

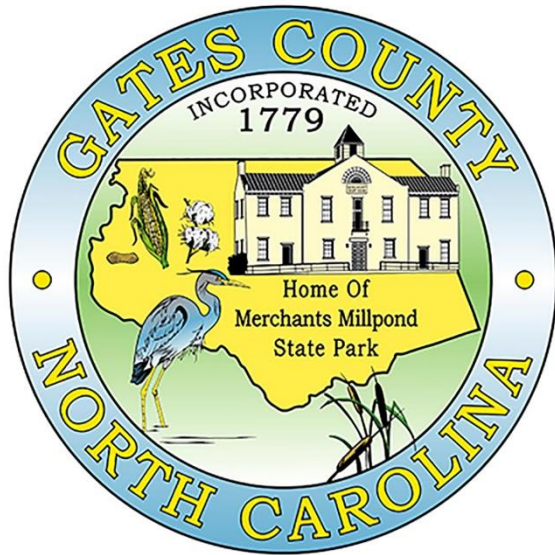


GATES COUNTY CODE OF ORDINANCES

Title XV: Land Usage

Adopted June 16, 2021

ACKNOWLEDGEMENTS



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CHAPTER 150: FLOOD DAMAGE PREVENTION

[this material is unchanged from the current Code of Ordinances]

CHAPTER 151: [PLACEHOLDER]

CHAPTER 152: SUBDIVISION REGULATIONS

ARTICLE 152.1 ADMINISTRATION

§ 152.101 TITLE

This chapter shall be known and may be cited as the “Subdivision Ordinance for Gates County, North Carolina” and may be referred to as the “subdivision regulations” or as “these regulations.”

§ 152.102 EFFECTIVE DATE

These regulations shall be in full force and effect on June 16, 2021, and repeal and replace the Subdivision Ordinance for Gates County, North Carolina as originally adopted on March 3, 2010, and subsequently amended.

§ 152.103 AUTHORITY

This chapter is adopted pursuant to:

- (A) General Statutes Chapter 160D, Article 8;
- (B) The Gates County Code of Ordinances; and
- (C) Any special legislation applicable to land in unincorporated Gates County, as enacted by the North Carolina General Assembly.

§ 152.104 JURISDICTION

(A) This chapter shall govern all subdivisions of land lying within the unincorporated portions of Gates County except:

- (1) Land within the planning and development jurisdiction of any municipality, unless the municipality shall have, by resolution, formally requested the County to enforce this chapter within its jurisdiction; and
 - (2) Divisions of land exempted in accordance with §152.105.
- (B) These regulations shall be applied to divisions of land located on a bona fide farm unless such division is exempted in accordance with §152.105 or G.S. §160D-802.

§ 152.105 EXEMPTIONS

(A) The following divisions of land are exempted from these regulations:

- (1) The division of land into parcels greater than ten acres where no street right-of-way dedication is involved.

- (2) The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots equal or exceed the standards in these regulations.
 - (3) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots equal or exceed the standards in these regulations.
 - (4) The public acquisition by purchase of strips of land for the widening or opening of streets.
 - (5) The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the General Statutes.
 - (6) The division of land for the sole purpose of establishing or expanding a private cemetery.
- (B) Exemption from these regulations does not exempt development from other applicable standards in the County Code of Ordinances such as zoning or flood damage prevention.

§ 152.106 APPLICABILITY

- (A) No subdivision subject to these regulations shall be approved by the County except in accordance with these regulations, which shall be construed as minimum requirements.
- (B) No subdivision plat shall be recorded with the Gates County Register of Deeds until the plat includes a signed statement by the Subdivision Administrator that the plat complies with the applicable parts of these regulations (see §152.213).
- (C) No permit shall be issued by any administrative agent of the County for the construction of any building or other improvement requiring a permit, upon any land subject to these regulations, unless and until the requirements set forth in this chapter have been complied with and the subdivision approved by the appropriate review authority.
- (D) In the event a landowner or subdivider seeks to record the plat of a subdivision that is exempted from these regulations by §152.105, the face of the plat shall include a completed certificate of exemption, prepared in accordance with §152.213.
- (E) Pursuant to G.S. §160D-806, the approval of a plat does not constitute or effect the acceptance by the county or the public of the dedication of any street or other ground, public utility line, or other public facility shown on the plat and shall not be construed to do so.

§ 152.107 PURPOSE AND INTENT

- (A) The purpose of these regulations is to promote the public health, safety, and general welfare of the County.
- (B) This Chapter is intended to:
 - (1) Lessen congestion of the streets and highways;
 - (2) Further the orderly layout and use of land;
 - (3) Ensure proper legal description and proper monumenting of subdivided land;
 - (4) Secure safety from fire, panic, and other dangers;
 - (5) Provide adequate light and air;
 - (6) Prevent the overcrowding of land and avoid undue concentration of population;
 - (7) Facilitate adequate provisions for transportation, water, sewerage, schools, parks, playgrounds, and other public requirements;
 - (8) Conserve and protect the physical and economic resources of the County; and
 - (9) Implement the County's adopted policy guidance.

§ 152.108 RELATIONSHIP TO OTHER LAWS AND POLICIES

(A) ADOPTED POLICY GUIDANCE

The administration, enforcement, and amendment of these regulations shall be accomplished in accordance with the County's adopted policy guidance, including the Comprehensive Plan.

(B) ADOPTED ORDINANCES

Proposed subdivisions must comply in all respects with the rules and regulations of the County Water District and with all other officially adopted regulations in effect in the area to be subdivided.

(C) COVENANTS AND DEED RESTRICTIONS

The County shall not enforce private covenants and deed restrictions.

(D) ABROGATION

This chapter shall not repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulations, or permits previously adopted or issued pursuant to law, provided any such provision is lawful, was lawfully established, and remains in effect.

§ 152.109 CONFLICT

- (A)** Wherever the provisions of any other law, ordinance, or regulation impose higher standards than are required by the provisions of this Chapter, the provisions of such law, ordinance, or regulation shall govern.
- (B)** Subdivisions configured in accordance with an allowable deviation such as a variance or conditional zoning approval authorized by the County Code of Ordinance shall not be considered to conflict with these regulations, and such allowable deviation shall control.

§ 152.110 TRANSITIONAL PROVISIONS

(A) PRIOR VIOLATIONS

Violations of the previous subdivision regulations shall continue to be violations under this Chapter, unless the development complies with this Chapter and is no longer considered to be in violation, or the ability to address the violation has lapsed.

(B) EXISTING NONCONFORMING LOTS

If any lot legally existed on June 16, 2021, but does not fully comply with these regulations or the applicable standards in Chapter 155, Zoning, the lot is considered nonconforming and shall comply with all applicable requirements for nonconforming lots.

(C) PRIOR APPROVALS

- (1) Any approvals granted before June 16, 2021, shall remain valid until their expiration date.
- (2) Subdivisions with valid approvals may be carried out in accordance with the terms and conditions of their approval and the standards in effect at the time of approval, provided the approval is valid and has not expired.
- (3) If an approval expires or is revoked (e.g., for failure to comply with the terms and conditions of approval), any subsequent subdivision of the site shall be applied for in accordance with these regulations.
- (4) An applicant shall be deemed to have initiated an approved development upon the subsequent application for and diligent pursuit of other required County, State, or federal permits or approvals.
- (5) Timelines for the commencement or expiration of development in accordance with an approved application shall be suspended in the event of legal challenge.
- (6) To the extent a prior-approved application proposes development that does not comply with these regulations, the subsequent development, although permitted, shall be nonconforming and subject to all applicable provisions for nonconformities in the County Code of Ordinances.

(D) PENDING APPLICATIONS

(1) COMPLETE APPLICATIONS

Applications accepted as complete prior to June 16, 2021, may be decided in accordance with either the regulations in affect at the time the application was determined complete or these regulations, as requested by the applicant.

(2) FILED, BUT NOT COMPLETE APPLICATIONS

Applications that have been filed prior to June 16, 2021, but not determined to be complete by the Subdivision Administrator as of that date shall be reviewed and decided in accordance with these regulations.

(E) LITIGATION

All suits at law or in equity and/or all prosecutions resulting from the violation of any Subdivision Ordinance heretofore in effect, which are now pending in any of the courts of this State or of the United States, shall not be prosecuted to their finality the same as if this chapter has not been adopted; and any and all violations of the existing Ordinance, prosecutions for which have not yet been instituted, may be hereafter filed and prosecuted; and nothing in this Chapter shall be so construed as to abandon, abate, or dismiss any

litigation or prosecution now pending and/or which may heretofore have been instituted or prosecuted.

§ 152.111 VESTED RIGHTS

Vested rights shield prior-approved development from the requirement to comply with changes in these regulations except those directly related to the protection of public safety. Vested rights are applied in accordance with Section 160D-108(d) of the North Carolina General Statutes, and the following.

(A) PRIOR VESTING

Amendments, supplements, repeals, or other changes in zoning regulations and zoning boundaries shall not be applicable or enforceable without the consent of the landowner with regard to lots for which building permits, multi-phased development approvals, or vested rights have been established (pursuant to State law) prior to the enactment of the ordinance making the change(s), so long as the vested rights remain valid and unexpired.

(B) DEVELOPMENT APPROVALS

Other than site-specific vesting plans, multi-phase development approvals, and variances, development approvals provided under these regulations shall be vested for a period of one year from the date of approval, provided the development subject to the approval complies with all applicable terms and conditions.

(C) SITE-SPECIFIC VESTING PLAN

- (1) Development approvals identified as site-specific vesting plans shall be granted a vested right to develop for a maximum period of two years from the date of the approval, provided the development subject to the approval complies with all applicable terms and conditions.
- (2) The following types of development approvals shall be considered site-specific vesting plans:
 - (a) Preliminary plats approved in accordance with these regulations; and
 - (b) Final plats approved in accordance with these regulations.
- (3) Site-specific vesting plans may have a vesting period of up to five years from the date of approval provided the longer vesting term is approved by the Board of County Commissioners following a duly noticed public hearing.

(D) MULTI-PHASE DEVELOPMENT

- (1) A multi-phase development plan that occupies at least 25 acres of land area, is subject to a master plan that depicts the types and intensities of all uses as part of the approval and includes more than one phase shall be considered as a multi-phase development plan that is granted a vested right to develop for a period of seven years from the date of approval of the first site plan associated with the development.
- (2) Vesting shall commence upon approval of the site plan for the first phase of the development.
- (3) The vested right shall remain in affect provided the development does not expire and provided it complies with all the applicable terms and conditions of the approval.

(E) COMMON LAW VESTING

A common law vested right is established only when the following can be demonstrated by the landowner:

- (1) There is an affirmative governmental act by the County in the form of an approval of a development approval under this Chapter; and
- (2) The landowner relies on this affirmative governmental act in good faith and makes substantial expenditures to develop the land; and
- (3) It would be inequitable to prevent the landowner from proceeding to develop the land consistent with the terms and conditions of the permit or development approval relied upon.

§ 152.112 SEVERABILITY

- (A) The legislative intent of the Board of County Commissioners in adopting these regulations is that all provisions shall regulate the subdivision of land in accordance with the existing and future needs of the County as established in these regulations, and to promote the public health, safety, and general welfare of the landowners and residents of Gates County. If any section, subsection, sentence, boundary, or clause of these regulations is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of these regulations.
- (B) The Board of County Commissioners hereby declares that it would have passed these regulations and any section, subsection, sentence, boundary, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, boundaries, clauses, or phrases are declared invalid.

§ 152.113 REVIEW AUTHORITIES

(A) BOARD OF COUNTY COMMISSIONERS

(1) POWERS AND DUTIES

The Board of County Commissioners shall review and decide applications in accordance with the summary table in §152.201, as well as the following:

- (a) Applications for provision of performance guarantees;
- (b) Acceptance of land and infrastructure dedications;
- (c) Applications for amending the text of this Chapter in accordance with the applicable provisions of Chapter 155, Zoning; and
- (d) Adopting an annual schedule of fees for applications filed under these regulations and civil penalties for violations of these regulations.

(2) RULES OF PROCEDURE

The Board of County Commissioners shall abide by the rules of procedure set out in the County Code of Ordinances.

(B) BOARD OF ADJUSTMENT

The Board of Adjustment is hereby established in accordance with G.S. §160D-302.

(1) POWERS AND DUTIES

The Board of Adjustment shall review and decide applications in accordance with the summary table in §152.201.

(2) COMPOSITION

The Board of Adjustment shall be comprised in accordance with their rules of procedure.

(3) RULES OF PROCEDURE

The Board of Adjustment shall abide by their adopted rules of procedure, which shall be available for inspection in the offices of the Planning and Zoning Department.

(4) OATH OF OFFICE

All members of the Board of Adjustment shall be administered the oath of office prior to commencing their duties in accordance with Article 6, Section 7 of the North Carolina Constitution by a person authorized to administer the oath. The County Clerk shall maintain a record of the oath's administration.

(C) PLANNING BOARD

The Planning Board is hereby established in accordance with G.S. §160D-301.

(1) POWERS AND DUTIES

The Planning Board shall review and decide applications in accordance with the summary table in §152.201.

(2) COMPOSITION

The Planning Board shall be comprised in accordance with their rules of procedure.

(3) RULES OF PROCEDURE

The Planning Board shall abide by their adopted rules of procedure, which shall be available for inspection in the offices of the Planning and Zoning Department.

(4) OATH OF OFFICE

All members of the Planning Board shall be administered the oath of office prior to commencing their duties in accordance with Article 6, Section 7 of the North Carolina

Constitution by a person authorized to administer the oath. The County Clerk shall maintain a record of the oath's administration.

(D) TECHNICAL REVIEW COMMITTEE

The Technical Review Committee is hereby established in accordance with G.S. §160D-306.

(1) POWERS AND DUTIES

The Technical Review Committee shall review and decide applications in accordance with the summary table in §152.201.

(2) COMPOSITION

(a) The Technical Review Committee shall be composed of representatives from the following agencies:

1. The Gates County Health Department, Environmental Health Division, who shall be responsible for ensuring each new lot is suitable for on-site wastewater disposal and has access to an acceptable source of potable water;
2. The Gates County Soil Conservation Service, who shall provide information on soil suitability and drainage;
3. The NC Department of Transportation District Engineer, who shall review applications for potential impacts on transportation networks within the County;
4. The Gates County Superintendent of Public Schools, who shall review applications for potential impacts on the County's school system;
5. The Gates County Water Department, who shall advise as to the availability of centralized potable water service;
6. The Gates County Sheriff's Department, who shall review proposed applications for potential impacts on the ability to provide law enforcement services;
7. The Gates County Firemen's Association, who shall review applications for compliance with NFPA 1144 regulations adopted by the County;
8. Gates County Emergency Management E-911, who shall provide lot addresses and ensure development names are appropriate; and
9. The NC Division of Coastal Management, who shall review applications for potential environmental impacts.

(b) The County Planner shall serve as Chair of the Technical Review Committee, and shall schedule committee meetings, coordinate the committee's activities, preside over committee meetings, prepare committee reports, and serve as liaison to the departments and agencies involved for clarification of issues and resolution of conflicts.

(c) The County Planner shall be administered the oath of office prior to commencing their duties in accordance with Article 6, Section 7 of the North Carolina Constitution by a person authorized to administer the oath. The County Clerk shall maintain a record of the oath's administration.

(d) Utility service providers may also attend TRC meetings for the consideration of applications and may provide determinations on the availability of utilities or the potential impacts to the existing utility system.

(3) MEETINGS

(a) The Technical Review Committee shall establish a regular meeting schedule.

(b) The Chair may invite applicants to attend Technical Review Committee meetings.

(E) SUBDIVISION ADMINISTRATOR

The County Planner shall serve as the Subdivision Administrator.

(1) POWERS AND DUTIES

The Subdivision Administrator shall review and decide applications in accordance with the summary table in §152.201, as well as the following:

- (a)** Conduct pre-application conferences as required or requested;
- (b)** Prepare and process applications filed in accordance with these regulations;
- (c)** Maintain all records pertaining to these regulations and make records available for public inspection;
- (d)** Enforce these regulations;
- (e)** Provide expertise and technical assistance to the County's review authorities upon request; and
- (f)** Carry out any other powers and duties delegated by the County Commission or County Manager that are consistent with these regulations and State law.

(2) OATH OF OFFICE

The Subdivision Administrator shall be administered the oath of office prior to commencing their duties in accordance with Article 6, Section 7 of the North Carolina Constitution by a person authorized to administer the oath. The County Clerk shall maintain a record of the oath's administration.

(F) DUTY OF REGISTER OF DEEDS AND CLERK OF COURT

The Gates County Register of Deeds shall not file or record a plat of a subdivision of land within the planning jurisdiction of the County that has not been approved in accordance with these provisions, nor shall the Clerk of Superior Court for Gates County order or direct the recording of a plat if the recording would be in conflict with these regulations.

ARTICLE 152.2 PROCEDURES

§ 152.201 SUMMARY TABLE OF APPLICATION TYPES

The following table sets out the types of applications reviewed through these regulations.

