless such expansion meets fully requirements set forth in this article.

o) Every mobile home park owner or operator shall maintain an accurate register containing a record of all owners of mobile homes in the park. In the event of a renter-occupied mobile home, at least one occupant from each mobile home shall be identified in the register along with the name(s) of the owner(s). The register shall be available for inspection at all times by authorized county representatives. The register shall contain the following information:

    i. Name of owner and occupant;

    ii. Mobile home space number;

    iii. Make, model and registration;

    iv. Date when occupancy within the mobile home park begins and date when occupancy within the mobile home park ceases.

p) Each mobile home space shall be clearly defined by means of concrete or metal pipe markers placed at all corners.

q) No mobile home space shall encroach any proposed street right-of-way.

r) Each mobile home shall be located at least twenty (20) feet from any permanent building within the mobile home park.

s) Storage areas shall be so maintained as to prevent rodent harborage; lumber, pipe, and other building material shall be stored at least one (1) foot above the ground.

t) All exterior openings in or beneath any structure shall be appropriately skirted with suitable materials.

u) The growth of brush, weeds and grass shall be controlled to prevent harborage of ticks, chiggers, and other noxious insects, Parks shall be so maintained as to prevent the growth of ragweed, poison ivy, poison oak, poison sumac, and other noxious weeds considered detrimental to health. Open area s shall be maintained free of heavy undergrowth with a height in excess of twenty-four (24) inches.

v) All streets within the mobile home park shall be adequately illuminated from sunset to sunrise. The minimum size street light shall be a 175-watt mercury vapor (approximately 7,000 lumen class), or its equivalent, spaced at intervals of not more than five-hundred (500) feet.

w) Each mobile home park shall provide four-hundred (400) square feet of recreation area for each mobile home space that is twenty-thousand (20,000) square feet or less in area.

x) Buffer strips shall not be used to satisfy recreation space area requirements.

y) The applicant shall submit clear information about how solid waste will be controlled and collected from the site.

5. Radio, Telephone and TV Transmitting Towers

a) Towers located in B1, B2 or GI Districts require a Special Use Permit if located adjacent to a residential use.

b) Setbacks for Radio, Telephone and TV Transmitting Towers will be equal to the height of the tower unless the fall-zone is certified to be less than the height of the tower.

c) Lattice towers, or self-supporting towers, with a triangular base tapered to the top and engineered with breakpoints may be setback a distance ½ their height.

d) At a minimum, towers in all Districts are subject to the standards of the Table of Dimensional Requirements (Table 75).

e) There are no height limitations for towers except as specified by the Federal Aviation Administration (FAA) in the vicinity of the Person County Airport.

Section 8.3 – Home Occupations

A home occupation is a business or commercial activity carried on in a dwelling unit or accessory building in accordance with the following.

1. The use is an incidental use to the residential property.

2. The home occupation shall not generate significantly greater volumes of traffic than would be expected in that residential neighborhood.

3. No more than one (1) person other than the resident of the dwelling is to be engaged in the home occupation.

4. No more than twenty-five percent (25%) of the total heated floor area of the principal structure shall be used for the home occupation.

5. One hundred percent (100%) of an accessory structure may be used for the home occupation, if located to the side or the back of the principal structure; and (2) the total floor area of the accessory structure does not exceed fifty percent (50%) of the gross floor area of the principal structure.

6. The exterior of any structure (principal or accessory) shall not be built or altered in any manner nor shall the occupation be conducted in such a way as to cause the premises to substantially differ from its' residential character in exterior appearance.

7. The outside storage or exterior display of merchandise, products or materials, is prohibited.

8. Required parking for a home occupation shall be met off the street and not in a required front or side yard setback.

9. Signage shall comply with Article XII.

10. All residential properties served by a well and/or sewage disposal system must have said systems evaluated (when applicable) in accordance with North Carolina General Statutes and local regulations.

11. The use shall not emit any obnoxious or offending noise, dust, vibration, odor, smoke, fumes, glare, electrical interference, interference to radio or television reception beyond what normally occurs in the applicable zoning district and shall not present a fire hazard.

12. The on-premises sale and delivery of goods which are not produced on the premises is prohibited, except in the case of the delivery and sale of goods incidental to the provision of a service.

Section 8.4 – Manufactured Homes

8.4-1 Class A

A Class A manufactured home shall be a permitted use in the Residential (R), Highway Business (B-1). Neighborhood Business (B-2) and Rural Conservation (RC) Zoning Districts provided that:

1. The manufactured home is listed and assessed as real property;

2. All roof structures shall provide an eaves projection of no less than six inches, which may include a gutter;

3. The exterior siding consists predominantly of vinyl or aluminum horizontal lap siding (whose reflectivity does not exceed that of gloss white paint), wood, or hardboard, comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction;

4. The manufactured home is set up in accordance with the standards set by the N.C. Department of Insurance and a continuous, permanent masonry foundation or masonry curtain wall, unpierced except for required ventilation and access, is installed under the perimeter of the manufactured home;

5. Stairs, porches, entrance platforms, ramps and other means of entrance and exit to and from the home shall be installed or constructed in accordance with standards set by the North Carolina State Building Code, Volume VII - Residential; and

6. The moving hitch, wheels and axles, and transporting lights have been removed.

A Class A manufactured home may be used only for residential purposes and may not be used for storage, accessory buildings, utility buildings nor shops. All standards of this article must be met before a Certificate of Compliance is issued by the Person County Inspection Department.

A Class A manufactured home not meeting the criteria above may be located in a mobile home park.

8.4-2 Class B

A 'Class B' manufactured home shall be a permitted use in the Residential (R) and Rural Conservation (RC) Zoning Districts provided that:

1. The exterior finish is in good repair and the exterior materials are comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction. Acceptable materials for the exterior of such homes include but are not limited to vinyl or aluminum horizontal lap siding (whose reflectivity does not exceed that of gloss white paint), wood, or hardboard.

2. The manufactured home is set up in accordance with the standards set by the North Carolina Department of Insurance and a continuous, permanent masonry foundation or masonry curtain wall, unpierced except for required ventilation and access, is installed under the perimeter of the manufactured home;

3. The roofing materials are compatible with those used in standard residential construction;

4. The wheels, axles, transporting lights and towing apparatus have been removed

5. Stairs, porches, entrance platforms and other means of entrance and exit to the home are installed or constructed in accordance with the North Carolina State Building Code, Volume VII - Residential.

A Class B manufactured home meeting criteria above shall be a special use in the Highway Business (B-1) and Neighborhood Business (B-2) Zoning Districts except when located within a mobile home park.

Class B manufactured homes may be used only for residential purposes and may not be used for storage accessory buildings, utility buildings nor shops.

All standards of this article must be met before a Certificate of Compliance is issued by the Person County Inspection Department.

Class B manufactured homes not meeting the criteria above may be located in a mobile home park. (Rev. 5/5/97)

8.4-3 Hardship

The Zoning Administrator may grant temporary permits for placing mobile homes for dwelling purposes to the rear or side of a dwelling located on a residential lot in certain hardship cases when the Zoning Administrator finds that:

1. The person or persons occupying the mobile home are physically dependent upon the person or persons occupying the dwelling house, or that the person or persons occupying the dwelling house are physically dependent upon the person or persons occupying the mobile home.

2. The water and sewage facilities are approved by the District Health Department.

3. One of the following types of relationships exists between the occupants of the manufactured home and the occupants of the principal dwelling unit:

    a) Blood relationship.

    b) Relationship by marriage.

    c) Legal guardian relationship established by law.

    d) The attendant is compensated for his or her services and is providing care for not more than two related persons.

4. The manufactured home meets criteria for Manufactured Homes, Class B.

5. The permit shall expire after one (1) year and shall be renewable upon similar findings by the Zoning Administrator. When the hardship ceases to exist, the permit shall automatically be revoked and the mobile home removed. When any of the terms, conditions, or restrictions imposed on the zoning permit are not being complied with, the Zoning Administrator shall rescind and revoke such permits after notifying all parties concerned by letter.

Any mobile home approved by the Zoning Administrator under the hardship provisions prior to the date of this amendment shall be included in the above restrictions with regard to expiration of permits after one (1) year from the date of issuance and all such permits shall be renewed within one (1) year of the date of this amendment. (Rev. 5/5/97)

8.4-4 During Construction of a Permanent Dwelling

The Zoning Administrator may allow the temporary placement of a manufactured home for dwelling purposes on a lot during construction or installation of a permanent residential unit on that lot provided that:

1. A building permit has been issued for construction of the permanent home;

2. The construction of the permanent home is started within six (6) months from placement of the manufactured home on the lot and is completed within three (3) years from the date of approval of the zoning permit. At the discretion of the Zoning Administrator, the duration of the zoning permit may be extended a maximum of five (5) years from the date of approval of the permit to allow completion of the permanent home;

3. The exterior finish is in good repair and the exterior materials are comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction. Acceptable materials for the exterior of such homes include but are not limited to vinyl or aluminum horizontal lap siding (whose reflectivity does not exceed that of gloss white paint), wood, or hardboard; and

4. The manufactured home is set up in accordance with the standards set by the North Carolina Department of Insurance.

5. The manufactured home must be removed from the lot within thirty (30) days following issuance of the Certificate of Occupancy of the permanent home.

Should any of the terms, conditions or restrictions imposed on the zoning permit be violated, the Zoning Administrator shall rescind and revoke such permits after notifying by letter all parties concerned and granting them full opportunity of a hearing. When such a zoning permit is revoked, the manufactured home for which it was issued must be removed from the property within thirty (30) days after the revocation is final. (Adopted 5/5/97)

8.4-5 Emergency Use of Campers/Recreation Vehicles

Temporary emergency use of a camper/recreational vehicle is allowed for a period of six months in the event of a fire, flood or other natural disaster which has made the principal dwelling uninhabitable. The temporary use must be located on the same lot and a zoning permit is required. The zoning permit may be renewed for one additional six-month period. The Zoning Administrator may allow the temporary use of a camper/recreational vehicle for dwelling purposes during the construction or installation of a new permanent residential unit due to the previous residential unit being made uninhabitable by a natural disaster provided that:

1. A building permit has been issued for construction of the permanent home.

2. Approval is for a maximum period of one year. Applicant shall only be allowed one reapplication for the same lot after the initial six-month application period.

3. The camper/recreational vehicle cannot be used for residential purposes on the same lot once the certificate of occupancy is issued.

Section 8.5 – Ordinance Regulating Sexually Oriented Businesses

Purpose

This Ordinance sets licensing and business regulation requirements for sexually oriented businesses located in Person County, North Carolina.

Sexually oriented businesses, because of their very nature, can have serious adverse secondary effects on a community. Studies and experiences have shown that adverse secondary effects such as lower property values and increased crime rates tend to accompany and are brought about by location of sexually oriented businesses in a community.

The Person County Board of Commissioners has determined that this article is necessary to ensure that the adverse secondary effects of lower property values, increased crime and damage to public health do not occur in Person County as the result of sexually oriented businesses in Person County.

The Person County Board of Commissioners has determined that the standards and procedures set forth in this article are appropriate to prevent such adverse secondary effects.

This article has neither the purpose nor effect of limiting or restricting the content of any communicative materials, including sexually oriented materials. Similarly, it is neither the purpose nor effect of this article to restrict or deny access by adults to sexually oriented materials protected by the First Amendment to the United States Constitution or to deny access by distributors and exhibitors of sexually oriented entertainment to their intended market.

This article is the product of balancing the legitimate need of Person County to be protected from acts, omissions or conditions caused by adverse secondary effects of sexually oriented businesses with the constitutionally protected rights of adults who wish to patronize such businesses and the rights of distributors and exhibitors of such businesses.

The Board of Commissioners has determined that adverse secondary effects of sexually oriented businesses will be reduced by provisions of this article which include, but are not limited to, the following:

1. The identification of employees of a sexually oriented business will facilitate the identification of potential witnesses or suspects in order to reduce the incidence of certain types of criminal behavior.

2. The disclosure of certain information by those persons ultimately responsible for the day-to-day operation and maintenance of the sexually oriented business will assist government to assure compliance with law and prevent the spread of sexually transmitted diseases.

3. The fact that an applicant for a sexually oriented business license has been convicted of a sexually related crime leads to the rational assumption that the applicant may engage in that conduct in contravention of federal and state law, and this article. The barring of such individuals from the management of a sexually oriented business will assist government to assure compliance with law and prevent the spread of sexually transmitted diseases.

4. Establishing locational criteria to keep sexually oriented businesses away from sensitive uses, such as residential districts, schools, day care centers, etc., reduces the potential for secondary harm to such sensitive uses.

5. Establishing additional lighting requirements for the interior and exterior portions of a sexually oriented business reduces the potential for illicit sexual activity or criminal activities occurring on or near the premises of a sexually oriented business.

6. Establishing a prohibition on employing minors, or allowing minors within the premises, reduces the potential for exploitation of such minors by a sexually oriented business.

7. Requiring internal design configuration standards and the location of managers' stations for a sexually oriented business will allow operators to observe and police their own patrons, and reduce the potential for illicit sexual activity and criminal activities at a sexually oriented business.

8.5-1 Definitions

Certain words or terms used in this Ordinance are defined as follows:

Interpretation of Common Words and Terms

Words used in the present tense include the future tense. Words used in the singular number shall include the plural, and words in the plural shall include the singular.

The word "person" includes a firm, co-partnership, company, trust, association or corporation as well as an individual.

The word "lot" includes the words "plot," "parcel," "site" or "tract."

The word "building" includes the word "structure."

The word "used" or "occupied" as applied to any land or building shall be construed to include the words "Intended, arranged or designed to be used or occupied."

The word "shall" is always mandatory.

The word "may" is permissive.

Italicized words have special meaning as defined in this Ordinance.

Definition of Specific Words and Terms.

Adult Arcade.
Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.

Adult Bookstore
Is defined in NCGS § 14-202. 10 (1) which is incorporated herein by reference.

Adult Cabaret.
A nightclub, bar, restaurant, or similar commercial establishment that for at least ten percent (10%) of its business hours in any day features:

1. Persons who appear in a state of nudity or semi-nudity; or

2. Live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities; or

3. Films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by the depiction or description of specified sexual activities or specified anatomical areas; or

4. Persons who engage in lewd, lascivious or erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.

Adult Escort.
A person who, for consideration, agrees or offers to act as a companion, guide, or date for another person for the purpose of participating in, engaging in, providing, or facilitating "specified sexual activities."

Adult Escort Agency.
A person or business that furnishes, offers to furnish, or advertises to furnish adult escorts as one of its business purposes for a fee, tip, or other consideration.

Adult Establishment
Is defined in NCGS § 14-202.10 (2) which is incorporated herein by reference.

Adult Live Entertainment
Is defined in NCGS § 14-202.10 (3) which is incorporated herein by reference.

Adult Live Entertainment Business
Is defined in NC GS§ 14-2 02.10 (4) which is incorporated herein by reference.

Adult Media Center
Adult media center includes, but is not limited to, an adult book store, and an adult video store and means any place:

1. Which receives more than fifty percent (50%) of its gross income during any calendar month from the sale, rental, or both of books, periodicals, magazines, video-tapes, CD ROM, computer software, movies, and other products offered in photographic, print, electronic, magnetic, or digital or other imaging medium which are distinguished or characterized by their emphasis on matter depicting, describing, or presenting specified anatomical areas as defined in NCGS § 14- 202.10 (10), or specified sexual activities as defined in NCGS § 14-202. 10 (11), or sexually oriented devices as defined in NCGS § 14-202.10 (9), or any combination thereof-, or

2. Having more than twenty five percent (25%) of its merchandise inventory consisting of books, periodicals, magazines, video-tapes, CD-ROM, computer software, movies, and other products offered in photographic, print, electronic, magnetic, or digital or other imaging medium which are distinguished or characterized by their emphasis on matter depicting, describing, or presenting specified anatomical areas as defined in NCGS § 14-202.10,,(10), or specified sexual activities as defined in NCGS § 14-202. 10 (11), or sexually oriented devices as defined in NCGS § 14-202.10 (9), or any combination thereof

A commercial establishment may have other business purposes in the same building site that do not involve the offering for sale or rental of material depicting or describing specified sexual activities or specified anatomical areas and still be categorized as adult media center. Such other business purposes will not serve to exempt such commercial establishments from being categorized as an adult media center so long as one of its business purposes is the offering for sale or rental for consideration the specified materials which depict or describe specified sexual activities or specified anatomical areas.

Adult Motel
A hotel, motel or similar commercial establishment that:

1. Offers accommodation to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by the depiction or description of specified sexual activities or specified anatomical areas; and has a sip visible from the public right of way that advertises the availability of this adult type of photographic reproductions; or

2. Offers a sleeping room for rent for a period of time that is less than twelve (12) hours; or allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than twelve (12) hours.

Adult Motion Picture Theater
Is defined in NCGS § 14-202.10 (5) which is incorporated herein by reference.

Adult Mini Motion Picture Theater
Is defined in NCGS § 14-202.10 (6) which is incorporated herein by reference.

Adult Theater
A theater, concert hall, auditorium, or similar commercial establishment that for at least ten percent (10%) of its business hours in any day, features persons who appear in a state of nudity or live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities.

Adult Video Store
A commercial establishment that, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following: books, magazines, periodicals or other printed matter, or photographs, films, motion picture, video tapes or cassettes, video reproductions, CDROMs, slides, or other visual representations which depict or describe specified sexual activities or specified anatomical areas; or any combination thereof.

Amusement Arcade
A building or any part of a building in which five (5) or more pinball machines, video games or machines or other similar player operated amusement devices are maintained. Adult arcade is specifically excluded from this definition.

Nude Model Studio
Any place where a person who appears in a state of nudity or displays specified anatomical areas is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. There is excepted from this definition any studio which is part of a school for artists who are regularly enrolled in a course of instruction in the arts, and in which the use of nude models involves less than ten percent (10%) of the course hours.

Nudity or a State of Nudity
The appearance of a human bare buttock, anus, male genitals, female genitals, or female breast without a fully opaque complete covering of the breast below a point immediately above the top of the areola, or human male genitals in a discernibly turgid state even if completely and opaquely covered.

Park
Any public land available for recreational, educational, cultural or aesthetic use.

Parking Space
A vehicular storage space of not less than ten (10) feet by twenty (20) feet; plus the necessary access space. It shall always be located outside any dedicated right-of-way.

Person
An individual, proprietorship, partnership, corporation, association, or other legal entity.

Property
All real property subject to zoning regulations and restrictions and zoning boundaries by Person County.

Religious Complex
A church (a building primarily used for public divine worship) or a church and any related structures including a parsonage, fellowship halls, educational buildings, youth centers, recreational facilities (which include playgrounds), day care centers, parochial schools or similar structures or areas located on a single site.

Semi-Nude
A state of dress in which clothing covers no more than the human bare buttock, anus, male genitals, female genitals, or female breast without a fully opaque complete covering of the breast below a point immediately above the top of the areola, or human male genitals in a discernibly turgid state even if completely and opaquely covered.

Sexual Encounter Center
A business or commercial enterprise that, as one of its business purposes, offers for any form of consideration:

1. Physical contact by customers in the form of wrestling or tumbling between persons of the opposite sex; or

2. Activities between male and female persons, or persons of the same sex when one or more of the persons is in a state of nudity or semi-nudity.

Sexually Oriented Business
A business which offers its customers or patrons any device, activity or demonstration depicting specified sexual activities, or which is intended to appeal to sexual interests, titillation or arousal of the customer or patron. A sexually oriented business shall include an adult establishment as defined in NCGS § 14-202.10 (2) and, in addition, without limitation: adult arcade, adult bookstore, adult video store, adult cabaret, adult media center, adult live entertainment business, adult motel, adult motion picture theater, adult mini motion picture theater, adult theater, adult escort agency, nude model studio, and sexual encounter center.

Sexually Oriented Business Activities
Those activities usually provided for, promoted, or offered by a sexually oriented business as defined herein, whether or not, as the principal business purpose or as a sideline or accessory business purpose and whether or not in connection with or on the same premises with a business which is not a sexually oriented business.

Sexually Oriented Devices
Is defined in NCGS § 14-202.10(9) which is incorporated herein by reference.

Zoning Administrator
Is defined in the Person County Planning Ordinance.

8.5-2 License

1. No person shall operate a sexually oriented business except within a Zoning District which permits Industrial Operations as established by the Person County Planning Ordinance and unless such person has received a sexually oriented business license as provided by this section.

2. Application for License.
   Every application for a sexually oriented business license prescribed herein shall be upon a form approved by the County Manager and shall be filed with the Zoning Administrator. An application shall be made under oath and shall contain the following information:

   a) If the applicant is a person, the name and residence address of such person including any aliases or other names by which the applicant is known or which the applicant has used at any time; the residence and address for the past two (2) years, the business and home telephone numbers, occupation, date and place of birth, social security number, drivers license number, and a recent photograph of the applicant. If the applicant is a partnership, corporation, association, or other entity the same information is a requirement for all corporate officers, directors, and any individuals having a ten (10) percent or greater interest in the corporation, partnership, association, or other entity.

b) The address of the premises where the proposed sexually oriented business is proposed to be located;

c) A complete statement of all convictions of any person whose name is required to be given in this article for any sexually related crime; prostitution or any violation of any law relative to prostitution; or of any crime involving sexual misconduct as codified in the laws of the United States, this or any other state, including, but not limited to convictions of violations of any of the offenses enumerated in Article 26, 26A and 27 of Chapter 14 of the North Carolina General Statutes, or the same offenses as codified in the laws of the United States, this or of any other state or the laws of any country, or subdivision thereof, other than the United States;

d) A complete statement of any denial and/or revocation of any license, including the grounds and reasons theretofore, to operate a sexually oriented business by any governmental unit listed by name and address of any person whose name is required to be given in this article for the five (5) years preceding the date of the filing of this application;

e) A complete statement of any conviction for violation of any statute, law, ordinance or regulation concerning the operation of a sexually oriented business by any governmental unit listed by name and address of any person whose name is required to be given in this article for the five (5) years preceding the date of the filing of this application;

f) A description of any other business proposed to be operated on the same premises or on adjoining premises owned or controlled by the applicant or any other person or entity listed in this article.

g) All applicants, and any individual listed in (B)(l) of this Section 4, above, shall submit to fingerprinting by the Sheriff of Person County or his deputy. The fingerprint cards shall be submitted to the S.B.I for processing. Returned fingerprint cards and any criminal histories shall be kept on file in the office of the Sheriff of Person County.

h) A site plan showing the location of the building proposed to contain a sexually oriented business and a floor plan of such building showing floor layout, customer area, and uses in accordance with all the requirements of this article.

i) A current certificate and straight-line drawing prepared by a registered land surveyor depicting the property lines and the structure containing the proposed sexually oriented business and its distance from existing land uses to include, but not be limited to, established dwellings, residential zoning districts, other sexually oriented business, religious complexes, libraries, schools, state licensed child day care centers, public playgrounds, public swimming pools, public parks, and any outdoor recreational use.

j) A statement signed under oath that the applicant has personal knowledge of the information contained in the application, that the information contained therein is true and correct, the applicant consents to the investigation of his/her background by agents of Person County for the purpose of verifying the information provided, and that the applicant has read and understands the provisions of this article regulating sexually oriented businesses.

8.5-3 Review and Approval of Application

1. Except as modified by this article, the procedure for the review and approval of the application shall be the same as for a Special Use Permit as provided in this article of the Person County Planning Ordinance.

2. The Zoning Administrator shall transmit a copy of the completed application, containing all the required information outlined in Subsection (B) of this Section 4, to the Person County Sheriff's department for an investigative report and to the fire department to determine compliance with any law relating to the fire protection. The Zoning Administrator shall determine compliance with all zoning, building regulations, and article.

3. The Sheriff and Fire Departments shall, within a reasonable time not to exceed thirty (30) working days, report the results of their examinations to the Zoning Administrator.

4. The Zoning Administrator shall prepare a report which includes the results of the examinations by the Sheriff and the Fire Department and a recommendation to approve or deny the Special Use application.

5. If the Sheriff or the fire department does not respond to the Zoning Administrator within thirty (30) days after receiving the application from the Zoning Administrator, the application shall be deemed to meet the approval of the non-responding entity.

6. Within forty-five (45) days after initial receipt of the application, the Zoning Administrator shall place on the agenda of the next regularly scheduled Planning Board meeting the completed application accompanied by all required information.

7. Upon the receipt of said application for a sexually oriented business license, the Planning Board shall review the Special Use application, the site plan, and the sexually oriented business license application and recommend to the Board of Commissioners that the
application be approved or denied.

8. The Planning Board shall recommend that the Board of Commissioners deny the application for issuance of the license if the Planning Board determines that:

   a) The application contains misstatement of fact;

   b) The applicant, or any person or entity having any legal or beneficial ownership interest in the application, has been convicted of a sexually related crime, prostitution or a violation of any law relative to prostitution, crime involving sexual misconduct as codified in the laws of the United States, this or any other state, including, but not limited to convictions of violations of the offenses enumerated in Articles 26, 26A and 27 of Chapter 14 of the North Carolina General Statutes, or the same offenses as codified in the laws of the United States, this or any other state or the laws of any country, or subdivision thereof, other than the United States;.

   c) The applicant does not conform to all requirements of applicable zoning, building, and fire prevention codes

   d) The applicant or any person, corporation, partnership, association or other entity having a legal or beneficial ownership interest in the applicant has, for the five-year period preceding the application, had a previously issued license for engaging in any sexually oriented business suspended or revoked anywhere.

8.5-4 Annual Business License

1. Upon approval of an Application as provided in this article, and payment by the applicant of a license fee as provided below, the Zoning Administrator shall issue, in such form as shall be approved by the County Manager, a license to the applicant to operate a sexually oriented business.

2. The license required under this article is annual and shall be valid for a period of twelve (12) months

3. Application for renewal of a business license under this article shall be made to the Zoning Administrator on a form requiring such information as is approved by the County Manager at least sixty (60) days before the expiration date. If application is not made more than sixty (60) days before the expiration date, the license will expire twelve (12) months from the date of issuance. An application for renewal made less than sixty (60) days before the expiration date shall be regarded as a new application and shall be subject to all the requirements of this article for the initial issuance of a license.

4. Any violation of the licensing provisions in this ordinance will result in the denial of the renewal application.

5. A license issued under this Ordinance shall be for the conduct of a business at a specific location by the approved applicant and shall be nontransferable to any person, partnership, corporation, association, or other entity.

6. Every application for a sexually oriented bus1nesses license, whether for a new license or for renewal of an existing license, shall be accompanied by a nonrefundable application and investigation fee of $150.00.

7. Every person, corporation, partnership, or association licensed under this article shall display such license in a prominent place within such licensed premises in full view of customers of the business conducted therein.

8. No employee or contract personnel of the Licensee shall perform duties on the licensed premises prior to submission to the Zoning Administrator of the same information required of Applicants by Section 3, Subsection B, Paragraphs (1),(3),(4),(5),(7) and (10) of this article and a determination in writing by the Zoning Administrator that such information, if submitted by an Applicant, would not cause a license to be denied pursuant to Section 3, Subsection C, Paragraph (8) of this article. Such written determination by the Zoning Administrator shall be subject to inspection as provided by Section 4, Subsection G of this article.