TABLE OF APPLICATION TYPES							
Pre-Application Conference: M = Mandatory; O = Optional Role of Review Authority: R = Recommendation; D = Decision; A = Appeal; • = No Responsibility in Review = Public Meeting; [] = Legislative Public Hearing; { } = Quasi-Judicial Public Hearing; /#/ = Table Note							
TYPE OF APPLICATION	PRE-APPLICATION CONFERENCE	REVIEW AUTHORITY					
		SUBDIVISION ADMINISTRATOR	TECHNICAL REVIEW COMMITTEE	PLANNING BOARD	BOARD OF COUNTY COMMISSIONERS	BOARD OF ADJUSTMENT	SUPERIOR COURT
Exempt Subdivision /1/	O	D	•	•	•	•	A
Transfer Subdivision	O	D	•	•	•	•	A
Expedited Subdivision	O	D	•	•	•	•	A
Minor Subdivision /2/	O	•	D	•	•	•	A
Preliminary Plat /3/	M	•	R	R	D	•	A
Final Plat /3/	O	D	•	•	•	•	A
Variance	M	•	•	•	•	{D}	A
Text Amendment	M	•	•	R	D	•	A
NOTES: /1/ Exempt subdivision reviews are provided as a courtesy and may not be required by the County. /2/ Minor subdivisions are subdivisions that are not considered exempt subdivisions, transfer subdivisions, expedited subdivisions, or preliminary plats. /3/ Vesting terms in excess of two years for preliminary or final plats shall be decided by the Board of County Commissioners following a properly noticed legislative public hearing.							

§ 152.202 CATEGORIES OF SUBDIVISION

The following table identifies the six (seven) different types of subdivision applications addressed in these regulations. The steps in the review process and application submittal requirements are identified in subsequent sections.

CATEGORIES OF SUBDIVISION TABLE		
TYPE OF SUBDIVISION	MINIMUM CHARACTERISTICS	REVIEW PROCEDURE
Exempt Subdivision	<ul style="list-style-type: none"> - All new lots must be larger than 10 acres each or the division must be comprised of a single tract of not more than 2 acres in area with not more than 3 total lots (including original tract) being created by the division - May not include dedication of public street right-of-way - Includes lot line shifts and recombinations of existing lots, provided no new lots are created - All lots created or affected meet the applicable zoning district dimensional requirements (unless part of a bona fide farm) 	<ul style="list-style-type: none"> - Courtesy review provided by Subdivision Administrator - County may not require exempt subdivision application - If a plat is recorded, must include statement of exemption
Transfer Subdivision	<ul style="list-style-type: none"> - Limited to subdivision of a lot from a larger tract for the sole purpose of conveyance to an immediate family member - New lots must meet all applicable zoning district dimensional standards (unless part of a bona fide farm) - No limit on the total number of lots created, but limited to a maximum of one lot per individual immediate family member - May not include dedication or construction of public streets - New lots may not be resold for 2 years 	<ul style="list-style-type: none"> - Administrative review by Subdivision Administrator - Plat recording required - No final plat necessary
Expedited Subdivision	<ul style="list-style-type: none"> - The area of the tract being divided must exceed 5 acres - No more than 3 total lots (including original tract) may be created by the division - All lots meet the minimum applicable zoning district dimensional requirements (unless part of a bona fide farm) - The use of each lot must conform to applicable zoning district requirements - Each lot has a permanent recorded means of ingress and egress - No land may be a part of a prior expedited subdivision during the preceding 10 years - May not include dedication or construction of public streets 	<ul style="list-style-type: none"> - Administrative review by Subdivision Administrator - Plat recording required - No extension of public utilities, including streets allowed - No land dedication required - No final plat necessary
Minor Subdivision	<ul style="list-style-type: none"> - Includes subdivisions creating or resulting in up to four lots with no extension of public utilities - Includes subdivisions that do not meet all the minimum characteristics for an exempt, expedited, or transfer subdivision, but do not rise to the level of a preliminary plat - May not include dedication or construction of public streets 	<ul style="list-style-type: none"> - Administrative review by the TRC - Plat recording required - No final plat necessary
Preliminary Plat	<ul style="list-style-type: none"> - Subdivision of two or more lots that include the dedication or construction of public streets or other public utilities (water, sewer, etc.) - Subdivision creating or resulting in five or more lots without the dedication or construction of public streets or other public utilities (water, sewer, etc.) 	<ul style="list-style-type: none"> - Review and recommendation by Planning Board - Decision by Board of Commissioners - No recording necessary
Final Plat	<ul style="list-style-type: none"> - Final step of approval for preliminary plats - Only required for development subject to preliminary plat review - Land dedications must be completed before approval - Construction must be complete or subject to performance guarantee before approval 	<ul style="list-style-type: none"> - Administrative review by the Subdivision Administrator - Plat recording required

§ 152.203 EXEMPT SUBDIVISION APPLICATION

(A) PURPOSE AND INTENT

The purpose for this exempt subdivision procedure is to establish a clear and predictable procedure for a landowner to determine and document that a proposed division of land is exempted from the subdivision requirements of these regulations in accordance with G.S. §160D-802. Exempt subdivision reviews are provided as a courtesy and may not be mandated by the County.

(B) APPLICABILITY

- (1) Divisions of land consistent with §152.105 are considered exempt from these regulations and may be subject to an exempt subdivision application at the discretion of the subdivider.
- (2) Divisions of land that are not consistent with §152.105 shall not be considered exempt subdivisions and shall be subject to the applicable review procedure and subdivision requirements of these regulations.

(C) REVIEW STANDARDS

A division of land shall be certified as an exempt subdivision by the Subdivision Administrator if it:

- (1) Is excluded from the definition of a subdivision in accordance with G.S. §160D-802;
- (2) Does not include the dedication of street right-of-way;
- (3) Complies with or exceeds all applicable standards in Chapter 155, Zoning, unless exempted in accordance with G.S. §160D-903;
- (4) Complies with all standards or conditions of any applicable permits and prior development approvals; and
- (5) Complies with all other applicable requirements in the County Code of Ordinances.

(D) RECORDATION

- (1) An exempt subdivision plat may be recorded in the office of the Gates County Register of Deeds, by a landowner at the landowner's discretion.
- (2) In the event an exempt subdivision plat is recorded, it shall include the Certificate of Exemption in accordance with §152.106.

§ 152.204 TRANSFER SUBDIVISION APPLICATION

(A) PURPOSE AND INTENT

The purpose for this section is to establish a procedure for the review of requests to subdivide land for the purpose of creating one additional lot for conveyance to an immediate family member.

(B) APPLICABILITY

- (1) The standards in this section shall apply to the conveyance of a single lot from one family member to another immediate family member.
- (2) For the purposes of this section, immediate family members shall include direct lineal descendants (children and grandchildren), direct lineal ascendants (parents and grandparents), siblings, and adopted or step-relationships.

(C) REVIEW STANDARDS

- (1) A transfer subdivision shall be approved by the Subdivision Administrator if the application complies with the following:
 - (a) Proof of kinship in the form of a notarized birth certificate shall be provided;
 - (b) All lots created from the original tract shall comply with the minimum dimensional standards for the zoning district where located unless exempted by G.S. §160D-903;
 - (c) No more than one lot shall be created for each individual family member;
 - (d) Each lot that is created shall front a street, an access easement recorded prior to the transfer subdivision, or shall be served by an accessway of at least 45 feet in width that provides ingress and egress to a street;
 - (e) In no instance shall an accessway serving the lot also serve more than three additional lots;
 - (f) Principal uses shall be limited to single-family detached dwellings and customary accessory uses;
 - (g) The lot has been certified by the Gates County Environmental Health Division as capable of accommodating the wastewater generated from the proposed use, in cases when the lot is not served by a centralized wastewater system;
 - (h) The lot has been certified by the Gates County Environmental Health Division or County Water Department (as appropriate) as served by an acceptable source of potable water; and
 - (i) The transfer subdivision complies with all other applicable requirements in these regulations and the County Code of Ordinances.
- (2) If a transfer subdivision application is denied, then the reasons for denial shall be stated in writing. The applicant may revise and resubmit an application for a transfer subdivision that has been denied.

(D) EFFECT

- (1) Approval of a transfer subdivision allows the conveyance of a lot to an immediate family member.
- (2) Land subject to a transfer subdivision shall be titled under the immediate family member's name for a period of at least two years.
- (3) Building permits may be issued following recordation of the transfer subdivision.

(E) RECORDATION

Once a transfer subdivision is approved, a signed statement by the Subdivision Administrator shall be entered on the face of the plat. The transfer subdivision may not be recorded without this certification. Failure to record the transfer subdivision plat within 60 days of approval shall render the transfer plat null and void.

(F) APPEAL

- (1) The decision of the Subdivision Administrator with respect to a transfer subdivision application may be challenged by the filing of a declaratory judgement action in the Gates County Superior Court in accordance with G.S. §160D-1403.
- (2) An appellant shall file a petition for review with the Clerk of Court within 30 days of the date the decision is filed in the office of the appropriate review authority and delivered by personal delivery, electronic mail, or 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.
- (3) Receipt of written notice provided via first class mail in accordance with G.S. §160D-403(b) shall be deemed to be received on the third business day following deposit of the notice for mailing with the United States Postal Service.

§ 152.205 EXPEDITED SUBDIVISION APPLICATION

(A) PURPOSE AND INTENT

The purpose for this expedited subdivision review procedure is to allow certain land divisions to be reviewed via an expedited review procedure based on their small size and limited likelihood to create significant impacts on surrounding lands.

(B) APPLICABILITY

- (1) The standards in this section shall apply to divisions of land meeting all the following criteria:
 - (a) The proposed division of land is not exempted from these regulations by G.S. §160D-802;
 - (b) The area of land subject to the proposed division is at least five acres in area;
 - (c) The proposed division will not result in more than three lots (including the initial “parent” or “source” tract);
 - (d) All the lots in the proposed division comply with the standards for the zoning district where located, unless exempted by G.S. §160D-903;
 - (e) The use of all lots is in conformity with the zoning district where located;
 - (f) No extension of public streets is proposed and all lots are served by a recorded means of ingress and egress; and
 - (g) No land may be a part of a prior expedited subdivision during the preceding 10 years.
- (2) Divisions of land not meeting all these standards shall be reviewed as a minor subdivision or preliminary plat, as appropriate.

(C) APPLICATION

- (1) Expedited subdivision plats shall be prepared by a licensed professional authorized by the State to prepare such documents.
- (2) Applications shall be prepared in accordance with the applicable requirements in §152.210.
- (3) An application for an expedited subdivision shall be decided within five business days of being determined to be complete in accordance with §152.211(C).

(D) REVIEW STANDARDS

- (1) An expedited subdivision shall be approved by the Subdivision Administrator if the application complies with the following:
 - (a) The expedited subdivision plat is on a sheet or sheets suitable for recording with the Gates County Register of Deeds;
 - (b) The expedited subdivision plat is prepared and sealed by a licensed professional authorized by the State to prepare such documents;
 - (c) The expedited subdivision plat complies with all applicable standards in these regulations and G.S. §47-30;
 - (d) The expedited subdivision plat includes all required certifications;
 - (e) The applicant has secured any required State and federal permit approvals;
 - (f) All lots have been certified by the Gates County Environmental Health Division as capable of accommodating the wastewater generated from the proposed use, in cases when the lots are not served by a centralized wastewater system;

- (g) All lots have been certified by the Gates County Environmental Health Division or County Water Department (as appropriate) as served by an acceptable source of potable water; and
 - (h) Each lot that is created shall front a street, a lawfully established access easement recorded prior to the expedited subdivision, or by an accessway of at least 45 feet in width that provides ingress and egress to a street that will be recorded with the expedited subdivision plat.
- (2) In no instance shall an accessway serving an expedited subdivision serve more than four lots.
 - (3) If an expedited subdivision application is denied, then the reasons for denial shall be stated in writing. The applicant may revise and resubmit an expedited subdivision application that has been denied.

(E) EFFECT

- (1) Approval of the expedited subdivision plat allows the sale or conveyance of lots within the subdivision.
- (2) Building permits may be issued following recordation of the expedited subdivision plat.
- (3) Land subject to an expedited subdivision approval shall not be further subdivided as an expedited subdivision within ten years of the date of the prior expedited subdivision approval.

(F) RECORDATION

- (1) Once an expedited subdivision is approved, a signed statement by the Subdivision Administrator shall be entered on the face of the plat. The expedited subdivision may not be recorded without this certification. Failure to record the expedited subdivision within 30 days of approval shall render the expedited subdivision null and void.
- (2) Land may not be conveyed or construction started until the expedited subdivision is recorded.

(G) APPEAL

- (1) The decision of the Subdivision Administrator with respect to expedited subdivision application may be challenged by the filing of a declaratory judgement action in the Gates County Superior Court in accordance with G.S. §160D-1403.
- (2) An appellant shall file a petition for review with the Clerk of Court within 30 days of the date the decision is filed in the office of the appropriate review authority and delivered by personal delivery, electronic mail, or 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.
- (3) Receipt of written notice provided via first class mail in accordance with G.S. §160D-403(b) shall be deemed to be received on the third business day following deposit of the notice for mailing with the United States Postal Service.

§ 152.206 MINOR SUBDIVISION APPLICATION

(A) PURPOSE AND INTENT

The purpose for this minor subdivision review procedure is to allow certain land divisions to be reviewed via an administrative review procedure based on the limited number of new lots proposed and the reduced likelihood of extensive impact on nearby residents or other subdivisions, either planned or developed.

(B) APPLICABILITY

- (1) The standards in this section shall apply to divisions of land meeting all the following criteria:
 - (a) The proposed division of land is not exempted from these regulations by G.S. §160D-802;
 - (b) The proposed division of land is not one subject to the requirements in §152.204 or §152.205;
 - (c) The proposed division will not result in more than four lots (including the initial “parent” or “source” tract);
 - (d) No extension of public streets or alteration of an existing street is proposed, and all lots are served by a means of ingress or egress that meet these requirements;
 - (e) No extension of public wastewater or potable water service is proposed; and
 - (f) The division does not require creation of new drainage easements through lots in order to serve other property.
- (2) Divisions of land not meeting all these standards shall be reviewed as a preliminary plat (see §152.208).
- (3) Minor subdivision applications that increase in the number of lots within a previously-approved minor subdivision shall constitute a preliminary plat subject to §152.208.

(C) APPLICATION

- (1) Minor subdivision plats shall be prepared by a licensed professional authorized by the State to prepare such documents.
- (2) Applications shall be prepared in accordance with the applicable requirements in §152.210.
- (3) The Subdivision Administrator shall provide the application to the Technical Review Committee for review within 40 days of the application being determined to be complete in accordance with §152.211(C).

(D) REVIEW CRITERIA

- (1) A minor subdivision application shall be approved by the Technical Review Committee (TRC) if it complies with the following:
 - (a) The minor subdivision plat is prepared and sealed by a licensed professional authorized by the State to prepare such documents;
 - (b) The minor subdivision plat includes all required certifications;
 - (c) The applicant has secured any required State and federal permit approvals;
 - (d) All lots have been certified by the Gates County Environmental Health Division as capable of accommodating the wastewater generated from the proposed use, in cases when the lots are not served by a centralized wastewater system;

- (e) All lots have been certified by the Gates County Environmental Health Division or County Water Department (as appropriate) as served by an acceptable source of potable water;

Each lot that is created shall front a street, a lawfully established access easement recorded prior to the minor subdivision, or by an accessway of at least 45 feet in width that provides ingress and egress to a street that will be recorded with the minor subdivision plat;

- (f) Any accessway that is not a street serves no more than five lots;

- (g) All new utilities in the subdivision are located underground;

The minor subdivision creates no new or residual parcels that do not conform to the requirements of this chapter; and

- (h) The minor subdivision complies with all other applicable requirements in these regulations and the County Code of Ordinances.

- (2) Nothing shall limit the TRC from approving a minor subdivision application subject to further revisions by the applicant as determined necessary to ensure compliance with these regulations.

- (3) The TRC may forward the minor subdivision application to the Planning Board for review and decision in cases where the TRC cannot reach a decision on approval or denial. The Planning Board shall consider the minor subdivision application during a public meeting.

- (4) If a minor subdivision application is denied, then the reasons for denial shall be stated in writing. The applicant may revise and resubmit a minor subdivision application that has been denied.

(E) EFFECT

- (1) Approval of the minor subdivision allows the sale or conveyance of lots within the subdivision.

- (2) Building permits may be issued following recordation of the minor subdivision.

- (3) The Subdivision Administrator shall present to the Planning Board at the regular monthly meeting any plats that have been approved by the Technical Review Committee.

(F) RECORDATION

- (1) Following approval by the TRC, a signed statement by the Subdivision Administrator shall be entered on the face of the minor subdivision. The minor subdivision may not be recorded without this certification. Failure to record the minor subdivision within 90 days of approval shall render the expedited subdivision null and void.

- (2) Land may not be conveyed, or construction started until the minor subdivision is recorded.

(G) APPEAL

- (1) The decision of the Technical Review Committee or Planning Board with respect to a minor subdivision application may be challenged by the filing of a declaratory judgment action in the Gates County Superior Court in accordance with G.S. §160D-1403.

- (2) An appellant shall file a petition for review with the Clerk of Court within 30 days of the date the decision is filed in the office of the appropriate review authority and delivered by personal delivery, electronic mail, or 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.

- (3) Receipt of written notice provided via first class mail in accordance with G.S. §160D-403(b) shall be deemed to be received on the third business day following deposit of the notice for mailing with the United States Postal Service.

§ 152.207 PRELIMINARY PLAT APPLICATION

(A) PURPOSE AND INTENT

The purpose for this preliminary plat procedure is to establish a fair, consistent and predictable procedure for the review of requests to divide land into a series of lots for development or sale in ways that promote the health, safety, and welfare. The intent of these standards is to ensure:

- (1) Orderly growth and development;
- (2) Coordination of transportation and utility networks;
- (3) Preservation of open space for purposes of recreation or natural resource protection;
- (4) Protection from flooding, damaging sedimentation, and decreased surface water quality; and
- (5) Distribution of population in ways that supports infrastructure investment and diminishes the impact of traffic and overcrowding.