8.5-5 Denial, Revocation and Refusal to Renew License

1. The Board of Commissioners may deny, revoke or refuse to renew a license granted under this article if it receives a recommendation of such action from the Planning Board acting on the recommendation of the Zoning Administrator.

2. Before the Board of Commissioners denies, revokes or refuses to renew a license applied for or issued pursuant to this article the Board of Commissioners shall cause a written notice to be sent by certified mail to the licensee or applicant affected, at the address stated in the license or application. The notice shall advise the affected party of its rights to appear before the Board of Commissioners, with or without legal counsel, at a stated time and place to hear all evidence submitted, examine or cross-examine any person providing such evidence and to present any evidence relevant to such denial, revocation or refusal to renew a license under this article.

3. A license issued pursuant to this section shall be revoked by action of the Board of Commissioners if the Board of Commissioners determines that:

    a) The licensee has violated any provision of this article;

b) Subsequent to the date of the Application required by this article, the licensee, or the legal or beneficial owner of any interest in the licensee is convicted of any felony; prostitution or any violation of any law relative to prostitution; crime involving sexual misconduct; as codified in the laws of the United States, this or any other state, including, but not limited to convictions of violations of any of the offenses enumerated in Articles 26, 26A and 27 of Chapter 14 of the North Carolina General Statutes, or the same offenses as codified in the laws of any other state.

c) Subsequent to the date of submission of the information required by this article, any employee or contract personnel of the licensee is convicted of any felony; prostitution or any violation of any law relative to prostitution; crime involving sexual misconduct; or any offense against public morality and decency as codified in the laws of the United States, this or any other state, including, but not limited to convictions of violations of any of the offenses enumerated in Articles 26, 26A and 27 of Chapter 14 of the North Carolina General Statutes, or the same offenses as codified in the laws of any other state, which arises out of, or in the course of the business of the licensee.

d) The licensee has knowingly, willingly, or intentionally allowed possession, consumption, or sale of alcohol, alcoholic beverages, or controlled substances on the licensed premises.

e) The licensee has knowingly, willingly, or intentionally operated a sexually oriented business during a period of time when the licensee's license was suspended for any reason.

f) The licensee has knowingly, willingly, or intentionally allowed prostitution on the licensed premises.

g) The licensee has knowingly, willingly, or intentionally violated state ABC laws on the licensed premises.

4. When a license is revoked pursuant to this article, the revocation shall continue for one (1) year and the licensee shall not be issued a sexually oriented business license for one (1) year from the date the revocation became effective. However, subsequent to revocation the Board of Commissioners may grant to the applicant a license if upon application of the former licensee it finds that the basis for the revocation has been corrected or abated and at least ninety (90) days have elapsed since the date the revocation became effective. Such license shall expire on the date of expiration of the previously revoked license.

Appeal to Court.
After denial of an application, or denial of a renewal of an application or revocation of any license, and all administrative measures have been exhausted, the applicant or licensee may seek immediate judicial review of such action in any court of competent jurisdiction.

Business Regulation
The following business regulations apply to the ability to operate a sexually oriented business in Person County:

1. Alcohol.

a) No Sexually Oriented Businesses may be located in a building that sells or serves alcohol or alcoholic beverages or allows alcohol or alcoholic beverages to be consumed on the premises.

2. Location.
No Sexually Oriented Businesses shall be permitted in any building which is:

a) Located within four hundred (400) feet in any direction from a building used as a dwelling.

b) Located within four hundred (400) feet in any direction from a residential zoning district.

c) Located within two hundred (200) feet in any direction from a building in which a sexually oriented business is located.

d) Located within one thousand (1,000) feet in any direction from a building in which a religious complex is located.

e) Located within one thousand (1,000) feet 'in any direction from a building in which a library, school, or a state licensed child day care center is located.

f) Located within one thousand (1,000) feet in any direction from any lot or parcel on which a public playground, public swimming pool, or public park is located.

Measurement shall be made in a straight line, without regard to the intervening structures or objects, from the nearest portion of the building or structure used as the part of the premises where a sexually oriented business is conducted to the nearest portion of a building or structure of a use listed above.

1. Signs.
   Signs for Sexually Oriented Business are allowed, as permitted by article in Person County but may not include promotional displays, flashing lights, or photographs, silhouettes, drawings, or pictorial representations of any manner depicting sexual activity, themes or nudity.

2. License.
   The applicant(s) obtain a license in accordance with Section 3 of this article.

3. Compliance with Law.
   The applicant(s) conforms to all applicable law including the rules and regulations of Person County and the State of North Carolina.

4. List of Employees.
   In addition to the above requirements, every licensed sexually oriented business shall maintain a current list of all employees employed by the licensee showing: the legal name, current stage name, current address, current phone number, date of birth, and current driver's license number. In addition the licensee of a sexually oriented business shall maintain a record, updated no less frequently than every six (6) months, showing the name, Social Security Number, height, weight, hair and eye color, scars, tattoos and a passport quality photograph of each employee; such list shall be maintained on the premises of the sexually oriented business.

5. Inspection.

   a) The records required by this section shall be kept available and open for inspection at any time the sexually oriented business is open for business by the Sheriff of Person County, the Roxboro Fire Department, the Person County Health Department, the Zoning Administrator or authorized representative of any of the foregoing.

   b) An applicant or licensee shall permit representatives of the Person County Sheriff's Department, the Roxboro Fire Department, Person County Health Department to inspect the premises of any sexually oriented business for the purpose of insuring compliance with the law, at any time it is occupied or open for business. Failure or refusal by any person to permit a lawful inspection of the premises during regular business hours may result in the revocation of the privilege license.

6. Hours of operation.

    a) No sexually oriented business shall be open for business before 8:00 a.m. or after 2:00 a.m. daily, local time.

    b) No business, nor any owner, agent or employee, licensed under this article shall admit customers or prospective customers, or remain open for business, or allow, permit or condone any customer or patron upon the premises of a sexually oriented business before 8:00 a.m. or after 2:00 a.m. daily, local time.

9. Minors.

    a) No business, nor any owner, agent, or employee, licensed under this article shall allow, permit or condone the patronage of any person under the age of eighteen (18) years upon the licensed premises. A violation of this subsection shall be grounds for revocation of any license issued to such violator pursuant to this article.

    b) No business, corporation, partnership, association, or other entity licensed pursuant to this article shall employ any person under the age of eighteen (18) years. A violation of this subsection shall be grounds for revocation of any license issued to such violator pursuant to this article.

10. Manager's Station.
    A person who operates or causes to be operated a sexually oriented business which exhibits on the premises a film, video cassette, live entertainment, sells adult oriented merchandise including books, magazines, novelty items, computer software, videos, or shows other video reproductions which depicts specified sexual activities shall comply with the following requirements:

    a) Upon application for a sexually oriented business license, the application shall be accompanied by a professionally prepared diagram in the nature of an engineer's or architect's blueprint of the premises showing a plan thereof specifying the location of one (1) or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed thirty-two (32) square feet of floor area. The diagram shall also designate the place in which the business license will be conspicuously posted, if granted. The diagram shall be oriented to the north or to some designated street and drawn to a designated scale or with marked dimensions sufficient to show the various internal inches.

    b) No alteration in the configuration of a manager's station may be made without prior approval of the Zoning Administrator or designee of the Zoning Administrator.

    c) It is the duty of the owners and operator of the premises to ensure that at least one (1) employee is on duty and situated in each manager's station at all times when a patron is inside the premises to ensure that no illegal activity is taking place within the establishment.

    d) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of the entire area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction equipment, books, or any items offered for sale. If the premises has two (2) or more manager's stations, then the interior of the premises shall be configured in such a manner that there is an unconstructive view of the entire area of the premises to which any patron is permitted access for any purpose from at least one (1) of the manager's stations, excluding restrooms. The view required in this subsection shall be by direct line of sight from the manager's station.

e) It shall be the duty of the owner(s) and operator(s), and it shall be the duty of any agent(s) and employee(s) present in the premises, to ensure that the view area specified in subsection (4) remains unobstructed by any doors, walls, merchandise, display racks, or other materials at all times and to ensure that no patron is permitted access to any area of the premises that has been designated as off limits to patrons.

11. Lighting

a) Sexually oriented businesses shall be equipped with overhead lighting fixtures of sufficient 0intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five (5.0) foot-candles as measured at the floor level. It shall be the duty of the owners and operator, and it shall be the duty of any agents and employees present in the premises, to ensure that this illumination is maintained at all times when any patron is present within the premises.

b) Adult motion picture theaters, adult mint motion picture theaters, and adult theaters shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five (5.0) foot-candles as measured at the floor level. The seating area of the theater, however, shall observe an illumination of not less than point five (0.5) foot-candles as measured at the floor level. It shall be the duty of the owners and operator, and it shall be the duty of any agents and employees present in the premises, to ensure that this illumination is maintained at all times when any patron is present within the premises.

12. Construction and Supervision

a) Adult motion picture theaters and adult theaters shall be in an enclosed building with no less than one hundred (100) fixed seats. No private viewing rooms or semiprivate booths are allowed and an adult mini motion picture theater shall not be constructed to allow more than one (1) person in a viewing room at any time and the manager of such shall not allow more than one (1) person in a viewing room at any time.

b) No owner or operator shall allow openings of any kind to exist between viewing rooms within an adult mini motion picture theater. The owner or operator of an adult mini motion picture theater shall, during each business day, regularly inspect the walls between the viewing rooms to determine if any openings or holes exist.

c) The owner or operator of an adult mini motion picture theater shall cause all floor coverings in viewing rooms to be nonporous, easily cleanable surfaces, with no rugs or carpeting and shall cause all wall and ceiling surfaces in viewing rooms to be constructed of, or permanently covered by, nonporous, easily cleanable material.

8.5-6 Prohibited Conduct on Premises of Sexually Oriented Businesses.

1. It shall be a violation of this article for any person in a sexually oriented business to appear in a state of full nudity or to depict specified sexual activities.

2. No owner, operator, manager, employee, entertainer or contract personnel, nor any customer or patron, shall appear bottomless or in a state of full nudity while on the premises of a sexually oriented business.

3. No owner, operator, manager, employee, entertainer or contract personnel, nor any customer or patron, shall perform any specified sexual activities as defined in this article, wear or use any device or covering exposed to view which stimulates or simulates any specified anatomical area, use artificial devices or inanimate objects to perform or depict any of the specified sexual activities, as defined in this article, or participate in any act of prostitution while on the premises of a sexually oriented business.

4. No owner, operator, manager, employee, entertainer or contract personnel, nor any customer or patron, shall knowingly touch, fondle or caress any specified anatomical area of another person, knowingly permit another person to touch, fondle or caress any specified anatomical area of his or hers, whether such specified anatomical areas are clothed, unclothed, covered or exposed, or sit on or in or otherwise occupy the lap of anyone while on the premises of a sexually oriented business.

5. No owner, operator, manager, employee, entertainer or contract personnel shall knowingly or intentionally appear in a semi-nude condition unless the person, while semi-nude, is at least ten (10) feet from any patron or customer and on a stage that is at least two (2) feet from the floor.

6. No employee shall solicit any pay or gratuity from any patron or customer while said employee is in a state of semi-nudity while on the premises of a sexually oriented business.

7. No private dance, viewing, projection or meeting areas shall be allowed within a sexually oriented business.

Exterior of Sexually Oriented Businesses.
It shall be unlawful for an owner or operator of a sexually oriented business to allow the merchandise or activities of the establishment to be visible from any point outside the establishment.

Violation of Business Regulation.
(Amended 08/18/2003)

1. A knowing violation of a Business Regulation set forth in this article shall cause the revocation of a license granted under this article.

2. Any person, firm or corporation who violates any provision of this article shall be guilty of a Class 3 misdemeanor and shall be fined not more than five hundred dollars ($500). Each day a violation exists shall be a separate violation hereunder.

3. This article may be enforced by an appropriate equitable remedy, including temporary restraining order, preliminary injunction and permanent injunction as issued by a court of competent jurisdiction.

8.5-7 Severability

It is hereby declared to be the intention of the Board of County Commissioners that the sections, paragraphs, sentences, clauses, and phrases of this article are severable, and if any phrase, clause, sentence, paragraph, or section of this article is declared unconstitutional or invalid by the valid judgment 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 article of any such unconstitutional or invalid phrase, clause, sentence, paragraph, or section.

Section 8.6 – Solar Energy System Ordinance

General Provisions

Title
This document shall be known and cited as "Person County Solar Energy System Ordinance".

Purpose
The purpose of this article is to facilitate the construction, installation, and operation of solar energy systems (SES) in Person County in a manner that promotes economic development, preserves the dignity and aesthetics of the environment in Person County, and ensures the protection of health, safety, and welfare while also avoiding adverse impacts to important areas such as agricultural lands. This article is not intended to replace safety, health, or environmental requirements contained in other applicable codes, standards, or article. The provisions of this article shall not be deemed to nullify any provisions of local, state, or federal law.

Authority and Grant of Power
This article is adopted under the authority and provisions of the General Statute of North Carolina, Chapter 160D. Nothing herein shall be interpreted to conflict with or supersede any provision of the General Statute of North Carolina Chapter 160D.

Jurisdiction and Applicability
The regulations contained herein shall govern development of land within Person County, North Carolina as provided in General Statute 160D, except those lands lying within jurisdiction of any municipality, unless such municipality shall have by resolution requesting the County enforce these regulations within the municipality's area of jurisdiction.

Solar energy systems established prior to the effective date of this article shall remain exempt except if major modifications to an existing solar energy system are proposed and require a new Special Use Permit to be issued by the Board of Commissioners. The modified area of the SES permitted under the new Special Use Permit shall be subject to the conditions of this article. Maintenance and repair are not subject to this article.

8.6-1 Definitions

Abandonment
Any solar energy system that ceases to produce energy on a continuous basis for twelve (12) months will be considered abandoned.

Accessory Equipment
Any equipment serving or being used in conjunction with a solar energy system. The term includes utility or transmission equipment, power supplies, generators, batteries, equipment buildings, and storage sheds, shelters, or similar structures.

Decommissioning Plan
A document that details the planned shut down and removal of a solar energy system from operation or use.

Major Modification
Any change which would require findings of fact or evidence in addition to those in the record of the public hearing for the original Special Use Permit, or subsequent modifications, if any. By way of example, but not of limitation, any of the following shall constitute a major modification requiring an application to be resubmitted in accordance with applicable ordinance provisions:

1. Significant changes in the zoning lot's boundaries, unless the purposes of this ordinance or of the County's plan for the comprehensive development of the area within which the lot is located are satisfied to an equivalent or greater degree. Significant change in the boundaries of the site if public purposes are not satisfied to an equivalent or greater degree;

2. A change in the use approved;

3. Significant changes in the location of principal and/or accessory structures and/or uses;

4. Structural alterations significantly affecting the basic size, form, style, ornamentation, and appearance of principal and/or accessory structures as shown in the plan;

5. Significant changes in pedestrian or vehicular access or circulation

6. Significant changes in the amount or location of required landscape screening if an alternate proposal does not provide the same or greater degree.

Property Owner
The person(s), entity, or company having fee simple ownership of the property where the solar energy system is located.

Solar Array
An active solar energy system that converts sunlight into electricity using either Thermal or photovoltaic methods. Such a system has multiple solar collectors, and might include transformers, generators, batteries, and other appurtenant structures and/or facilities.

Solar Collector or Solar Panel
A device that converts sunlight into electricity using either thermal or photovoltaic methods.

Solar Energy System
The components and subsystems required to convert solar energy into electric or thermal energy suitable for use. The area of the system includes all the land inside the perimeter of the system, which extends to any fencing. Area restrictions are based on the acreage of panels. The term applies, but is not limited to, solar photovoltaic (PV) systems, solar thermal systems, and solar hot water systems. A system fits into one of three system types: Level I SES, Level 2 SES, and Level 3 SES.

1. Level I Solar Energy System (SES) - Includes the following in all Person County Zoning Districts:

    a) Roof-mounted on any code-compliant structure.

    b) Ground mounted less than 1/2 acre.

    c) Covering permanent parking lots and other hardscape areas.

    d) Building integrated solar (i.e., shingle, hanging solar, canopy, etc.).

2. Level 2 Solar Energy System (SES) - Ground mounted systems greater than or equal to ½ acre and less than ten (10) acres in all Person County Zoning Districts.

3. Level 3 Solar Energy System (SES) - Ground mounted systems greater than or equal to ten (I 0) acres in all Person County Zoning Districts.

8.6-2 Site Development Requirements
(Rev. 2/7/22)

General Regulations
Solar energy systems are permitted in Person County as follows:

Table 2.1 General Regulations for Solar Energy Systems in Person County

X = Permitted Use; SUP/CD = Special Use Permit/Conditional Rezoning; left blank = Prohibited					
	Residential (R)	Highway Commercial (B-1)	Neighborhood Shopping (B-2)	General Industrial (GI)	Rural Conservation (RC)
Level 1	X	X	X	X	X
Level 2		SUP/CD	SUP/CD	SUP/CD	
Level 3		SUP/CD		SUP/CD	

Setbacks
Setbacks for solar energy systems are measured from the nearest solar panel to the nearest property line and/or right-of-way line. Setbacks for solar energy systems in Person County as follows:

Table 2.2 Setback Requirements for Solar Energy Systems in Person County

Left blank = Prohibited in that district					
	Residential (R)	Highway Commercial (B-1)	Neighborhood Shopping (B-2)	General Industrial (GI)	Rural Conservation (RC)
Level 1	Per District Regulations contained in Person County Planning Ordinance				
Level 2 *		200’	200’	200’	
Level 3 *		200’		200’	

* All solar energy systems shall be separated by a minimum distance of300' from all residential dwellings as measured from the nearest solar panel to the nearest dwelling. In addition, all solar energy systems shall be separated by a minimum distance of I00' from the nearest well

Exceptions
Where a solar energy system facility is located on multiple contiguous lots of record in separate ownership, the building setback and buffer requirement shall apply only to the exterior perimeter of the project boundaries surrounding the facility and not the interior property boundaries within the facility. A written waiver signed by the property owner(s) shall be required.

Height and Size Limitation

1. For Level I roof mounted systems, height is limited to the applicable district regulation. The height of Level I, 2, and 3 ground mounted systems shall be measured from the highest natural grade below each solar panel. For ground mounted systems, panel height shall not exceed 15' in all districts. Poles and wires reasonably necessary to connect to public electric utilities for all solar energy systems shall not be subject to this requirement.

2. The maximum size of a level 3 solar energy system shall not exceed one hundred (I00) acres as measured around the exterior perimeter of the panels (outside of the buffer area). No level 3 solar energy system shall be located within one (1) linear mile of an existing level 3 solar energy system.

Buffers and Landscaping

1. Level I systems shall be exempt from buffering and landscaping requirements.

2. Solar collectors, accessory equipment, and associated outside storage for Level 2 and 3 systems shall be completely screened with a 150' vegetative buffer from view from all property and right- of-way lines. Buffers shall include at a minimum, evergreen shrubs and a combination of deciduous and evergreen trees as follows:

    a) Every 500 square feet of buffer shall include one evergreen or deciduous tree that shall be a minimum of 6' at planting and have a minimum height of 15' within 3 years and spread of at least 30' within IO years; and,

    b) 5 evergreen shrubs, or 3 evergreens and 2 deciduous shrubs, that shall be a minimum of 3' at planting and have a height and spread of at least 5' in 10 years.

    c) Existing vegetation may be counted toward the required plantings when identified on a landscape plan and ce1tified by an arborist, landscape architect, landscape designer. Plants identified for the buffer must be protected from all land disturbing activities and construction at a distance equal to the drip line of the plant(s) to be used toward the buffer.

Aviation Notification

1. Level 1 systems shall be exempt from aviation notification requirements.

2. For all Level 2 and 3 systems, a map analysis showing a radius of five (5) nautical miles from the center of the solar energy system with any airport operations within this area highlighted shall be submitted with the initial application.
    a) For systems not containing airport operations within five (5) nautical miles from the center of the solar energy system, attach map analysis results to permit application

    b) For systems containing airport operations within five (5) nautical miles from the center of the solar energy system, the following items must be included with the permit application:

        i. Map analysis results.

        ii. Determination of whether the airpo1t is in the National Plan of Integrated Airport Systems (NPIAS).

        iii. Documentation/certification that the project will not interfere with airport/aircraft communications systems.

        iv. Proof of delivery of notification, date of delivery, and response(s) for the following documents:

            For consideration of potential impacts to low altitude military flight paths, notification of intent to construct the solar energy system shall be sent to the NC Commanders Council at least 45 days before the Special Use Permit/Conditional Rezoning hearing for Level 2 and 3 solar energy systems and at least 45 days before starting construction for all other Level 2 and 3 solar energy systems. Notification shall include location of solar energy system (i.e. map, coordinates, address, or parcel ID), technology (i.e. roof-mounted PY, ground mounted fixed PV, tracked PV, solar thermal, etc.), and the area of the system (e.g. 5 acres).

A full report for each flight path and observation point, as well as the contact information for the Planning Director, shall be sent to the authority indicated below at least 45 days before the Special Use Permit/Conditional Rezoning hearing for Level 2 and 3 solar energy systems and at least 45 days before starting construction for all other Level 2 and 3 solar energy systems. The latest version of the Solar Glare Hazard Analysis Tool (SGHAT) shall be used per its user's manual to evaluate the solar glare aviation hazard. SGHAT can be accessed via the following website: www.forgesolar.com.

Airport operations at airports in the National Plan of Integrated Airport Systems (NPIAS) within five nautical miles of the center of SES: provide required information to the North Carolina Division of Aviation and Federal Aviation Administration's (FAA) Airport District Office (ADO) with oversight of North Carolina and receive responses from those agencies at least 10 business days prior to the hearing. Those responses shall be provided to both the Person County Planning and Zoning Department and Person County Airport Commission.

Airport operations at airports not in the NPJAS, including military airports, within five nautical miles of the center of SES: provide required information to the NC Commanders Council for military airports and to the management of the airport for non-military airport.

v. Any applicable solar energy system design changes (e.g. module tilt, module reflectivity, etc.) after initial submittal shall be rerun in the SGHAT tool and the new full report shall be sent without undue delay to the contact specified in iii.b. (!) and iii.b. (2) for accurate records of the as-built system.

8.6-3 Decommissioning and Abandonment

1. Decommissioning and abandonment requirements shall only apply to Level 2 and 3 solar energy systems

    a) Level I systems shall be exempt from decommissioning and abandonment requirements.

2. A solar energy system that ceases to produce energy on a continuous basis for 12 months will be considered abandoned unless the current responsible party (or parties) with ownership interest in the solar energy system provides substantial evidence (updated every six (6) months after 12 months of no energy production) to the Planning Director of the intent to maintain and reinstate the operation of that facility. It is the responsibility of the responsible party (or parties) to remove all equipment and facilities and restore the parcel to its condition prior to development of the solar energy system. Restoration to less than the original condition is acceptable when it is requested in writing by the parcel owner.

3. At the time of applying for permits, the applicant (solar energy system developer or property owner) shall include a decommissioning plan addressing the following items:

    a) Anticipated life of the solar energy system.

    b) Defined conditions upon which decommissioning will be initiated (i.e. end of land lease, no power production for 12 months, etc.)

    c) Removal of all non-utility owned equipment, conduit, structures, fencing, solar panels; and foundations.

    d) Restoration of property to condition prior to development of the solar energy system.

    e) Timeframe for completion of decommissioning activities, not to exceed one (I) year.

f) Description and copy of any lease or any other agreement with the property owner regarding decommissioning.

g) Name and address of person or party responsible for decommissioning.

h) Plans and schedule for updating the Decommissioning Plan.

i) A verifiable means of determining if the decommissioning plan needs to be activated due to cessation of use for 365 days, such as a letter from the electric utility stating that it will notify the Planning Department within ten (I0) business days if electricity is not received from an array within the solar energy system for 365 days.

j) Estimated decommissioning costs including contingency costs of at least 25% (in current dollars), as provided by an appropriately experienced, North Carolina licensed Engineer, under seal.

4. Prior to the issuance of a zoning compliance certificate, the county must receive a performance guarantee in favor of the county in an amount equal to 1.25 times the estimated decommissioning cost as determined by a North Carolina licensed engineer. The performance guarantee must be satisfactory to the Planning Director and may include a performance bond, irrevocable letter of credit, cash deposit or other surety approved by the Planning Director and County Attorney. Following initial submittal of the performance guarantee, the cost calculation for decommissioning shall be reviewed every three (3) years, and adjusted accordingly based upon an updated estimate of a North Carolina licensed Engineer under seal, of the estimated decommissioning costs. Failure to comply with any requirement of this section shall result in the immediate termination and revocation of all prior approvals and permits; further, the County shall be entitled to make immediate demand upon, and/or retain any proceeds of the surety, which shall be used for the decommissioning and/or removal of the solar energy system, even if it is still operational.

8.6-4 Legal Provisions
(Rev. 2/7/22)
Procedure for Solar Energy System Development Approval

1. After the effective date of this article, no proposed solar energy system as defined in this article and within Person County's jurisdiction shall proceed with construction until it has been submitted to and approved by the Planning Director or his/her designee and as evidenced by an approved Person County Zoning Permit in accordance with the provisions of this article.

2. Existing SES developments are governed under the Planning Ordinance regulations in place prior to the effective date of this article unless a major modification as defined by this ordinance is proposed and requires a new Special Use Permit to be issued. If a new Special Use Permit is required, the SES will be required to meet the provisions of this article.

3. Level 1 Solar Energy Systems as Permitted Uses
Level 1 solar energy systems allowed as permitted uses must meet the applicable height, setback, and related district standards. Level 1 solar energy systems must complete the following for approval:

a) Approval from Person County Environmental Health or the City of Roxboro Public Works.

b) Addressing from Person County GIS.

c) Zoning permit application and site plan for Person County Planning and Zoning. *

d) Building permit application and building plans for Person County Building Inspections.

In addition to general site plan requirements, site plans submitted to Person County Planning and Zoning for Level I solar energy systems must show the following:

a) The entire property boundary including existing structures.

b) Planned location of each solar array and accessory equipment.

c) The front, rear, and side setbacks of the solar array and accessory equipment.

d) (If applicable) Required buffer areas with description.

e) A table containing the number, dimensions, height, and type of each proposed solar array including their generating capacity.

* Following completion of construction, Level 1 ground mounted solar energy systems may be required to submit a final as-built survey to the Planning Director. Following approval of the final as-built survey, systems may receive their Certificate of Occupancy.

4. Level 2 Solar Energy Systems as Permitted Uses
Level 2 solar energy systems allowed as permitted uses must meet the applicable height, setback, aviation notification, and related district standards. Level 2 solar energy systems must complete the following for approval:

a) Approval from Person County Environmental Health or the City of Roxboro Public Works.

b) Addressing from Person County GIS.

c) Zoning permit application and site plan for Person County Planning and Zoning. *

d) Decommissioning Plan submitted to Person County Planning and Zoning.

e) Building permit application and building plans for Person County Building Inspections.