(B) APPLICABILITY

- (1) The standards in this section shall apply to divisions of land meeting all the following criteria:
 - (a) The proposed division of land is not exempted from these regulations by G.S. §160D-802;
 - (b) The proposed division of land is not one subject to the requirements in §152.204, §152.205, or §152.206;
 - (c) The proposed division includes the dedication of street right-of-way or the extension of public utilities like water or sewer service;
 - (d) The division requires the creation of new drainage easements through lots in order to serve other property; or
 - (e) The proposed division results in five or more lots.
- (2) Any further division of land that establishes new lots within a prior-approved minor subdivision shall be subject to the standards in this section.

(C) APPLICATION

- (1) Applications for a preliminary plat are subject to a mandatory pre-application conference in accordance with §152-211(B).
- (2) Preliminary plats shall be prepared by a licensed professional authorized by the State to prepare such documents.
- (3) Applications shall be prepared in accordance with the applicable requirements in §152.210.
- (4) The application shall be supplemented with an environmental impact statement when required pursuant to G.S. §113A-8 through §113A-10, or in cases where the development exceeds ten acres in area and the TRC determines such statement is necessary due to the nature of the land to be subdivided or peculiarities in the proposed layout.
- (5) The Subdivision Administrator shall provide the application to the Technical Review Committee for review within 40 days of the application being determined to be complete in accordance with §152.211(C).
- (6) The Planning Board shall review the preliminary plat application and shall provide a recommendation to the Board of County Commissioners.

(D) REVIEW CRITERIA

- (1)** A preliminary plat application shall be approved by the Board of County Commissioners if it complies with the following:
 - (a)** The preliminary plat is prepared and sealed by a licensed professional authorized by the State to prepare such documents;
 - (b)** The preliminary plat complies with the applicable standards in G.S. §47-30;
 - (c)** The preliminary plat includes all required certifications;
 - (d)** All lots have been certified by the Gates County Environmental Health Division as capable of accommodating the wastewater generated from the proposed use, in cases when the lots are not served by a centralized wastewater system;
 - (e)** All lots have been certified by the Gates County Environmental Health Division or County Water Department (as appropriate) as served by an acceptable source of potable water;
 - (f)** Each lot that is created shall front a street, a lawfully established access easement recorded prior to the subdivision, or by an accessway of at least 45 feet in width that provides ingress and egress to a street, and any accessway that is not a street serves no more than five lots;
 - (g)** All new utilities in the subdivision are located underground;
 - (h)** The subdivision includes drainage improvements provided in accordance with the NC Department of Environmental Quality's Division of Water Quality Section; and
 - (i)** The preliminary plat complies with all applicable requirements in these regulations and the County Code of Ordinances.
- (2)** Nothing shall limit the Board of County Commissioners from approving a preliminary plat application subject to further revisions by the applicant as determined necessary to ensure compliance with these regulations. In no instance shall utilities be installed, or other construction take place until a revised preliminary plat has been received by the County.
- (3)** If a preliminary plat application is denied, then the reasons for denial shall be stated in writing. The applicant may revise and resubmit a preliminary plat application that has been denied.
- (4)** In the event the applicant seeks an extended vesting term for the preliminary plat, such decision shall be made by the Board of County Commissioners following completion of a duly noticed public hearing.

(E) EFFECT

- (1)** A copy of the approved preliminary plat shall be stamped and dated with the action taken and shall be returned to the applicant with accompanying conditions, requirements, and comments.
- (2)** Approval of the preliminary plat is authorization for the applicant to proceed with installation of required utilities and preparation of the final plat.
- (3)** Preliminary plat approval shall in no way be construed as constituting an official action of approval for recording of the subdivision as required by this chapter.
- (4)** Preliminary plat approval shall remain valid provided that a final plat for the first phase or section of the subdivision is submitted and approved within one year from the date of approval.

(F) APPEAL

- (1) The decision of the Board of County Commissioners with respect to a preliminary plat application may be challenged by the filing of a declaratory judgement action in the Gates County Superior Court in accordance with G.S. §160D-1403.
- (2) An appellant shall file a petition for review with the Clerk of Court within 30 days of the date the decision is filed in the office of the appropriate review authority and delivered by personal delivery, electronic mail, or 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.
- (3) Receipt of written notice provided via first class mail in accordance with G.S. §160D-403(b) shall be deemed to be received on the third business day following deposit of the notice for mailing with the United States Postal Service.

§ 152.208 FINAL PLAT APPLICATION

(A) PURPOSE AND INTENT

The purpose for this final plat procedure is to ensure proposed subdivisions of land have been completed in substantial conformity with a preliminary plat and all applicable aspects of these regulations prior to the conveyance of lots. These standards are intended to ensure preparation and recordation of a plat document of sufficient detail and data so as to enable the County or another landowner to readily determine and accurately reproduce the location, bearing, radius (as applicable), and length of the elements of a subdivision. The elements include, but shall not be limited to the following:

- (1) Every street or private accessway;
- (2) Aspects of public infrastructure such as potable water supply lines, sanitary sewer lines, and drainage facilities;
- (3) Lot lines;
- (4) Easement boundaries;
- (5) Lands or resources dedicated or reserved for use by the general public;
- (6) Land or resources owned in common by residents of the subdivision; and
- (7) Unbuildable resource or conservation lands.

(B) APPLICABILITY

- (1) The standards in this section shall apply to lands subject to a preliminary plat.
- (2) A landowner shall not submit an application for final plat review until a preliminary plat is approved and all required improvements serving the subdivision are installed and inspected by the County, or the developer provides an improvement guarantee for those required improvements in accordance with §152.214.

(C) APPLICATION

- (1) The Subdivision Administrator will accept no final plat for review unless accompanied by written notice by the site engineer acknowledging compliance with all applicable standards of this chapter.
- (2) The final plat shall constitute only that portion of the preliminary plat that the developer proposes to record and develop at that time; such portion shall conform to all applicable requirements of this chapter.
- (3) The final plat, representing either the entire tract or one or more sections indicated on the preliminary plat, shall be submitted not more than 12 months from the date the preliminary plat was approved, or the preliminary plat shall be null and void, unless a written extension of this time limit is granted by the Board of Commissioners on or before the one-year anniversary of the approval.
- (4) Final plats shall be prepared by a licensed professional authorized by the State to prepare such documents.
- (5) Applications shall be prepared in accordance with the applicable requirements in §152.210.

(D) REVIEW CRITERIA

- (1) A final plat application shall be approved by the Subdivision Administrator if it complies with the following:

- (a) The final plat is on a sheet or sheets suitable for recording with the Gates County Register of Deeds;
 - (b) The final plat is prepared and sealed by a licensed professional authorized by the State to prepare such documents;
 - (c) The final plat complies with the applicable standards in G.S. §47-30;
 - (d) The final plat includes all required certifications;
 - (e) All required infrastructure improvements (e.g., streets, sewer lines, water lines, drainage, etc.) depicted on the preliminary plat are installed, inspected, and accepted by the County, or are subject to an improvement guarantee in accordance with §152.214;
 - (f) All required easements and rights-of-way are properly depicted on the final plat;
 - (g) The final plat is in substantial conformance with the preliminary plat;
 - (h) The applicant has secured all required State, federal, and other applicable County permit approvals;
 - (i) The final plat complies with all standards and conditions of any applicable permits and development approvals; and
 - (j) The final plat complies with all other applicable requirements in these regulations and the County Code of Ordinances.
- (2) If a final plat application is denied, then the reasons for denial shall be stated in writing. The applicant may revise and resubmit a final plat application that has been denied.
 - (3) In the event the applicant seeks an extended vesting term for the final plat, such decision shall be made by the Board of County Commissioners following completion of a duly noticed public hearing.

(E) EFFECT

Approval of a final plat allows the sale or conveyance of lots within the subdivision. Building permits may be issued following recordation of the final plat.

(F) RECORDATION

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- (1) Following approval by the Subdivision Administrator, a signed statement shall be entered on the face of the final plat. The final plat may not be recorded without this certification. Failure to record the final plat within 90 days of approval shall render the expedited subdivision null and void.
 - (2) Land may not be conveyed, or construction started until the final plat is recorded.

(G) APPROVAL DOES NOT CONSTITUTE ACCEPTANCE OF DEDICATIONS

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- (1) The approval of a final plat in accordance with these regulations shall not be deemed to constitute or affect the acceptance by the County of the dedication of any street or other ground, any public utility line, or other facility shown on the plat.
 - (2) The Board of County Commissioners may, by resolution, accept any dedication made to the public of lands or facilities for streets, parks, public utility lines, or other public purpose, when the lands or facilities are located within its jurisdiction.

(H) APPEAL

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- (1) The decision of the Subdivision Administrator with respect to a final plat application may be challenged by the filing of a declaratory judgement action in the Gates County Superior Court in accordance with G.S. §160D-1403.

- (2) An appellant shall file a petition for review with the Clerk of Court within 30 days of the date the decision is filed in the office of the appropriate review authority and delivered by personal delivery, electronic mail, or 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.
- (3) Receipt of written notice provided via first class mail in accordance with G.S. §160D-403(b) shall be deemed to be received on the third business day following deposit of the notice for mailing with the United States Postal Service.

§ 152.209 VARIANCE APPLICATION

- (A) The Board of Adjustment may authorize a variance from these regulations when, in its opinion, undue hardship may result from strict compliance.
- (B) Variances shall be filed, reviewed, and decided in accordance with the appropriate sections in Chapter 155, Zoning.
- (C) In no instance shall a division of land that requires approval of a variance be approved until after the variance is approved in accordance with all applicable requirements in the County Code of Ordinances.
- (D) Divisions of land subject to an approved variance shall reference the approved variance on the face of the plat and the written notice of decision pertaining to the variance shall be recorded with the subdivision approval or plat (as appropriate) in the offices of the Gates County Register of Deeds.

§ 152.210 TEXT AMENDMENT APPLICATION

- (A) The County Board of Commissioners may from time to time amend the text of these regulations, but only in accordance with the applicable provisions for text amendments in Chapter 155, Zoning.
Applications for amendment to the text of these regulations may be filed in accordance with §155.513.

§ 152.211 APPLICATION PROCESSING

(A) PURPOSE FOR THIS SECTION

This section establishes the rules used by the County for processing all subdivision applications. It is the intent of this section to establish a uniform set of processes to foster greater efficiency and predictability for applicants, County residents, County staff, and elected and appointed officials during the review of subdivision applications.

(B) PRE-APPLICATION CONFERENCES

(1) PURPOSE

The purpose of a pre-application conference is to provide an opportunity for the applicant to learn about the submittal requirements, procedures, and standards applicable to a particular application prior to undertaking its preparation. A pre-application conference is also an opportunity for County staff to become familiar with, and offer preliminary comments about the scope, features, and impacts of the proposed development, as it relates to these regulations.

(2) APPLICABILITY

(a) PRE-APPLICATION CONFERENCE REQUIRED

A pre-application conference between the applicant and County staff is required before submittal of applications subject to a mandatory pre-application conference as identified in §152.201.

(b) PRE-APPLICATION CONFERENCE OPTIONAL

A pre-application conference is recommended but not required before submittal of applications subject to an optional pre-application conference as identified in §152.201.

(c) DISCUSSIONS NON-BINDING

Discussions at a pre-application conference are not binding on the County and do not constitute submittal or review of an application.

(3) PROCEDURE

(a) Following receipt of a request for a pre-application conference, the Subdivision Administrator shall schedule the conference with the Technical Review Committee and notify the applicant of the time, location, and any suggested submittal requirements.

(b) During the conference, attendees will explain the application review process and any special issues or concerns regarding the subject proposal.

(4) SUBMITTAL REQUIREMENTS

(a) Mandatory pre-application conferences require the applicant to provide a generalized site sketch or plot plan of the development as part of the request to schedule a pre-application conference. Sketches or plat plans shall include the following:

1. Name of subdivision and its location by township;
2. Vicinity map showing the relationship between the proposed subdivision and neighboring tracts;
3. Proposed street right-of-way and lot layout;
4. Total acreage of tract to be subdivided and residual acreage of parent parcel;
5. Minimum lot size and the total number of lots;

6. Location of all existing or proposed water and sewer lines and sizes, if applicable;
 7. Approximate location of land to be dedicated or reserved for public or private use and the approximate amount of area;
 8. The location of all designated areas of environmental concern within the subdivision; and
 9. Any additional information which would be supportive to the review process as required.
- (b) For optional pre-application conferences, the applicant may submit supplemental information regarding their application, as appropriate, with their request for a pre-application conference, though there is no requirement to submit any material in advance of the conference.
- (c) No material submitted during a pre-application conference shall be binding on the County or an applicant.

(5) EFFECT

- (a) When required, a completed pre-application conference entitles an applicant to take the next step in the application process. Applications subject to a mandatory pre-application conference will not be considered as complete applications until after the mandatory pre-application conference has been completed.
- (b) In cases where multi-part applications require more than one pre-application conference, an applicant may choose to conduct a single pre-application conference for all portions of a multi-part application.

(6) FEES

- (a) The initial pre-application conference is free of charge.
- (b) Any subsequent pre-application conferences associated with the same application require payment of a pre-application fee in accordance with the County's fee schedule.

(C) APPLICATION FILING

(1) AUTHORITY TO FILE APPLICATIONS

- (a) Unless expressly stated otherwise in these regulations, development applications shall be submitted by the landowner, contract purchaser, or other person having a recognized property interest in the land on which development is proposed.
- (b) Applications for amendments to this text may be initiated by the Board of County Commissioners, the Planning Board, the Board of Adjustment, the Technical Review Committee, the Subdivision Administrator, or any resident or landowner with property in unincorporated Gates County.
- (c) Applications filed by a County official or Board are not required to undergo a mandatory pre-application conference.

(2) APPLICATION CONTENT

The Subdivision Administrator shall establish and maintain development application content and forms.

(3) APPLICATION FEES

- (a) The Board of County Commissioners shall establish application fees and may amend and update those fees as necessary. Fees shall cover the costs of review, including public notification, as required.

- (b) No action shall be taken on an application and no application approval shall be issued until all required application fees are paid in full.

(4) APPLICATION FILING

- (a) Applications shall be filed in the form established by the County, along with the appropriate application fee.
- (b) An application shall not be considered to be submitted until determined to be complete in accordance with this section.
- (c) No application shall be reviewed or decided until after it is determined to be complete.

(5) BURDEN OF PRESENTING COMPLETE APPLICATION

The burden of presenting and maintaining a complete application shall be solely upon the applicant.

(6) DETERMINATION OF APPLICATION COMPLETENESS

Upon development application filing, the Subdivision Administrator shall determine, within five business days, whether the application is complete or incomplete. A complete application is one that:

- (a) Contains all information and materials identified in these regulations and all supporting documentation, as required for submittal of the particular type of application;
- (b) Is in the form and number of copies required by the County;
- (c) Is legible and printed to scale, where appropriate;
- (d) Is signed by the person(s) with the authority to file the application;
- (e) Includes information in sufficient detail to evaluate whether or not the application complies with the applicable review standards in these regulations and other applicable standards such as the County Code of Ordinances;
- (f) Is accompanied by the fee established for the particular type of application; and
- (g) Includes material associated with a pre-application conference, if one is required.

(7) APPLICATION INCOMPLETE

If the application is incomplete, the Subdivision Administrator shall notify the applicant of the deficiencies in writing. The applicant may correct the deficiencies and resubmit the application for completeness determination in accordance with this section.

(8) APPLICATION COMPLETE

- (a) On determining that the application is complete, it shall be considered as submitted, and the County shall notify the applicant and commence review in accordance with the procedures and standards in these regulations.
- (b) Nothing shall preclude the Subdivision Administrator or other review authority from re-evaluating an application for completeness in the event application inadequacies are revealed at a date subsequent to an application being declared complete.

(D) PERMIT CHOICE

-
- (1) In cases where the applicable provisions of these regulations are amended between the time that a development application is declared complete (see §152.211(C)) and the time written notification of decision on the application is provided (see §152.211(H)), the

applicant may choose which version of this Ordinance shall apply to their application, in accordance with G.S. §143-755.

- (2) The County shall notify applicants, in writing, when a choice under this section is available, and the applicant shall respond, in writing, with their choice of the applicable provisions. The applicant's decision shall be final, and review under a different set of requirements may only be accomplished through a withdrawal and re-submittal of the application.
- (3) In cases where an applicant has had an opportunity to exercise permit choice under this section, and subsequently places their application on hold, or fails to respond to requests for further information from the County for a period of six months or more, review of the application shall be discontinued, and the requirements in effect at the time application review recommences shall apply.

(E) COUNTY STAFF REVIEW

(1) INITIAL STAFF REVIEW

- (a) Following application completeness determination, development application materials shall be distributed by the Subdivision Administrator to all appropriate Technical Review Committee members for review and comment.
- (b) Applications shall be reviewed during the review cycle in place when the application is determined to be complete.
- (c) The Subdivision Administrator shall review the application, relevant support material, and any comments or recommendations from other staff and review agencies to which the application was referred.
- (d) If deficiencies in complying with these regulations are identified, the Subdivision Administrator shall notify the applicant of such deficiencies in writing and provide the applicant a reasonable opportunity to discuss them and revise the application accordingly.

(2) STAFF REPORT AND RECOMMENDATION

- (a) The Subdivision Administrator shall prepare a written staff report on any application to be reviewed or decided by the Planning Board, Board of Adjustment, or Board of County Commissioners.
- (b) The staff report shall conclude whether the application complies with all applicable review standards and recommend one of the decisions authorized for the particular type of application.
- (c) The staff report shall not include a recommendation from County staff on variance applications or appeals.
- (d) In cases where the staff finds an application does not comply with the provisions of these regulations the staff report shall cite the specific code section(s) in question and the reasons why the application fails to comply.
- (e) The staff report may identify and recommend modifications to the development proposal that specify how compliance deficiencies might be corrected and how adverse effects of the development application (if any) might be mitigated.
- (f) A staff report is not required for applications decided by the Subdivision Administrator or the Technical Review Committee, though one may be prepared.

(3) DISTRIBUTION OF APPLICATION AND STAFF REPORT

In cases where a staff report is prepared, the Subdivision Administrator shall take the following actions within a reasonable time period before the application is scheduled for review:

- (a) Schedule and ensure any required public notice of the application (if appropriate) is prepared in accordance with §152.211(F);
- (b) Transmit the application, related materials, and staff report to the appropriate review authority (ies);
- (c) Transmit a copy of the staff report and any related materials to the applicant; and
- (d) Make the application, related materials, and staff report available for examination by the public.

(4) CONFLICT OF INTEREST

- (a) The Subdivision Administrator or another member of County staff shall not make a decision on an application where:
- (b) The outcome of the matter being considered is reasonably likely to have a direct, substantial, or readily identifiable financial impact on them or a member of their immediate family; or
- (c) In cases where there is a close familial, business, or other associational relationship with the landowner or applicant.

(F) PUBLIC NOTIFICATION

(1) PUBLIC NOTIFICATION REQUIREMENTS

All development applications subject to public notification shall comply with the appropriate standards in G.S. §160D-406, §160D-601, §160D-602, §160D-1005, and other applicable sections of the North Carolina General Statutes, as appropriate.

(2) PUBLIC MEETING DISTINGUISHED

Public meetings (see §152.201) conducted in accordance with these regulations are not public hearings, and do not require the provision of public notification in accordance with this section.

(3) PUBLIC HEARING SCHEDULING

- (a) When a development application is subject to a public notification, the Subdivision Administrator shall ensure public notification is provided in accordance with these regulations and the standards in §155.502(H).
- (b) When a development application is subject to a public hearing, the Subdivision Administrator shall ensure that the public hearing is scheduled for a regular meeting or a meeting specially called for that purpose by the review authority.

(G) PUBLIC MEETINGS AND HEARINGS

(1) PUBLIC MEETINGS

The summary table in §152.201 identifies the kinds of development applications subject to a required public meeting, which shall be conducted in accordance with the review authority's rules of procedure and the following requirements:

(a) PROCEDURE

1. Public meetings shall not require prior public notice, though it may be provided at the County's discretion.

2. The public meeting shall be open to the public and shall be conducted in accordance with the review authority's adopted rules of procedure for public meetings.
3. There is no requirement to allow public comment or testimony during a public meeting, though it may be provided at the Chair or other presiding officer's discretion.

(b) VOTING

A decision of a review authority shall be decided by a simple majority of the members present and voting. A review authority member shall recuse themselves from voting on an application where:

1. The outcome of the matter being considered is reasonably likely to have a direct, substantial, or readily identifiable financial impact on them or a member of their immediate family; or
2. In cases where there is a close familial, business, or other associational relationship with the landowner or applicant.

(2) LEGISLATIVE PUBLIC HEARINGS

Public hearings identified in these regulations shall be either legislative or quasi-judicial in nature. The summary table in §152.201 identifies the kinds of development applications decided following completion of a legislative public hearing, which shall be conducted in accordance with the following requirements:

(a) PROCEDURE

1. Legislative public hearings shall not be conducted until after provision of required public notification in accordance with §152.211.F.
2. The legislative public hearing shall be open to the public and shall be conducted in accordance with the review authority's adopted rules of procedure for public hearings.
3. Attendees shall be afforded the opportunity to comment during a public hearing, as authorized in the adopted rules of procedure.

(b) VOTING

1. The review authority shall consider the application, relevant support materials, staff report, any recommendations, and public comments. After the conclusion of the public hearing, it shall make one of the decisions authorized for the particular type of application based on the review standards applicable to the application type.
2. A review authority member shall not vote on an application where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member in accordance G.S. §160D-109.
3. A review authority member shall not vote on an application where the landowner or applicant is a person with whom the member has a close, familial, business, or other associational relationship.
4. A decision of the review authority on an application considered during a legislative public hearing shall be decided by a simple majority of the review authority members, excluding any members who are recused from voting due to a conflict of interest.

(c) APPLICATION REVISION

1. An applicant may revise an application during a legislative public hearing in response to recommendations or suggestions of the review authority.
2. In cases where a substantial change to an application is proposed following review by a prior review authority, the review authority deciding the application shall not make a decision on the application until after it is remanded to the review authority (ies) who provided a recommendation prior to the public hearing for consideration of the substantial change.
3. The review authority deciding the application may approve an application modified during a legislative public hearing provided that all changes are properly identified in the motion of approval and that any conditions of approval are consented to, in writing, by the applicant.
4. In cases where an application has been modified during a legislative public hearing, the applicant shall submit any necessary plats or other documents depicting the modification to the appropriate County staff for consideration and approval prior to issuance of any development permit approvals.

(d) REMAND

A review authority may remand the application to a prior review authority or County staff for further consideration of new information or specified issues or concerns, if appropriate.

(e) RECORD

1. A recording may be made of all public hearings and if made, the recordings shall be maintained in accordance with County policy.
2. Accurate minutes shall also be kept of all proceedings, but a transcript need not be made.

(3) QUASI-JUDICIAL PUBLIC HEARINGS

Public hearings identified in these regulations shall be either legislative or quasi-judicial in nature. The summary table in §152.201 identifies the kinds of development applications decided following completion of a legislative public hearing, which shall be conducted in accordance with State law, the review authority's rules of procedure, and the following requirements:

(a) NOTICE REQUIRED

Quasi-judicial public hearings shall not be conducted until after provision of required public notification in accordance with §152.211.

(b) OPPORTUNITY TO PRESENT TESTIMONY AND EVIDENCE

The applicant, the County, and any party in with standing shall be afforded a reasonable opportunity to present testimony and evidence in support of or in opposition to the application, and to ask questions of or cross examine the applicant, the applicant's representatives, County staff, and the County staff's representatives.

(c) LIMITATION ON EVIDENCE

1. The Chair or other presiding officer may limit or exclude incompetent evidence, immaterial evidence, repetitive evidence, and personal attacks.
2. Decisions shall not be based upon hearsay evidence though such evidence may be entered into the record.

3. Only evidence presented during the public hearing may be relied upon in making a decision on the application.

(d) EX PARTE COMMUNICATION

Ex parte communications between an applicant or an affected party and a member of the decision-making body are prohibited. If it occurs, it shall be disclosed during the quasi-judicial public hearing.

(e) VOTING

1. The review authority shall consider the application, relevant support materials, staff report, any recommendations, and public comments. After the conclusion of the public hearing, it shall make one of the decisions authorized for the particular type of application based on the review standards applicable to the application type.
2. Unless stated otherwise in these regulations, the decision shall reflect the review authority's determination of any contested facts and their application to the applicable standards.

(f) CONFLICTS OF INTEREST

1. A review authority member shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker.
2. Impermissible violations of due process include but are not limited to: a member having a fixed opinion prior to hearing the matter that is not susceptible to change; an undisclosed ex parte communication; a close familial, business, or other associational relationship with an affected person; or a direct, substantial, and readily identifiable financial impact on the member.
3. If an objection is raised to a member's participation and that member does not recuse themselves, the remaining members shall, by majority vote, rule on the objection.

(g) APPLICATION REVISION

1. An applicant may revise an application during a quasi-judicial public hearing in response to recommendations or suggestions of the review authority.
2. The review authority may approve an application modified during a quasi-judicial public hearing provided all changes are properly identified in the motion of approval by the review authority and that any conditions of approval are consented to, in writing, by the applicant.
3. In cases where an application has been modified during a quasi-judicial public hearing, the applicant shall submit any necessary site plans, plats, or other documents depicting the modification to the appropriate County staff prior to issuance of any development permit approvals.

(h) DELAY OF DECISION

The review authority may delay a decision on the application if additional information is requested of the applicant.

(i) RECORD

1. A recording may be made of all public hearings and if made, the recordings shall be maintained in accordance with County policy.

2. Accurate minutes shall also be kept of all proceedings, but a transcript need not be made.

(H) CONDITIONS OF APPROVAL

- (1) Approval of applications subject to conditions of approval shall be limited to those applications considered during a quasi-judicial process (see §152.211(G)).
- (2) Conditions shall be limited to those that address conformance of development and use of the site with County regulations and adopted plans and that address the impacts reasonably expected to be generated by the development or use of the site.
- (3) Conditions shall be in writing and may be supplemented with text or plans and maps.
- (4) No condition shall be made part of the application which:
 - (a) Specifies the ownership status, race, religion, or other characteristics of the occupants of housing units;
 - (b) Establishes a minimum size of a dwelling unit;
 - (c) Establishes a minimum value of buildings or improvements;
 - (d) Excludes residents based upon race, religion, or income; or
 - (e) Obligates the County to perform in any manner relative to the approval of the application or the development of the land.
- (5) All conditions of approval shall be consented to, in writing, by all owners of land or applicants subject to the conditions.

(I) WRITTEN NOTICE OF DECISION

(1) CONTENT

The notification of a decision on a development application shall be issued in the name of the applicant or applicant's agent, as appropriate, directed to the address(es) identified in the application materials, and shall identify the following:

- (a) The land or matter subject to the application;
- (b) A reference to any approved plats or plans, as appropriate;
- (c) The approved use(s), if any; and
- (d) Any conditions of approval or other applicable requirements.

(2) TIMING

Except where otherwise stated in these regulations, the Subdivision Administrator shall provide the applicant written notification of a decision or action within 10 business days after a final decision on a development application.

(3) COPY OF DECISION

- (a) In addition to providing the notification of a decision on an application to an applicant, the Subdivision Administrator shall make a copy of the decision available to anyone who submits a written request prior to the issuance of the decision.
- (b) The Subdivision Administrator shall also make a copy of the notice of decision available to the public in the offices of the Planning and Zoning Department during normal business hours.

(4) SIGNATURE ON RECORDED PLAT

Divisions of land subject to recording by these regulations shall include a statement signed by the landowner or an authorized agent stating that the land subject to the division is within the County's planning jurisdiction (see §152.213).

(J) MODIFICATIONS TO AN APPROVAL

Amendments to subdivision plat approval shall be considered as minor modifications or major modifications, in accordance with the following.

(1) MINOR MODIFICATIONS

- (a) Minor modifications are limited to changes that have no material effect on the character of the development or changes that address technical considerations that could not reasonably be anticipated at the time of the development approval.
- (b) The following minor modifications may be approved by the Subdivision Administrator, in consultation with other appropriate County staff:
 - 1. Changes to the location of entrances or driveways, the rearrangement of internal streets, turn lanes, drives, or access restrictions;
 - 2. Changes to building setbacks which meet or exceed the requirements for the zoning district where located;
 - 3. Reductions to the number of lots, or lot line adjustments that do not increase the total number of lots;
 - 4. Changes to the configuration or location of open space or placement of required amenities, provided the amount of open space is unchanged; and
 - 5. Changes to the arrangement or location of buildings provided there is no increase in the number of buildings, size, or amount of impervious surface.
- (c) In no instance shall a minor modification include any changes to the range of permitted uses or the overall density of the development.

(2) MAJOR MODIFICATIONS

- (a) Changes that materially affect the basic configuration of the development, basic parameters of conditions of approval, or that exceed the scope of a minor modification are considered major modifications.
- (b) Major modifications include, but are not limited to:
 - 1. Increases in the number of lots;
 - 2. Extension or revision of any public infrastructure (streets, water, sewer) configuration;
 - 3. Increases in allowable density or intensity;
 - 4. Decreases in open space;
 - 5. Substantial changes in the location of streets (particularly if streets are to be deleted or access points to the development moved so traffic flows both inside and outside the development are affected); and
 - 6. Change in the location or configuration of any public easement.
- (c) Major modifications shall be treated as an amendments that must be reviewed and considered in accordance with the procedures and standards established for the original approval of a special use permit application.

(K) APPLICATION CONTINUANCE AND WITHDRAWAL

An applicant may request that a review authority's consideration of a development application be continued or withdrawn by submitting a written request to the appropriate review authority.

(1) PROCEDURE FOR APPLICATIONS SUBJECT TO A PUBLIC HEARING

- (a) In cases where an applicant seeks a continuance of an application subject to a public hearing, but public notification of the hearing has not yet been provided, the Subdivision Administrator shall consider and decide the request.
- (b) If public notification of the pending public hearing has been provided in accordance with these regulations, the request for continuance shall be placed on the public hearing agenda and be considered by the review authority. Additional public notification may be required.
- (c) A request for continuance may be approved in cases where the applicant needs additional time to prepare evidence, secure approval from outside agencies, bring the application into closer alignment with the County's adopted policy guidance or the requirements of these regulations, or for good cause, as determined by the review authority.

(2) WITHDRAWAL

- (a) An applicant may withdraw an application at any time.
- (b) If an applicant withdraws an application for the same land after public notification two times within a single calendar year, the same application may not be resubmitted for a period of one year from the date of the second withdrawal.
- (c) Application fees for withdrawn applications shall not be refunded.

§ 152.212 APPLICATION REQUIREMENTS

(A) PURPOSE AND INTENT

This section provides information for applicants seeking to file applications for the division of land under these regulations.

(B) PLATS REQUIRED

Except for exempt subdivisions, all applications for the division of land shall include a plat prepared in accordance with these standards.

(C) CERTIFICATIONS

All records associated with divisions of land, including exempt subdivisions, intended for recording with the Gates County Register of Deeds shall include all required certificate statements from §152.213.

(D) MINIMUM SIZE AND SCALE

- (1) All plats shall be no smaller than 18 inches by 24 inches in size and shall be at a scale of not less than one inch equal to 100 feet.
- (2) Applications for preliminary plats shall also include one reduced copy of the subdivision plat which is eight and one-half inches by 11 inches or 11 inches by 17 inches in size.

(E) MINIMUM NUMBER OF COPIES

Applicants shall submit the minimum number of plat copies with each application:

MINIMUM NUMBER OF COPIES TABLE	
TYPE OF APPLICATION	MINIMUM NUMBER OF COPIES OF PLAT DRAWINGS
Transfer Subdivision	4
Expedited Subdivision	4
Minor Subdivision	15
Preliminary Plat	15
Final Plat	15 /1/
NOTES: /1/ Final plat applications shall include at least 8 plat copies with all required certificates (see §152.213).	

(F) NON-BUILDABLE AREAS

- (1) Areas within a subdivision that are not reviewed and approved for use as building lots during original review shall be labeled “non-buildable.”
- (2) In addition, a note shall be included on the plat which states that before the status of non-buildable area can be changed and building permits issued, the owner must comply with the applicable requirements in these regulations.
- (3) Areas within the proposed subdivision determined to be “unsuitable” for on-site septic system by the Gates County Environmental Health Division shall also be labeled as non-buildable unless lots are recombined to allow for septic systems.

(G) TABLE OF PLAT REQUIREMENTS

The following table sets out the requirements for plats and related information for land divisions proposed under these regulations.