In addition to the standards listed in the Person County Planning Ordinance Commercial and Industrial Site Plan Requirements, the site plan submitted to Person County Planning and Zoning must show the following:

a) Planned location of each solar array and accessory equipment.

b) The front, rear, and side setbacks of the solar array and access01y equipment.

c) (If applicable) Required buffer areas with description.

d) A table containing the number, dimensions, height, and type of each proposed solar array including their generating capacity.

* Level 2 solar energy systems in the Neuse watershed may require additional materials

Following completion of construction, all Level 2 solar energy systems shall submit a final as-built survey to the Planning Director. Following submission and approval of the final as-built survey, Level 2 solar energy systems must receive an approved final zoning inspection performed on-site by the Person County Planning and Zoning Department prior to receiving their Certificate of Occupancy. Prope1ties located in the Neuse watershed may require additional materials prior to receiving their Ce1tificate of Occupancy.

1. Level 2 and 3 Solar Energy Systems Requiring Special Use Permits or Conditional District Rezonings
   Level 2 and 3 solar energy systems requiring Special Use Permits or Conditional District Rezonings must submit a completed Special Use Permit/Conditional District Rezoning Application and site plan to the Person County Planning and Zoning Department*. A copy of all aviation requirements shall also be submitted to the Person County Airport Commission. Applicants may choose to provide a sketch plan to the Planning Administrator ahead of a site plan, as sketch plans do not require much investment and are an oppo1tunity for the Planning Administrator to point out design changes ahead of more expensive site planning.

   a) In addition to the standards listed in the Person County Planning Ordinance Commercial and Industrial Site Plan Requirements, the site plan submitted to Person County Planning and Zoning must show the following:

      i. A narrative describing the proposed solar energy systems, including an overview of the project and estimated megawatt output of the project,

      ii. Planned location of each solar array and accessory equipment.

      iii. The front, rear, and side setbacks of the solar array and accessory equipment.

      iv. (If applicable) Required buffer areas with description.

      v. A table containing the number, dimensions, height, and type of each proposed solar array.

      vi. Location where wiring is brought together for inter-connection to the system components and/or the local utility power grid, and location of disconnect switch.

      vii. Location of any onsite battery storage systems/units.

      * Level 2 and 3 solar energy systems in the Neuse watershed may require additional materials

   b) The following information shall also be included in the submittal for a special use permit or conditional district rezoning application:

      i. A copy of the lease agreements with each property owner and any access and utility easements. Lease agreements shall have a provision that describes how the agreement may be renewed. Identifying information, as defined in North Carolina General Statute §14-113.20(b), and proprietary information may be redacted.

      ii. Evidence that the electrical utility provider has established an agreement/contract with the solar energy system owner to install an interconnected system. Any customer- owned generator (off grid systems) shall be exempt from this requirement.

      iii. Documentation regarding the type and quantity of battery storage units and configurations, if onsite battery storage systems are to be used. Any battery storage technology that contains PFAS (Polyfluoroalkyl substances) must be noted in the application. If the project intends on using PFAS-containing battery storage technology, a containment plan and a separate decommissioning plan from the plan described below must be submitted for approval. If the battery-decommissioning plan includes recycling as a method for disposition of the spent batteries, the name of the recycling facility permitted to accept PFAS-containing batteries

must be provided. If the project does not intend to use PFAS-containing batteries, certification from the battery manufacturer must be provided stating that the batteries used do not contain PFAS.

iv. A Phase I Environmental Site Assessment prepared by a duly licensed professional in the State of North Carolina

v. Fire Prevention and Emergency Response facilities shall be installed by the solar energy system owner and approved by the Person County Fire Marshal to include, at a minimum, the following:

a. Confirmation that the fire department located in the same fire district as the major solar energy system has or will acquire equipment to contain and extinguish any fire at the solar energy system. Any new equipment requested by the fire district shall be paid for by the major solar energy system owner.

b. Chemical fire suppressants shall be located and properly stored at each battery storage area and transformer as directed by the County Fire Marshal.

c. An Emergency Response Plan consistent with all applicable Federal Emergency Management Agency guidelines shall be prepared by the solar energy system owner and approved by the County Fire Marshal.

d. The 50' area in between the edge of the buffer and the panels shall be maintained and inspected on an annual basis (see Section 3.1-i) to ensure that emergency vehicles can adequately access the perimeter of the site.

vi. Other relevant studies, reports, certifications, information, documents and approvals as may be reasonably requested by the County to ensure compliance with this article. Recognizing the unique environmental challenges of a solar energy system, studies that may be required under this paragraph may include but are not limited to the following:

a. Field surveys for all State or Federal listed species that are protected under State or Federal Law;

b. Geologic reports mapping and describing geological resources such as bedrock outcrops, groundwater recharge zones, seeps, springs and general characterization of groundwater resources;

c. Surface water resources including wetlands;

d. Site specific soil surveys to include information on prime farmland soils as classified by the USDA Natural Resources Conservation Service, hydric soils and hydric components of non-hydric soil series, soil erodibility, agricultural suitability and. site index for growing timber;

e. Environmental constraints analysis;

f. Other studies of the project site, receiving waters, and adjacent or nearby natural and environmental resources as may be requested by any County agency.

2. Special Use Permit/Conditional District Rezoning Applications and site plans shall be submitted in a timely manner so as to allow Person County Planning and Zoning staff adequate time to meet legislative advertising requirements. The Person County Board of Commissioners will conduct a public hearing to review the solar energy system Special Use Permit/Conditional District Rezoning (the Planning Board shall also review the conditional district rezoning prior to review by the Board of Commissioners). Following review of the application, the Board of Commissioners will render a decision.

3. Following approval of the Special Use Permit or Conditional District Rezoning, Level 2 and 3 solar energy systems must complete the following for approval:

    a) Approval from Person County Environmental Health or the City of Roxboro Public Works.

    b) Addressing from Person County GIS.

    c) Zoning permit application and approved site plan for Person County Planning and Zoning.*

    d) Decommissioning Plan submitted to Person County Planning and Zoning.

    e) Building permit application and building plans for Person County Building Inspections.

* Level 2 and 3 solar energy systems in the Neuse watershed may require additional materials

4. Following completion of construction, all Level 2 and 3 solar energy systems shall submit the following:
    a) A final as-built survey shall be submitted to the Planning Director.

    b) A letter of certification from a North Carolina licensed engineer indicating that the inverter noise shall not exceed the lower of 3dBA Leg (I HR) above preconstruction background or 40 Leg (I HR) dBA, measured at any prope1 1y line during output that exceeds 95% rated capacity from the facility.

    Following submission and approval of the final as-built survey, Level 2 and 3 solar energy systems must receive an approved final zoning inspection performed on-site by the Person County Planning and Zoning Department prior to receiving their Certificate of Occupancy. Properties located in the Neuse watershed may require additional materials prior to receiving their Certificate of Occupancy.

5. An annual inspection performed by the Planning Director and/or his designee to ensure compliance with the requirements of this article and an inspection fee shall be charged to the owner of the solar energy system as set out in the official fee schedule approved by the Person County Board of Commissioners. Any deficiencies noted shall be corrected upon receipt of notice from the Planning Director, either following the annual inspection or when the deficiency becomes known to the Planning Director or owner of the solar energy system.

Penalties for Violations
Any person, firm, corporation, or other entity who constructs, maintains or operates, or who controls the maintenance of a solar energy system in violation of this article shall be guilty of a misdemeanor and subject to prosecution, and if convicted, shall be punished by a fine not to exceed $500, or by imprisonment not to exceed 30 days, or both, in the discretion of the county. Each day that said solar energy system is constructed, maintained or operated in violation of this article shall constitute a separate and distinct offense.

8.6-5 Severability

Should any provision of this article be declared by any court, administrative body, or board, or any other governmental body or board, to be unconstitutional, invalid, preempted, void, or otherwise inapplicable for any reason, such decision shall not affect the validity of this article as a whole or any part thereof other than the part so decided to be unconstitutional, invalid, preempted, void, or otherwise inapplicable.

8.6-6 Variance

A variance from the provisions of this article may be authorized by the Board of Adjustment provided that all of the following criteria are met:

1. Unnecessary hardship would result from the strict application of the article. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.

3. The hardship did not result from actions taken by the applicant or property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.

4. The requested variance is consistent with the spirit, purpose, and intent of the article, such that public safety is secured, and substantial justice is achieved.

Effective Date

This article was duly adopted by the Board of Commissioners of Person County, North Carolina on the 5th day of October 2020 and revised on the 7th day of February 2022.

Article IX – Airport Overlay District Requirements

Section 9.1 – To Limit Hight of Objects Around Person County Airport

(Amended 5/3/21)

It is hereby found that an obstruction has the potential for endangering the lives and property of users of Person County Airport, and property or occupants of land in its vicinity; that an obstruction may affect existing and future instrument approach minimums of Person County Airport; and that an obstruction may reduce the size of areas available for the landing, takeoff, and maneuvering of aircraft, thus tending to destroy or impair the utility of Person County Executive Airport and the public investment therein. Accordingly, it is declared:

1. That the creation or establishment of an obstruction has the potential of being a public nuisance and may injure the region served by Person County Executive Airport;

2. That it is necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of obstructions that are a hazard to air navigation be prevented; and,

3. That the prevention of these obstructions should be accomplished, to the extent legally possible, by the exercise of statutory authority without compensation.

Reserved

Airport Zones

In order to carry out the provisions of this Section, 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 Person County Executive Airport. Such zones are shown on the Person County Airport Zoning Map dated May 1988. This map, along with a full description of each zone and the height limitations associated with each zone, is hereby made part of this article and is located in the Person County Planning Office. An area located in more than one of the zones is considered to be only in the zone with the more restrictive height limitation.

Airport Zones High Limitations

Except as otherwise provided in this article, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow or property use permitted in any zone created by this article to a height which exceeds the height limitations established by the surfaces of these zones. These height restrictions supersede any other height restrictions in this ordinance.

Use Restrictions

Notwithstanding any other provisions of this article, no use may be made of land or water within any zone established by this article in such a manner as to create electrical interference with navigational signals or radio communication between the 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.

Nonconforming Uses

1. Regulations Not Retroactive - The regulations prescribed in this Section shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of the predecessor of this section adopted January 16, 1989, or otherwise interfere with the continuance of a nonconforming use.

2. Marking and Lighting - 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 County Planner to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated, and maintained at the expense of the County of Person.

Permits

1. Existing Uses - No permit shall be granted that would allow the establishment 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 article or any amendments thereto or than it is when the application for a permit is made.

2. Nonconforming Uses Abandoned or Destroyed - Whenever the County Planner determines that a nonconforming tree or structure has been abandoned or more than 80 percent (80%) torn 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 deviate from the zoning regulations.

3. Variances - Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property, not in accordance with the regulations prescribed in this article, 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 Federal Aviation Administration 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 article. Additionally, no application for variance to the requirements of this article may be considered by the Board of Adjustment unless a copy of the application has been furnished to the Airport Manager for advice as to the aeronautical effects of the variance. If the Airport Manager does not respond to the application within fifteen (15) days after receipt, the Board of Adjustment may act on its own to grant or deny said application.

4. Obstruction Marking and Lighting - Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this article and be reasonable in the circumstances, be so conditioned as to require the owner of 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 County of Person, at its own expense, to install, operate, and maintain the necessary markings and lights.

Section 9.2 – Airport Overlay Noise Exposer District

The Airport Overlay Noise Exposure District regulates land uses in the vicinity of the Person County Airport by determining the yearly day-night average sound levels and identifying land uses that are normally compatible with various levels of noise exposure. The Overlay District Area shall be zoned General Industrial (GI) which will allow for compatible uses around the Airport.

The AP Overlay District regulates the area surrounding the Airport that has noise levels that may exceed 65 Ldn, as shown on the Official Zoning Map.

Where such permitted uses are located within the seventy (70) Ldn or above contour noise boundary, measures to achieve Noise Level Reduction (NLR) of at least 25 dB and 30 dB shall be incorporated into the design and construction of portions of these buildings where the public is received, office areas, noise sensitive areas or where the normal noise level is low.

The following uses shall not be permitted in the AP Overlay District:

- Churches, Temples, Synagogues
- Day Care Center
- Dwelling, Single-Family
- Manufactured Homes
- Modular Homes
- Funeral Homes
- Assemblies

Section 9.3 – Zoning Ordinance to Limit Height of Objects Around Person County Airport

An Ordinance regulating and restricting the height of structures and objects of natural growth, and otherwise regulating the use of property, in the vicinity of the Person County Airport by creating the appropriate zones and establishing the boundaries thereof; providing for changes in the restrictions and boundaries of such zones; defining certain terms used herein; referring to the Person County zoning map which is incorporated in and made a part of this article; providing for enforcement; establishing a Board of Adjustment; and imposing penalties.

This article is adopted pursuant to the authority conferred by Chapter 153A of Statutes of the State of North Carolina. It is hereby found that an obstruction has the potential for endangering the lives and property of users of Person County Airport, and property or occupants of land in its vicinity; that an obstruction may affect existing and future instrument approach minimums of Person County Airport; and that an obstruction may reduce the size of areas available for the landing, takeoff, and maneuvering of aircraft, thus tending to destroy or impair the utility of Person County Airport and the public investment therein. Accordingly, it is declared:

1. that the creation or establishment of an obstruction has the potential of being a public nuisance and may injure the region served by Person County Airport;

2. that it is necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of obstructions that are a hazard to air navigation be prevented; and

3. that the prevention of these obstructions should be accomplished, to the extent legally possible, by the exercise of the police power without compensation, It is further declared that the prevention of the creation or establishment of hazards to air navigation, the elimination, removal, alteration or mitigation of hazards to air navigation, or marking and lighting of obstructions are public purposes for which a political subdivision may raise and expend public funds and acquire land or interests in land.

It is hereby ordained by the Person County Board of Commissioners, as follows:

Short Title
This article shall be known and may be cited as Person County Airport Zoning Ordinance.

9.3-1 Definitions
As used in this article, unless the context otherwise requires:

Airport
Means Person County Airport.

Airport Elevation
609.4 feet mean sea level.

Approach Surface
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 IV of this Ordinance. In plan the perimeter of the approach surface coincides with the perimeter of the approach zone.

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

Board Of Adjustment
A Board consisting of 5 members appointed by the Person County Board of Commissioners as provided in Chapter 153 A of the Laws of the State of North Carolina.

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

Hazard To Air Navigation
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 zoning map, the datum shall be mean sea level elevation unless otherwise specified.

Horizontal Surface
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
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
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
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
Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in Section IV of this Ordinance.

Person
An individual, firm, partnership, corporation, association, joint stock association or government includes a trustee, a receiver, an assignee, or a representative of any of them. company, entity; similar

Precision Instrument Runway
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
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 runways or when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that 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
A defined area on an airport prepared for landing and takeoff of aircraft along its length.

Structure
An object, including a mobile object, constructed or installed by man, including but without limitation, buildings, towers, cranes, smokestacks, earth format ion, 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 surf ace, 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
Any object of natural growth.

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

Visual Runway
A runway intended solely for the operation of aircraft using visual approach procedures.

9.3-2 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 Person County Airport. Such zones are shown on Person County Airport Zoning Map consisting of one sheet, prepared by the Talbert, Cox and Associates, Inc., dated May, 1988, which is attached to this Ordinance and made a part hereof. 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:

1. Utility Runway Visual Approach Zone - The inner edge of this approach zone coincides with the width of the primary surface and is 250 feet wide. The approach zone expands outward uniformly to

2. A width of 1,250 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

3. Utility Runway Non-Precision Instrument Approach Zone - The inner edge of this approach zone coincides with the width of the primary surf ace and is 500 feet wide. The approach zone expands outward uniformly to a width of 2,000 feet at a horizontal distance 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

4. Runway Larger Than Utility Visual Approach Zone - The inner edge of this approach zone coincides with the width of the primary surf ace and is 500 feet wide. The approach zone expands outward uniformly to a width of 1,500 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

5. Runway Larger Than Utility with A Visibility Minimum Greater Than li..1. Mile Non-Precision Instrument Approach Zone - The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 3,500 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

6. Runway Larger Than Utility with A Visibility Minimum as Low As li..1. Mile Non-Precision Instrument Approach Zone - The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 4,000 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

7. Precision Instrument Runway Approach Zone - The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 16,000 feet at a horizontal distance of 50,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

8. Transitional Zones - The transitional zones are the areas beneath the transitional surfaces.

9. Horizontal Zone - The horizontal zone is established by swinging arcs of 5,000 feet radii for all runways designated utility or visual and 10,000 feet for all others from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.

10. Conical Zone - The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward therefrom a horizontal distance of 4,000 feet.

Airport Zone Height Limits
Except as otherwise provided in this Ordinance, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any zone created by this Ordinance to a height in excess of the applicable height herein established for such zone. Such applicable height l imitations are hereby established for each of the zones in question as follows:

1. Utility Runway Visual Approach Zone - Slopes twenty (20) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline,

2. Utility Runway Non-Precision Instrument Approach Zone – Slopes twenty (20) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.

3. Runway Larger Than Utility Visual Approach Zone - Slopes twenty (20) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline,

4. Runway Larger Than Utility with A Visibility Minimum Greater Than ¾ Mile Non-Precision Instrument Approach Zone - Slopes thirty-four (34) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.

5. Runway Larger Than Utility with A Visibility Minimum as Low As ¾ Mile Non-Precision Instrument Approach Zone - Slopes thirty-four (34) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.

6. Precision Instrument Runway Approach Zone - Slopes fifty (50) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline; thence slopes upward forty (40) feet horizontally for each foot vertically to an additional horizontal distance of 40,000 feet along the extended runway centerline.

7. Transitional Zones - Slope seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation which is 609. 4 mean sea level. In addition to the foregoing, there are established height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and the same elevation as the approach surface, and extending to where they intersect the conical surface. Where the precision instrument runway approach zone projects beyond the conical zone, there are established height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and 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.

8. Horizontal Zone - Established at 150 feet above the airport elevation or at a height of 250 feet above mean sea level,

9. Conical Zone - Slopes twenty (20) feet outward for each foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation.

10. Excepted Height Limitations - Nothing in the article 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.

Use Restriction
Notwithstanding any other provisions of this article, no use may be made of land or water within any zone established by this article in such a manner as to create electrical interference with navigational signals or radio communication between the 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.

Nonconforming Uses

1. Regulations Not Retroactive - The regulations prescribed in this article shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the

regulations as the effective date of this article, or otherwise interfere with the continuance of a nonconforming use.

2. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this article, and is diligently prosecuted.

3. Marking and Lighting - Notwithstanding the preceding provision 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 County Planner to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated, and maintained at the expense of the County of Person.

Permits

1. Future Uses - Except as specifically provided in a, b, and c hereunder, no material change shall be made 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 therefor 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 it 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 a use inconsistent with the provisions of this article nance shall be granted unless a variance has been approved in accordance with Section VII, 4.

   a) In the area lying within the limits of the horizontal zone and conical zone, no permit shall be required for any tree or structure less than 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 above the height limits prescribed for such zones.

   b) 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 limit prescribed for such approach zones.

   c) 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.

   d) 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 article except as set forth in Section IV, 10.

2. Existing Uses - No permit shall be granted that would allow the establishment 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 article or any amendments 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.

3. Nonconforming Uses Abandoned or Destroyed - Whenever the County Planner determines that a nonconforming tree or structure has been abandoned or more than 80 percent {80%) torn 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 deviate from the zoning regulations.

4. Variances - Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property, not in accordance with the regulations prescribed in this article, 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 Federal Aviation Administration 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 article. Additionally, no application for variance to the requirements of this article may be considered by the Board of Adjustment unless a copy of the application has been furnished to the Airport Manager for advice as to the aeronautical effects of the variance. If the Airport Manager does not respond to the application within fifteen (15) days after receipt, the Board of Adjustment may act on its own to grant or deny said application.

5. Obstruction Marking and Lighting - Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this article and be reasonable in the circumstances, be so conditioned as to require the owner of 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 County of Person, at its own expense, to install, operate, and maintain the necessary markings and lights.

9.3-3 Enforcement

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

Board of Adjustment

1. There is hereby created a Board of Adjustment to have and exercise the following powers: (1) to hear and decide appeals from any order, requirement, decision, or determination made by the County Planner in the enforcement of this article; (2) to hear and decide special exceptions to the terms of this article upon which such Board of Adjustment under such regulations may be required to pass; and (3) to hear and decide specific variances.

2. The Board of Adjustment shall consist of five (5) members appointed by the Person County Board of Commissioners, and each shall serve for a term of three (3) years until a successor is duly appointed and qualified. Of the members first appointed, one shall be appointed for a term of one year, one for a term of two years, and one for a term of three years. Members shall be removable by the appointing authority for cause, upon written charges, after a public hearing.

3. The Board of Adjustment shall adopt rules for its governance and in harmony with the provisions of this article. Meetings of the Board of Adjustment shall be held at the call of the Chairperson and at such other times as the Board of Adjustment may determine. The Chairperson or, in the absence of the Chairperson, the Acting Chairperson may administer oaths and compel the attendance of witnesses. All hearings of the Board of Adjustment shall be public. The Board of Adjustment shall keep minutes of its 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 immediately be filed in the office of the County Planner and on due cause shown.

4. The Board of Adjustment shall make written findings of facts and conclusions of law giving the facts upon which it acted and its legal conclusions from such facts in reversing, affirming, or modifying any order, requirement, decision, or determination which comes before it under the provisions of this article.

5. The concurring vote of a majority of the members of the Board of Adjustment shall be sufficient to reverse any order, requirement, decision, or determination of the County Planner or decide in favor of the applicant on any matter upon which it is required to pass under this article, or to effect variation to this article.

Appeals

1. Any person aggrieved, or any taxpayer affected, by any decision of the County Planner, made in the administration of the article, may appeal to the Board of Adjustment.

2. All appeals hereunder must be taken within a reasonable time as provided by the rules of the Board of Adjustment, by filing with the County Planner a notice of appeal specifying the grounds thereof. The County Planner shall forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken.

3. An appeal shall stay all proceedings in furtherance of the action appealed from unless the County Planner 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 County Planner cause imminent peril to life or property. In such case, proceedings shall not be stayed except by order of the Board of Adjustment or notice to the County Planner and on due cause shown.

4. 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.

5. The Board of Adjustment may, in conformity with the provisions of this article, reverse or affirm, in whole or in part, or modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as may be appropriate under the circumstances.

Judicial Review
Any person aggrieved, or any taxpayer affected, by any decision of the Board of Adjustment, may appeal to the Superior Court.

9.3-4 Penalties
Each violation of this article or any regulation, order, or ruling promulgated hereunder shall constitute a misdemeanor and be punishable by a fine of not more than 500 dollars or imprisonment for not more than 180 days or both; and each day a violation continues to exist shall constitute a separate offense.

Conflicting Regulations
Where there exists a conflict between any of the regulations or limitations prescribed in this article and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, and the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail.

9.3-5 Severability
If any of the provisions of this article or the application thereof to any person or circumstances are held invalid, such invalidity shall not affect other provisions or applications of the article which can be given effect without the invalid provision or application, and to this end, the provisions of this article are declared to be severable,

Effective Date

Whereas, the immediate operation of the provisions of this article is necessary for the preservation of the public health, public safety, and general welfare, an emergency is hereby declared to exist, and this article shall be in full force and effect from and after its passage by the Person County Board of Commissioners and publication and posting as required by law. Adopted by the Person County Board of Commissioners.

Article X – Nonconforming Uses

Section 10.1 – Intent

Within the districts established by this article, there may exist land uses which were lawful before this article or its predecessor article were passed but which would be prohibited or restricted under the terms of this ordinance. It is the intent of this article to permit those nonconforming uses to continue until they are removed, but not to encourage their continuation. Any land use which was a violation of predecessor Person County Planning Ordinances shall continue to be a violation of this article and shall not be considered as a nonconforming use.

Section 10.2 – Continuation of Nonconforming Uses

(Amended 11-17-92, Amended 5-7-01; Amended 11/17/03; Amended 2/03/03; 5/3/21)

1. Nonconforming uses may not be changed to another nonconforming use unless the Board of Adjustment determines that such change shall be no more detrimental to the neighborhood than the existing use; however, no change of title or possession, or right to possession of property shall be construed to prevent the continuance of a nonconforming use.

2. Any structure existing at the time of adoption of this article which does not comply with setback or yard requirements, or which exceeds height requirements, may be continued in use but shall not be enlarged or extended unless such extensions or enlargement comply with all the provisions of this article. No uncovered portion of a building may be covered if the setback or height requirements are not met. (Amended 6/3/2013; 01/06/2020)

3. Nothing in this article shall be construed to prevent the reconstruction of any building, conforming or nonconforming, damaged by any means. However, any nonconforming building which is damaged may only be replaced by a structure of equal or smaller size and square footage as that of the previous structure. No reconstruction or new construction shall be allowed which creates any new or additional nonconformity than that which existed at the time of damage. *(Amended 11/17/92)

4. If a nonconforming use is discontinued for a period of 180 consecutive days or for more than eighteen months in any three-year period, the future use of the building or land must be a conforming use.

5. A nonconforming use may be changed to a use of a higher classification and whenever the use is changed to a higher or conforming classification then it shall not be allowed to change to the original use or to a lower use. For the purposes of this section, the order of classification of use, from the highest to the lowest shall be as follows: R, B-1, B-2, GI, and R-C.

6. If a nonconforming structure or a conforming structure devoted to a nonconforming activity is destroyed or damaged in any manner, to the extent that the cost of restoration to its condition before the occurrence shall not exceed 60 percent of the cost of reconstructing the entire structure based on the assessed structure value, as recorded by the County Tax Assessor, it may be repaired or restored, provided such repair or restoration is started within six (6) months of the damage and completed within twelve (12) months. However, any nonconforming building which is damaged may only be replaced by a structure of equal or smaller size and square footage as that of the previous structure. Relief to the time limits may be granted by the Board of Adjustment. (Added 11/17/2003)

7. A nonconforming structure or a conforming structure devoted to a nonconforming activity that is damaged by any casualty to an extent more than 60 percent of its assessed value, based on County Tax Assessor records, shall not be restored except as follows:

   a) As a conforming use.

   b) If the use is a one-family dwelling, restoration shall be permitted.

c) For structures except a one family dwelling, restoration of a nonconforming structure shall require approval by the Board of Commissioners. A site plan according to Section 81 will be required. In approving such permit, the Board will consider the stated purpose for establishing the zoning district in which the structure in question, particularly the other nonconforming uses, and the hardship which would result from a denial of the Special Use Permit. The permit shall include conditions as to time for repair to be completed and any other conditions deemed necessary to carry out the intent of this section of the article. (Amended 6/3/2013; 5/3/21)

8. (Deleted 6/3/2013)

9. Nonconforming lots of record: Permitted Structures may be erected upon any single lot of record at the time of adoption of this article, provided the minimum yard requirements are met. A variance to the Planning Ordinance is required if the yard width or setback requirements cannot be met. (Added 6/3/2013)

10. The creation of a lot with a width or area smaller than allowed by existing zoning requirements is prohibited, except by governmental action, such as road widening. Any lot, which, by reason of realignment of a public street or highway or by reason of condemnation proceedings, has been reduced in size to an area less than required by law, shall be considered a nonconforming lot of record subject to the provisions t forth in this section; and any lawful use or structure existing at the time of such highway realignment or condemnation proceedings which would thereafter no longer be permitted under the terms of this article shall be considered a nonconforming use or structure as that term is used in this article. (Added 6/3/2013)

11. When any nonconforming use is superseded by a permitted use, the use shall thereafter conform to the regulations for this district, and no nonconforming use shall thereafter be resumed. (Added 6/3/2013)

Section 10.3 – Repairs and Maintenance

1. Nothing in this article shall prevent the restoring or strengthening of a nonconforming structure to a safe condition, provided that the square feet of the structure shall not be increased.