SUBDIVISION PLAT REQUIREMENTS TABLE

“X” = Required

“•” = Not Required (but may be provided by Applicant)

INFORMATION REQUIRED	TRANSFER SUBDIVISION	EXPEDITED SUBDIVISION	MINOR SUBDIVISION	PRELIMINARY PLAT	FINAL PLAT
Name of subdivision	•	•	X	X	X
A sketch vicinity map showing the relationship between the proposed subdivision and surrounding areas	•	•	X	X	X
A topographic map showing vertical contours every one foot or less	•	•	•	X	
Total acreage of tract to be subdivided with the location of previously subdivided lots within the tract	X	X	X	X	X
Name of township, county, and state in which the subdivision is located	X	X	X	X	X
Corporate limits, township boundaries, city lines, and county lines, if on the subdivision tract	X	X	X	X	X
The names, addresses, and telephone numbers of all owners, mortgages, registered surveyors, land planners, and professional engineers responsible for the subdivision	X	X	X	X	X
The registration numbers and seals of the professional engineers and registered surveyors	•	X	X	X	X
Date of survey and plat preparation	•	X	X	X	X
Scale denoted both graphically and numerically	•	X	X	X	X
All dimensions should be to the nearest one-tenth of a foot and angles to the nearest minute	X	X	X	X	X
An accurately positioned north arrow tied into the state’s grid system, if within 2,000 feet of a monument (indicate if true north, magnetic north, or state grid system is used)	•	X	X	X	X
The exact boundary lines of tract to be subdivided, fully dimensioned by lengths and bearings, and the location of existing boundary lines of adjoining lands	X	X	X	X	X
The names of adjoining property owners	X	X	X	X	X
The names of any adjoining subdivision of record or proposed and under review	•	X	X	X	X
Minimum building setback lines	X	X	X	X	X
Zoning classification both of the land to be subdivided and on adjoining land	X	X	X	X	X
The location of existing and platted property lines, streets and street names, transmission lines, sewers, drain pipes, water mains, existing fire hydrant location nearest to site, and any public utility easements	•	X	X	X	X
Existing buildings or other structures, watercourses, railroad, bridges, culverts, storm drains, both on land to be subdivided and land immediately adjoining	X	X	X	X	X
Accurate location and description of all permanent monuments and stakes	X	X	X		X
Sufficient data to determine readily and reproduce on the ground the location, bearing, and length of every street line, lot line, boundary line, block line, and building setback line whether curved or straight. This should include the radius central angle, and tangent distance for the	•	X	X	X	X

SUBDIVISION PLAT REQUIREMENTS TABLE

“X” = Required

“•” = Not Required (but may be provided by Applicant)

INFORMATION REQUIRED	TRANSFER SUBDIVISION	EXPEDITED SUBDIVISION	MINOR SUBDIVISION	PRELIMINARY PLAT	FINAL PLAT
centerline of curved streets and curved property lines that are not boundaries of curved streets. All dimensions shall be measured to the nearest one-tenth of a foot and all angles to the nearest minute					
Other proposed right-of-way or easements; locations, widths, and purposes	•	X	X	X	X
Proposed lot lines with dimensions and consecutively numbered blocks and lots	•	X	X	X	X
Contour lines with elevation intervals of one foot (applies to subdivisions with proposed streets)	•	•	X	X	X
Wooded areas, marshes, swamps, rock outcrops, ponds or lakes, streams or streambeds, and any other natural feature affecting the site, including the location of known areas subject to flooding	•	•	X	X	X
Floodplain statement with references	X	X	X	X	X
Floodplain boundaries, if any	X	X	X	X	X
The 100-year floodplain contour shall be labeled and clearly indicated with a bolder, thicker line	X	X	X	X	X
Wetland certification where needed based on inclusions of hydric soils	•	X	X	X	X
Wetland delineation approved by U.S. Army Corps of Engineers, if required	•	•	X	X	X
Proposed roadways, existing and platted streets on adjoining properties and in the proposed subdivision, rights-of-way, pavement widths, approximate grades, design, and engineering data for all corners and curves and typical street cross-sections	•	•	•	X	X
Street names, type of street dedication as public or local/private	•	•	•	X	X
The location and dimensions of all rights-of-way, utility, or other easements	•	•	X	X	X
Reservations, easements, alleys, and any areas to be dedicated to public use or sites for other than residential use with notes stating their purpose and any limitations	•	•	X	X	X
The plans for utility layouts including sanitary sewers, storm sewers, water distribution lines, natural gas, telephone, and electric service or plans for individual water supply systems and sewerage disposal systems (i.e., septic tank systems) - Utility plans are encouraged to be on separate sheets	•	•	X	X	X
Letter of tentative approval of water supply and sewage disposal plans by appropriate county and state authorities	•	•	•	X	•
Improvement certificate or letter of approval for water and sewage systems by appropriate county and state authorities	•	•	•	•	X
Letter of approval from the Department of Transportation as to proposed roadway alignment and construction	•	•	•	X	•
Letter of approval from NCDOT stating whether the new roadway is constructed to appropriate state standards	•	•	•	•	X

SUBDIVISION PLAT REQUIREMENTS TABLE

“X” = Required

“•” = Not Required (but may be provided by Applicant)

INFORMATION REQUIRED	TRANSFER SUBDIVISION	EXPEDITED SUBDIVISION	MINOR SUBDIVISION	PRELIMINARY PLAT	FINAL PLAT
Proposed parks, school sites, or other public opens spaces, if any, including acreage	•	•	•	X	X
A copy of any deed restrictions or similar covenants	•	X	X	X	X
Street maintenance disclosure statement where proposed roadways are designated public or local/private road disclosure statement	•	•	•	X	X
The accurate locations and descriptions of all monuments, markers, and control points	X	X	X	•	X
Linear error of closure shall not exceed one foot per 7,500 feet. Angular error of shall not exceed 25 seconds times the square root of the number of angles turned. Plus or minus distances will not be approved	•	•	X	•	X
Environmental impact statement, when required pursuant to G.S. §113A-8 through 113A-10, or when required by the Planning Board	•	X	X	X	•
Documentation from the appropriate electric utility company certifying that new utilities will be installed underground	•	•	X	X	X
Payment of fees for water laterals and meters in areas served by the County water system. The fee shall be paid to the County Water Department in accordance with a fee schedule established by the County Board of Commissioners	•	•	•	•	X
Any other information considered by either the developer, Subdivision Administrator, Planning Board, or Board of Commissioners to be pertinent to the review of the plat	•	X	X	X	X

§ 152.213 PLAT CERTIFICATES

This section sets out the certificate statements and signatory blocks to be included on plats to be recorded with the Gates County Register of Deeds.

(A) CERTIFICATE OF EXEMPTION

This plat is not subject to subdivision approval by virtue of _____. Exemption of a partition of land from the definition of "subdivision" shall not exempt any resulting lots, tracts, or parcels from meeting the requirements of any other applicable ordinance(s).

Date Owner or Authorized Agent

(B) CERTIFICATE OF GATES COUNTY JURISDICTION

I (We) hereby certify that I am (we are) the owner(s) of the property shown and described hereon which was conveyed to me (us) by deed recorded in Book _____, Page _____, and that the land as shown hereon is within the subdivision regulations jurisdiction of Gates County.

Date Owner or Authorized Agent

(C) CERTIFICATE OF OWNERSHIP AND DEDICATION

I (We) hereby certify that I am (we are) the owner(s) of the property shown and described hereon which was conveyed to me (us) by deed recorded in Book _____, Page _____, and that I (we) hereby adopt this plan of subdivision with my (our) free consent, and dedicate all streets, alleys, walks, parks, and other open spaces to public use unless otherwise noted. Further, I (we) certify and all dedications are free and clear of any lien, lease, deed of trust, or any other encumbrance.

Date Owner or Authorized Agent

(D) CERTIFICATE OF SURVEY AND ACCURACY

I _____ certify that this plat was drawn under my supervision from an actual survey made under my supervision (deed description recorded in Book _____, Page _____, etc.), (other); that the boundaries not surveyed are clearly indicated as drawn from information found in Book _____, Page _____; that the ratio of precision or positional accuracy as calculated is _____; that this plat was prepared in accordance with G.S. § 47-30. as amended. Witness my original signature, license number and seal this _____ day of _____, A.D., 20 _____

*Seal or Stamp of Surveyor Professional Land Surveyor
License Number*

(E) CERTIFICATE OF DISTRICT HIGHWAY ENGINEER.

I hereby certify that these streets as installed or as designed and guaranteed are in accordance with the minimum design criteria presently required by the N.C. Department of

Transportation, Division of Highways, for the acceptance of subdivision streets on to the state system for maintenance.

Date District Engineer, N.C. Department of Transportation, Division of Highways

(F) CERTIFICATE TO SUBDIVISION CLASSIFICATION PAGE.

The final plat shall contain one of the following statements, signed and sealed by the plat preparer:

- (1) This survey creates a subdivision of land within the area of a county or municipality that has an ordinance that regulates parcels of land;
- (2) This survey is located in such portion of a county or municipality that is unregulated as to an ordinance that regulates parcels of land;
- (3) Any one of the following:
 - (a) This survey is of an existing parcel or parcels of land or one or more existing easements and does not create a new road or change an existing street. For the purpose of this section, an EXISTING PARCEL or EXISTING EASEMENT is an area of land described in a single, legal description or legally recorded subdivision that has been or may be legally conveyed to a new owner by deed in its existing configuration;
 - (b) This survey is of an existing feature, such as a building or other structure, or natural feature, such as a water course;
 - (c) This survey is a control survey. For the purposes of this section CONTROL SURVEY is a survey that provides horizontal or vertical position data for support or control of other surveys or for mapping. A control survey, by itself, cannot be used to define or convey rights or ownership.
 - (d) That the survey is a proposed easement for a public utility as defined G.S. § 62-3.
- (4) This survey is of another category, such as the recombination of existing parcels a court-ordered survey, or other exemption or exception to the definition of subdivision; and
- (5) That the information available to the surveyor is such that the surveyor is unable to make a determination to the best of the surveyor's professional ability as to provisions contained in divisions (D)(3)(a) through (D)(3)(d) above.

(G) CERTIFICATE OF APPROVAL FOR RECORDING

I hereby certify that the amended subdivision plat shown hereon has been found to comply with the Subdivision Regulations for Gates County and that this plat is approved for recording in the Office of the Register of Deeds.

Date Subdivision Administrator

(H) REVIEW OFFICER CERTIFICATE. STATE OF NORTH CAROLINA

County of Gates

I, _____, Review Officer of Gates County, certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.

Review Officer Date

(I) LOCAL/PRIVATE ROADS DISCLOSURE STATEMENT

(If a minor subdivision contains local (private) roads, then the following statement must be affixed to the face of the minor subdivision plat.)

The maintenance of streets on this plat labeled “local” or “private” are intended to be the responsibility of the duly incorporated homeowners’ association. Local roads as shown hereon were not constructed to the minimum standards required to allow their inclusion, for maintenance purposes, on the North Carolina highway system. The North Carolina Department of Transportation will not maintain any local or private road shown on this plat. (Note: This statement shall not serve as a substitute for any other statutory disclosure requirements.)

Date Owner or Authorized Agent

(J) STREET MAINTENANCE DISCLOSURE STATEMENT (PUBLIC STREETS)

“Maintenance of the public street(s) shown on this plat is (are) intended to be the responsibility of the N.C. Department of Transportation, provided that all requirements for acceptance are met. Until such time as NCDOT accepts the street(s), I (we) will provide for necessary maintenance. (Note: This statement shall not serve as a substitute for any other statutory disclosure requirements.)

Date Owner or Authorized Agent

§ 152.214 IMPROVEMENT GUARANTEES

(A) PURPOSE AND INTENT

- (1) These standards create the additional flexibility necessary for lots in a subdivision to be conveyed or for issuance of a building permit to commence with development prior to completion of all required improvements, subject to the prior approval of the Board of County Commissioners and provided funds have been reserved for completion of these features.
- (2) These provisions ensure that funds are available for the County's use to complete required improvements in the event an applicant is unable to do so.

(B) GUARANTEES ARE OPTIONAL

- (1) Except where required by State law for private stormwater control measures or sedimentation and erosion controls, an applicant may choose to complete all improvements and not request an improvement guarantee.
- (2) The County is under no obligation to accept an improvement guarantee request for any feature or under any circumstance unless required by State law.

(C) COMPLETION OF IMPROVEMENTS

In lieu of prior completion of required improvements, the County may, for the purpose of approving a final plat, accept an improvement guarantee from the developer that improvements shown on the preliminary plat will be completed at the expense of the developer. Improvement guarantees shall be configured in accordance with this section and G.S. §160D-804(g).

(D) FORM

- (1) The guarantee provided by the developer to the County shall take one of the following forms, as determined by the applicant:
 - (a) A surety bond purchased from a surety company licensed to do business in the State;
 - (b) An irrevocable letter of credit issued by any financial institution licensed to do business in the State;
 - (c) Cash or certified check; or
 - (d) Other form of guarantee that provides equivalent security to a security bond or letter of credit.
- (2) In cases where more than one facility or site feature is requested to be subject to an improvement guarantee, the applicant may provide a single, consolidated improvement guarantee for all elements. In no instance shall improvement guarantees associated with private stormwater control mechanisms or sedimentation control be consolidated with any other improvement guarantee.
- (3) If cash or other instrument is deposited in escrow with a financial institution, an agreement between the financial institution and the developer shall be filed with the County guaranteeing the following:
 - (a) That the escrow account shall be held in trust until released by the County and may not be used or pledged by the developer for any other matter during the term of the escrow; and
 - (b) That in case of a failure on the part of the developer to complete or repair the improvements, the financial institution shall, upon notification by the County, immediately pay the funds deemed necessary by the County to complete or repair the

improvements up to the full balance of the escrow account or deliver to the County any other instruments fully endorsed or otherwise made payable in full to the County.

- (c) The financial institution holding the cash or other instrument shall indicate to the County its notification requirements for release or payment of funds.

(E) AMOUNT

- (1) Improvement guarantees shall equal 125% of the cost of improvements including the costs of materials, labor, and project management, as determined by a professional engineer licensed by the State and verified by the County's consulting engineer.
- (2) If an improvement guarantee is renewed, the County may require the amount of the performance guarantee be updated to reflect changes in cost over time.

(F) PROCEDURE

- (1) Improvement guarantees shall be approved by the Board of County Commissioners during a regular meeting of the Board following a recommendation by the Planning Board.
- (2) The improvement guarantee shall be conditioned on the performance of all work necessary to complete the installation of the required improvements within the term of the guarantee.
- (3) Development subject to an improvement guarantee shall not receive a certificate of occupancy or final development approval until all elements subject to the improvement guarantee have been installed and accepted by the County.

(G) MAXIMUM TERM

Improvement guarantees shall have a maximum term of one year though the applicant may request a term of more than one in year in cases where they believe one year is insufficient.

(H) RELEASE OR REDUCTION

The County shall release or reduce an improvement guarantee only after:

- (1) The owner or developer has submitted to the County a written request for a release or reduction of the improvement guarantee that includes certification by the owner's or developer's engineer or contractor, whichever is appropriate, that installation of the guaranteed improvements has been completed in accordance with approved plans and specifications, and as-builts (if applicable);
- (2) County staff has performed an inspection of the improvements and certified in writing that installation of the guaranteed improvements is completed in accordance with approved plans and specifications; and
- (3) No release or reduction in performance guarantee amounts will be considered until more than 25 percent of the work is in place and approved.
- (4) As 25%, 50%, 75%, and 100% of the project is completed, a corresponding percentage of the guarantee may be released.

(I) FORFEITURE

(1) NOTICE OF FAILURE TO INSTALL OR COMPLETE IMPROVEMENTS

If the owner or developer fails to complete installation of the guaranteed improvements within the term of the improvement guarantee (as may be extended), the Subdivision Administrator shall give the owner or developer 30 day's written notice of the scope and degree of the default, by certified mail.

(2) COUNTY COMPLETION OF IMPROVEMENTS

After the 30-day notice period expires, the County may draw on the guarantee and use the funds to perform the work necessary to complete installation of the guaranteed improvements. After completing such work, the County shall provide a complete accounting of the expenditures to the owner or developer. In the event of a default triggering the use of the improvement guarantee, the County shall return any of the unused deposited cash funds or other security.

(J) MAINTENANCE OF STREETS UNTIL ACCEPTANCE

The developer of any development containing streets intended for public dedication shall sign a street maintenance disclosure statement on the final plat to guarantee that such streets will be properly maintained until the offer of dedication is accepted by the state's Department of Transportation, or by the homeowners' association if streets are to be private.

ARTICLE 152.3 STANDARDS

§ 152.301 GENERAL REQUIREMENTS

(A) GENERAL

- (1) Approval of the final plat by the Subdivision Administrator is subject to the developer having installed the improvements required in this chapter or having provided an accepted improvement guarantee (see §152.214).
- (2) Each subdivision shall comply with the requirements in this Article, unless subject to an approved variance (see §152.209).
- (3) Any development of land in the County's planning jurisdiction shall also comply with the standards in this Article, regardless of whether the development requires a division of land.

(B) SUITABILITY OF LAND

Land subject to periodic flooding, irregular drainage conditions, excessive erosion, or topographical and other reasons unsuitable for residential use, as determined by the appropriate board or agency, shall not be platted for residential use nor for any other use by a citizen that will continue or increase the danger to health, safety, or property unless the hazards can be and are corrected.

(C) FILL AREAS

Areas that have been used for the disposal of solid waste or liquid waste shall not be subdivided into commercial or residential building sites. This shall include those areas that have been used for disposal of trash, demolition waste, chemical waste, and other waste materials.

(D) SITE DESIGN STANDARDS

To the maximum extent practicable, development shall be located to preserve the natural features of the site, to address areas of environmental sensitivity, and to minimize alteration of natural features, except as otherwise permitted by this subchapter. In particular, the following areas or items should be considered for protection or preservation:

- (1) Unique or fragile areas, including wetlands, as defined in § 404, Federal Water Pollution Control Act Amendments of 1972, and field-verified by on-site inspection by the regulatory branch of the U.S. Army Corps of Engineer;
- (2) Lands within flood hazard areas;
- (3) Identified habitats of endangered wildlife; and
- (4) Historically significant structures and sites, as listed on federal or state lists of historic places.

§ 152.302 LOT DESIGN STANDARDS

- (A) Lot sizes, shapes, and locations shall be made with due regard to topographic conditions, contemplated use, and the surrounding area.
- (B) Land subject to flooding and land deemed by the County to be uninhabitable for other reasons shall not be platted for occupancy, nor for such other uses as may increase danger to health, life, or property or aggravate the flood hazard; but such land may be set aside for such uses as will not be endangered by periodic or occasional inundation. Such land may be used for the purposes of calculating compliance with allowable development intensity or density for the zoning district where located.
- (1) Unless exempted in accordance with G.S. §160D-903, every lot shall have a minimum road or street frontage of 175 feet at the front setback line and a minimum depth of 200 feet. Subdivisions that have received preliminary plat approval prior to April 5, 2004, shall be required to maintain a minimum 125 feet width at the front setback line.
 - (2) Each lot created shall have its own separate private driveway for purposes of ingress/egress from the residence. Nothing shall limit the use of a shared driveway of accessway for up to four lots. Accessways serving more than four lots shall be configured as streets, whether public or private (see §152.401).
 - (3) Reverse frontage lot configuration shall be required when four or more lots are created for residential purposes. A 40-foot-long non-ingress/egress buffer shall be maintained on corner lots at the intersection of interior roads designed to serve major subdivisions in order to avoid multiple means of ingress/egress via private driveways.
 - (4) Lots shall have a minimum lot size of 43,560 square feet (one acre).
 - (5) A water meter must be placed on each lot to be served by the County's water system.
 - (6) Each lot shall be capable of maintaining an individual sewage disposal system. The lots shall be evaluated for septic systems/individual sewage disposal systems by Gates County Environmental Health.
 - (7) When individual sewage disposal systems are planned, the minimum lot sizes specified in this chapter shall be as required by the standards of Gates County Environmental Health.
 - (8) Water supply and sewage facilities shall comply with applicable State and County public health laws and regulations.
 - (9) Side lot lines shall be substantially at right angles or radial to street lines.
 - (10) All lots shall conform to the minimum standards or dimensions noted herein and those contained in an applicable zoning ordinance, building codes, or other official regulation.
 - (11) The creation of a new parcel in accordance with these regulations shall not result in the residual parcel being a nonconforming lot.
 - (12) Building setback lines shall be the greater of:
 - (13) Those in the applicable zoning district requirements of Chapter 155, Zoning; or
 - (14) The following, which shall also apply to land exempted from zoning controls by G.S. §160D-903:
 - (a) From the front property line on existing state roads: 40 feet;
 - (b) From the front property line on internal subdivision streets: 30 feet;
 - (c) From the front property line on major thoroughfares: 40 feet;
 - (d) From water's edge: 50 feet; and

(e) Minimum building line for sides and rear 20 feet.

(15) Subdivisions that have received preliminary plan approval prior to April 5, 2004, shall be required to maintain a minimum 20-foot front setback.

(16) In cases where lots within a division of land are subject to an approved variance from required building setback lines, the setback line distances identified in the approved variance shall control.

§ 152.303 BLOCKS

(A) DIMENSION REGULATIONS

The lengths, widths, and shapes of blocks shall be determined with due regard to: provision of adequate building sites suitable to the special needs of the type of use contemplated; requirements as to lot sizes and dimensions; needs for vehicular and pedestrian circulation, control, and safety of roadway traffic; limitations and opportunities of topography; and convenient access to water areas.

(B) LENGTH

Blocks shall not be less than 400 feet long nor more than 1,500 feet in length.

(C) WIDTH

Blocks shall have sufficient width to allow two tiers of lots of minimum depth except where single tier lots are required to separate residential development from through vehicular traffic or another type of use, or when abutting a water area.

§ 152.304 MONUMENTS

Monuments shall be included as part of any subdivision, and shall be configured in accordance with *The Standards of Practice for Land Surveying in North Carolina*, as adopted by the North Carolina State Board of Registration for Professional Engineers and Land Surveyors, and the following:

- (A) Prior to the approval of the final plat, permanent reference points shall have been established in accordance with the standards in this section.
- (B) At least one corner of the subdivision shall be designated by course and distance (tie) from a readily discernible reference marker.
- (C) If a corner is within 2,000 feet of a U.S. Geodetic Survey or NC Grid System coordinated monument, then this corner shall be marked with a monument so designated by computed X and Y coordinates which shall appear on the map with a statement identifying this monument to an accuracy of at least one to 10,000.
- (D) When a monument is not available, the tie shall be made to some pertinent and readily recognizable landmark or identifiable point, physical object, or structure. However, if in the opinion of the Subdivision Administrator, a subdivision is of a small size, or if there is an existing tie within a reasonable distance of the subdivision, this shall not be required.
- (E) Within each subdivision, at least two monuments designed and designated as control corners shall be installed. The surveyor shall employ additional monuments, if required.
- (F) The location and type of all monuments used shall be indicated on the final plat.
- (G) All monuments shall be constructed of #4 rebar surrounded by three-inch PVC pipe and filled with concrete.
- (H) Each monument shall be set 24 inches in the ground unless this requirement is impractical because of unusual conditions.
- (I) The allowable angular error of closure and the linear error of closure for surveys shall be in accordance with *STANDARDS OF PRACTICE FOR LAND SURVEYING* published by the State Board of Registration for Land Surveyors.

§ 152.305 EASEMENTS

- (A) The developer shall convey easements to the county or appropriate utility companies for both underground and overhead utility installation where needed. Easements shall be a minimum

of 20 feet wide, or as required by utility companies, and normally centered along rear or side lot lines. Wider easements may be required if the topography along the proposed right-of-way is such that maintenance equipment cannot reasonably operate within the minimum 20 feet wide easement.

- (B)** Where a subdivision is traversed by a watercourse, drainage way, channel, or stream, there shall be provided a stormwater 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 managing stormwater runoff in a manner that will safeguard the health and property of the citizens of the county. Maintenance responsibility for drainage shall be included in the covenants of the subdivision.

§ 152.306 BUFFER STRIPS ALONG MAJOR ROADWAYS

- (A) The County may require a buffer strip of between ten to 50 feet in depth in addition to the normal lot depth required adjacent to major highways or thoroughfares for the purpose of providing a visual and noise barrier to traffic.
- (B) This strip shall be a part of the platted subdivision, but shall have the following restrictions lettered on the face of the plat;

“This strip reserved for the planting of trees or shrubs by the owner; the building of structures hereon is prohibited.”
- (C) A homeowners’ association shall be incorporated, in accordance with G.S. Chapter 55 and §152.308, to provide for the maintenance of buffer strips.
- (D) The County Attorney shall approve the adequacy of these materials prior to final plat review.
- (E) These materials shall be recorded at the same time as the final plat and shall be appropriately cross-referenced in the County Register of Deeds Office.

§ 152.307 OPEN SPACE PROVISION

- (A) Every person or corporation who develops a subdivision consisting of ten or more lots shall be required to reserve a portion of such land for the purpose of park, recreation, or open space sites.
- (B) If each lot within a subdivision is at least three or more acres in size, it may be exempt from the open space requirement.
- (C) The minimum amount of land that shall be reserved for recreation, park, or open space in all subdivisions shall be at least one-half acre for each ten homes within a subdivision or 5% of the gross acreage, whichever is greatest. The recreation, park, or open space area must be usable by residents and maintained by the developer or homeowner’s association and shall be noted on the plat.
- (D) Greenway trails throughout and around the subdivision may be used to meet the open space requirement. The total acreage of land in the trails must meet the minimum land requirement for open space as stated above.
- (E) At the discretion of the Board of County Commissioners, farmland may be allowed as open space by easement. Farmland preservation easements must not be developed nor contain buildings or other structures. If the area ceases to be farmed, the area must remain undeveloped open space for the use of residents in the subdivision.
- (F) CAMA wetlands (as defined in the state’s Administrative Code and as interpreted by the Division of Coastal Management 7K.0101) may not be used to satisfy the open space requirement.
- (G) A homeowners’ association shall be incorporated in accordance with G.S. Chapter 55 and §152.308 to provide for the maintenance of open space areas. The County Attorney shall approve the adequacy of these materials prior to final plat review. These materials shall be recorded at the same time as the final plat and shall be appropriately cross-referenced in the County Register of Deeds Office.

§ 152.308 OWNERS' ASSOCIATION

(A) PURPOSE

The purpose of this section is to set out the requirements for establishment of a homeowners' or property owners' association (hereinafter "association") that shall be responsible for the long-term maintenance of common areas, common features, and private infrastructure in a subdivision. This section also sets out the requirements associated with transfer of subdivision control and maintenance responsibility from the subdivider to the association.

(B) APPLICABILITY

The standards in this section shall apply to subdivisions with open space, lands held under common ownership, or with shared responsibility for common infrastructure including, but not limited to:

- (1) Stormwater control measures;
- (2) Private community-level potable water systems;
- (3) Private community-level sewage system features (such as pump stations serving only the development where located);
- (4) Cluster mailbox units;
- (5) Commonly held off-street parking facilities; and
- (6) Open space land.

(C) CREATION REQUIRED

- (1) A homeowners' or property owners' association shall be established in areas that have private common open space or shared private infrastructure. Associations are required to accept ownership and maintenance responsibility of all open space, shared infrastructure, or common areas within a development.
- (2) Associations are also required in order to fulfill the requirements of Chapter 47C (the "Condominium Act") of the North Carolina General Statutes, or the requirements of Chapter 47F (the "Planned Community Act") of the North Carolina General Statutes.
- (3) The association shall be in legal existence prior to the conveyance, lease-option, or other long-term transfer of control of any unit or lot in the development.

(D) RESPONSIBILITIES OF ASSOCIATION

- (1) Upon transfer of maintenance responsibility, the association shall be responsible for:
 - (a) Liability insurance and payment of premiums for liability insurance and local taxes;
 - (b) Maintenance of all common elements including, but not limited to, stormwater control measures, private utilities, private drives, private sidewalks and trails, private streetlights, and private common recreation facilities shown on the preliminary and final plats;
 - (c) Maintenance of public streets until such time as the County or NCDOT agrees to accept the responsibility for street maintenance;
 - (d) Maintenance of an escrow account intended for the maintenance and repair of community facilities; and
 - (e) Payment of system development fees for public and private improvements made to or for the benefit of the common elements.

(E) PROCEDURE FOR ASSOCIATION ESTABLISHMENT

- (1) Documents for the creation of the association shall be submitted to the County Attorney for review and approval prior to approval of the final plat. Documentation shall include, but not be limited to the information in this section.
- (2) The association shall be established by the subdivider prior to the sale of the first lot in the subdivision.
- (3) The association documents shall establish that the subdivider shall maintain the common area, common facilities, and infrastructure at least until 75 percent of the lots are sold.
- (4) Nothing shall prevent the subdivider from retaining maintenance responsibility after more than 75 percent of the lots are sold.

(F) DOCUMENTATION REQUIREMENTS

- (1) The association documents submitted to the County for review and approval shall include, but not be limited to, the following:
 - (a) A declaration of all restrictive covenants;
 - (b) A declaration of all deed restrictions;
 - (c) A declaration that the association is responsible for liability insurance and all applicable taxes;
 - (d) A declaration of common ownership and maintenance responsibilities of all on-site improvements not dedicated to a local or state agency, including but not limited to drainage systems, wastewater systems, open space set-aside areas, recreational facilities, and private infrastructure;
 - (e) A description of the structural organization and operating procedures of the association;
 - (f) Association by-laws;
 - (g) A legal description of all open space areas and other lands owned in common;
 - (h) Provisions establishing the legal authority of the association to maintain control over all common areas, common features, and private infrastructure in the subdivision, following transfer of control by the subdivider;
 - (i) Provisions authorizing the association to compel contributions from owners in the development to cover their proportionate share of maintenance costs associated with common areas, common features, and private infrastructure;
 - (j) Provisions authorizing the association to increase the amount of mandatory fees or assessments, when necessary, for the continued maintenance of common areas, common features, or private infrastructure; and
 - (k) Provisions authorizing the association to convert any member's unpaid assessments into a lien on real property.
- (2) Following approval of the required documentation by the County, the subdivider shall record all required documentation with the Gates County Register of Deeds.

(G) MEMBERSHIP REQUIREMENTS

- (1) Following establishment of the association by the subdivider, membership in the association shall be automatic and mandatory for all purchasers of land within the subdivision and their successors in title.
- (2) All members of an association shall be responsible for dues to cover their proportionate share of maintenance costs associated with common areas, common features, and private infrastructure.

(H) TRANSFER OF MAINTENANCE RESPONSIBILITY

The subdivider shall be responsible for maintenance of all common areas, common features, and private infrastructure until maintenance responsibility is transferred to the association, the County, or other governmental agency.

(I) FAILURE TO MAINTAIN IS A VIOLATION

Failure to maintain common areas, common features, or infrastructure is a violation of these regulations.

§ 152.309 WETLANDS

Prior to final plat approval, development sites that have inclusions of hydric soils must be verified by the U.S. Army Corps of Engineers as to whether wetlands are present. If wetlands exist on the site, a wetlands delineation may be required and approved by the U.S. Army Corps of Engineers. Wetlands shall not be disturbed unless permitted by the U.S. Army Corps of Engineers.

§ 152.310 SEDIMENTATION AND EROSION CONTROL

Persons engaged in land-disturbing activities shall take all reasonable measures to protect all public and private property from damage by such activities. When any land-disturbing activity is to be undertaken on a tract where more than one contiguous acre is to be uncovered, a Sedimentation and Erosion Control Plan is required and must be approved by the North Carolina Sediment Control Commission in accordance with 15A NCAC 04B .0118 and G.S. §113A-56.

§ 152.311 SCHOOL SITES

- (A) When a preliminary subdivision plat is submitted for approval in which a school site should be reserved in accordance with G.S. §160D-804(f), the Subdivision Administrator shall notify the Board of Education that the subdivision has been submitted for approval and that under this chapter, a school site may be reserved therein. The school site may also be required if the projected size is such that a school site should be considered. The Subdivision Administrator shall consult the Board of Education to determine the exact size and location of any school site to be reserved.
- (B) Before the final plat of the subdivision is finally approved, the Board of Education shall determine whether or not it wishes to have a school site reserved in the subdivision. If the Board of Education does wish to have a school site reserved in the subdivision, the subdivision as finally approved shall reserve a school site of a size and location agreeable to the Board of Education and to the Board of County Commissioners. If the Board of Education has not purchased or begun proceedings to acquire the site within a maximum of 18 months after the subdivision is finally approved, the developer may treat the lands as freed of the reservation. If the Board of Education does not wish to have a school site reserved, the developer shall be immediately notified.

§ 152.312 SUBDIVISION NAMES AND ADDRESS NUMBERS

{placeholder}

ARTICLE 152.4 INFRASTRUCTURE

§ 152.401 GENERALLY

- (A) The standards in this section shall apply to divisions of land that include the extension or installation of infrastructure facilities such as streets or potable water service.
- (B) These standards shall also apply to applications filed under the provisions in Chapter 155, Zoning, in cases where the development proposed includes the extension or installation of infrastructure facilities.

§ 152.402 STREETS

(A) ACCESSWAYS SERVING FOUR OR FEWER LOTS

- (1) Access to lots or parcels formed by the division of a tract of land meeting the criteria of an exempt subdivision, transfer subdivision, expedited subdivision, or minor subdivision may be served by an accessway configured in accordance with the following provisions:
- (a) Such accessways shall have a private right-of-way easement of 45 feet;
 - (b) Such accessway shall be graded and stabilized according to accepted policies of the state's Department of Transportation; or
 - (c) The alignment of such accessway shall meet applicable standards of the State's Department of Transportation.
- (2) The final plat and each deed describing a lot within a subdivision served by an accessway shall include a disclosure statement clearly stating that the accessway serving said lot is private in nature and is not constructed to the standards of the state's Department of Transportation for admission to the state highway system and is not eligible for state maintenance. It shall state that the County accepts no liability to provide any maintenance or improvement assistance for said accessway. In addition, this document shall disclose the conditions upon which accessways are permitted in subdivisions. The execution of this document by the developer and buyers will be a condition upon which approval of a final plat will be based.
- (3) The addition of a fifth lot to a minor subdivision or intent to add ingress or egress for an additional lot to any accessway already serving four lots shall constitute a preliminary plat, or the conversion of the accessway to a street. As part of that process, the street must meet current alignment and construction standards of the state's Department of Transportation, be paved, and must be dedicated.
- (4) A homeowners' association shall be incorporated in accordance with G.S. Chapter 55 and §152.308 to provide for the maintenance of private subdivision streets. The County Attorney shall approve the adequacy of these materials prior to final plat review. These materials shall be recorded at the same time as the final plat and shall be appropriately cross-referenced in the County Register of Deeds Office.

(B) PUBLIC STREETS

Access to lots or parcels formed via a preliminary plat, including the enlargement of a previously approved minor subdivision, shall meet the current design and construction criteria as referenced in *Subdivision Roads, Minimum Construction Standards*, published periodically by the state's Department of Transportation. The following shall be considered the acceptable minimum standards of design for new subdivision streets and in no case shall be less than those of the state's Department of Transportation as referenced above.

- (1) In any new subdivision with public streets, the street layout shall conform to the arrangement, width, and location indicated by official plans or maps for the 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 proposed use of land to be served by such streets. Any new proposed subdivision street shall be paved according to Department of Transportation standards for such streets.
- (a) Minor thoroughfares, local streets, and cul-de-sacs shall be so laid out that utilization by through traffic will be discouraged.
- (b) All new proposed street systems within a subdivision shall be coordinated within the existing street or road system surrounding the subdivision.
1. Where, in the opinion of the review authority, it is necessary to provide for future street access to an adjoining property, proposed streets shall be extended by platting to the boundary of such property and a temporary turn around shall be provided.
 2. When a subdivision abuts a major thoroughfare or principal arterial street, the developer may be required to construct a frontage road, or reverse frontage on a minor street for the lots to be developed adjacent to the thoroughfare. Where reverse frontage is established, private driveways shall be prohibited from having direct access to the thoroughfare.
 3. Street names that duplicate or are phonetically similar to existing street names in the County shall be prohibited. A proposed street, which is in alignment with an existing street, shall bear the name of the existing street.
 4. When a tract of land is subdivided into lots, which are larger than the norm, the lots will be designed and arranged so that they allow for future opening of streets and further logical subdivision.
- (2) Right-of-way widths, measured from lot line to lot line, shall be as wide as existing streets to be extended, as specified in an applicable Thoroughfare Plan or as follows, whichever is more restrictive, and shall be as wide as necessary to serve the number of dwelling units.