2. Should any nonconforming structure be moved for any reason within the Zoning Jurisdiction of Person County, it shall conform to the regulations for the district in which it is to be located.

Section 10.4 – Nonconforming Lots of Record

(Amended 2/1/93)

Article XI – Off-Street Parking and Loading

(Amended 3/8/99; 9/2/2008; Added 8/4/2008; Amended 9/6/2016)

Required off-street parking shall be provided on every lot or within a distance of 500 feet from the lot if such parking space cannot be reasonably provided on that lot. Each application for a Certificate of Occupancy/Compliance shall include information as to:

- Location and dimensions of off-street parking and loading space;
- Distance between that parking/loading space and street or alley;
- Ingress and egress of the property.

An off-street parking space shall not be less than 9' x 18' per space. Twenty percent of required parking spaces to be for compact cars with a minimum size of 7.5' x 15'. (Added 8/4/2008, Amended 9/2/2008)

The following off-street parking space shall be provided: (Added 8/4/2008)

USE	REQUIRED OFF-STREET PARKING
Residence-Single Family	2 spaces
Residence, Duplex	4 spaces
Residence, Multi-Family / Residential Group	2 ½ Spaces for each dwelling unit
Offices	1 space for every 250 sq. ft. of gross floor area
Retail Business *(Amended 11-18-91)*	.7 of a space for every 200 sq. ft. of gross floor area
Churches	1 space for every 5 seating spaces in principal sanctuary
Auditoriums, Stadiums and Theaters	1 space for every 5 seats
Motels, Tourist Homes and Boarding Houses	1 space for every rental room
Hospitals and Nursing Homes	1 space for every bed space
Medical Clinics	4 spaces for each doctor plus 1 space for each employee
Wholesale Establishment, Warehouse and other businesses not catering to retail or package trade	1 space for every 3 employees during maximum employment and 1 space for every truck to be stored or stopped simultaneously
Light or Heavy Industrial (LI/HI)	1 space for every 1.5 employees during maximum employment and 1 space for every truck to be stored or stopped simultaneously
Institutions and Clubs	1 space for every 5 seats in principal assembly room
Community or Private Swimming Clubs	1 space for every 5 memberships
Day Care Center	1 space for each adult attendant and 1 space for every six children or fraction thereof
Restaurants	1 space for each 5 seats
Assisted Living/Home for the Aged *(amended 3/8/99)*	1 space for every 2 bed spaces
Independent Living Facility (age restricted) *(added 8/4/2008)*	1 space per unit and 1 space per employee during maximum employment

Article XII – Signs

(Amended 3/17/97, 7/7/97, 7/2/2001)

Section 12.1 – Purpose and Scope

This article is intended to address the placement of signs within the county's jurisdiction for the following purposes: to promote traffic safety; to prevent business and advertising signs from conflicting with public safety signs; to ensure that permitted signs do not become a hazard or nuisance; to prevent the overcrowding of land; to facilitate fire and police protection; to protect and enhance the value of properties; to provide a pleasing overall environmental setting and good community appearance which is deemed vital to the continued economic attractiveness of the county; and to promote the public safety and welfare of the county.

Section 12.2 – Sign Compliance

No sign shall be constructed, erected, modified, placed, maintained, or moved, except as authorized by this Ordinance. Unless otherwise exempted, a zoning permit must be obtained before a sign is erected, modified, or moved on a zoning lot. No sign shall be placed within a public right-of-way or within the sight triangle of a roadway intersection as would be determined by N.C. Department of Transportation. Any sign authorized in this article is allowed to contain non-commercial copy in lieu of any other copy. (Amended 7/7/97)

Section 12.3 – Sigs Exempted

The following signs shall be exempt from regulations under this article, regardless of whether they may be considered "signs":

1. Commemorative tablets or signs, historical or memorial markers or monuments, erected by or with the permission of the Person County Board of Commissioners, Roxboro City Council or the N.C. Department of Transportation.

2. Any official traffic control or other public sign;

3. Lights and decorations with no commercial message temporarily displayed on traditionally adopted civic, patriotic or religious holidays;

4. Signs carried by people;

5. Signs located on the interior of buildings, courts, lobbies, stadiums or other structures which are not intended to be seen from the exterior of such structures; and,

6. Signs not visible from a public or private street.

Section 12.4 – Temporary Signs

The following temporary signs do not require a zoning permit; however, these signs shall conform to the standards and provisions of this section and other applicable parts of this article. Unless otherwise stated herein, temporary signs shall not exceed forty (40) square feet in area per sign face, or have more than one sign face per direction of travel or exceed six (6) feet in height.

1. Real estate signs.

2. Construction site identification signs.

3. Seasonal Agricultural Signs. Such signs may be erected for the purpose of advertising and directing potential patrons to the seasonal sale of agricultural products produced and offered for sale at bona fide farming operation. Seasonal agricultural signs may be erected not sooner than 30 days before the normal sales or harvest season and must be removed within 30 days after the normal sales or harvest season.

4. Signs erected in connection with elections or political campaigns. Political signs shall not be erected before the established filing date for an election nor allowed to remain longer thirty (30) days after the election.

5. Signs indicating that a special event such as a grand opening, fair, carnival, circus, festival, air show, fundraiser, or similar event is to take place. Such signs may be erected not sooner than 30 days before the event and must be removed not later than 30 days after the event.

6. Yard sale sign. A sign not exceed 6 square feet may be erected not sooner than two weeks before the event and must be removed not later than three days after the event.

7. Signs affixed to windows of vehicles displaying information on the terms of sale for said vehicles.

Section 12.5 – On-Premises Signs

(Added 7/2/2001)

An on-premises sign shall be an accessory use incidental to the principal land use; an on-premise sign shall specifically comply with the following:

1. Area. The maximum area of all free standing on-premises signs shall be 300 square feet. The area shall mean the surface area of a sign as computed in accordance with Section 131 herein.

2. Height. The maximum height of a free-standing on-premise sign shall be 30'. The height shall mean the height of a sign as determined in accordance with Section 131 herein.

3. Setback. An on-premises sign shall meet the minimum setback requirement of fifteen (15) feet. (Amended 11/17/2003)

4. Number Permitted. One free standing on-premises sign shall be permitted per street frontage of a zoning lot.

5. For permitted commercial/industrial uses, total sign area for building-mounted signs on building housing only one (1) tenant shall not exceed in the aggregate two (2) square feet of sign area for each lineal foot of building frontage. No such sign shall be required to be less than four (4) square feet, nor shall it exceed two hundred (200) square feet. Where frontage is on more than one street, each frontage shall be considered a separate frontage for the purpose of this section. (added 7/2/2001)

6. On lots containing buildings housing more than one tenant, sign area for building-mounted signs for each tenant shall not exceed two (2) square feet for each lineal foot of building frontage occupied by the tenant, with a maximum sign area for that respective tenant of two hundred (200) square feet. (Added 7/2/2001)

7. For Planned Building Groups, building-mounted signs are allowed for each tenant and shall not exceed two (2) square feet for each lineal foot of building. Signage to be approved in the Special Use Permit process. (Added 7/2/2001)

8. Awning signs are permitted provided that such sign shall be limited to the drop leaf portion and the maximum sign area is forty (40) square feet per sign. The area of all permitted awning signs shall be included in the area allowed for building-mounted signage. (Added 7/2/2001)

9. Marquee signs are permitted and may extend the full length of the marquee on theaters, auditoriums and assembly halls. Height of the message area may not exceed eight (8) feet and sign area may not exceed 200 square feet. Only one marquee sign per each establishment. (Added 7/2/2001)

10. Fuel canopy signage is permitted provided the signage is limited to logo signs and shall not exceed twelve (12) square feet per canopy side. Signage is not allowed to exceed beyond the vertical edge of the canopy. (Added 7/2/2001)

11. This section shall be deemed complied with if such on-premise signs are specifically included as part of sign plan approved as condition of, or pursuant to a special use permit.

Home Occupation Signs
A home occupation shall be permitted one sign professional or announcement sign per dwelling unit not exceeding six (6) square feet in area.

Subdivision And Multi-Family Development Entrance Signs
At any entrance to a residential subdivision or multi-family development, there may be not more than two ground signs to identify or identifying such subdivision or development. A single face of any such sign may not exceed 16 square feet, nor may the total surface area of all such signs located at a single entrance exceed 32 square feet.

Industrial Park Entrance Signs
At any entrance to an industrial park, there may not be more than two ground signs identifying the park. A single face of any such sign may not exceed 100 sq. ft., nor may the total surface area of all such signs located at a single entrance exceed 150 square feet.

Off-Premise Advertising Signs
Off-premise advertising signs are permitted in accordance with the following provisions:

1. Area. The maximum area of an off-premise advertising sign shall 378 square feet per sign face, one sign face per directional flow of traffic. Signs may be back-to-back or "V- type" construction.

The area of the sign shall be computed by means of the smallest square, circle, rectangle, triangle or combination thereof which will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing, ornamental base or trim.

2. Height. The maximum height of an off-premise advertising sign shall be 30'. Said 30' shall be measured from: (i) the higher of the unaltered grade of the terrain of the sign location or (ii) the elevation of the grade of the road shoulder perpendicular to the sign, whichever is higher, to the uppermost part of the sign or sign structure, whichever is higher.

3. Setback. An off-premise advertising sign shall comply with the following minimum setbacks requirements:

    a) In General Industrial (GI), Highway Business (B-1), and Neighborhood Business (B-2) an off-premise advertising sign shall be set back a minimum of 15' from the road right-of-way and 15' from the side property lines; and

    b) In a Rural Conservation (RC) Zoning District an off-premise advertising sign shall be set back a minimum of 15' from the road right-of-way, and 50' from the side property lines.

4. Spacing from Other Off-Premise Advertising Signs No off-premise advertising sign shall be located closer than 1400' from any other off-premise advertising. A sign on the opposite side of the road or highway shall not be located closer than 400 feet to an off-premise sign already erected. These distances are to be measured along the edge of the pavement between the closest points of the sign from a line drawn perpendicular to the edge of the pavement to the edge of the sign.

5. Spacing from Other Structures or Land Uses. No off-premise advertising sign shall be placed within 300' of any zoning lot used for a school or public park.

6. Allowed Use. Notwithstanding other provisions of this article, off-premise advertising signs shall be allowed as a principal or accessory use incidental to the principal land use when erected in a Highway Business (B-1), Neighborhood Business (B-2), Rural Conservation (RC), or General Industrial (GI) Zoning District.

7. Most restrictive provisions apply. When or if any portion of this article is in conflict with any applicable state or federal regulations or statutes, the more restrictive provisions shall apply.

8. A property owner may not create a lot after March 17, 1997, that does not meet minimum lot size requirements for the purpose of placing an off-premise advertising sign on it.

9. Zoning Permit Required: A zoning permit shall be obtained from the Zoning Administrator prior to the placement of an off-premises advertising sign. Each request for a zoning permit shall be accompanied by a:

    a) Recorded survey plat or a survey prepared by a registered land surveyor, if available, showing accurate dimensions of the lot to be built upon and the proposed sign location.

    b) In the absence of the above, the proposed sign location may be hand drawn on the applicable lot depicted on a copy of an official Person County tax map.

    c) Tax map reference number and parcel number of the lot to be built upon;

    d) To scale drawing of the proposed sign and sign structure; (Note: More detailed structural information may be required when applying for applicable permits (i.e., building, electrical) from the Person County Inspection Department. Pursuant to the N.C. State Building Code, the erector of the sign shall submit to the building official a design and stress diagram or plan, containing the necessary information to enable the building official to determine that such sign complies with all the regulations of the code.)

    e) Zoning Permit Fee.

Off-Premise Directional Signs
Off-premise directional signs do not require a zoning permit; however, these signs shall conform to the standards of this article and other applicable parts of this ordinance. An off-premise directional sign which does not meet such provisions of this article shall be considered in violation of the article.

An off-premise directional sign shall not exceed thirty-two (32) square feet in area per sign face, or have more than one sign face per directional flow of traffic, or no more than two (2) sign faces per sign structure, or exceed six (6) feet in height.

Not more than three (3) off-premise directional signs shall contain directions to the same business or activity.

Sign Illumination
Signs must be effectively shielded to prevent beams or rays of light from being directed toward any portion of a traveled road, and must not be of such intensity or brilliance or glare or impair the vision of the driver of any motor vehicle or otherwise interferes with any driver's operation of a motor vehicle. No sign shall be so illuminated that it interferes with the effectiveness of or obscures an official traffic sign, device or signal. All illuminated signs or structures shall be placed so as to prevent the light rays or illumination from being cast directly on any residence.

Computations
The area and height of a sign shall be computed as follows:

1. Area of Individual Signs. The area of a sign shall be computed by means of the smallest square, circle, rectangle, triangle or combination thereof which will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing, ornamental base or trim.

   If the sign consists of more than one section or module, all of the area, including that between sections or modules, shall be included in the computation of the sign area.

2. Multi-Faced Signs - Computation of Area. For multi-faced signs, the sign area shall include all sign faces visible from any one (1) point. When two (2) identical sign faces are placed back to back so that both faces cannot be viewed from any point at the same time, and when the backs for such sign faces are part of the same sign structure and are not more than forty-two (42) inches apart, the sign area shall be computed by the measurement of one (1) of the larger faces.

3. Height. Height shall be measured from: (i) the higher of the unaltered grade of the terrain of the sign location or (ii) the elevation of the grade of the road shoulder perpendicular to the sign, whichever is higher, to the uppermost part of the sign or sign structure, whichever is higher.

Prohibited Signs (Revised 11/5/01)
The following signs are prohibited:

1. Any non-governmental sign which resembles a public safety warning or traffic sign;

2. Signs with animated, blinking, chasing, flashing or moving effects except as used to display time, temperature and messages on an electronic message board, no signs shall contain flashing lights. (Revised 11/5/01)

3. Animated, rotating, or other moving or apparently moving signs. (Revised 11/5/01)

Sign Maintenance
All sign supports, braces, poles, wires and other appurtenances of the sign or sign structure shall be kept in good repair, maintained in a safe condition, and shall conform to the standards in this section and the North Carolina State Building Codes.

Maintenance of sign supports, braces, poles, wires and other appurtenances of the sign or sign structure and not the result of damage or destruction shall not require a zoning permit, provided the sign is not enlarged, moved, or altered in any manner which would create or increase a nonconforming condition.

A sign face shall be in a state of disrepair when more than twenty (20%) of its' total surface is disfigured, cracked, ripped or peeling paint or poster paper, or any combination of these conditions.

No sign shall be allowed to stand with bent or broken sign facing, broken supports, loose appendages or struts.

No sign or sign structure shall be allowed to have weeds, vines or other vegetation growing on it and obscuring it from the road or highway from which it is intended to be viewed.

No illuminated sign shall be allowed to operate with partial illumination.

Nonconforming Signs

All signs made nonconforming by this article, but which were lawfully established may continue provided that no such sign shall be: changed or replaced with another nonconforming sign except that copy may be changed on an existing sign; expanded; relocated except in conformance with the requirements of this article; reestablished after damage or destruction in excess of sixty percent (60) percent of the fair market value immediately prior to the time of the damage or destruction; modified in any way which increases the sign's degree of nonconformity; or reestablished after the sign structure has been removed.

As soon as reasonably possible after the effective date of this amendment, the zoning administrator shall make every reasonable effort to identify all the nonconforming signs with the county's planning jurisdiction.

Article XIII – Administrative Powers and Duties
(Amended 5/3/21)

Section 13.1 – Administration
Duties
Duties assigned to staff may include, but are not limited to, drafting and implementing plans and development regulations to be adopted pursuant to this Ordinance; determining whether applications for development approvals are complete; receipt and processing applications for development approvals; providing notices of applications and hearings; making decisions and determinations regarding development regulation implementation; determining whether applications for development approvals meet applicable standards as established by law and local ordinance; conducting inspections; issuing or denying certificates of compliance or occupancy; enforcing development regulations, including issuing notices of violation, orders to correct violations, and recommending bringing judicial actions against actual or threatened violations; keeping adequate records; and any other actions that may be required in order adequately to enforce the laws and development regulations under their jurisdiction. A development regulation may require that designated staff members take an oath of office. The local government shall have the authority to enact ordinances, procedures, and fee schedules relating to the administration and the enforcement of this Ordinance. The administrative and enforcement provisions related to building permits set forth in N.C.G.S. Article 11 shall be followed for those permits (N.C.G.S. 160D-402).

Conflict of Interest
No staff member shall make a final decision on an administrative decision required in this Ordinance if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship. If a staff member has a conflict of interest under this section, the decision shall be assigned to the supervisor of the staff person or such other staff person as may be designated by the development regulation or other ordinance. No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under this Ordinance unless the staff member is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with a local government to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the local government, as determined by the local government (N.C.G.S. 160D-109)

Zoning Enforcement Officer
The Zoning Enforcement Officer who shall be appointed by the Person County Board of Commissioners is duly charged with the enforcement of the provisions of this ordinance. If the Zoning Enforcement Officer finds that any of the provisions of this ordinance are being violated, he shall notify in writing the person(s) responsible for such violations, indicating the nature of the violation and ordering the action(s) necessary to correct it. He shall also take any other action authorized by this ordinance to ensure compliance with or to prevent violation of its provisions.

Section 13.2 – Approvals and Compliance
Zoning Permit (Amended 11/18/91; 3/17/97; 5/3/21)

1. Unless otherwise stated in this ordinance, no building, structure *(*a sign is considered a structure) or any part thereof designed or intended to be used for other than farm or agricultural purposes, shall be erected or altered until Zoning permit has been issued by the Zoning Administrator or authorized representative. (Amended 3/17/97)

2. Each application for a Zoning Permit shall be accompanied by a plat, drawn to scale, showing accurate dimensions of the lot to be built upon, accurate dimensions of the building to be erected, its location on the lot, and such other information as may be necessary to provide for the enforcement of this ordinance. An accurate record of such applications and plats, together with a record of the action taken thereon shall be kept in the office of the Person County Planning Department. The Zoning Enforcement Officer may waive any of these application requirements.

3. Zoning Permit Application Issuance. Any zoning permit expires one (1) year after issuance, unless work authorized by the permit has substantially commenced, as verified by the Administrator or designee. Once work has substantially commenced, a zoning permit shall remain valid through project completion unless the work authorized by the permit is suspended or abandoned for a period of twelve (12) months (Amended 8/4/25). Application may be made to the Zoning Administrator for a new zoning permit to replace any permit which becomes invalid under this section. In the event a new permit is denied by the Zoning Administrator, an appeal may be made to the Board of Adjustment.

Permit of Occupancy/Compliance

1. No land shall be used or occupied, except for farm purposes, and no building or structure erected or altered shall be used or changed in use for other than farm purposes until a Permit of Occupancy/Compliance has been issued by the Zoning Enforcement Officer stating that the building and/or the proposed use complies with the provisions of this ordinance. A permit of the same shall be required for the purpose of changing any existing use as well as for maintaining, reviewing, changing or extending any nonconforming use. The aforementioned Permit shall be applied for coincidentally with the application for a Zoning Permit and shall be issued within ten (10) working days after notification to the Zoning Enforcement Officer of completion of the erection or alterations of such building or part in conformity with the provisions of this ordinance. A record of all such certificates shall be kept on file in the office of the Zoning Enforcement Officer(s), and copies shall be furnished, upon request, to any person having a proprietary or tenancy interest in the building or land.

2. No gas, electric, or water company or municipal departments shall provide utility services or install a meter at a construction site unless a Zoning Permit has been issued for a building or use at that location. No gas, electric, or water company or municipal department shall provide utility service or install a meter in any building or premise or part thereof hereafter, created, erected, changed, converted, altered or enlarged, wholly or part in its use or structure unless a Certificate of Compliance shall have been issued thereof.

3. Performance Guarantees

    a) In the event that the required improvements or construction has not been completed prior to the final zoning inspection, the developer shall guarantee the completion of the required improvements in a development by means of a bond with surety or other guarantees satisfactory to the County Manager or his/her designee in an equal amount to one-hundred ten percent (125%) of the estimated cost of the required improvements whereby improvements may be made and utilities installed. The reasonably estimated cost of completion shall include one hundred percent (100%) of the costs for labor and materials necessary for completion of the required improvements. Where applicable, the costs shall be based on unit pricing. The additional ten percent (25%) allowed under this section includes inflation and all costs of administration regardless of how such fees or charges are denominated. One of the following methods shall be pursued by the developer to ensure the installation of said improvements:

        i. Filing a performance or surety bond with the developer/property owner as principal and a surety approved by the County Manager or his/her designee upon recommendation of the County Engineer; and in an amount approved by the County Manager or his/her designee upon recommendation of the County Engineer, or,

        ii. Depositing or placing in escrow a certified check or cash in an amount to be determined by the County Manager or his/her designee upon recommendation of the County Engineer. Portions of the security deposit may be released as the work progresses, or,

iii. Filing an irrevocable letter of credit guaranteeing payment to Person County in the event of default in an amount to be determined by the County Manager or his/her designee upon recommendation of the County Engineer, or,

iv. Other form of guarantee that provides equivalent security to a surety bond or letter of credit. (SL 2019-79 SB 313)

b) The duration of the performance guarantee shall initially be one year, unless the developer determines that the scope of work for the required improvements necessitates a longer duration. In the case of a bonded obligation, the completion date shall be set one year from the date the bond is issued, unless the developer determines that the scope of work for the required improvements necessitates a longer duration. (SL 2019-79 SB 313)

c) The developer shall have the option to post one type of a performance guarantee as provided for in this subsection, in lieu of multiple bonds, letters of credit, or other equivalent security, for all development matters related to the same project requiring performance guarantees. Performance guarantees associated with erosion control and stormwater control measures are not subject to the provisions of this section. (SL 2019-79 SB 313)

d) A developer shall demonstrate reasonable, good-faith progress toward completion of the required improvements that are secured by the performance guarantee or any extension. If the improvements are not completed to the specifications of the Person County, and the current performance guarantee is likely to expire prior to completion of the required improvements, the performance guarantee shall be extended, or a new performance guarantee issued, for an additional period; provided, however, that the extension shall only be for a duration necessary to complete the required improvements. If a new performance guarantee is issued, the amount shall be determined by the procedure provided in this subsection and shall include the total cost of all incomplete improvements. (SL 2019-79 SB 313)

e) A performance bond or other guaranty as allowed in this subsection may be reduced proportionally upon the satisfactorily completion of some of the required improvements. Any reduction shall be limited only to that percentage of completion as determined and certified by the Zoning Administrator. The reduction shall not exceed 75% of the said original bond or guaranty.

f) When the required improvements have been completed the developer shall notify the Planning and Zoning Administrator. The Planning and Zoning Administrator shall request comments relative to those improvements from the North Carolina Department of Transportation, the Soil Conservation Service and the Person County Health Department, who will notify the Planning and Zoning Administrator that the improvements have been installed to their satisfaction. The Planning and Zoning Administrator shall request in writing to the County Manager to release the bond, letter of credit or funds from escrow. When required improvements that are secured by a bond are completed to the specifications of Person County, or are accepted by Person County, if subject to county acceptance, upon request by the developer, Person County shall timely provide written acknowledgement that the required improvements have been completed. In the event of default by the developer, the County Manager is authorized to call for payment of the bond or letter of credit or to release security from escrow and to utilize such funds for the completion of improvements in a manner as determined by the Board of Commissioners. SL 2019-79 SB 313)

Section 13.3 – Enforcement and Penalties

Inspections
Local Administrative staff may inspect work undertaken pursuant to a development approval to assure that the work is being done in accordance with applicable State and local laws and of the terms of the approval. In exercising this power, staff are authorized to enter any premises within the jurisdiction of the local government at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials, provided the appropriate consent has been given for inspection of areas not open to the public or that an appropriate inspection warrant has been secured (N.C.G.S. 403(e)).

Notice of Violations
When staff determines work or activity has been undertaken in violation of a development regulation adopted pursuant to this Ordinance or other local development regulation or any State law delegated to the local government for enforcement purposes in lieu of the State or in violation of the terms of a development approval, a written notice of violation may be issued. The notice of violation shall be delivered to the holder of the development approval and to the landowner of the property involved, if the landowner is not the holder of the development approval, by personal delivery, electronic delivery, or first class mail and may be provided by similar means to the occupant of the property or the person undertaking the work or activity. The notice of violation may be posted on the property. The person providing the notice of violation shall certify to the local government that the notice was provided and the certificate shall be deemed conclusive in the absence of fraud. Except as provided by N.C.G.S. 160D-11-23, 160D-12-6, or otherwise provided by law, a notice of violation may be appealed to the Board of Adjustment pursuant to N.C.G.S. 160D-4-5.2 (N.C.G.S. 404-(a)).

Revocation of Development Approval
Development approvals may be revoked by the local government issuing the development approval by notifying the holder in writing stating the reason for the revocation. The local government shall follow the same development review and approval process required for issuance of the development approval, including any required notice or hearing, in the review and approval of any revocation of that approval. Development approvals shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of any applicable local development regulation or any State law delegated to the local government for enforcement purposes in lieu of the State; or for false statements or misrepresentations made in securing the approval. Any development approval mistakenly issued in violation of an applicable State or local law may also be revoked. The revocation of a development approval by a staff member may be appealed to the Board of Adjustment pursuant to N.C.G.S. 160D-405. If an appeal is filed regarding a development regulation adopted by a local government pursuant to this Chapter, the provisions of N.C.G.S. 160D-405(e) regarding stays shall be applicable (N.C.G.S. 160D-403(f)).

Penalties

1. Subject to the provisions of the development regulation, any development regulation adopted pursuant to authority conferred by N.C.G.S Article 4 may be enforced by any of the following remedies:

    a) Any person, firm or corporation who violates any provision of this ordinance shall be guilty of a Class 3 misdemeanor and shall be fined not more than five hundred dollars ($500).

    b) Each day a violation exists shall be a separate violation hereunder. (Amended 11/17/2003)

2. This Ordinance may be enforced by an appropriate equitable remedy, including temporary restraining order, preliminary injunction and permanent injunction as issued by a court of competent jurisdiction. (Amended 11/17/03) (N.C.G.S. 160D-404(c)).

Section 13.4 – Planning Board

(Added 8/4/25)

Membership and Vacancies

The Planning Board shall consist of 7 members who are residents of Person County. The members shall be appointed by the Board of Person County Commissioners and serve for terms of three years. Vacancies occurring for reasons other than expiration of terms shall be filled as they occur for the period of the unexpired term. Faithful attendance at the meetings of the Board is considered a prerequisite for the maintenance of membership on the Board.

Duties

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

1. To advise the Board of County Commissioners concerning implementation of plans, including, but not limited to review and comment on all zoning, text, and map amendments as required by G.S. 160D-6-4 and other tasks assigned by this ordinance.

2. To acquire and maintain in current form such basic information and materials as are necessary to an understanding of past trends, present conditions, and forces at work to cause changes in these conditions;

3. To prepare and from time to time amend and revise a comprehensive and coordinated plan for the physical development of the area;

4. To establish principles and policies for guiding action in the development of the area;

5. To prepare and recommend to the Board of County Commissioners ordinances promoting orderly development along the lines indicated in the comprehensive plan;

6. To determine whether specific proposed developments conform to the principles and requirements of the comprehensive plan for the growth and improvements of the area;

7. To keep the Board of County Commissioners and the general public informed and advised as to these matters;

8. To perform any other duties which may lawfully be assigned to it.

Section 13.5 – Board of Adjustments

(Added 8/4/25)

Membership and Vacancies

The Board of Adjustment shall consist of five (5) members appointed by the Person County Board of Commissioners and each shall serve for a term of three (3) years until a successor is duly appointed and qualified. Members shall be removable by the appointing authority for cause, upon written charges, after a public hearing.

Duties

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

1. To hear and decide appeals from any order, requirement, decision, or determination made by the County Planner in the enforcement of this Ordinance;

2. To hear and decide specific variances;

3. To perform any other duties which may lawfully be assigned to it.

Article XIV – Subdivision Regulations

These regulations shall hereafter be known, cited and referred to as the Subdivision Regulations of Person County, North Carolina.

Authority and Enactment Clause

In pursuance of the Authority conferred by Section 8 of Chapter 160D of the General Statutes of North Carolina as amended; NOW, THEREFORE, THE BOARD OF COMMISSIONERS OF PERSON COUNTY, NORTH CAROLINA DOES HEREBY ORDAIN AND ENACT INTO LAW, THE FOLLOWING ARTICLES AND SECTIONS (Amended 8/4/25).

It is hereby declared to be the policy of Person County to consider the subdivision of land and the subsequent development of the subdivided plat as subject to control of the County pursuant to the prevailing comprehensive plan in an effort to ensure that orderly, planned, efficient growth is realized.

The regulations as herein described are adopted for the following purposes:

1. To protect and provide for the public health, safety and general welfare of the citizens of Person County.

2. To protect and conserve the value of land throughout Person County, the value of buildings or other improvements thereupon, and to minimize the conflicts among the uses of land and buildings.

3. To guide public and private policy and action in order to provide adequate and efficient transportation, water, sewerage, schools, parks, playgrounds, recreation, and other public requirements and facilities.

4. To establish reasonable standards of design and procedures for subdivisions and resubdivisions, in order to further the orderly layout and use of land; and to ensure proper legal descriptions and monumenting of subdivided land.

5. To ensure that public facilities are available and are sufficient to accommodate the needs of the proposed subdivision.

6. To prevent the pollution of air, streams and parks; to assure the adequacy of drainage facilities; to protect the water table; and to encourage the rational and efficient utilization and management of natural resources throughout the county in order to preserve the integrity, stability, and beauty of the community and the value of the land.

7. To preserve the natural beauty and topography of the county and to ensure that development is consistent with indigenous natural and physical features.

8. To provide for open spaces through the most efficient design and layout of the land, including the use of average density in providing for minimum width and area of lots while preserving the density of land as established in the Official Zoning Ordinance of Person County, North Carolina.

Jurisdiction

These subdivision regulations shall govern each and every subdivision of land lying within Person County and outside the subdivision regulation jurisdiction of the City of Roxboro.

No land shall be subdivided within the subdivision jurisdiction of the county until said subdivision has received the approval of Person County pursuant to the provisions of this article.

No building permit, certificate of occupancy or any other permit required by other applicable laws or article shall be issued for any parcel or plot of land which was created by subdivision after date of, and not in conformity with, the provisions of these regulations, and, no excavation of land or construction of any public or private improvements shall commence except in accordance with the provision as herein expressed.

Saving Provision
These regulations shall not be construed as abating any action now pending under, or by virtue of, prior existing subdivision regulations; or as discontinuing, abating, modifying, or altering any penalty accruing or about to accrue; or as affecting the liability of any person, firm, or corporation; or as waiving any right of the County under any section or provision existing at the time of adoption of the regulations; or as vacating or annulling any rights obtained by any person, firm or corporation, by lawful action of the County except as shall be expressly provided for in these regulations.

Section 14.1 – Subdivision Types

(Amended: 5-3-99, 11-18-25)

14.1-1 Excluded or Exempt plats
Surveys meeting the requirements of GS 47-30(f)11.c do not require a signature from the Planning and Zoning Administrator or the review officer and may be directly submitted to the Register of Deeds for recordation. The following events shall be excluded from the provisions of this article:

1. The combination or recombination of portions of previously subdivided and recorded lots if the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the county as shown in its subdivision regulations.

2. The division of land into parcels greater than 10 acres if no street right-of-way dedication is involved.

3. The public acquisition by purchase of strips of land for widening or opening streets.

4. The division of a tract in single ownership the entire area of which is no greater than two acres into not more than three lots, if no street right-of-way dedication is involved and the resultant lots are equal to or exceed the standards of the county as shown in its subdivision regulations.

5. The division of land for use as gravesites.

6. A division of land which has been created by a judicial partition and/or sale.

7. All re-surveys of an existing lot

8. Any plat presented for recordation on which a lot is shown and pledged as collateral for loan proceeds and where the property depicted by the plat is a portion of a larger tract of property owned by the same entity.

9. A combination of lands which adds land to previous subdivided and recorded lots which are contiguous to the addition.

Plats depicting the divisions listed above may be recorded provided the owner desiring to record such plats shall obtain a Certificate of Exception from the Planning and Zoning Administrator and shall present such certificate to the recorder as proof the exception condition is present. Such certified plats will be exempt from the Person County Private Road Standards. The required certificate shall read as follows:

Certificate of Exception.
I certify that said property qualifies as an exception to the provisions of the Person County Planning Ordinance under Section 14.1.

_____ _____

Planning and Zoning Administrator Date
Person County, NC

14.1-2 Family Subdivisions
Family subdivisions of property, for residential purposes and use by family members, must meet the following conditions: (Added 5-7-01)

1. Family member status is granted to a person who is a direct lineal or adopted descendant, lineal ascendant, sibling or spouse of the grantor.

2. Legal documents such as a birth certificate, marriage certificate or adoption papers will be used to show family relationship.

3. When a family subdivision is made, the plat map must have a plat map disclaimer affixed, which clearly states, "This is a family subdivision and road improvements are not required unless further subdivided".

4. Easements to the family subdivision lots must clearly show on the plat map and include the following annotation: "Access is over a private road right-of-way, a road maintenance agreement is not required and may not be available."

5. Family subdivision of property shall be made only one time per family member. (Added 5-7-01; Amended 8-01-05)

Family subdivisions of property will not cause any road improvement or construction requirement of this article to be imposed. A Family Subdivision may be further subdivided pursuant to this article.

14.1-3 Minor Subdivisions
Any division of land where all proposed lots conform to the requirements of this article and the Planning Ordinance and that does not:

1. Create more than 5 lots, including any remainder.

2. Dedicate a new public road

3. Extend an existing non-conforming private road

4. Extend or require the extension of municipal facilities

5. Create any public improvements

Options for access within a minor subdivision

1. Frontage on a public road

2. Creation of a new private road meeting the Private Road Construction Standards for Person County

3. Frontage on an existing private road

4. Frontage on a private access easement fifty (50) feet in width and for the exclusive use of a single residential unit established on such lot. The access shall be maintained in a condition passable for emergency and service vehicles, and that no such access shall be established closer than one- hundred-fifty (150) feet to any other previously recorded access. (Amended 5/3/99)

All private roads and access easements meeting the minimum standard in the Addressing and Road Naming article for Person County must be named at the time of plat recordation and the name must be shown on the plat.

14.1-4 Major Subdivisions

All subdivisions not otherwise classified in this article including, but not limited to, subdivisions of six (6) or more lots, or any size subdivision requiring any new public street or extension of local government facilities, or the creation of any public improvements. (Amended 5/3/99)

Conditions

Regulation of the subdivision of land and the attachment of reasonable conditions thereupon is a valid exercise of the police power granted to Person County by the State of North Carolina. The developer must encumber the responsibility to comply with conditions imposed by the Planning Board and/or Board of Commissioners for design, dedication, improvement, and restrictive use of the property in question.

Section 14.2 – Procedures for Review and Approval of Minor Subdivisions

Submission Of Minor Final Plat to the Planning and Zoning Administrator (As amended 11-3-97, 5-3-99, 5-3-2021)

The requirements for obtaining minor final subdivision plat approval are as follows:

1. The subdivider shall submit to the Planning and Zoning Administrator or his designated agent at least two (2) prints of the proposed minor subdivision. Copies of the final plat may be submitted, at the discretion of the developer, simultaneously with the proposed minor preliminary plat. (Amended 5/3/99)

2. The proposed final plat shall be prepared by a professional land surveyor or engineer licensed to render said service in the State of North Carolina at a scale of no less than one (1) inch to two hundred (200) feet and shall comply with GS 47-30, as amended. (Amended 5/3/99)

The following information shall also be included:

- Location of one-hundred-year floodplain boundary and floodway, if the United States Army Corps of Engineers-prepared Flood Hazard Boundary Map is available;

- Reservations and easements to be dedicated to public uses or sites for other than residential use with notations expressing the purpose and limitation thereof;

The following certificates shall be placed on the minor final plat:

1. All certificates as required by GS 47-30, as amended.

2. I hereby certify that the subdivision plat as depicted hereon has been granted final approval pursuant to the Person County Subdivision Regulations.

_____ _____

Planning and Zoning Administrator Date
Person County, NC

The Planning and Zoning Administrator shall review the final plat of the proposed minor subdivision and shall render the determination that said proposal does constitute a minor subdivision and meets all requirements relative thereto. Based upon those findings, the Planning and Zoning Administrator shall either approve, disapprove or conditionally approve the proposed final minor subdivision plat.

A decision shall be rendered by the Planning and Zoning Administrator within five (5) working days after receipt of the proposed minor subdivision. Exempt plats, as defined by the North Carolina General Statute 47-30 and the Person County Subdivision article, shall be reviewed with a decision rendered within three (3) to five (5) business days. The decision of the Planning and Zoning Administrator may be appealed to the Planning Board by the developer. Failure of the Planning Board to render a decision within forty-five (45) days shall constitute approval thereof.

Section 14.3 – Procedures for Review and Approval of Major Subdivisions

Submission of a Concept Plan to the Planning Board for a Major Subdivision (As amended 11-18-91, 11-3-97, 5-3-99, 2-7-2000, 5/3/21)

1. The requirements for obtaining concept plan approval are as follows:

    a) The subdivider shall initially submit to the Planning and Zoning Administrator or his designated agent, three (3) prints and one (1) digital copy of the proposed concept plan according to the published Planning Board review schedule on file in the Planning and Zoning Department. Once the plan has been reviewed by staff, the subdivider shall submit a minimum of ten (10) prints for review by the Planning Board (Amended 5/3/99; 5/3/21)

    b) The concept plan shall be prepared by a professional land surveyor, engineer, land planner or landscape architect and may be in sample sketch form depicting labeled indexed contours at intervals of ten (10) feet and the proposed layout of streets, lots and other features in relation to existing conditions. (Amended 5/3/99)

2. In the event that a subdivision is to be developed in stages, the concept plan shall be submitted for the entire development. A construction plat and final plat may be submitted for each stage.

3. The Planning and Zoning Administrator shall forward the concept plan of the major subdivision to the Planning Board for review and approval.

4. After considering any input and/or recommendations received in connection with the proposed subdivision in addition to any comments which the subdivider may have, the Planning Board shall approve, disapprove or conditionally approve the proposed major subdivision construction map or concept plan.

5. Failure of the Planning Board to render a decision within forty-five (45) days after the concept plan is reviewed at a Planning Board meeting shall constitute approval thereof. Approval of the concept plan is authorization for the plan to be submitted to the Board of Commissioners. (amended 5/3/99)

    a) Within two (2) weeks upon receiving notice of the Planning Board's approval of the concept plan, the subdivider shall submit to the Planning and Zoning Administrator or his/her designated agent ten (10) prints of the approved proposed concept plan. (Amended 5/3/99)

6. The Board of County Commissioners shall review the proposed concept plan and render a decision within forty-five (45) days of the Board of Commissioners meeting at which the concept plan is reviewed**.** Failure of the Board to act shall constitute approval. (amended 5/3/99)

An approval pursuant to this section shall expire twenty-four (24) months from the date of approval of the Concept Plan or from February 7, 2000 (the date of approval of this amendment), whichever is later. (Amended 2/7/2000)

An approved Concept Plan shall become vested for an unlimited time if within the twenty-four (24) months from the date of approval of the Concept Plan or from February 7, 2000, (the date of approval of this amendment), whichever is later, the following plans approved by applicable governmental authorities are delivered to Planning and Zoning: (A) sedimentation and erosion control plan, and (B) road construction plan. (Amended 2/7/2000)

Neither an approved Concept Plan nor a vested Concept Plan shall be revoked except pursuant to the standards set forth in 30-7.6 for termination of a vested right (except that for this purpose 30-7.6 is modified to substitute the words "concept plan" for the words "site specific development plan"). (Amended 2/7/2000)

Prior to the expiration of the twenty-four (24) month approval period for a Concept Plan, an application for vested rights may be submitted on the basis of a site-specific development plan. Subsequent to the expiration of the twenty-four (24) month approval period, Planning and Zoning will not accept an application for vested rights. (Amended 2/7/2000)

7. At the subdivider's discretion, he or she may also submit a site-specific development plan and make application for vested right status for a subdivision when submitting it to the Planning Board and the County Commissioners for concept plan approval. Vested right status may be applied for jointly with the concept plan application or may be requested at a later date.

    a) Vested right status shall guarantee the right to develop according to the provisions of the approved concept plan and approved site-specific development plan for a period up to and including two (2) years from the date of approval. Any guaranteed right to develop period greater than two (2) years and up to a maximum of five (5) years shall be at the discretion of the Board of County Commissioners.

    b) Vested right status for a subdivision and associated concept plan shall be granted only after a public hearing is conducted by the County Commissioners. Such public hearing may be conducted in conjunction with the County Commissioners' consideration of concept plan approval for the development project or at the time application for a vested right is submitted. Notification and advertisement of such public hearing shall occur in the same manner as is designated for an amendment to this article.

    c) Approval of a site-specific development plan and the granting of vested right status shall not occur under circumstances where a variance from the provisions of this article is necessary except in cases where such variance has been previously applied for and granted.

    d) The vested right granted under the approval of a site-specific development plan is not a personal right but shall attach to and run with the applicable property. All development, whether by the original applicant and/or landowner and/or their successors, shall occur as originally designated and approved on the site-specific development plan unless modifications are submitted to and approved by the County Commissioners.

    e) The establishment of a vested right under an approved site-specific development plan shall not preclude the application of article or regulations that are general in nature, are applicable to all property in the county subject to land use regulation and have no effect on the allowable type or intensity of use for the subject property. Otherwise, applicable new or amended regulations shall become effective for the subject property upon the expiration or termination of the vested right.

    f) A vested right established by an approved site-specific development plan shall terminate:

        i. At the end of the applicable vesting period in respect to buildings and uses for which no valid building permit application has been filed; or,

        ii. With the written consent of the applicant and/or landowner; or,

iii. Upon findings by the County Commissioners, after a public hearing in which reasonable notice and advertisement are given, that natural or man-made hazards at or near the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety, and welfare if the project were to proceed as originally approved in the site specific development plan; or,

iv. Upon payment to the affected applicant and/or landowner of compensation for all costs, expenses, and other losses incurred by the same including all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and other consultant's fees incurred after approval by the County Commissioners. Compensation shall not include any diminution in value of the subject property; or,

v. Upon findings by the County Commissioners, after a public hearing in which reasonable notice and advertisement are given, that the land owner, his successors, or any representatives intentionally supplied in accurate information or made material misrepresentations which alter the original approval of the County Commissioners of the site specific development plan; or, upon changes in state or federal law or regulation that preclude the proposed use or development project as originally approved in the site specific development plan. The owner and/or applicant shall have the opportunity in this instance to submit appropriate applicable modifications to the site-specific development plan for the Planning Board and County Commissioners' approval in order to allow vested right status to remain valid.

g) Nothing in this article shall require the County Commissioners to grant a vested right to develop in conjunction with the approval of a concept plan. Nothing shall preclude subsequent reviews and approvals of site-specific development plans by the Planning Board and County Commissioners to ensure compliance with the terms and conditions of the original approval, provided such reviews and approvals are not inconsistent with the original approval. Nothing in this article shall prohibit the County Commissioners from the revocation of the original approval or from other remedies for failure to comply with the applicable terms and conditions of all approvals or of this article.

Section 14.4 – Submission of the Major Construction Plat to the Zoning Administrator

(As amended 10-17-88, 6-19-89, 5-3-99)

1. The applicant shall submit the proposed construction plat to the North Carolina Department of Transportation District Engineer for review. The District Engineer shall render the determination that said proposal does constitute a construction plat and meets all requirements relative thereto. (Amended 5/3/99)

   a) A copy of the approved construction plat signed by the District Engineer must be filed with the Planning and Zoning Administrator prior to any earth disturbing activity.

2. If more than one (1) acre of land is disturbed, an erosion and sedimentation control plan, in accordance with North Carolina General Statute 113A-57, as amended, shall be prepared and submitted to the North Carolina Department of Environment and Natural Resources, land quality section for review and comment. A copy of the approved erosion and sedimentation control plan shall be submitted to the planning and zoning administrator. (Amended 5/3/99)

   a) If a developer, corporation, private landowner or other person proposes to perform construction/filling activities in or near a lake, stream, creek, tributary or any unnamed body of water and its adjacent wetlands, Federal permit authorization may be required from the U. S. Army Corps of Engineers prior to commencement of earth-disturbing activities.

3. The Planning and Zoning Administrator or his designated agent shall distribute copies of the construction plat of the proposed major subdivision to various agencies for review relative to street design, and erosion and sedimentation control.

Section 14.5 – Submission of Major Final Plat to Planning and Zoning Administrator

(As amended: 5-3-99)

1. The requirements for obtaining major final subdivision plat approval are as follows:

   a) The subdivider shall submit to the planning and zoning administrator or his designated agent, at least three (3) prints of the proposed subdivision prepared in accordance with the requirements of this article. (Amended 5/3/99)

   b) The proposed major final plat shall be prepared by a professional land surveyor or engineer licensed to render said service in the State of North Carolina at a scale of no less than one (1) inch to two hundred (200) feet and comply with GS 47-30 as amended. (Amended 5/3/99)

The following information shall also be included:

- Reservations, easements and alleys to be dedicated to public or private uses as noted with notes explaining the limitations thereof;

- The location of the one-hundred-year flood plain and floodways, if the United States Army Corps of Engineers-prepared Flood Hazard Boundary Map is available;

2. The following certificates shall be placed on the final plat:
   a) All certificates as required by GS 47-30 as amended.

   b) I hereby certify that the subdivision plat as depicted hereon has been granted final approval pursuant to the Person County Subdivision Regulations. (Amended 05/03/99)

_____ _____

Planning and Zoning Administrator Date
Person County, NC

3. No major final plat shall be approved until all improvements are installed or meet the requirements as established in Section 33 and the certificates as depicted thereon have been signed.

4. The Planning and Zoning Administrator shall review the signed final plat for consistency with the concept plan and construction plat and other requirements as expressed herein. Based upon those findings, the Planning and Zoning Administrator shall approve, disapprove, or conditionally approve the proposed final plat.

5. A decision shall be rendered by the Planning and Zoning Administrator within five (5) working days after receipt of the proposed final plat. The decision of the Planning and Zoning Administrator may be appealed to the Planning Board by the developer. Failure of the Planning Board to render a decision within forty-five (45) days shall constitute approval thereof.

Section 14.6 – Bonding Requirements

(As amended 5/3/99; 6/5/06; 5/3/2021)

1. In the event that the required improvements have not been completed prior to the submission of the major final plat, the developer shall guarantee the completion of the required improvements in a subdivision by means of a bond with surety or other guarantees satisfactory to the County Manager or his/her designee in an equal amount to one-hundred ten percent (110%) of the estimated cost of the required improvements whereby improvements may be made and utilities installed. The reasonably estimated cost of completion shall include one hundred percent (100%) of the costs for labor and materials necessary for completion of the required improvements. Where applicable, the costs shall be based on unit pricing. The additional ten percent (10%) allowed under this subdivision includes inflation and all costs of administration regardless of how such fees or charges are denominated. One of the following methods shall be pursued by the developer to ensure the installation of said improvements: (Amended 6/5/06; 5/3/2021)

    a) Filing a performance or surety bond with the developer/property owner as principal and a surety approved by the County Manager or his/her designee upon recommendation of the County Engineer; and in an amount approved by the County Manager or his/her designee upon recommendation of the County Engineer, or (amended 6/5/06)

    b) Depositing or placing in escrow a certified check or cash in an amount to be determined by the County Manager or his/her designee upon Adopted March 9, 1987, and recommendation of the County Engineer. Portions of the security deposit may be released as the work progresses in accordance with Section 33-5; or, (amended 6/5/06)

    c) Filing an irrevocable letter of credit guaranteeing payment to Person County in the event of default in an amount to be determined by the County Manager or his/her designee upon recommendation of the County Engineer. (amended 5/3/99; 6/5/06)

    d) Other form of guarantee that provides equivalent security to a surety bond or letter of credit. (SL 2019-79 SB 313)

2. The duration of the performance guarantee shall initially be one year, unless the developer determines that the scope of work for the required improvements necessitates a longer duration. In the case of a bonded obligation, the completion date shall be set one year from the date the bond is issued, unless the developer determines that the scope of work for the required improvements necessitates a longer duration. (SL 2019-79 SB 313)

3. The developer shall have the option to post one type of a performance guarantee as provided for in 33-1 of this subsection, in lieu of multiple bonds, letters of credit, or other equivalent security, for all development matters related to the same project requiring performance guarantees. Performance guarantees associated with erosion control and stormwater control measures are not subject to the provisions of this section. (SL 2019-79 SB 313)

4. A developer shall demonstrate reasonable, good-faith progress toward completion of the required improvements that are secured by the performance guarantee or any extension. If the improvements are not completed to the specifications of Person County, and the current performance guarantee is likely to expire prior to completion of the required improvements, the performance guarantee shall be extended, or a new performance guarantee issued, for an additional period; provided, however, that the extension shall only be for a duration necessary to complete the required improvements. If a new performance guarantee is issued, the amount shall be determined by the procedure provided in 33-1 of this subsection and shall include the total cost of all incomplete improvements. (SL 2019-79 SB 313)

5. When the required improvements have been completed the developer shall notify the Planning and Zoning Administrator. The Planning and Zoning Administrator shall request comments relative to those improvements from the North Carolina Department of Transportation, the Soil Conservation Service and the Person County Health Department, who will notify the Planning and Zoning Administrator that the improvements have been installed to their satisfaction. The Planning and Zoning Administrator shall request in writing to the County Manager to release the bond, letter of credit or funds from escrow. When required improvements that are secured by a bond are completed to the specifications of Person County, or are accepted by Person County, if subject to county acceptance, upon request by the developer, Person County shall timely provide written acknowledgement that the required improvements have been completed. (SL 2019-79 SB 313). In the event of default by the developer, the County Manager is authorized to call for payment of the bond or letter of credit or to release security from escrow and to utilize such funds for the completion of improvements in a manner as determined by the Board of Commissioners. (Amended 5/3/99; 6/5/06; 5/3/2021)

6. The approval of a final plat pursuant to regulations adopted herein shall not be deemed to constitute or effect the acceptance by the County, a governmental unit or a public body of the dedication of any street or other ground, public utility line, or other public facility shown on the plat.

7. The Zoning Administrator or his/her designee will not release nor reduce a performance bond or other guaranty as allowed in Section 33-1 until a licensed North Carolina engineer has submitted a certificate stating that all required improvements have been satisfactorily completed. (Amended 5/3/99; 6/5/06; 5/3/2021)

8. A performance bond or other guaranty as allowed in Section 33-1 may be reduced proportionally upon the satisfactorily completion of some of the required improvements. Any reduction shall be limited only to that percentage of completion as determined and certified by the planning and zoning administrator. The reduction shall not exceed 75% of the said original bond or guaranty. (Amended 5/3/99)

Resubdivision Procedures

1. For any re-platting or resubdivision of land, the same procedure, rules and regulations shall apply as prescribed herein for an original subdivision except that lot sizes may be varied on an approved plat after recording, provided that (1) no lot or tract of land shall be created or sold that is smaller than the size shown on the approved plat; (2) drainage, easements or rights of way shall not be changed; (3) street alignment and block sizes shall not be changed; (4) the rear lot lines on double tiered lots shall not be changed; (5) the rear portion of lots shall not be subdivided from the front part; (6) the character of the area shall be maintained.

Section 14.7 – Design Standards

14.7-1 Disclosure of Road Status

(As amended 5-3-99; 4-3-00, 5-21-01; 1-07-02; 8-01-05) (Added 4-3-2000; 5-7-2001)

1. All streets within the subdivision regulation jurisdiction of Person County shall have a public or private designation and comply with either the minimum construction standards for secondary roads as required by the North Carolina Division of Highways for public roads or with minimum construction standards of private subdivision roads as specified herein. However, the Planning Board encourages the subdivider to use the public designation and give careful consideration to the design of streets in accordance with those standards provided by the North Carolina Department of Transportation. (Amended 5-21-01)

2. The developer shall comply with North Carolina General Statute 136- 102.6 which provides for a disclosure statement from the developer to the purchaser establishing the status of the road.

a) If the street is designated by the developer and seller as a public street, the developer and seller shall certify that the right of way and design of the street has been approved by the Division of Highways, and that the street has been or will be constructed by the developer and seller in accordance with the standards for subdivision streets adopted by the Board of Transportation for acceptance on the highway system.

b) If the street is designated by the developer and seller as a private street, the developer and seller shall include in the disclosure statement an explanation of the consequences and responsibility as to maintenance of a private street, and shall fully and accurately disclose the party or parties upon whom responsibility for construction and maintenance of such street or streets shall rest, and shall further disclose that the street or streets will not be constructed to minimum standards, sufficient to allow their inclusion on the State highway system for maintenance.

c) A copy of the disclosure statement shall be given to the buyer. Written acknowledgment of receipt of the disclosure statement by the buyer shall be conclusive proof of the delivery thereof. (Amended 5-21-01)

3. In subdivisions in which there are seven or more lots, roads shall be designated "Public" and comply with subdivision roads minimum construction standards required by the North Carolina Department of Transportation, Division of Highways (paved). Except as expressed herein, State- maintained roads shall comply with the requirements of prevailing construction standards as imposed by the North Carolina Division of Highways. (amended 5-21-01; 1-07-02)

4. Private roads may be used to serve 6 or less lots but must be constructed in accordance with a policy entitled: " Minimum Construction Standards for Private Roads, Person County, North Carolina" except where the provisions of Section 51 of the subdivision article impose additional requirements for layout or design. (Amended 5-21-01; 1-07-02)

5. Private roads or private access easements may be used in Family Subdivisions. Family subdivisions are exempted from road construction requirements. However, the access shall be the width necessary and maintained in a condition passable for emergency and service vehicles, and that no such access shall be established closer than one- hundred-fifty (150) feet to any other previously recorded access.