STREET RIGHT-OF-WAY CONFIGURATION TABLE	
TYPE OF STREET	ROW WIDTH (FEET)
Cul-de-sacs	45
Curb and gutter section	45
Minor streets	45
Residential collector streets	50

- (3) A partial width right-of-way less than 45 feet will not be accepted. The developer must secure the entire right-of-way width for dedication purposes.
- (4) Proposed streets shall be adjusted to the contours of the land so as to produce streets having gradients, which provide for safety, proper drainage, and usable lots.
- (5) Streets shall be laid out so as to intersect as nearly as possible at right angles and no street shall intersect any other street at an angle less than 75 degrees.
- (a) Intersection offsets are to be disallowed. Intersections that cannot be aligned should be separated by a minimum of 125 feet between centerlines for safety purposes.

- (b) Minimum sight distance shall be determined by the Division of Highways Standards.
- (c) Horizontal, vertical, and reverse curves shall be designed by the developer according to standards of the Division of Highways and in the interest of public safety and general welfare. Factors to be considered, among others, shall be the type and importance of the street, sight distance, anticipated traffic volume, and design speed.
- (6) Cul-de-sacs shall not be more than 1,500 feet in length. The vehicular turnaround shall have a street right-of-way diameter of 100 feet. Cul-de-sacs shall not be used to avoid connection with an existing street or to avoid the extension of an important street in the adjoining area.
- (7) When a subdivision abuts or contains a fully or partially controlled access facility, whether existing or proposed, a frontage road may be required.
- (8) Appropriate street name signs which meet the Division of Highways policies shall be installed by the developer at all street intersections.
- (9) Stop and yield traffic signs shall be installed by the developer at appropriate street intersections as required by the Division of Highways. Any supplemental signs deemed necessary to safety and welfare by the Planning Board shall also be required for installation.
- (10) The minimum construction standards for industrial access road requests or for commercial shopping centers and apartment complexes will be reviewed individually by the Department of Transportation. The construction standards for pavement design will be in line with expected usage.
- (11) Where a tract of land to be subdivided adjoins a federal or state highway, the developer 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 developer shall be required to provide a ten-foot easement 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 purpose and shall be in addition to all other easements required by this chapter.
- (12) If a subdivision development has proposed private streets, a homeowners' association shall be incorporated in accordance with G.S. Chapter 55 and §152.308 to provide for maintenance. The County Attorney shall approve the adequacy of these materials prior to final plat review. These materials shall be recorded at the same time as the final plat and shall be appropriately cross-referenced in the County Register of Deeds Office.

(C) PRIVATE STREETS

- (a) Private streets platted after November 6, 2006, and designed to serve five or more residences shall be constructed to meet the state's Department of Transportation standards, and must be paved with the intention of dedicating them for state maintenance.
- (b) Private roads platted after November 6, 2006, shall require the incorporation by the residents of the property of a homeowners' association for the purpose of maintenance of the road by persons served by it. As required by G.S. Chapter 55 and §152.308, appropriate bylaws shall be prepared, and proposed covenants or deed restrictions, which specifically address road maintenance, apportionment of financial responsibility, and enforcement, shall be provided.

§ 152.403 POTABLE WATER

(A) WATER SUPPLY SYSTEM REQUIRED

- (1) Every lot within a subdivision shall be served by a means of a water supply that is adequate to accommodate the reasonable needs of the use or subdivision lot(s).
- (2) The water supply serving a lot may be a private on-site source, a private central source, or from a public supply source.
- (3) All materials and pipes shall meet or exceed the requirements established by State law or County requirements for the potable water system.
- (4) The County may, before issuing any approval under these regulations, make the investigation and require the developer to submit the information as appears reasonably necessary to ensure that the developer or their successor will be able to comply with the water supply system requirements of these regulations.

(B) CONNECTION TO COUNTY WATER SUPPLY SYSTEM

All new development shall connect to the public potable water supply system in accordance with the County's adopted policy guidance or when required by Gates County Environmental Health or the County Water Department, as appropriate.

(C) CONSTRUCTION

- (1) The subdivider or developer shall install all potable water supply lines and service connections in accordance with the standards in these requirements, all applicable County requirements, and other State or federal requirements.
- (2) The developer shall provide all the necessary pipes and accessories for installation of the required potable water lines.
- (3) Potable water supply lines, including water tanks, distribution lines, water mains, pump stations, valves, hydrants, laterals, and other appurtenances constructed as part of the public water supply system shall be dedicated to the County for maintenance and operation.
- (4) Private water supply infrastructure and supply lines serving individual lots or uses beyond the water meter of the public water system shall not be the responsibility of the County.

§ 152.404 WASTEWATER

(A) WASTEWATER TREATMENT REQUIRED

- (1) Every lot within a subdivision shall be served by a means of wastewater treatment that is adequate to accommodate the reasonable needs of the use or subdivision lot(s).
- (2) The wastewater treatment system serving a lot may be a private on-site system, a private central treatment system, or from a public wastewater system.
- (3) All materials and pipes shall meet or exceed the requirements established by State law or County requirements for the wastewater treatment system.
- (4) The County may, before issuing any approval under these regulations, make the investigation and require the developer to submit the information as appears reasonably necessary to ensure that the developer or their successor will be able to comply with the wastewater treatment requirements of these regulations.

(B) CONNECTION TO PUBLIC WASTEWATER SYSTEM

All new development shall connect to the public wastewater system in accordance with the County's adopted policy guidance or when required by Gates County Environmental Health.

(C) CONSTRUCTION

- (1) The subdivider or developer shall install all wastewater system components in accordance with the standards in these requirements and all other applicable requirements.
- (2) The developer shall provide all the necessary pipes and accessories for installation of the required wastewater treatment.
- (3) Wastewater lines, including pump stations, valves, laterals, and other appurtenances constructed as part of the public wastewater supply system shall be dedicated to the appropriate entity for maintenance and operation.

§ 152.405 FIRE HYDRANTS

When water lines serving a subdivision are six inches or greater in size, fire hydrants are to be installed on street ends and every 1,000 feet apart, or no further than 500 feet from any lot within the subdivision. Where water lines serving a subdivision are less than six inches in size, the installation of blow-off valves at the end of all line extensions is required. Subdivisions of four lots or less shall be exempt from this requirement. Any additional lots added to a subdivision of four lots or required to utilize potable water from a public water supply system shall comply with the fire hydrant requirement, unless the County Water Superintendent waives requirement.

§ 152.406 UTILITIES

All utilities shall be installed underground. Underground utilities to be located inside the street right-of-way shall meet the standards established by the state's Department of Transportation, Division of Highways.

§ 152.407 STORMWATER DRAINAGE

- (A) Each subdivision shall provide adequate storm drainage for all areas in the subdivision. Stormwater drainage permits must be obtained from the State's Department of Environmental Quality, Division of Water Quality, prior to construction of drainage improvements.
- (B) Plans must address maintenance of the drainage system and who will be the responsible party to ensure proper maintenance is performed on the drainage system. The plan will be reviewed and inspected by the County Natural Resources Conservation Service, Soil, and Water Conservation Office.

§ 152.408 PROPER DRAINAGE

- (A) All developments shall be provided with a drainage system that is adequate to prevent the undue retention of surface water on the development site.
- (B) Surface shall not be regarded as unduly retained if:
 - (1) The retention results from a technique, practice, or device deliberately installed as part of an approved Sedimentation or Stormwater Control Plan; or
 - (2) The retention is not substantially different in location or degree than that experienced by the development site in its pre-development stage, unless such retention presents a danger to health or safety.
- (C) Whenever practicable, the drainage system of a development shall coordinate with and connect to the drainage systems or drainage ways on surrounding properties or streets.

(D) The County may require drainage easements where needed. Septic systems and repair areas shall not be located within drainage easements.

§ 152.409 STORMWATER MANAGEMENT

All developments shall be constructed and maintained so that adjacent properties are not unreasonably burdened with surface waters as a result of such developments. More specifically:

- (A) No development may be constructed or maintained so that development unreasonably impedes the natural flow of water from higher adjacent properties across such development, thereby unreasonably causing damage to such higher adjacent properties;
- (B) No development may be constructed or maintained so that surface waters from such development are unreasonably collected and channeled onto lower adjacent properties; and
- (C) Properties at such locations or at such volumes as to cause substantial damage to such lower adjacent properties.

§ 152.410 SIDEWALKS

[placeholder]

§ 152.411 GREENWAYS

[placeholder]

§ 152.412 CLUSTER MAILBOX UNITS

New residential subdivisions shall include cluster mailbox units in accordance with U.S. Postal Service guidelines and the following:

- (A) Wherever possible, cluster mailboxes shall be located in a centralized location, within an open space area, served by pedestrian access and served by one or more off-street parking spaces.
- (B) In cases where the cluster mailboxes must be placed within a public right-of-way, the mailbox unit(s) shall be located and configured in accordance with the latest revision of the NCDOT policy guidance on the placement cluster box units (CBUs), including provision of a vehicular turnout.
- (C) Cluster mailbox units placed on a private street shall comply with NCDOT policy guidance on the placement of cluster box units (CBUs) on State-maintained streets.

ARTICLE 152.5 ENFORCEMENT

§ 152.501 PURPOSE

This section establishes procedures through which the County seeks to ensure compliance with the provisions of these regulations and obtain corrections for violations. It also sets forth the remedies and penalties that apply to violations of these regulations. The provisions of this section are intended to encourage the voluntary correction of violations, where possible.

§ 152.502 COMPLIANCE REQUIRED

Compliance with all the procedures, standards, and other provisions of these regulations is required by all persons subdividing or occupying land in the County's planning jurisdiction.

§ 152.503 STATUTE OF LIMITATIONS

Enforcement of violations of these regulations shall be in accordance with G.S. §1-49(3) and §1-51(5).

§ 152.504 VIOLATIONS

Any of the following shall be a violation of these regulations and shall be subject to the remedies and penalties provided by this Chapter and by State law:

(A) SUBDIVIDE IN VIOLATION

Subdividing land in violation of these regulations, or transferring land by reference to a plat or map showing a subdivision of land before the plat or map has been properly approved under these regulations and recorded in the office of the Gates County Register of Deeds;

(B) DEVELOPMENT WITHOUT AUTHORIZATION

Engaging in any construction, land disturbance, or other activity of any nature upon land or improvements thereon subject to the jurisdiction of these regulations without all required plats, permits, certificates, or other forms of authorization as set forth in this Article;

(C) VIOLATION BY ACT OR OMISSION

Violating, by act or omission, any term, variance, adjustment, condition, or qualification placed upon any required plat, permit, certificate, or other form of authorization upon land or improvements thereon;

(D) VIOLATION OF ENVIRONMENTAL REGULATIONS

Failing to follow or violating the rules or regulations related environmental provision of the County Code of Ordinances.

§ 152.505 RESPONSIBLE PERSONS

(A) GENERAL

The landowner, tenant, or other occupant of any land or structure and an architect, engineer, builder, contractor, agent, or any other person who participates in, assists, directs, creates, or maintains a situation that constitutes a violation of these regulations may be held responsible for the violation and is subject to the remedies and penalties set forth in this Article.

(B) FAILURE BY COUNTY DOES NOT RELIEVE INDIVIDUAL

Failure of a County official charged with enforcement responsibility to observe or recognize conditions which violate the intent and purpose of this section of these regulations, or to deny the issuance of a development permit, shall not relieve the landowner from responsibility for

the condition or damages that may result and shall not result in the County, its officers, or agents being responsible for conditions or damages.

§ 152.506 ENFORCEMENT RESPONSIBILITIES

The Subdivision Administrator shall have responsibility for enforcement of this Ordinance in accordance with the following:

(A) INVESTIGATIONS

The Subdivision Administrator shall have the power to conduct such investigation as may be deemed necessary to carry out their duties as prescribed in these regulations.

(B) INSPECTIONS

- (1) The Subdivision Administrator has the right, upon receipt of permission from a responsible person, to enter on any premises within the jurisdiction at any reasonable hour for the purpose of inspecting locations subject to any complaints or alleged violations, or determination of compliance or other enforcement action of these regulations.
- (2) If the Subdivision Administrator cannot obtain permission to enter from a responsible person, the County shall obtain an administrative search warrant prior to entering the property.

(C) SUPPORTING DOCUMENTATION

The Subdivision Administrator shall have the power to compel a person responsible for an alleged violation to provide written statements, certificates, certifications, or reports relating to complaints or alleged violations of these regulations.

§ 152.507 ENFORCEMENT PROCEDURE

When the Subdivision Administrator finds a violation of these regulations, they shall notify the responsible person(s) of the violation in accordance with the following:

(A) WRITTEN NOTICE OF VIOLATION

A written notice of violation shall be prepared and shall include all of following:

(1) VIOLATION EXISTS

That the land or activity is in violation of these regulations;

(2) NATURE OF THE VIOLATION

The nature of the violation, and citation of the section(s) of these regulations violated;

(3) REMEDY

The measures necessary to remedy the violation;

(4) ALLOWABLE TIME PERIOD

The time period in which the violation must be corrected;

(5) PENALTIES THAT MAY BE ASSESSED

That penalties or remedies may be assessed; and

(6) APPEAL

That the party cited has the right to appeal the notice in accordance with G.S. §160D-404 and §160D.405.

(B) DELIVERY OF WRITTEN NOTICE

Written notice of violation shall be provided to the landowner, occupant, or any other responsible person by any of the following means:

- (1) Certified mail;
- (2) Registered mail to their last known address;
- (3) Hand delivery; or
- (4) Posting notice conspicuously on the property.

(C) REMEDY UPON NOTICE

Upon delivery of a written notice of a violation, the landowner or any other responsible person shall remedy the violation within the allowable time period.

(D) FAILURE TO COMPLY WITH ORDER

If the landowner, occupant, or any other responsible person fails to comply with a notice of violation from which no appeal has been taken, or a final decision by the Gates County Superior Court following an appeal, the landowner or occupant shall be subject to such remedies and penalties as may be provided for by State law or §152.508.

(E) EACH DAY A SEPARATE VIOLATION

Each day a violation continues following notice or failure to comply is considered a separate and distinct offense.

§ 152.508 REMEDIES

(A) CIVIL PENALTIES

Any responsible person who violates any provision of these regulations shall be subject to the assessment of a civil penalty in accordance with the County's adopted fee schedule under the procedures provided in §152.509.

(B) DENIAL OF PLAT OR CERTIFICATE

The Subdivision Administrator may withhold or deny a permit, certificate, or other authorization for the same land, subdivision, or development activity in which there is an uncorrected violation of a provision of these regulations, or of a condition or qualification of a permit, certificate, or other authorization previously granted.

(C) STOP WORK ORDERS

(1) GENERAL

Whenever the Subdivision Administrator determines that a person is engaged in doing work that constitutes, creates, or results in a violation of these regulations and that irreparable injury will occur if the violation is not terminated immediately, the Subdivision Administrator may order the specific part of the work that constitutes, creates, or results in a violation of these regulations to be immediately stopped.

(2) ORDER IN WRITING

The stop work order shall be in writing and directed to the landowner, and the occupant or person doing the work. The stop work order shall state the specific work to be stopped, the specific reasons for the stoppage, and the conditions under which the work may be resumed.

(3) APPEAL

Any person aggrieved by the issuance of a stop work order may appeal the issuance of the order to the Board of Adjustment in accordance with §155.504. An appeal shall not

stay the stop work order unless the BOA fails to hear the appeal within 30 days of receipt of the notice of appeal. If the BOA fails to hear the appeal within 30 days, the stop work order shall be stayed until the BOA acts on the appeal.

(4) COMPLIANCE REQUIRED

Neither the responsible person nor a landowner upon whom a stop work order is served shall continue with work in violation of the stop work order while it remains in effect, unless the order is stayed in accordance with subsection (3) above.

(D) REVOCATION OF PERMITS

- (1) The Subdivision Administrator may revoke and require the return of a permit by notifying the permit holder in writing, stating the reason for the revocation.
- (2) Permits or certificates may be revoked, in accordance with G.S. §160D-403(f), for any of the following:
 - (a) Any substantial departure from the approved application, plans, or specifications;
 - (b) Refusal or failure to comply with the requirements of State or local laws; or
 - (c) For making false statements or misrepresentations in securing the permit, certificate, or approval.
- (3) Any permit or certificate mistakenly issued in violation of an applicable State or County law may also be revoked.

(E) CRIMINAL PENALTIES

(1) VIOLATION OF EROSION AND SEDIMENTATION CONTROL

Any person who knowingly or willfully violates any soil erosion and sedimentation control provision of these regulations, or rule or order adopted or issued pursuant to the soil erosion and sedimentation control provisions, or who knowingly or willfully initiates or continues a land-disturbing activity for which a soil erosion and sedimentation control plan is required, except in accordance with the terms, conditions, and provisions of an approved plan, shall be guilty of a Class 2 misdemeanor that may include a fine not to exceed five thousand dollars (\$5,000) per day up to a maximum amount of twenty-five thousand dollars (\$25,000) in accordance with G.S. §113A-64.

(F) INJUNCTIVE OR OTHER EQUITABLE RELIEF

The County may apply to a court of law for any appropriate equitable remedy to enforce the provisions of these regulations. The fact that other remedies are provided under general law or these regulations shall not be used by a violator as a defense to the County's application for equitable relief.