6. Private roads or private access easements may be used in Minor Subdivisions. A recorded access at least fifty (50) feet in width and for the exclusive use of a single residential unit established on such lot is acceptable. However, the access shall be maintained in a condition passable for emergency and service vehicles, and that no such access shall be established closer than one- hundred-fifty (150) feet to any other previously recorded access. (Amended 5/3/99)

7. Provisions to address existing conditions

a) On subdivision roads constructed to NCDOT specifications and unpaved between May 3, 1999, and May 7, 2001, serving the maximum of 24 lots, there shall be no additional lots created utilizing the existing road or extension thereof without said road and extension being upgraded to standards as specified in this article (paved). The developer or person causing standards to be upgraded is responsible for upgrading the substandard portion of road. (Amended 5-21- 01; 1-07-02)

b) Previously established subdivisions with six (6) or more lots having an interior road or roads designated as public and built to the previously accepted and approved Class "A" road as defined in "Minimum Construction Standards for Private Roads, Person County, North Carolina" may not be expanded if any additional lots will be accessed by the existing Class "A" substandard road unless the existing public road is upgraded per this article above as applicable.

The developer or person causing the needed upgrade to the Class "A" road is responsible for upgrading the substandard portion of the road. (amended 5-21-01)

c) All "private" or undesignated Class A roads that existed as of May 3, 1999, the date of approval of this article change are grandfathered and exempt from paragraph 50-1(a) through (d). Amended 5/3/99, amended 4/3/00, amended 5-21-01).

d) Subdivision roads which as of March 9, 1987, the date of Person County minimum construction standards for private roads, were either in existence or referred to in a deed or plat, whether recorded or not, are grandfathered and exempt from the provisions of this article "Grandfathered", for purposes this article means a road is exempt from standards imposed by Section 50-1 until such times as an extension is made to the road, a cul-de-sac is added to the road, a connection is made to another road; or, for a road created after March 9, 1987, the road serves more lots than was permitted for that type road at the time it was created. If a road loses its grandfathered status, it is subject to all requirements of Section 50-1 as of the date of the loss of the grandfathered status. (Added 4/3/2000,) (Amended 5/21/01)

14.7-2 Street Design Standards

General Provisions (As amended 10-17-88, 11-7-94, 5-3-99)

1. In any new subdivision, the street layout shall conform to the arrangement, width and location included on any official plans for Person County. In areas for which such plans have not been completed, the streets shall be designed and located in proper relation to existing and proposed streets, to the topography, to such natural features as streams and tree growth, to public convenience and safety, and to the proposed use of land to be served by such streets.

2. Street layouts shall be as follows:

a) Street jogs with center line offsets of less than one-hundred-fifty (150) feet shall be avoided.

b) Intersections with a major street or highway shall be at least four-hundred (400) feet apart from corner property line to corner property line.

c) In subdivisions in which there are twenty-five (25) or more lots and where the subdivision access is off a state secondary road or a major highway, the subdivision entrance shall be designed to allow at least one lane ingress into the subdivision and two lanes egress out of the subdivision to allow a right turn lane and a left turn lane onto the highway.

d) Turn arounds shall have a minimum of seventy (70) feet (driving surface) unless NCDOT standards are greater.

e) Two means of ingress/egress (loop roads) are preferred. (Amended 5/3/99)

f) Where an approved concept plan shows extension of roads to subsequent phases or to additional property, a temporary turn around shall be installed. Said turn around shall have a minimum 70-foot diameter (driving surface). The temporary turn around does not have to be paved. The turnaround may be removed and right of way amended when the road is extended (Amended 21-01).

3. A partial width right of way may be allowed in a subdivision where:

a) In the judgment of the Planning Board, it is found that the nature and location of the subdivision, including such considerations as topography, the surrounding area, the present and future road plans, and access by public safety vehicles, are such that a partial width right-of-way is justified; and,

b) The access serving the subdivision is classified as a Class B road in accordance with a policy entitled: "Minimum Construction Standards for Private Roads, Person County, North Carolina"; and,

c) The right-of-way width provided is adequate to allow for the construction of a travel way, ditches, shoulders and turn around required for the class of road serving the subdivision; and,

d) The right-of-way width provided would allow access by the largest emergency services vehicle serving the district in which the subdivision is located; and,

e) If one or more of the following conditions are met:

i. When the partial width right-of-way adjoins undeveloped property and is not less than twenty-five (25) feet in width, and when said adjoining undeveloped property is subdivided and the remainder of the full required right-of-way can be dedicated.

ii. When access to the subdivision is across property owned by other than the applicant and the property owner is unwilling to grant, sell or otherwise convey the full required right-of-way width to the applicant.

iii. When pre-existing conditions preclude the provision of full right of way due to the pattern of adjacent development, historical common access and/or site-specific physical constraints.

f) Failure of the Planning Board to render a decision by its next regular meeting after the request has been received shall constitute the approval thereof. The decision of the Planning Board may be appealed to the Board of County Commissioners and the failure to render a decision within forty-five (45) days shall constitute approval thereof.

4. Alleys shall be required in all blocks along the rear line of business property. Alleys may also be required in multiple family residential or industrial blocks if, in the opinion of the Planning Board, alleys are needed to service these areas. All permanent dead-end alleys shall be provided with a turnaround.

5. No alley shall have access from a major street or highway but shall have its access points confined to minor streets.

6. In order to provide a uniform system of road naming along both public and private roads; to eliminate duplicate or phonetically similar street names; to provide for the uniform marking of public and private streets and roadways; and to establish procedures by which road names can be named or renamed the "Road Naming Ordinance for the County of Person, North Carolina" is incorporated herein by reference.

7. Where a tract of land to be subdivided adjoins a federal or state highway, the subdivider may be required to provide a marginal access street parallel to the highway or reverse frontage on an interior street for the lots to be developed adjacent to the highway. If reverse frontage is required, then the subdivider shall be required to provide an easement ten (10) feet wide parallel and adjacent to the right of way of the highway. Such easement shall be restricted to the planting of trees or shrubs for screening purposes and shall be in addition to all other easements required by this article.

8. Drainage pipes shall be installed under driveways which cross a drainage ditch and these pipes shall have a minimum inside dimension of fifteen (15) inches. This requirement may be waived when valley gutter system is approved.

10. Driveways shall be constructed so that drainage water will not run into the road or highway.

11. In all major subdivisions which adjoin a major highway or state secondary road having an average daily traffic count of 2,000 vehicles or more, the subdivider shall reserve a twelve (12) foot right-of-way on that portion of the subdivision that is located along that road frontage. The right-of-way shall be measured from the centerline of the subdivision access road which intersects the major highway or state secondary road and shall be a minimum of 300 linear feet.

12. In all major subdivisions which adjoin a major highway or state secondary road having an average daily traffic count of 3,000 vehicles or more, the developer shall be required to construct a right turn lane into the major subdivision. Right turn lanes shall not be required where there is not sufficient road frontage along the land being subdivided and there is not sufficient right-of-way on adjacent property to construct the turn lane.

It shall be the applicant's responsibility to provide written explanation of why there is not sufficient area to construct the turn lane.

Blocks

1. Intersecting streets shall be laid out at such intervals that block lengths are not more than twenty-four hundred (2400) feet nor less than four hundred (400) feet except where, in the opinion of the Planning Board, existing conditions justify a modification of this requirement.

2. Blocks shall have sufficient width to provide for two tiers of lots of appropriate depth, except where otherwise required to separate residential development from through traffic or nonresidential uses

3. Pedestrian ways or cross walks, not less than ten (10) feet in width shall be provided near the center and entirely across any block 1,200 feet or more in length or at the end of cul-de-sacs, where deemed essential, in the opinion of the Planning Board, to provide adequate pedestrian circulation or access to schools, shopping areas, churches, parks, playgrounds, transportation or other similar facilities.

14.7-3 Lots
(As Amended 11-18-91, 5-3-99; 10-7-2002)

1. Lot sizes, shapes, and locations shall be made with due regard to topographic conditions, contemplated use, and the surrounding area. Land subject to flooding and land deemed by the Planning Board to be uninhabitable for other reasons shall not be platted for residential occupancy, nor for such other uses as may increase danger to health, life or property, or aggravate the flood hazard, but such land as may be set aside for such uses as will not be endangered by periodic or occasional inundation, or will not produce unsatisfactory living conditions

2. Every lot shall front or abut on a dedicated street or a private road constructed in accordance with the provisions of this article unless otherwise allowed due to the type of subdivision or other provision of this article:

3. Proposed lot lines and the centerline of a proposed street may be coterminous, provided however that a ten (10) foot utility easement is located within the proposed street right of way. Further, that portion of the lot which is located within the proposed street right of way may be used to comply with minimum lot size requirements shown in Section 55.

4. Residential lots not having access to public water and public sewage disposal shall be at least 43,560 square feet in area of usable land not less than one hundred (100) feet wide at the building line.

5. Where public water and sewer facilities are not available and individual water supplies or individual sewage disposal systems are planned, the subdivider, at his own expense, shall have the site investigated under the supervision of the County Health Department or other person approved by the County Health Department to determine whether or not such individual facilities are feasible and shall present proof to the Planning Board that appropriate soil tests have been conducted and each lot in the subdivision not served by public water and sewage disposal systems has been approved by the County Health Department for individual water supplies and/or sewage disposal systems. The site investigation for sewage disposal shall include sufficient number of percolation tests, and test holes of sufficient depth to determine the absorption capacity of the soil and the locations of the groundwater table, and of rock formations and other impervious strata. (The number of percolation tests required and depth of test holes shall be determined by the County Sanitation.)

6. Should public water and sewer facilities be available and each lot served by same, the minimum lot size may be reduced to six thousand (6,000) square feet of usable area not less than sixty (60) feet wide at the building line, subject to approval by the Planning Board. Should public sewer facilities be available and each individual lot be served by same, the minimum lot size may be reduced to fifteen thousand (15,000) square feet of usable area not less than seventy-five (75) feet at the building line, subject to approval by the Planning Board. Should public water facilities be available and each lot served by same, the minimum lot size may be reduced to twenty thousand (20,000) square feet of usable area not less than one hundred (100) feet wide at the building line, subject to approval by the Planning Board.

7. Side lot lines shall be substantially at right angles or radial to street lines.

8. All lots shall conform, to the minimum standards or dimensions noted herein and those contained in an applicable zoning article, building codes, or other official regulations.

9. Flag Lots – A lot, created by a subdivision, composed of a narrow "flagpole" strip extending from the street and a much wider "flag" section lying immediately behind a lot or lots having the required width at the building line for a conventional lot. In the case of a flag lot, the lot line at the end of the flagpole lying generally parallel to the street to which the flagpole connects shall be considered the front lot line for setback purposes.

   If not properly regulated, flag lots can have a serious impact on land development, drainage, traffic, aesthetics, emergency access, fire protection, and the overall character of a neighborhood. Because of these potential negative impacts, flag lots should be considered a "remedial" action, to be approved only when there is no other option for providing access to a parcel.

   Therefore, Person County discourages and restricts forming flag lots. A flag lot, if necessary to allow a property owner reasonable use and benefit from his/her land or to alleviate situations which would otherwise cause extreme hardship for him/her, flag lots are allowed only:

   a) Where necessary to eliminate access onto arterials.

   b) To reasonably utilize irregularly shaped land.

   c) To reasonably utilize land with difficult topography.

   d) To reasonably utilize land with limited site suitable for septic tank nitrification.

   e) Where it is unlikely that a road created in lieu of a flag lot would ever be extended, or otherwise needed to provide access to adjoining parcels.

f) To provide for the protection of significant natural or cultural resources.

No flag lot will be allowed if it increases the number of access points onto a State Maintained Road. Flag lots are prohibited behind flag lots when they both access the same road. The minimum width of the flagstaff is 35 feet. The area of the flagstaff portion of the flag lot shall not be included in the calculation of minimum lot area.

The Person County Planning Board shall recommend denial of any flag lot(s) which in its opinion do not constitute sound planning, or provide for reasonable subdividing of property, or create an excessive number of entrances onto an existing or proposed road, or any other reason that is specified by the Planning Board that is neither arbitrary nor capricious.

In minor subdivisions (1-5 lots, etc.) a flag lot requires a variation (pursuant to Section 71) and must adhere to the above restrictions. (Added 10/07/2002)

14.7-4 Easements

1. Easements shall be provided for utilities within the right of way of any proposed street in which front or side lot lines extend to the center of the street. All easements shall be at least ten (10) feet wide.

2. Where a subdivision is traversed by a watercourse, drainageway, channel or stream, there shall be provided a storm water easement or drainage right of way conforming substantially with the lines of such watercourse, and such further width or construction, or both, as will be adequate for the purpose of drainage. Parallel streets or parkways may be required in connection therewith.

3. Lakes, ponds, creeks, and similar areas will be acceptable for maintenance only if sufficient land is dedicated as a public recreation area or park or if such area constitutes a necessary part of the drainage control system. The acceptance of such dedicated areas must be approved by the Planning Board before the Board of Commissioners will consider accepting it.

4. All telephone lines and power lines are recommended to be located underground. The telephone company and the power company shall be provided with copies of the construction plat by the subdivider and be expected to work with the developer in designing the utilities plan for the subdivision. The developer and the utility companies shall agree on the width of easements needed to service lines which are located on the front property line of the lots.

5. Street lighting is optional; however, provisions for street lighting should be incorporated with the developer's utility plans if street lighting is proposed.

6. Person County does not obligate itself in assuming any costs incurred in developing underground utilities but encourages developers to investigate the advantages of locating utility lines underground.

Sites For Public Utilities

1. To insure orderly development of the County in accordance with the general principles set forth in the development plan, the Board of Commissioners may require the reservation of open spaces for parks, schools, fire stations and/or playgrounds for a period of six (6) months from the date of approval of the concept plan.

Improvements and Installation of Permanent Reference Points (As amended 5-3-99)

1. No subdivisions shall be granted final approval unless the following improvements either have been constructed or approved as prescribed by this article

2. Street right of way shall be graded and paved to sufficient width, properly drained, and prepared with a proper surface and base so as to be acceptable for maintenance by the North Carolina Department of Transportation or to the standards for Private Road Designation as introduced in this article.

3. All monuments shall be shown on the final plat. (amended 5/3/99)

    a) All lot corners, all points where street lines intersect the exterior boundaries of the subdivision, all angle points and points of curve in each street shall be marked with iron pins and property corner ties shall be established in accordance with North Carolina Administrative Code, Title 21, Chapter 56, Section 1600, standards of practice for land surveying in North Carolina and North Carolina General Statutes 47-30 mapping requirements (as amended). (Amended 5/3/99)

Section 14.8 – Administration

Modifications

1. The standards and requirements of this article may be modified by the Person County Planning Board in the case of a Planned Unit Development, or other development not having traditional design, which in the judgment of the Planning Board provides adequate public spaces and improvements for the circulation, recreation, light, air and service needs of the tract when fully developed and populated, and which also provides such covenants or other legal provisions as will assure conformity to and achievement of the plan. The Planning Board may impose such conditions necessary to ensure adequate design and development. This section applies to residential development and to non-residential development, as defined in Appendix A, where special design and development considerations require modification from traditional standards for residential development. Non-residential lots shall be recorded as such clearly noting on the recorded plat either Non-Residential - Commercial, Non-Residential - Industrial, or Non-Residential - Recreational use designation.

Variations (As amended 5-3-99)

1. Where**,** because of topographical or other conditions peculiar to the site, strict adherence to the provisions of the regulations of this article would cause an unnecessary hardship (monetary considerations are not a proper criterion in determining unnecessary hardship~~)~~, the subdivider may request a variation. Such request must be submitted in written form and explain the need for such variation. Any and all variations shall be forwarded to the County Commissioners with recommendation and rationale for approval or disapproval by the Planning Board. Any variation thus authorized by the County Commissioners required to be entered in writing in the minutes of the County Commissioners and the reasoning on which the departure was justified shall be set forth. (Amended 5/3/99)

Penalty

1. Any person who, being the owner or agent of the owner of any land within the subdivision regulation jurisdiction of Person County as defined herein, hereafter transfers or sells land by reference to a plat, except for plats recorded in the Office of the Register of Deeds prior to the adoption date of this article, showing a subdivision of land before such plat has been properly approved under this article and recorded in the Office of the Register of Deeds of Person County, shall be guilty of a misdemeanor. The description by metes and bounds in the instrument of transfer shall not exempt the transaction from such penalties. The County, through its County Attorney or other official designated by the County Board of Commissioners, may enjoin such illegal transfer or sale by action for injunction.

Filing of Plat (As amended 5/3/99)

1. Following adoption of this article by the Person County Board of Commissioners, the Register of Deeds shall not thereafter file or record a plat of a subdivision located within the platting jurisdiction of Person County without the approval of the subdivision by the Planning and Zoning Administrator as required in this article, except for plats dated prior to the adoption of this article. All-approved final plats shall be recorded by the Register of Deeds. The property owner/developer shall remit to Person County such recordation fees in addition to review fees, before the final plat is recorded. The landowner shown on the 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 platting jurisdiction of Person County as defined in Section 14. The filing or recording of a plat or subdivision without the approval of the Planning and Zoning Administrator as required by this article, shall be null and void. (amended 5/3/99)

Separability

1. Should any section or provision of these regulations be for any reason held void or invalid by the courts, it shall not affect the validity of any other section or provision hereof which is not itself held void or invalid.

2. Wherever the provisions of any other law, article or regulation impose higher standards than are required by the provisions of this article, the provisions of such law, article or regulations shall govern.

Amendment Procedure (Amended 11-18-91)

1. This article may be amended from time to time by the Person County Board of Commissioners as herein specified 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 forty-five (45) days within which to submit its recommendation. Failure of the Board to submit its recommendation within this time period shall constitute a favorable recommendation. A public hearing shall be held by the Board of County Commissioners before adoption of any proposed amendment to this article. A notice of such public hearing shall be given once a week for two (2) consecutive calendar weeks in a newspaper of general circulation in Person County. Said notice shall be published the first time not less than ten (10) days nor more than twenty-five (25) days prior to the date established for such public hearing.

Effective Date

1. This article, adopted by the County Commissioners of Person County, North Carolina, shall take effect and be in force from and after March 9, 1987.

14.8-1 Violation of Subdivision Regulations
(Added 11/17/2003)

1. Violation:

   a) Any person, firm or corporation who violates any provisions of this article shall be guilty of a Class 3 Misdemeanor and shall be fined not more than five hundred dollars ($500.00). Each day a violation exists shall be a separate violation hereunder.

   b) This article may be enforced by an appropriate equitable remedy, including temporary restraining order, preliminary injunction and permanent injunction as issued by a Court of competent jurisdiction. (Added 11/17/2003)

14.8-2 Appeals
(Added 5/3/2021)

1. Appeals of administrative decisions under this article shall be heard by the Board of Adjustment. Appeal petitions shall be submitted to the Person County Planning Department in accordance with the Board of Adjustments adopted yearly schedule. Petitions shall be accompanied by a fee to defray the cost of advertising and other administrative costs involved.

2. An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Enforcement Officer certifies to the Board of Adjustment that, based on the records of the case, a stay would cause damage to life or property, in which case proceedings shall not be stayed otherwise than by an order from the Person County Superior Court.

3. After submission of a completed application, the Zoning Administrator will schedule a public hearing for the Person County Board of Adjustment in accordance with that year's adopted schedule. The Zoning Administrator shall give notice of a public hearing on the application. A notice of such public hearing shall be published in a newspaper of general circulation in Person County. Said notice shall be published not less than five (5) days prior to the date established for such public hearing. The Zoning Administrator will be responsible for mailing written notices to all property owners within 500' of the property including the applicant. The Zoning Administrator shall require that notice be posted on the land subject to the application. The applicant shall post the notice on weatherproof signs supplied by the Planning Department, one sign per each road frontage and no more than 25' from the street right-of-way. Signs must be clearly visible from the street and designate "Zoning Proposal Pending" with the phone number of the Person County Planning office.

4. The Board of Adjustment shall hold an evidentiary hearing to gather competent, material, and substantial evidence to establish the facts of the case. Testimony heard shall be under oath.

5. The Board of Adjustment may subpoena witnesses and compel the production of evidence. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the Board may apply to the General Court of Justice for an order requiring that its order be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties. No testimony of any witness before the Board pursuant to a subpoena issued in exercise of the power conferred by this section may be used against the witness in the trial of any civil or criminal action other than a prosecution for false swearing committed on the examination. Any person who, while under oath during a proceeding before the Board, willfully swears falsely, is guilty of a Class 1 misdemeanor. (Added: 3/13/2006)

6. The Board of Adjustment, by a vote of four-fifths of its members, may reverse any order, requirement, decision, or determination of an administration officer charged with the enforcement of any provision of this article. The findings of fact and conclusions of law shall be established in writing upon the Board's determination. This document shall be approved by the board and signed by the chair or other duly authorized member of the board. A quasi-judicial decision is effective upon filing the written decision with the clerk to the board or such other office or official. 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, landowner, and to any person who has submitted a written request for a copy prior to the date the decision becomes effective (N.C.G.S. 160D-406)

7. Every final decision of the Board of Adjustment shall be subject to review by the Person County Superior Court by proceedings in the nature of certiorari.

8. The petition for the writ of certiorari must be filed with the Person County Clerk of Court within 30 days after the later of the following occurrences:

a) A written copy of the Board's decision has been filed in the office of the Planning and Zoning Department; and

b) A written copy of the Board's decision has been delivered by personal service or certified mail, return receipt requested, to the applicant or appellant and every other aggrieved party who has filed a written request for such copy at the hearing of the case.

9. A copy of the writ of certiorari shall be served upon the Person County.

Section 14.9 – Glossary

Interpretation Of Terms and Definitions

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.

The word "person" includes a firm, joint venture, association, organization, partnership, corporation, trust, and company, as well as individual.

The word "lot" includes the words "plot", "parcel", "tract", or "site".

The word "building" includes the word "structure".

The word "shall" is always mandatory and not merely directory.

The word "may" is conditional and should not be construed as mandatory.

The word "street" includes the words "road" and "highway".

149-1 Definitions
(As amended 05/03/99)

Accessory Building
A detached subordinate structure operated and maintained under the same ownership and located on the same lot as the principal structure and is not used for residential occupancy.

Alley
A minor right of way, privately or publicly owned, primarily for service access to the rear or side of properties which have principal frontage on some other street.

Block
A tract of land bordered by streets, or by a combination of streets and public parks, cemeteries, railroad rights of way, shorelines of watercourses or boundary lines of municipalities.

Board Of County Commissioners
The Board of County Commissioners of the County of Person, North Carolina.

Bond
Any form of security including a cash deposit, surety bond, collateral, property, or instrument of credit in an amount and form satisfactory to Person County.

Building
Any structure, either temporary or permanent, having a roof or other covering, and designed or used for the shelter or enclosure of any person, animal or property of any kind, including tents, awnings, or vehicles situated on private property and used for purposes of building.

Building Setback Line
A parallel line located a minimum horizontal distance from the center line of a street and between that line and the street, no building or parts of a building may be erected, altered, or maintained except as otherwise provided herein.

Building Inspector
The person designated by Person County to enforce the building codes within its territorial jurisdiction.

Capital Improvements Program
A proposed schedule of all future projects in order of construction priority which are to be encumbered by Person County.

Central Sewer System
Any sewage disposal system whether operated publicly or privately other than a pit privy or a septic tank located on the lot and approved by the Person County Health Department and the North Carolina Department of Natural Resources and Community Development.

Central Water System
A system operated publicly or privately, whereby the watercourse is not located on the lot of the consumers and the number of connections must be at least fifteen (15) and approved by the Person County Health Department and the Water Supply Branch of the North Carolina Department of Natural Resources and Community Development.

Certificate Of Occupancy
A statement signed by the building inspector setting forth that the building, structure or use complies with the Zoning article and any applicable construction codes, and that the same may be used for the purposes stated herein. (Amended 5/3/99)

Concept Plan
A sketch, preparatory to the preparation of the construction plat for a major subdivision, to enable the developer to save time and expense in reaching general agreement with the Planning Board and Board of County Commissioners relative to the general layout and design of the proposed subdivision.

Developer
Any person, firm, trust, partnership, association, or corporation engaged in development, or proposed development, of a subdivision.

Easement
Authorization by a property owner for the use by another, and for a specified purpose, or any designated part of his property.

Frontage
All property abutting on one (1) side of a street measured along the street line.

Grade
The slope of a road, street, or other public way specified in percentage (%) terms.

Improvements See Lot Improvement

Individual Sewage Disposal System
A septic tank, seepage tile sewage disposal system or any other approved sewage treatment device.

Individual Water System
The provision of a potable water system by means of an on-site well.

Lot
Land area which is composed of a single parcel or contiguous parcel of land under same ownership and is recorded as such in the office of the Person County Register of Deeds.

Lot Area
The parcel of land enclosed within the boundaries formed by the property lines plus one-half of any alley abutting the lot between the boundaries of the lot, if extended.

Lot, Corner
Any parcel of land having frontage on more than one street (road) which abuts an intersection of those streets (roads).

Lot Depth
The depth of a lot, for the purpose of this article, is the distance measured in the mean direction of the side lines of the lot from the midpoint of the front line to the midpoint of the opposite lot line.

Lot, Double Frontage
A continuous lot of the same depth as the width of a block, accessible from both rights of way upon which it fronts.

Lot Improvement
Any building, structure, place, work of art, or other object, or improvement of the land in which said improvements is situated which contributes a physical betterment of real property or any part of such betterment.

Lot Line
Any boundary of a parcel of land.

Lot Line, Front
Any boundary line of a lot running along a street right-of-way line.

Lot Line, Rear
The rear lot line, shall be the property line(s) which is (are) opposite the front property line. If no property line is deemed to be opposite the front property line and no minimum building line exists on the final plat to establish a rear lot line, then there shall be no rear lot line; however, the rear yard setback shall be maintained from the point (apex) on the property's perimeter which is the furthest removed from the midpoint of the front line. The rear yard minimum building line shall be a line perpendicular to a straight line connecting said apex and the midpoint of the front lot line.

Lot Line, Side
A boundary line which is not defined as a front or rear lot line.

Lot Of Record
A lot which has been recorded in the Office of the Register of Deeds of Person County or a lot described by metes and bounds, the description of which has been recorded in the aforementioned office.

Lot Width
The horizontal distance between the side lines measured along the front building line as specified by applicable front yard setback in this article.

Major Subdivision
All subdivisions not classified as a minor subdivision including, but not limited to, subdivisions of six (6) or more lots, or any size subdivision requiring any new street or extension of local government facilities, or the creation of any public improvements. (Amended 5/3/99)

Minor Subdivision
Any subdivision containing not more than five (5) lots fronting on an existing street, not involving any new street or road, or the extension of municipal facilities, or the creation of any public improvements and not adversely affecting the remainder of the parcel of adjoining property, and not in conflict with any provisions or portion of the comprehensive plan and Zoning article, or lots located in one (1) to five (5) lot subdivisions as provided in Section 53-2 of this article. (Amended 5/3/99)

Non-Residential Subdivision
A subdivision having intended use other than residential, such as commercial or industrial or recreational.

Official Plan
Any plan officially adopted by the County Commissioners of Person County as a guide for the development of the County consisting of maps, charts, and/or texts.

Open Carport
A roofed area principally for the shelter of not more than three automobiles, open on at least two sides and shall be attached to the main building.

Ordinance
Any legislative action, however denominated, of a local government which has the force of law, including any amendment or repeal thereof.

Owner
Any person, firm or firms, corporation or corporations, or any other legal entity having legal title to or sufficient proprietary interest in the land sought to be subdivided under these regulations.

Planning Board
A body appointed by the County Commissioners to perform the following duties: develop and recommend long range development plans and policies; and advise the County Commissioners in matters pertaining to current physical development and zoning for the County's planning jurisdiction.

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

Plat, Construction
The maps or drawings showing the specific location and design of improvements to be installed in the subdivision.

Plat, Preliminary
The preliminary drawing or drawings for a minor subdivision, described in these regulations, indicating the proposed manner or layout of the subdivision.

Plat, Final
The map, plan or record of a subdivision and any accompanying material as described herein.

Public Improvement
Any drainage ditch, roadway, parkway, sidewalk, pedestrian way, tree, lawn, off street parking areas, lot improvement, or other facility for which the local government may ultimately assume for the maintenance or operation thereof, or which may affect an improvement for which the local government responsibility is established.

Resubdivision
A change in a map of an approved or recorded subdivision plat if such change affects any street layout or such map or area reserved thereon for public use or if said resubdivision reduces any lot or other tract of land smaller than the area as originally depicted.

Right Of Way
A strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, or for another special use.

Right Of Way, Partial-Width
A right of way which has a width of less than fifty (50) feet.

Same, Ownership
Ownership by the same person, corporation, firm entity, partnership, or unincorporated association; or ownership by different corporations, firms, partnerships, entities or unincorporated associations, in which a stockholder, partner, or associate, or a member of his family owns an interest in each corporation, firm, partnership, entity, or unincorporated association.

Setback
The distance between the minimum building line and the street front, side and rear property lines and where no street right of way is involved, the property line shall be used in establishing the setback.

Site Specific Development Plan
A plan for land development submitted for the purposes of obtaining a vested right and must describe with reasonable certainty the development intentions for a specified parcel or parcels of property. Such a plan drafted by an engineer or professional land surveyor includes, but is not limited to: The boundaries of the property with bearings and distances; names of adjoining property owners and a vicinity map; a delineation of the proposed lots including bearings and distances; provisions regarding water and sewer and any other proposed improvements such as lighting, buffering, recreation areas, etc.; and a schedule (if any) noting development stages. (Amended 11/18/91, 5/3/99)

Street
A public or private thoroughfare with a width of at least fifty (50) feet which affords access to abutting property and is recorded as such in the office of the Person County Register of Deeds. Particular kinds are as follows:

Collector Street
A street intended to move traffic from local streets to secondary arterials.

Cul-De-Sac
A local street with only one outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement.

Street, Dead-End
A street, or portion of a street, with only one vehicular outlet, which by design may be extended in order to serve additional lots or to provide access to another street.

Major Thoroughfare
Streets and highways primarily for through, fast or heavy traffic.

Marginal Access Street
A minor street which is parallel to and adjacent to major highways; and which provides access to abutting properties and protection from through traffic.

Minor Street
Streets which have been designed primarily to afford access to abutting properties.

Street, Private
A street right-of-way serving residential lots within a subdivision and dedicated for the exclusive use of property owners therein and permitted guests. Private road maintenance responsibilities are shared jointly by abutting property owners.

Subdivision
As defined in North Carolina General Statute 153A-335, all divisions of a tract or parcel of land into two or more lots, building sites or other division for the purpose, whether immediate or future, and includes all division of land involving the dedication of new streets or a change in existing streets; however, the following is not included within this definition and is not subject to any regulations enacted pursuant to this Part:

1. The combination or recombination of portions of previously subdivided and recorded lots if the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the county as shown in its subdivision regulations.

2. The division of land into parcels greater than ten (10) acres if 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, the entire area of which is no greater than two acres into not more than three lots, if no street right-of-way dedication is involved and the resultant lots are equal to or exceed the standards of the county as prescribed herein.

5. The division of land for use as gravesites.

6. A division of land which has been created by a judicial partition and/or sale.

7. All re-surveys of an existing lot.

8. Any plat presented for recordation on which a lot is shown and pledged as collateral for loan proceeds and where the property depicted by the plat is a portion of a larger tract of property owned by the same entity

9. A combination of lands which adds land to previous subdivided and recorded lots which are contiguous to the addition.

Vested Rights
a right pursuant to the North Carolina General Statutes to undertake and complete the development of property under the terms and conditions of an approved site-specific development plan. (Amended 11-18-91)

Article XV – Development Application Review Procedures
(Amended 5/3/21)

Section 15.1 – General
This article establishes the procedures for all approvals, administrative reviews and administrative relief required by this article. This article provides the user with a guide to the procedures to be followed and the criteria for making decisions on each of the applications. It also provides for appeals from decisions taken to the courts.

Development approvals shall be in writing and may contain a provision that the development shall comply with all applicable State and local laws. Person County may issue development approvals in print or electronic form. Development approvals issued exclusively in electronic form shall be protected from further editing once issued (N.C.G.S. 160D-403).

All rights, privileges, benefits, burdens, and obligations created by development approvals made pursuant to this Article and the North Carolina General Statute attach to and run with the land (N.C.G.S. 160D-104).

Applications for development approvals may be made by the landowner, a lessee or person holding an option or contract to purchase or lease land, or an authorized agent of the landowner. An easement holder may also apply for development approval for such development as is authorized by the easement (N.C.G.S. 160D-403).

1. Duration of Approval

    a) Development approvals are valid for the following time periods:

        i. Development approvals (Zoning permits, Stormwater permits and Floodplain permits) 1 Year

        ii. Site-specific vesting plans (Special Use Permits, PUDs, subdivision plats, site plans, preliminary or general development plans, CD-rezonings, and formerly site specific and phased development plans) 2-5 Years

        iii. Multi-phased development plans Up to 7 Years

    b) After a development approval has been issued, no deviations from the terms of the application or the development approval shall be made until written approval of proposed changes or deviations has been obtained. This section defines major modifications to development approvals that cannot be exempted or administratively approved. Person County shall follow the same development review and approval process required for issuance of the development approval in the review and approval of any major modification of that approval (N.C.G.S. 160D-403).

    c) Development approvals shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of any applicable local development regulation or any State law delegated to the local government for enforcement purposes in lieu of the State; or for false statements or misrepresentations made in securing the approval. Any development approval mistakenly issued in violation of an applicable State or local law may also be revoked. Development approvals may be revoked by notifying the holder in writing stating the reason for the revocation. Person County shall follow the same development review and approval process required for issuance of the development approval, including any required notice or hearing, in the review and approval of any revocation of that approval. The revocation of a development approval by a staff member may be appealed to the Board of Adjustment (N.C.G.S. 160D-403).

Whenever the Board of Commissioners or Board of Adjustment disapproves a petition from a member of the public (i.e., appeal, request for a special use permit, variance, request for an interpretation, request for text or official Planning Map Amendment, vested rights, etc.) on any basis other than the failure of the applicant to submit a complete application, such action may not be considered until a period of twelve months' elapses, unless applicant clearly demonstrates that:

1. Circumstances affecting the property that is the subject of the application have substantially changed; or,

2. New information is available that could not with reasonable diligence have been presented at a previous hearing. A request to be heard on this basis must be filed with the Zoning Administrator within the time period for an appeal to superior court. However, such a request does not extend the period with which an appeal must be taken.

Notwithstanding items (1) and (2) listed above, the applicable Board, may at any time consider a new application affecting the same property as an application previously denied. A new application is one that differs in some substantial way from the one previously considered. This determination shall be rendered by the Zoning Administrator within 30 days from the date of submittal. (Amended 8/5/96)

Appeals may be made to the Board of Adjustment for any administrative determination under a development regulation, except for Special Use Permits. The owner or other party shall have 30 days from receipt of the written notice of the determination within which to file an appeal. Any other person with standing to appeal shall have 30 days from receipt from any source of actual or constructive notice of the determination within which to file an appeal. In the absence of evidence to the contrary, given by first class mail shall be deemed received on the third business day following deposit of the notice for mailing with the United States Postal Service (N.C.G.S. 160D-405).

Section 15.2 – Conditional Use Permit and Special Use Districts issued prior to 5/3/2021

Any special use district or conditional use district zoning district that is valid and in effect as of January 1, 2021 shall be deemed a conditional zoning district consistent with the terms of the North Carolina General Statute 160D and the special or conditional use permits issued concurrently with establishment of those districts shall be valid as specified in North Carolina State Law 2019-111 Section 8.1. Any valid "conditional use permit" issued prior to January 1, 2021 shall be deemed a "special use permit" consistent with the provisions of the North Carolina General Statute 160D.

Section 15.3 – Zoning Permits

Each application for a Zoning Permit shall be accompanied by a plat, drawn to scale, showing accurate dimensions of the lot to be built upon, accurate dimensions of the building to be erected, its location on the lot, and such other information as may be necessary to provide for the enforcement of this ordinance. An accurate record of such applications and plats, together with a record of the action taken thereon shall be kept in the office of the Planning and Zoning Department. The Zoning Enforcement Officer may waive any of these application requirements.

Section 15.4 – Zoning Map or Ordinance Amendments

(Amended 8/5/96; Amended 11/5/01; 7/22/02; Amended 3/13/2006; 9/2/2008; 5/3/21; Added: 3/13/2006)

Zoning district boundaries adopted pursuant to this Ordinance shall be drawn on a map that is adopted or incorporated within a duly adopted development regulation. Zoning district maps that are so adopted shall be maintained for public inspection in the office of the local government clerk or such other office as specified in the development regulation. The maps may be in paper or a digital format approved by the local government (N.C.G.S. 160D-105). Staff will maintain up to date maps following case approval (N.C.G.S. 160D-105).

15.4-1 Initiation of Amendment

The Board of Commissioners may, at any time, amend, supplement, change, modify or repeal the boundaries or regulations in this Ordinance, or subsequently amended. Proposed changes or amendments may only be initiated by the Board of Commissioners, Planning Board, Board of Adjustment, or by one or more owners, optionees or lessees of property within the area proposed to be changed or affected. This may be done in accordance with the provisions of this section.

15.4-2 Submission of Petitions

Petitions to amend this Ordinance or the zoning map shall be submitted to the Planning and Zoning Department for review according to the adopted Planning Board and Board of Commissioners yearly schedule. The petition shall include the following:

1. A completed Application for Map Amendment or Application for Text Amendment.

2. For Amendments to the Official Planning Map, a map drawn to scale showing the exterior boundaries of the lot(s) which will be covered by the proposed map amendment;

3. For amendments to the Planning Ordinance text, a copy of the existing text provisions which the applicant proposes for amendment, and a written statement which describes in detail changes the applicant proposes to make to the text of the Ordinance.

4. The alleged error in the Official Planning Map and/or Planning Ordinance Text which will be corrected by the proposed amendment with a detailed explanation of such and detailed reasons how the proposed amendment will correct the same;

5. The changed or changing conditions, if any, in the area or in the County generally, which makes the proposed Official Planning Map and/or Planning Ordinance text amendment reasonable necessary to the promotion of the public health, safety and general welfare;

6. The manner in which the proposed Official Planning Map and/or Planning Ordinance text amendment will carry out the intent and purpose of the Comprehensive Plan or part thereof; and,

7. All other circumstances, factors and reasons which the applicant offers in support of the proposed Official Planning Map and/or Planning Ordinance text amendment. (Amended 8/5/96)

Each petition, unless initiated by the Board of Commissioners, Planning Board, or Board of Adjustment, shall be accompanied by a fee to defray the cost of advertising and other administrative costs involved.

15.4-3 Planning Board Review and Recommendation

After submission of a completed application, the Zoning Administrator will schedule a public hearing for the Planning Board in accordance with the published Planning Board meeting schedule on file in the Planning and Zoning Department. A notice of such public hearing shall be published once a week for two (2) consecutive weeks in a newspaper of general circulation in Person County. Said notice shall be published the first time not less than ten (10) days and not more than twenty-five (25) days prior to the date established for such public hearing. (Amended 11/5/01; 7/22/02; 3/13/2006). For map amendments, the Zoning Administrator will be responsible for mailing written notices to all property owners within 500' of the property including the applicant and properties separated from the subject property by street, railroad, and other transportation corridor (N.C.G.S. 160D-602). The Zoning Administrator shall post notice on the land subject to the application within the same time period specified for mailed notice of the hearing using weatherproof signs, one sign per road frontage and posted no more than 25' from the street right-of-way (NCGS 160D-602) (Amended 8/4/25). Signs must be clearly visible from the street and designate "Zoning Proposal Pending" with the phone number of the Planning and Zoning Department. When multiple parcels are included, a posting on each individual parcel is not required, but there should be reasonable notice provided to interested persons.

1. When conducting a review of proposed zoning text or map amendments pursuant to this section, the Planning Board shall advise and comment on whether the proposed action is consistent with the County's comprehensive plan that has been adopted. The Planning Board shall provide a written recommendation to the Board of Commissioners that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the Board of Commissioners (N.C.G.S. 160D-604 (d)).

2. When reviewing any zoning text or map amendment, the Planning Board shall approve a brief statement describing whether its action is consistent or inconsistent with the adopted comprehensive plan and a brief statement of reasonableness. The statement of reasonableness and plan consistency required in this section may be approved as a single statement. Board members may adopt this statement when acting upon the zoning text or map amendment or as a separate motion (N.C.G.S. 160D-605).

15.4-4 Board of Commissioners Public Hearing

1. The Zoning Administrator will schedule a public hearing for the Board of Commissioners in accordance with that year's adopted schedule. A notice of such public hearing shall be published once a week for two (2) consecutive weeks in a newspaper of general circulation in Person County. Said notice shall be published the first time not less than ten (10) days and not more than twenty-five (25) days prior to the date established for such public hearing. (Amended 7/22/02).

2. The Planning Board shall provide a written recommendation to the Board of Commissioners that addresses whether the proposed amendment is consistent with the comprehensive plan, but a comment by the Planning Board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the Board of Commissioners. Prior to adopting or rejecting any zoning amendment, the Board of Commissioners shall adopt a statement describing whether its action is consistent with an adopted comprehensive plan and why such action is reasonable and in the public interest. (Added 3/13/2006)

3. The Planning Board shall have 30 days within which to submit its recommendation to the Board of Commissioners. If no written report is received from the Planning Board within thirty days, the Board of Commissioners may proceed in its consideration of the amendment without the Planning Board report. The Board of Commissioners is not bound by the recommendation, if any, of the Planning Board. (Amended 7/22/02; 3/13/2006)

4. When adopting or rejecting any zoning text or map amendment, the Board of Commissioners shall approve a brief statement describing whether its action is consistent or inconsistent with the adopted comprehensive plan and a brief statement of reasonableness. The statement of reasonableness and plan consistency required in this section may be approved as a single statement. Board members may adopt this statement when acting upon the zoning text or map amendment or as a separate motion (N.C.G.S. 160D-605).

5. A simple majority vote of the Board of Commissioners shall be the required minimum to amend this ordinance when recommendation from the Planning Board is received.

Other Development Regulation Amendments - All other development regulations governed by Person County and enforced by the Planning and Zoning Department shall be subject to the above procedure when amended by the public, Board of Commissioners, Board of Adjustment, Planning Board, or staff.

Third-Party Downzoning - Third-party downzoning submitted after July 11, 2019, unless initiated by a Person County Board or staff member, are prohibited unless written consent is obtained from the property owner(s) (N.C.S.L 2019-111, Part 1).

Section 15.5 – Conditional District (CD) Rezonings

(Added: 5/3/21)

Conditional zoning districts provide for those situations where a particular use, properly planned, may be appropriate for a particular site, but where the general district has insufficient standards to mitigate the site-specific impact on surrounding areas. Uses which may be considered for a conditional zoning district are restricted to those uses permitted in the corresponding general zoning district. Conditional Zoning Districts are established on an individualized basis, only in response to a petition by the owners of all the property to be included. Zoning of a conditional zoning district is not intended for securing early or speculative reclassification of property.

15.5-1 Submission of Petitions

Petitions shall be submitted to the Planning and Zoning Department for review according to the adopted Planning Board and Board of Commissioners yearly schedule. The petition shall include the following:

1. A completed Application for CD-Rezoning Map Amendment accompanied by a site plan, prepared by a North Carolina registered land surveyor, engineer, or architect. The site plan, drawn to scale, shall depict the following:

    a) The boundary of the lot(s) to be developed labeled with bearings and distances, total gross land area, location of easement(s), utilities, adjacent road name(s) and number(s);

    b) Name of project, property owner and applicant, vicinity map, north arrow, scale, date of plan preparation and subsequent revisions dates;

    c) Topography of site, at contour interval no greater than ten (10) feet, location of perennial and intermittent waters, 100-year flood plains;

    d) Location and approximate size of all existing and proposed buildings and structures within the site and existing buildings and structures within five hundred feet adjacent thereto;

    e) Proposed points of ingress and egress together with the proposed pattern of internal circulation;

    f) Existing and proposed parking spaces;

    g) Proposed provisions for water supply and sewage disposal;

    h) If the site is located in a designated drinking water supply watershed, the plan shall also:

        i. Depict the location of existing (labeled according to the date of establishment) and proposed impervious surfaces and respective totals in square feet;

        ii. The total land area of the lot(s) outside of the road right-of-way(s) in square feet. The property owner and/or applicant shall have the burden of proving that the proposed special use will not materially injure the value of adjoining or abutting property.

Each petition shall be accompanied by a fee to defray the cost of advertising and other administrative costs involved.

15.5-2 Planning Board Review and Recommendation

After submission of a completed application, the Zoning Administrator will schedule a public hearing for the Planning Board in accordance with the published Planning Board meeting schedule on file in the Planning and Zoning Department. A notice of such public hearing shall be published once a week for two (2) consecutive weeks in a newspaper of general circulation in Person County. Said notice shall be published the first time not less than ten (10) days and not more than twenty-five (25) days prior to the date established for such public hearing.

The Zoning Administrator will be responsible for mailing written notices to all property owners within 500' of the property including the applicant and properties separated from the subject property by street, railroad, and other transportation corridor (N.C.G.S. 160D-602). The Zoning Administrator shall post notice on the land subject to the application within the same time period specified for mailed notice of the hearing using weatherproof signs, one sign per road frontage and posted no more than 25' from the street right-of-way. (NCGS 160D-602) (Amended 8/4/25). Signs must be clearly visible from the street and designate "Zoning Proposal Pending" with the phone number of the Planning and Zoning Department. When multiple parcels are included, a posting on each individual parcel is not required, but there should be reasonable notice provided to interested persons.

1. When conducting a review of proposed map amendments pursuant to this section, the Planning Board shall advise and comment on whether the proposed action is consistent with the County's comprehensive plan that has been adopted. The Planning Board shall provide a written recommendation to the Board of Commissioners that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the Board of Commissioners (N.C.G.S. 160D-604 (d)).

2. When reviewing any map amendment, the Planning Board shall approve a brief statement describing whether its action is consistent or inconsistent with the adopted comprehensive plan and a brief statement of reasonableness. The statement of reasonableness and plan consistency required in this section may be approved as a single statement. Board members may adopt this statement when acting upon the zoning text or map amendment or as a separate motion (N.C.G.S. 160D-605).

15.5-3 Board of Commissioners Public Hearing

1. The Zoning Administrator will schedule a public hearing for the Board of Commissioners in accordance with that year's adopted schedule. A notice of such public hearing shall be published once a week for two (2) consecutive weeks in a newspaper of general circulation in Person County. Said notice shall be published the first time not less than ten (10) days and not more than twenty-five (25) days prior to the date established for such public hearing. (Amended 7/22/02)

2. The Planning Board shall provide a written recommendation to the Board of Commissioners that addresses whether the proposed amendment is consistent with the comprehensive plan, but a comment by the Planning Board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the Board of Commissioners. Prior to adopting or rejecting any zoning amendment, the Board of Commissioners shall adopt a statement describing whether its action is consistent with an adopted comprehensive plan and why such action is reasonable and in the public interest. (Added 3/13/2006)

3. The Planning Board shall have 30 days within which to submit its recommendation to the Board of Commissioners. If no written report is received from the Planning Board within thirty days, the Board of Commissioners may proceed in its consideration of the amendment without the Planning Board report. The Board of Commissioners is not bound by the recommendation, if any, of the Planning Board. (Amended 7/22/02; 3/13/2006).

4. When adopting or rejecting any map amendment, the Board of Commissioners shall approve a brief statement describing whether its action is consistent or inconsistent with the adopted comprehensive plan and a brief statement of reasonableness. The statement of reasonableness and plan consistency required in this section may be approved as a single statement. Board members may adopt this statement when acting upon the zoning text or map amendment or as a separate motion (N.C.G.S. 160D-605).

5. A CD-Rezoning must be adopted by ordinance per N.C.G.S 160D-601(c).

6. Conditions and site-specific standards imposed in a conditional district shall be limited to those that address the conformance of the development and use of the site to local government ordinances, and plans adopted pursuant to N.C.G.S. 160D-5-1, or and those that address the impacts reasonably expected to be generated by the development or use of the site (N.C.G.S. 160D-703). However, the Board may impose conditional-zoning conditions that go beyond basic zoning authority to address additional fees, design requirements, and other development considerations with the applicant's/landowner's written consent (N.C. S.L. 2019-111).

7. Following approval from the Board of Commissioners, the Zoning Administrator shall obtain the applicant/landowner's written consent to conditions related to a conditional-zoning approval to ensure enforceability (N.C. S.L. 2019-111).

15.5-4 Modifications of CD-Rezonings

The Zoning Administrator may approve minor changes to final plans approved by the Board of Commissioners if with such minor changes the development remains substantially consistent with the Board's approval and with all other provisions of this Ordinance and applicable rules and regulations. The Zoning Administrator may not approve changes that would constitute a major change of or modification to a CD-Rezoning. By way of example, but not of limitation, any of the following shall constitute a major modification requiring an application to be resubmitted in accordance with applicable ordinance provisions:

1. A change from the use approved;

2. Structural alterations significantly affecting the basic size, form, style, ornamentation, and appearance of principal and/or accessory structures as shown the plan;

If multiple parcels of land are subject to a conditional zoning, the owners of individual parcels may apply for modification of the conditions so long as the modification would not result in other properties failing to meet the terms of the conditions. Any modifications approved shall only be applicable to those properties whose owners petition for the modification (N.C.G.S 160D-703).

Section 15.6 – Special Use Permits

(Amended 5/3/21)

\Special uses are land uses which in some circumstances may be compatible with and desirable in the districts in which they are designed as special uses, but they may also have characteristics which could have detrimental effects on adjacent properties if not properly designed and controlled. Special uses add flexibility to the Planning Ordinance. By means of controls exercised through the Special Use Permit procedures, property uses which would otherwise be undesirable in certain districts can be developed to minimize any bad effects they might have on surrounding properties.

15.6-1 Submission of Petitions

Petitions for special use permits shall be submitted to the Planning and Zoning Department for review according to the published Board of Commissioners yearly meeting schedule on file in the Planning and Zoning Department. The petition shall include the following:

1. A complete Application for a Special Use Permit accompanied by a site plan, prepared by a North Carolina registered land surveyor, engineer, or architect. The site plan, drawn to scale, shall depict the following: (amended 9/2/2008)

    a) The boundary of the lot(s) to be developed labeled with bearings and distances, total gross land area, location of easement(s), utilities, adjacent road name(s) and number(s);

b) Name of project, property owner and applicant, vicinity map, north arrow, scale, date of plan preparation and subsequent revisions dates;

c) Topography of site, at contour interval no greater than ten (10) feet, location of perennial and intermittent waters, 100-year flood plains;

d) Location and approximate size of all existing and proposed buildings and structures within the site and existing buildings and structures within five hundred feet adjacent thereto;

e) Proposed points of ingress and egress together with the proposed pattern of internal circulation;

f) Existing and proposed parking spaces;

g) Proposed provisions for water supply and sewage disposal;

h) If the site is located in a designated drinking water supply watershed, the plan shall also:

   i. Depict the location of existing (labeled according to the date of establishment) and proposed impervious surfaces and respective totals in square feet;

   ii. The total land area of the lot(s) outside of the road right-of-way(s) in square feet. The property owner and/or applicant shall have the burden of proving that the proposed special use will not materially injure the value of adjoining or abutting property.

i) In addition to requirements listed above, a Special Use Permit site plan for a radio, telephone or television tower must show compliance with Note 9 of this ordinance. (Amended 7/1/2002)

j) In addition to requirements listed above and those listed in Section 81 of this Ordinance, a Special Use Permit site plan for a camper/recreational vehicle park must show compliance with the following:

   i. A minimum lot size of two acres is required.

   ii. Density to be 2500 square feet for each tent or trailer space.

   iii. A minimum undisturbed fifty-foot buffer from all property lines.

   iv. Each campsite shall contain a stabilized parking pad of either pavement or gravel and one off-street parking space.

   v. A sanitary source of drinking water shall be not more than 200 feet, toilet facilities not more than 400 feet and wash houses not more than 1500 feet from any tent or trailer space. This provision shall not apply where community water and sewer connections are provided to trailers having self-contained kitchens and bathroom facilities. (Added 8/2/2010)

Each petition shall be accompanied by a fee to defray the cost of advertising and other administrative costs involved.

15.6-2 Board of Commissioners Public Hearing

1. After submission of a completed application, the Zoning Administrator will schedule a public hearing for the Board of Commissioners in accordance with that year's adopted schedule. A notice of such public hearing shall be published once a week for two (2) consecutive weeks in a newspaper of general circulation in Person County. Said notice shall be published the first time not less than ten (10) days and not more than twenty-five (25) days prior to the date established for such public hearing. The Zoning Administrator will be responsible for mailing written notices to all property owners within 500' of the property including the applicant. The Zoning Administrator shall post notice on the land subject to the application within the same time period specified for mailed notice of the hearing using weatherproof signs, one sign per road frontage and posted no more than 25' from the street right-of-way. (NCGS 160D-602) (Amended 8/4/25). Signs must be clearly visible from the street and designate "Zoning Proposal Pending" with the phone number of the Planning and Zoning Department.

2. The Board of Commissioners shall consider the application at a public hearing at which all interested persons shall be permitted to testify. This hearing shall be used to gather competent, material, and substantial evidence to establish the facts of the case. Testimony heard shall be under oath. The Special Use Permit, if granted, shall include such approved plans as may be required. In granting the permit, the Commissioners shall find the following:

    a) That the use will not materially endanger the public health or safety if located where proposed and developed according to the plan as 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 comprehensive plan.

3. In granting the permit, the Commissioners may designate such conditions, in addition and in connection therewith, as well, in its opinion, assure that the use in its proposed location will be harmonious with the area in which it is proposed to be located and with the spirit of this ordinance. All such additional conditions shall be entered in the minutes of the meeting at which the permit is granted and also on the certificate of the Special Use Permit or on the plans submitted therewith. All specific conditions shall run with the land and shall be binding on the original applicants for the Special Use Permits, their heirs, successors and assigns.

4. In addition to the specific conditions imposed by the regulations in this ordinance and whatever additional conditions the Commissioners deem reasonable and appropriate, special uses shall comply with the height, yard, area and parking regulations for the use district in which they are permitted unless otherwise specified.

5. The findings of fact and conclusions of law shall be established in writing upon the Board's determination. This document shall be approved by the Board and signed by the chair or other duly authorized member of the Board. A quasi-judicial decision is effective upon filing the written decision with the clerk to the Board or such other office or official. 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, landowner, and to any person who has submitted a written request for a copy prior to the date the decision becomes effective (N.C.G.S. 160D-406). The Zoning Administrator shall obtain the applicant/landowner's written consent to conditions related to a special use permit approval to ensure enforceability (N.C. S.L. 2019-111).

6. No appeal may be taken to the Board of Adjustment from the action of the Commissioners in granting or denying a Special Use Permit. Any such action by the Commissioners shall be considered as the equivalent of action on a proposed zoning amendment and shall be reviewable only in the same manner as action on a proposed amendment.

7. In the event of failure to comply with the plans approved by the Commissioners or with any other conditions imposed upon the Special Use Permit within a reasonable time in the opinion of the Zoning Administrator, the permit shall thereupon become void and of no effect. No building permits for further construction or certificates of occupancy under this Special Use shall be issued.

15.6-3 Modifications of Special Use Permits

The Zoning Administrator may approve minor changes to final plans approved by the Board of Commissioners if with such minor changes the development remains substantially consistent with the Board's approval and with all other provisions of this Ordinance and applicable rules and regulations. The Zoning Administrator may not approve changes that would constitute a major change of or modification to a Special Use Permit. Any change which would require findings of fact or evidence in addition to those in the record of the public hearing for the original Special Use Permit, or subsequent modifications, if any, shall be deemed a major modification of the Special Use Permit. By way of example, but not of limitation, any of the following shall constitute a major modification requiring an application to be resubmitted in accordance with applicable ordinance provisions:

1. Significant changes in the zoning lot's boundaries, unless the purposes of this ordinance or of the County's plan for the comprehensive development of the area within which the lot is located are satisfied to an equivalent or greater degree. Substantial change in the boundaries of the site if public purposes are not satisfied to an equivalent or greater degree;

2. A change from the use approved;

3. Significant changes in the location of principal and/or accessory structures and/or uses;

4. Structural alterations significantly affecting the basic size, form, style, ornamentation, and appearance of principal and/or accessory structures as shown the plan;

5. Significant changes in pedestrian or vehicular access or circulation;

6. Significant change in the amount or location of required landscape screening if an alternate proposal does not provide the same or greater degree.

Special Use Permits and Vested Rights - At the applicant's discretion, he or she may also submit a site-specific vesting plan and make application to the Commissioners for a vested right status for the proposed use or development project. Vested right status may be applied for jointly with the special use permit application or may be requested at a later date.

Section 15.7 – Development Agreements

(Added: 5/3/21)

Development projects often occur in multiple phases over several years, requiring a long-term commitment of both public and private resources. Such developments often create community impacts and opportunities that are difficult to accommodate within traditional zoning processes. Development agreements are used to better structure and manage development approvals for such developments and ensure their proper integration into local capital facilities programs.

Person County may enter into development agreements with developers subject to the procedures of this ordinance and the North Carolina General Statute (N.C.G.S. 160D-1001).

15.7-1 Submission of Petitions

Petitions for development agreements shall be submitted to the Planning and Zoning Department for review according to the adopted Board of Commissioners and Planning Board yearly schedule. The submission shall include the following:

1. Application for Development Agreement

2. A site plan prepared by a North Carolina licensed surveyor, engineer, or landscape architect depicting the items listed in the Person County Planning Ordinance Commercial and Industrial Site Plan Requirements.

3. Proposed Development Agreement containing the following information at a minimum (N.C.G.S. 160D-1006):

    a) A description of the property subject to the agreement and the names of its legal and equitable property owners.

    b) The duration of the agreement.

    c) The development uses permitted on the property, including population densities and building types, intensities, placement on the site, and design.

    d) Development schedule including commencement dates and interim completion dates at no greater than five-year intervals.

    e) If applicable, the following:

        i. A description of public facilities that will serve the development, including who provides the facilities, the date any new public facilities, if needed, will be constructed, and a schedule to assure public facilities are available concurrent with the impacts of the development. In the event that the development agreement provides that the local government shall provide certain public facilities, the development agreement shall provide that the delivery date of such public facilities will be tied to successful performance by the developer in implementing the proposed development (such as meeting defined completion percentages or other performance standards). The developer and local government may, through negotiation, agree to the provision of and cost-sharing for public facilities and other amenities related to development provided that any impact mitigation measures offered by the developer beyond those that could be required by the local government pursuant to N.C.G.S. 160D-804 shall be expressly enumerated within the agreement, and provided the agreement may Snot include a tax or impact fee not otherwise authorized by law.

        ii. A description of any reservation or dedication of land for public purposes and any provisions agreed to by the developer that exceed existing laws related to protection of environmentally sensitive property.

        iii. A description of any conditions, terms, restrictions, or other requirements for the protection of public health, safety, or welfare of its citizens

        iv. A description, where appropriate, of any provisions for the preservation and restoration of historic structures.

        v. If more than one local government is involved in the development agreement, the agreement must specify which government is responsible for overall administration of the agreement.

15.7-2 Planning Board Review and Recommendation

After submission of a completed application, the Zoning Administrator will schedule a public hearing for the Planning Board in accordance with the published Planning Board meeting schedule on file in the Planning and Zoning Department. A notice of such public hearing shall be published once a week for two (2) consecutive weeks in a newspaper of general circulation in Person County. Said notice shall be published the first time not less than ten (10) days and not more than twenty-five (25) days prior to the date established for such public hearing. The Zoning Administrator will be responsible for mailing written notices to all property owners within 500' of the property including the applicant and properties separated from the subject property by street, railroad, and other transportation corridor (N.C.G.S. 160D-602). The Zoning Administrator shall require that notice be posted on the land subject to the application within the same time period specified for mailed notices of the hearing (N.C.G.S. 160D-602). The applicant shall post the notice on weatherproof signs supplied by the Planning and Zoning Department, one sign per each road frontage and no more than 25' from the street right-of-way. Signs must be clearly visible from the street and designate "Zoning Proposal Pending" with the phone number of the Planning and Zoning Department. When multiple parcels are included, a posting on each individual parcel is not required, but there should be reasonable notice provided to interested persons.

1. When conducting a review of proposed map amendments pursuant to this section, the Planning Board shall advise and comment on whether the proposed action is consistent with the County's comprehensive plan that has been adopted. The Planning Board shall provide a written recommendation to the Board of Commissioners that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the Board of Commissioners (N.C.G.S. 160D-604 (d)).

2. When reviewing any map amendment, the Planning Board shall approve a brief statement describing whether its action is consistent or inconsistent with the adopted comprehensive plan and a brief statement of reasonableness. The statement of reasonableness and plan consistency required in this section may be approved as a single statement. Board members may adopt this statement when acting upon the zoning text or map amendment or as a separate motion (N.C.G.S. 160D-605).

15.7-3 Board of Commissioners Public Hearing

1. The Zoning Administrator will schedule a public hearing for the Board of Commissioners in accordance with that year's adopted schedule. A notice of such public hearing shall be published once a week for two (2) consecutive weeks in a newspaper of general circulation in Person County. Said notice shall be published the first time not less than ten (10) days and not more than twenty-five (25) days prior to the date established for such public hearing. (Amended 7/22/02)

2. The Planning Board shall provide a written recommendation to the Board of Commissioners that addresses whether the proposed amendment is consistent with the comprehensive plan, but a comment by the Planning Board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the Board of Commissioners. Prior to adopting or rejecting any zoning amendment, the Board of Commissioners shall adopt a statement describing whether its action is consistent with an adopted comprehensive plan and why such action is reasonable and in the public interest. (Added 3/13/2006)

3. The Planning Board shall have 30 days within which to submit its recommendation to the Board of Commissioners. If no written report is received from the Planning Board within thirty days, the Board of Commissioners may proceed in its consideration of the amendment without the Planning Board report. The Board of Commissioners is not bound by the recommendation, if any, of the Planning Board. (Amended 7/22/02; 3/13/2006).

4. When adopting or rejecting any map amendment, the Board of Commissioners shall approve a brief statement describing whether its action is consistent or inconsistent with the adopted comprehensive plan and a brief statement of reasonableness. The statement of reasonableness and plan consistency required in this section may be approved as a single statement. Board members may adopt this statement when acting upon the zoning text or map amendment or as a separate motion (N.C.G.S. 160D-605).

5. Following approval from the Board of Commissioners, the development agreement must be recorded with the Register of Deeds by the developer within 14 days after Person County and the developer execute an approved development agreement (N.C.G.S. 160D-1011). No development approvals may be issued until the development agreement has been recorded. The agreement is binding on all successors in interest to the parties of the agreement, including subsequent purchasers of the land.

15.7-4 Periodic Review

Planning and Zoning staff must undertake periodic review of the project to verify compliance with the recorded agreement (N.C.G.S. 160D-1008).

Amendments to Development Agreements - Parties can modify or cancel the agreement at any time by mutual consent (N.C.G.S. 160D-1010). Any major modification to a development agreement requires the same notice and hearing as required for initial approval (N.C.G.S 160D-1006). Local ordinances in effect at the time of the agreement are to remain in effect for the life of the agreement unless subsequent enacted local ordinances and ordinance amendments can be applied for on the same grounds applicable to permissible mandated amendments of site-specific vesting plan. The following are changes that may be the basis of such modification:

1. Changes that have either landowner approval in writing or that make the landowner financially whole (compensated for the full cost of the change).

2. When there have been either inaccurate or material misrepresentations in the application of there are emergent serious threats to public health, safety, or welfare. If the agreement is to be amended or revoked, this must be established by notice or hearing.

3. Enactment of general regulations not aimed specifically at the property that impose additional requirements, but do not affect the type or intensity or the use at the site.

15.7-5 Breach of Development Agreements

If a developer has breached the recorded development agreement, the Planning and Zoning Department must notify the developer in writing within a reasonable time the notice of the breach, evidence supporting the finding and determination, and provide reasonable time to correct the breach (N.C.G.S. 160D-1008). If the breach is not remedied, Person County may terminate or modify the agreement. Appeals may be filed with the Board of Adjustment in accordance with the process for hearing and submitting appeals. Failure to meet a commencement or completion date set forth in the development agreement shall not, in and of itself, constitute a material breach of the development agreement, but must be judged based upon the totality of the circumstances.

Subsequent Development Agreements - Parties are not precluded from entering into subsequent development agreements that may extend the original duration period (N.C.G.S. 160D-1006).

Development Agreements and Other Regulation Approvals - Development agreements may be considered concurrently with a zoning map or text amendment affecting the property and development subject to the development agreement. If incorporated into a CD-District, the provisions of the development agreement shall be treated as a development regulation in the event of the developer's bankruptcy. A development agreement may be concurrently considered with and incorporate by reference a sketch plan or preliminary plat required under a subdivision regulation or a site plan or other development approval required under a zoning regulation (N.C.G.S. 160D-1003).

Section 15.8 – Zoning Variances

(Amended 5/3/21)

When unnecessary hardships would result from carrying out the strict letter of the Planning Ordinance, the Board of Adjustment shall vary any of the provisions of the ordinance upon a showing that all of the standards set out in this section have been met. No change in permitted uses may be authorized by variance. Appropriate conditions may be imposed on any variance, provided the conditions are reasonably related to the variance. Any other ordinance that regulates land use or development may provide for variances consistent with the provisions of this subsection.

15.8-1 Submission of Petition

Petitions for zoning variances shall be submitted to the Planning and Zoning Department for review according to the adopted Board of Adjustment yearly schedule. The petition shall include the following:

1. A completed variance application demonstrating the following:

    a. A description of the alleged hardship created by the strict application of the ordinance.

    b. The particular or unique condition or nature of the property that are not common in the neighborhood or to the general public.

    c. The party responsible for the action leading to the hardship, if known, and any relationship to that part of the applicant or property owner.

2. A site plan, prepared by a North Carolina registered land surveyor, engineer, or architect. The site plan, drawn to scale, shall depict the following:

    a. The boundary of the lot(s) to be developed labeled with bearings and distances, total gross land area, location of easement(s), utilities, adjacent road name(s) and number(s);

    b. Name of project, property owner and applicant, vicinity map, north arrow, scale, date of plan preparation and subsequent revisions dates;

    c. Location and approximate size of all existing and proposed buildings and structures within the site;

    d. Clear depiction of the variance requested. Limited to Setback and other dimensional requirements as specified in the Ordinance for that zoning district

Each petition shall be accompanied by a fee to defray the cost of advertising and other administrative costs involved.

15.8-2 Board of Adjustment Public Hearing

1. After submission of a completed application, the Zoning Administrator will schedule a public hearing for the Board of Adjustment in accordance with the Board of Adjustment published meeting schedule on file in the Planning and Zoning Department. The Zoning Administrator shall give notice of a public hearing on the application. A notice of such public hearing shall be published once in a newspaper of general circulation in Person County. Said notice shall be published not less than ten (10) days and not more than twenty-five (25) days prior to the date established for such public hearing. The Zoning Administrator will be responsible for mailing written notices to all property owners within 500’ of the property including the applicant. The Zoning Administrator shall require that notice be posted on the land subject to the application. The applicant shall post the notice on weatherproof signs supplied by the Planning and Zoning Department, one sign per each road frontage and no more than 25’ from the street right-of-way. Signs must be clearly visible from the street and designate “Zoning Proposal Pending” with the phone number of the Planning and Zoning Department.

2. The Board of Adjustment shall consider the application at a quasi-judicial hearing. This hearing shall be used to gather competent, material, and substantial evidence to establish the facts of the case. Testimony heard shall be under oath. In granting the variance, the Board of Adjustment shall find the following:

    a) Unnecessary hardship would result from the strict application of the ordinance. It is not necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

    b) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.

    c) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance is not a self-created hardship.

    d) The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured and substantial justice is achieved.

3. In addition to the above grounds for granting variances, the Board of Adjustment may grant a variance when it finds that the grant of the requested variance will cause no significant hazard, annoyance or inconvenience to the owners or occupants of nearby property, will not significantly change the character of the neighborhood or reduce the value of nearby property, will not impose any significant cost burden upon the county and will not create any significant obstacle to implementation of the zoning plan evidenced by this ordinance or the adopted development plan of Person County.

4. In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards to ensure that substantial justice has been done and that the public safety and welfare has been assured. Such conditions may be imposed by the Board regarding the location, character, and other features of the proposed building, structure, or use as may be deemed by the Board to protect property values and general welfare of the neighborhood. Nonconformance with such conditions and safeguards, when under part of the terms under which the variance is granted, shall be deemed a violation of this ordinance.

5. The Board of Adjustment, by a vote of four-fifths of its members, may approve variances. The findings of fact and conclusions of law shall be established in writing upon the Board's determination. This document shall be approved by the Board and signed by the chair or other duly authorized member of the Board. A quasi-judicial decision is effective upon filing the written decision with the clerk to the Board or such other office or official. 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, landowner, and to any person who has submitted a written request for a copy prior to the date the decision becomes effective (N.C.G.S. 160D-406).

Section 15.9 – Vested Rights

(Amended 5/3/21)

As authorized under G.S. 160-108, an applicant may obtain the right to undertake and complete the development and use of property under the terms and conditions of an approved site-specific vesting plan. Only approved special uses, permitted uses and approved phased developments may be granted a vested right under this section. Vested right status shall guarantee the right to develop according to the provisions of the approved site-specific vesting plan for no less than two (2) years and no more than five (5) years (N.C.G.S. 160D-108(d)). Site specific vesting plans can take the form of a planned unit development plan, a subdivision plat, a site plan, a preliminary or general development plan, a special use permit, a conditional zoning, or any other development approval.

15.9-1 Submission of Petition

Petitions for vested rights shall be submitted to the Planning and Zoning Department for review according to the adopted Planning Board and Board of Commissioners yearly schedule. The petition shall include the following:

1. A Vested Rights Application and any supplemental materials needed to substantiate the claim for a vested right.

2. A site-specific vesting plan prepared by a licensed North Carolina surveyor. Site-specific vesting plans shall include at a minimum the following:

    a) The approximate boundaries of the site;

    b) Significant topographical and other natural feature affecting development of the site;

    c) The approximate location on the site of the proposed buildings, structures, and other improvements;

    d) The approximate dimensions, including height, of the proposed buildings and other structures;

    e) The approximate location of all existing and proposed infrastructure on the site, including water, sewer, roads, and pedestrian walkways.

Each petition shall be accompanied by a fee to defray the cost of advertising and other administrative costs involved.

15.9-2 Planning Board Review and Recommendation

After submission of a completed application, the Zoning Administrator will schedule a public hearing for the Planning Board in accordance with the published Planning Board meeting schedule that is on file in the Planning and Zoning Department. A notice of such public hearing shall be published once a week for two (2) consecutive weeks in a newspaper of general circulation in Person County. Said notice shall be published the first time not less than ten (10) days and not more than twenty-five (25) days prior to the date established for such public hearing. The Zoning Administrator will be responsible for mailing written notices to all property owners within 500' of the property including the applicant and properties separated from the subject property by street, railroad, and other transportation corridor (N.C.G.S. 160D-602). The Zoning Administrator shall require that notice be posted on the land subject to the application within the same time period specified for mailed notices of the hearing (N.C.G.S. 160D-602). The applicant shall post the notice on weatherproof signs supplied by the Planning and Zoning Department, one sign per each road frontage and no more than 25' from the street right-of-way. Signs must be clearly visible from the street and designate "Zoning Proposal Pending" with the phone number of the Planning and Zoning Department. When multiple parcels are included, a posting on each individual parcel is not required, but there should be reasonable notice provided to interested persons.

1. Exception: Applications for vested rights related to Special Use Permits do not require Planning Board Review and Recommendation.

15.9-3 Board of Commissioners Public Hearing

1. The Zoning Administrator will schedule a meeting for the Board of Commissioners in accordance with that year's adopted schedule. A notice of such public hearing shall be published once a week for two (2) consecutive weeks in a newspaper of general circulation in Person County. Said notice shall be published the first time not less than ten (10) days and not more than twenty-five (25) days prior to the date established for such public hearing. The Zoning Administrator will be responsible for mailing written notices to all property owners within 500' of the property including the applicant and properties separated from the subject property by street, railroad, and other transportation corridor (N.C.G.S. 160D-602).

The Zoning Administrator shall require that notice be posted on the land subject to the application within the same time period specified for mailed notices of the hearing (N.C.G.S. 160D-602). The applicant shall post the notice on weatherproof signs supplied by the Planning and Zoning Department, one sign per each road frontage and no more than 25' from the street right-of-way. Signs must be clearly visible from the street and designate "Zoning Proposal Pending" with the phone number of the Planning and Zoning Department. When multiple parcels are included, a posting on each individual parcel is not required, but there should be reasonable notice provided to interested persons.

2. The Planning Board shall provide a written recommendation to the Board of Commissioners that addresses whether the proposed amendment is consistent with the comprehensive plan, but a comment by the Planning Board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the Board of Commissioners. Prior to adopting or rejecting any zoning amendment, the Board of Commissioners shall adopt a statement describing whether its action is consistent with an adopted comprehensive plan and why such action is reasonable and in the public interest. (Added 3/13/2006)

3. The Planning Board shall have 30 days within which to submit its recommendation to the Board of Commissioners. If no written report is received from the Planning Board within thirty days, the Board of Commissioners may proceed in its consideration of the amendment without the Planning Board report. The Board of Commissioners is not bound by the recommendation, if any, of the Planning Board. (Amended 7/22/02; 3/13/2006).

4. The Board of Commissioners shall consider the application at a public hearing at which all interested persons shall be permitted to testify. The Board may approve a site-specific vesting plan upon such terms and conditions as may reasonably be necessary to protect the public health, safety, and welfare. The Board shall not require a landowner to waive his vested rights as a condition of developmental approval. Approval of a site-specific vesting plan and the granting of vested right status shall not occur under circumstances where a variance from the provisions of this ordinance is necessary except in cases where such variance has been previously applied for and granted.

5. A vested right obtained under this section is not a personal right but shall attach to and run with the applicable property. Approval from the Board of Commissioners shall result in a vested right, although failure to abide by such terms and conditions, in addition to applicable local development regulations, will result in a forfeiture of vested rights.

6. The establishment of a vested right under an approved site-specific vesting plan shall not preclude the application of ordinances or regulations that are general in nature, are applicable to all property in the county subject to land use regulation and have no effect on the allowable type or intensity of use for the subject property. Otherwise, applicable new or amended regulations shall become effective for the subject property upon the expiration or termination of the vested right.

Continuing Review
Following approval or conditional approval of a vested right, Person County may make subsequent reviews and require approvals by the county to ensure compliance with the terms and conditions of the original approval, provided that such reviews are not inconsistent with the original approval.

15.9-4 Modifications of Vested Rights Approval
The Zoning Administrator may approve minor changes to site-specific vesting plans approved by the Board of Commissioners if with such minor changes the development remains substantially consistent with the Board's approval and with all other provisions of this Ordinance and applicable rules and regulations. The Zoning Administrator may not approve changes that would constitute a major change of or modification to an approved site-specific vesting plan. By way of example, but not of limitation, any of the following shall constitute a major modification requiring an application to be resubmitted in accordance with applicable ordinance provisions:

1. Significant changes in the zoning lot's boundaries, unless the purposes of this ordinance or of the County's plan for the comprehensive development of the area within which the lot is located are satisfied to an equivalent or greater degree. Substantial change in the boundaries of the site if public purposes are not satisfied to an equivalent or greater degree;

2. A change from the use approved;

3. Significant changes in the location of principal and/or accessory structures and/or uses;

4. Structural alterations significantly affecting the basic size, form, style, ornamentation, and appearance of principal and/or accessory structures as shown the plan;

5. Significant changes in pedestrian or vehicular access or circulation;

6. Significant change in the amount or location of required landscape screening if an alternate proposal does not provide the same or greater degree.

15.9-5 Termination of Vested Rights

A vested right established by an approved site-specific vesting plan shall terminate:

1. At the end of the applicable vesting period in respect to buildings and uses for which no valid building permit application has been filed;

2. With the written consent of the applicant and/or landowner;

3. Upon findings by the Commissioners, alter a public hearing in which reasonable notice and advertisement are given, that natural or man-made hazards at or near the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety, and welfare if the project were to proceed as originally approved in the site specific vesting plan;

4. Upon payment to the affected applicant and/or landowner of compensation for all costs, expenses and other losses incurred by the same including all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and other consultant's fees incurred after approval by the Board. Compensation shall not include any diminution in the value of the subject property; or,

5. Upon findings by the Commissioners, after a public hearing in which reasonable notice and advertisement are given, that the landowner, his successors, or any representatives intentionally supplied inaccurate information or made material misrepresentations which after the original approval of the Commissioners of the site-specific vesting plan;

6. Upon changes in state or federal law or regulation that preclude the proposed use or development project as originally approved in the site-specific vesting plan. The owner and/or applicant shall have the opportunity in this instance to submit appropriate applicable modifications to the original site-specific vesting plan for the Planning Board and County.

Section 16.0 – Appeals

(Amended 5/3/21)

16.0-1 Submission of petitions

Petition for appeals from the enforcement and interpretation of this ordinance, denial of zoning and/or certificate of occupancy and applications for variances shall be submitted to the Planning and Zoning Department. The petition shall include the following:

1. Completed Appeal to Zoning Administrator Application.
   Each petition shall be accompanied by a fee to defray the cost of advertising and other administrative costs involved.

An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Enforcement Officer certifies to the Board of Adjustment that, based on the records of the case, a stay would cause damage to life or property, in which case proceedings shall not be stayed otherwise than by an order from the Person County Superior Court.

No appeal may be taken to the Board of Adjustment from the action of the Commissioners in granting or denying a Special Use Permit. Any such action by the Commissioners shall be considered as the equivalent of action on a proposed zoning amendment and shall be reviewable only in the same manner as action on a proposed amendment.

16.0-2 Board of Adjustment Public Hearings

1. After submission of a completed application, the Zoning Administrator will schedule a public hearing for the Board of Adjustment in accordance with the published Board of Adjustment meeting schedule on file in the Planning and Zoning Department. t. The Zoning Administrator shall give notice of a public hearing on the application. A notice of such public hearing shall be published in a newspaper of general circulation in Person County. Said notice shall be published not less than five (5) days prior to the date established for such public hearing.

2. The Board of Adjustment shall hold an evidentiary hearing to gather competent, material, and substantial evidence to establish the facts of the case. Testimony heard shall be under oath.

3. The Board of Adjustment may subpoena witnesses and compel the production of evidence. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the Board may apply to the General Court of Justice for an order requiring that its order be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties. No testimony of any witness before the Board pursuant to a subpoena issued in exercise of the power conferred by this section may be used against the witness in the trial of any civil or criminal action other than a prosecution for false swearing committed on the examination. Any person who, while under oath during a proceeding before the Board, willfully swears falsely, is guilty of a Class 1 misdemeanor. (Added: 3/13/2006)

4. The Board of Adjustment, by a majority vote of its members, may reverse any order, requirement, decision, or determination of an administration officer charged with the enforcement of any provision of this ordinance. The findings of fact and conclusions of law shall be established in writing upon the Board's determination. This document shall be approved by the Board and signed by the chair or other duly authorized member of the Board. A quasi-judicial decision is effective upon filing the written decision with the clerk to the Board or such other office or official. 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, landowner, and to any person who has submitted a written request for a copy prior to the date the decision becomes effective (N.C.G.S. 160D-406)

5. Every final decision of the Board of Adjustment shall be subject to review by the Person County Superior Court by proceedings in the nature of certiorari.

6. The petition for the writ of certiorari must be filed with the Person County Clerk of Court within 30 days after the later of the following occurrences:

   a) A written copy of the Board's decision has been filed in the office of the Planning and Zoning Department; and

b) A written copy of the Board's decision has been delivered by personal service or certified mail, return receipt requested, to the applicant or appellant and every other aggrieved party who has filed a written request for such copy at the hearing of the case.

A copy of the writ of certiorari shall be served upon the Person County.

Article XVI - Separability

Should any section or provision of these regulations be for any reason held void or invalid by the courts, it shall not affect the validity of any other section or provision hereof which is not itself held void or invalid.

Wherever the provisions of any other law, ordinance or regulation impose higher standards than are required by the provisions of this Ordinance, the provisions of such law, ordinance or regulations shall govern.

Article XVII – Effective Date

This ordinance shall become effective on May 20, 1991.