(1) ACTION BY BOARD OF COUNTY COMMISSIONERS

Whenever the Board of County Commissioners has reasonable cause to believe that any person is violating or threatening to violate these regulations, or any rule or order adopted or issued pursuant to these regulations, or any term, condition, or provision of an subdivision plat, or soil erosion and sedimentation control plan, it may institute a civil action in the name of the County, for injunctive relief to restrain, correct, abate, mandate,

or enjoin the violation or threatened violation either before, during, or after the institution of any other action or proceeding authorized by these regulations.

(2) SUPERIOR COURT

The action shall be brought in the Superior Court of Gates County. Upon determination by a court that an alleged violation is occurring or is threatened, it shall enter such orders or judgments as are necessary to abate the violation or to prevent the threatened violation.

(3) NO RELIEF FROM CRIMINAL PENALTIES

The institution of an action for injunctive relief under this section shall not relieve any party to such proceedings from any civil or criminal penalty prescribed for violations of this Ordinance.

(G) STATE AND COMMON LAW REMEDIES

In addition to other enforcement provisions contained in this section, the County may exercise any and all enforcement powers granted to it by State law or common law.

(H) PREVIOUS ENFORCEMENT

Nothing in these regulations shall prohibit the continuation of previous enforcement actions.

(I) REMEDIES; CUMULATIVE AND CONTINUOUS

All such remedies provided herein shall be cumulative. To the extent that North Carolina law may limit the availability of a particular remedy set forth herein for a certain violation or a part thereof, such remedy shall remain available for other violations or other parts of the same violation.

§ 152.509 ASSESSMENT OF CIVIL PENALTIES

(A) RESPONSIBLE PARTIES

Any person who violates any provision of these regulations, including the owner or occupant of any land, use of land, or part thereof, may be held responsible for the violation and subject to the penalties and remedies provided in these regulations.

(B) NOTICE

(1) NOTIFICATION REQUIRED

Civil penalties may not be assessed until the responsible person in violation has been notified in accordance with §152.507.

(2) CIVIL PENALTY IMPOSED

If after receiving a written notice of violation, the person fails to take corrective action or file an appeal, a civil penalty may be imposed in accordance with this section.

(3) NOTICE OF PENALTY ASSESSMENT

Notice of the civil penalty assessment shall be served in the same manner as a notice of violation.

(4) ASSESSMENT CONTENTS

The assessment notice shall state the nature of the violation, the civil penalty to be imposed upon the violator, and shall direct the violator to pay the civil penalty within 10 days of the date of the notice.

(5) SEPARATE NOTICES

Separate notices must be provided for the first or second violations. The County may, in its discretion, treat the first notice for a violation as the final notice for chronic violators.

(6) ASSESSMENT UNTIL COMPLIANCE

Civil penalties may be assessed until compliance is achieved.

(C) CONTINUING VIOLATION

For each day the violation is not corrected, the violator will be guilty of an additional and separate offense and subject to additional civil penalty.

(D) DEMAND FOR PAYMENT

If compliance is not achieved, then the Subdivision Administrator shall make written demand for payment of penalties that have accrued while the property has been in violation. The demand for payment shall be sent to the responsible person in violation and must include a description of the violation for which the civil penalties have been imposed.

(E) NONPAYMENT

If payment is not received or equitable settlement reached within 30 days after demand for payment is made, the County may recover any unpaid civil penalty by filing a civil action in the nature of debt.

(F) PENALTIES

Any person who violates any provision of these regulations shall be subject to assessment of a civil penalty for each succeeding violation over the course of a calendar year.

ARTICLE 152.6 DEFINITIONS AND MEASUREMENT

§ 152.601 RULES OF LANGUAGE CONSTRUCTION

(A) MEANINGS AND INTENT

- (1) All provisions, terms, phrases, and expressions contained in these regulations shall be interpreted in accordance with the general purposes set forth in §152.107, and the specific purpose statements set forth throughout these regulations.
- (2) When a specific section of these regulations gives a different meaning than the general definition provided in §152.602, the specific section's meaning and application of the term shall control.
- (3) Terms that are not defined are subject to their common or customary meaning.

(B) HEADINGS, ILLUSTRATIONS, AND TEXT

- (1) In the event of a conflict or inconsistency between the text of these regulations and any heading, caption, figure, illustration, table, or map other than the Official Zoning Map, the text shall control.
- (2) Graphics and other illustrations are provided for informational purposes only and should not be relied upon as a complete and accurate description of all applicable regulations or requirements.

(C) LISTS AND EXAMPLES

Unless otherwise specifically indicated, lists of items or examples that use terms like “for example,” “including,” and “such as,” or similar language are intended to provide examples and are not exhaustive lists of all possibilities.

(D) COMPUTATION OF TIME

- (1) The time in which an act is to be done shall be computed by excluding the first day and including the last day.
- (2) If a deadline or required date of action falls on a Saturday, Sunday, or holiday observed by the County, the deadline or required date of action shall be the next day that is not a Saturday, Sunday, or holiday observed by the County.

(E) REFERENCES TO THESE REGULATIONS

A reference to an article, section, subsection, or paragraph means an article, section, subsection, or paragraph of these regulations, unless otherwise specified.

(F) REFERENCES TO OTHER REGULATIONS OR PUBLICATIONS

Whenever reference is made to a resolution, ordinance, statute, regulation, or document, it shall be construed as a reference to the most recent edition or amendment of such regulation, resolution, ordinance, statute, regulation, or document, unless otherwise specifically stated.

(G) REFERENCES TO NORTH CAROLINA GENERAL STATUTES

Whenever any provision of these regulations refers to or cites a section of the North Carolina General Statutes and that section is later amended or superseded, these regulations shall be deemed amended to refer to the amended section or the section that most nearly corresponds to the superseded section.

(H) DELEGATION OF AUTHORITY

Whenever a provision of these regulations requires or authorizes an officer or employee of the County to do some act or perform some duty, the officer or employee may designate,

delegate, and authorize subordinates to perform the act or duty, unless the terms of the provision specifically provide otherwise.

(I) MANDATORY AND DISCRETIONARY TERMS

- (1) The words “shall,” “must,” and “will” are mandatory in nature, establishing an obligation or duty to comply with the particular provision. The words “may,” “can,” and “should” are permissive in nature.
- (2) The words “provision,” “standard,” and “requirement” are used interchangeably, and all have the same meaning.

(J) CONJUNCTIONS

Unless the context clearly suggests the contrary, conjunctions shall be interpreted as follows:

- (1) “And” indicates that all connected items, conditions, provisions, or events apply.
- (2) “Or” indicates that one or more of the connected items, conditions, provisions, or events apply.

(K) TENSES, PLURALS, AND GENDER OF WORDS

- (1) Words used in the past or present tense include the future tense as well as the past and present.
- (2) 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.
- (3) Words used in the masculine gender include the feminine gender and the neuter, and vice versa.

(L) TERM NOT DEFINED

If a term used in these regulations is not defined, the Subdivision Administrator is authorized to provide a definition, based upon the definitions used in professionally accepted sources.

§ 152.602 DEFINITIONS

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

TERM	DEFINITION
ADDRESS PROGRAM ADMINISTRATOR	The official of Gates County charged with the administration of this chapter, including his or her authorized representative.
ALLEY	A roadway easement that affords only a secondary means of access to abutting property and is not intended for general traffic circulation.
ARTERIAL STREET	A street connecting widely separated areas and designed to carry a large volume of traffic, which may be fast, heavy, or both. ARTERIAL STREETS are sometimes referred to as MAJOR THOROUGHFARES , FREEWAYS , and the like and are usually numbered state or federal highways.
AUTHORIZED AGENT	One who is acting as representative for or by the authority of the developer.
BLOCK	A piece of land bounded on one or more sides by streets or roads.
BOARD OF COMMISSIONERS	The Board of County Commissioners; County Board of Commissioners; the governing body of the County of Gates, North Carolina.
BUFFER STRIP	An area of land that shall not be developed, required to separate land uses deemed incompatible; front yard setbacks and side yards are examples of buffers. In some cases, additional screening, landscaping, or otherwise may be required.
BUILDING	A structure having a roof supported by columns or walls for the shelter of persons/ animals or equipment. When separated by division walls from the ground up without openings, each portion of such building may be deemed a separate BUILDING .
BUILDING SETBACK LINE	A line parallel to the front property line, which establishes the minimum allowable distance between nearest portions of any building, steps, eaves, gutters, and similar fixtures, and the street right-of-way line when measured perpendicularly thereto.
COLLECTOR STREET	A street which serves as the connecting street system between local residential streets and the thoroughfare system.
CORNER LOT	A lot that occupies the interior angle at the intersection of two street lines. The street line forming the least frontage shall be deemed the front of the lot except where the two street lines are equal, in which case, the owner shall be required to specify which is the front when requesting a building permit
CUL-DE-SAC	A short street having one end open to traffic and the other end being permanently terminated and a vehicular turn-around provided.
DEDICATION	A gift of land or right to land, given by the owner to the public at large for a specified purpose or purposes, which entails the transfer of property rights and must be made by written instrument and is completed with an acceptance by a governmental agency.
DEVELOPER	Any person, firm, or corporation who subdivides or develops any land deemed to be subdivision as defined in this chapter.
DISCLOSURE STATEMENT	A statement prepared and signed by the developer and the buyer of the subject real estate, fully and completely disclosing the status (whether public or private) of the street upon which the lot fronts. The STATEMENT shall also include an explanation of the consequences and responsibility as to maintenance and construction of proposed roadways.

TERM	DEFINITION
DOUBLE FRONTAGE LOT	A continuous (through) lot of the same depth as the width of a block containing two tiers of lots and which is accessible from both streets upon which it fronts.
DRIVEWAYS	A private way, beginning at the property line of a lot abutting a public road/private road, easement, or private right-of-way giving access from that public road, recorded easement, recorded private road, or private right-of-way, and leading to buildings, use, or structure on that lot.
EASEMENT	A grant by the property owner for use by the public or others of a strip of a land for specified purposes.
ESTATE EXCLUSION	The division of land among heirs in order to settle an estate by a probated will or by order of a court of jurisdiction in the settlement in the settlement of a decedent's estate or in accordance with intestate succession under G.S. Chapter 29. (Note: Unless such lots meet the standards of this chapter, a building permit shall not be issued.) A copy of the will or order shall be submitted to the administrator.
FINAL PLAT	A map of land subdivision prepared in a form suitable for filing of record with necessary affidavits, dedications, acceptances, and with complete bearings and dimensions of all lines defining lots and blocks, streets, public areas, and other dimensions of land, as prescribed by this chapter.
FRONTAGE ROAD	A street that is parallel to a fully or partially access controlled street which functions to provide controlled access to adjacent land.
HOMEOWNERS ASSOCIATION	A private, nonprofit corporation of homeowners formally constituted for the purpose of owning, operating, and maintaining common properties.
IMPROVEMENTS	The construction of infrastructure required by this chapter to obtain final plat approval. Infrastructure shall consist of, but not be limited to, water mains, fire hydrants, roadways, surface drainage improvements, and artificial drainage improvements.
INTERIOR LOT	A lot other than a corner lot with only one frontage on a street.
LOCAL ROAD	A private road with at least a 45-foot right-of-way width, which serves no more than two lots.
LOT	A portion of a subdivision or any other parcel of land intended as a unit for transfer of ownership or for development, or both. The word LOT includes the word PARCEL or PLOT.
LOT OF RECORD	A lot which is a part of a subdivision, a plat of which has been recorded in the Office of the County Register of Deeds prior to the adoption of this chapter, or a lot described by metes and bounds, the description of which has been so recorded prior to the adoption of this chapter
MAJOR COLLECTOR	A road which serves major intra-county travel corridors and traffic generators and provides access to the arterial system.
MAJOR SUBDIVISION	Any subdivision other than a minor subdivision.
MAJOR THOROUGHFARES	Consist of interstate, other freeway and expressway links, and major streets that provide for the expeditious movement of volumes of traffic within and through urban areas.
MINOR ARTERIAL	A rural link in a network joining cities and larger towns and providing intrastate and intercounty at relatively high overall travel speeds with minimum interference to through movement. This network would primarily serve traffic.

TERM	DEFINITION
MINOR COLLECTOR	A road which provides service to small local communities and links locally important traffic generators with their rural hinterland.
MINOR STREET	A street whose primary function is to provide access to abutting properties and is designed to discourage use by through traffic. It serves or is designed to serve not more than 25 dwelling units. MINOR STREETS may also be referred to as NEIGHBORHOOD STREETS.
MINOR SUBDIVISION	A subdivision that does not involve the creation of more than two lots fronting on a state-maintained road and meets other qualifications and requirements specified in this chapter.
MINOR THOROUGHFARES	Important streets that perform the function of collecting traffic from local access streets and carrying it to the major thoroughfare system by facilitating a minor through traffic movement and may also serve abutting property.
OFFICIAL MAPS OR PLAN (LAND DEVELOPMENT PLAN OR COMPREHENSIVE PLAN)	Any maps or plans officially adopted by the County Board of Commissioners as a guide for the development of the county.
OPEN SPACE	An area (land and/or water) generally lacking in human-made structures and reserved for enjoyment in its unaltered state
PARENT PARCEL	A parent parcel begins as of April 5, 2004, and is the original parcel or tract of land in existence prior to any division of the parcel. Any division of the PARENT PARCEL shall comply with this Article.
PLANNED UNIT DEVELOPMENT	A land development project comprehensively planned as an entity via a unitary site plan which permits flexibility in building siting, mixtures of building types and land uses, recreational areas and usable open spaces and the preservation of significant natural features. Included within this definition shall be planned unit residential developments and planned unit nonresidential developments or combination thereof.
PLANNING BOARD	The Planning Board of Gates County, as appointed by the Board of Commissioners.
PLAT	A map or plan delineating a tract or parcel of land to be subdivided, land to be dedicated for public use, or right-of-way for street or utility purposes. The word PLAT shall include the terms MAP, PLOT, and PLAN.
PRELIMINARY PLAT	A map of proposed land subdivision showing the character and proposed layout of the tract in sufficient detail to indicate the suitability of the proposed subdivisions of land, as prescribed by this chapter.
PRINCIPAL ARTERIAL	A rural link in a network of continuous routes serving corridor movements having trip length and travel density characteristics indicative of substantial statewide or interstate travel and existing solely to serve traffic. This network would consist of interstate routes and other routes designed as PRINCIPAL ARTERIALS.
PRIVATE (OR LOCAL) ROAD	A roadway serving two or fewer lots, building sites, or other division of land and not intended to be public ingress or egress.
PRIVATE STREET	An undedicated private right-of-way which affords access to abutting properties and requires a local/private road disclosure statement.
RECREATION AREA OR PARK	An area of land or combination of land and water resources that is developed for active and/or passive recreation pursuits with various human-made features that accommodate such activities.

TERM	DEFINITION
RESERVATION	A reservation of land not involving the transfer of property rights. It simply constitutes an obligation to keep property free from development for a stated period of time.
RESIDENTIAL COLLECTOR STREET	A street which serves as the connecting street between minor streets and the thoroughfare system, it serves or is designed to serve directly or indirectly, more than 25 dwelling units.
REVERSED FRONTAGE LOT	A lot on which the frontage is at right angles or approximately right angles (interior angles less than 135 degrees) to the general pattern in that area. A REVERSED FRONTAGE LOT may also be a corner lot, an interior lot, or a through lot.
ROAD	A public or private one-way or two-way road for ingress and/or egress. This definition includes secondary ROADS but does not include driveways.
ROAD ADDRESS	The combination of numbers and road name assigned by Gates County which identifies a particular building or lot.
SETBACK LINE	A line located a minimum horizontal distance from the right-of-way line of any street or road parallel thereto, between which and the right-of-way line no structure (to include steps, eaves, gutters, and similar fixtures) shall be erected or altered. SETBACK LINES are also located a minimum horizontal distance from lot boundary lines parallel thereto, between which and the lot boundary line no structure (to include steps, eaves, gutters, and similar fixtures) shall be erected or altered.
SHALL	Is always mandatory and not merely directory.
SINGLE-TIER LOT	A lot which backs upon a limited access highway, a railroad, a physical barrier, or another type of land use and to which access from the rear is usually prohibited.
STREETS	Public or private right-of-way used for vehicular traffic.
STRUCTURE	Anything constructed or erected, including, but not limited to, buildings which requires on, above, or below the surface of the land or attachment to something having permanent location on the land.
SUBDIVISION	<p>SUBDIVISION. Includes all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future, excluding farmland, woodland, and timber) and includes all divisions of land involving the dedication of a new street or a change in existing streets. SUBDIVISIONS that have three or more manufactured homes must also comply with the County Manufactured Home Park Ordinance as to screening, lighting, parking, safety, and sewage disposal. Please refer to the County Manufactured Home Park Ordinance for specific requirements. The county does not recognize the “first lot out” exemption. However, the following shall not be included within this definition nor be subject to the regulations authorized by this chapter.</p> <p>All divisions of a tract or parcel of land (in addition to the undivided remaining portion of the original undivided tract) into two or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future) and includes all division of land involving the dedication of a new street or a change in existing streets.</p>
SUBDIVISION ADMINISTRATOR	The person appointed by the County Commissioners to administer the provisions of this chapter.

TERM	DEFINITION
TECHNICAL REVIEW COMMITTEE	A committee appointed to represent different areas of expertise valuable to the field inspection of a subdivision. This COMMITTEE will be made up of any number of persons the Board of Commissioners feels necessary to complete this review process.
THROUGH LOT OR A DOUBLE FRONTAGE LOT	A lot other than a corner lot with frontage on more than one street. THROUGH LOTS abutting two streets may be referred to as DOUBLE FRONTAGE LOT.

CHAPTER 153: BUILDING CODE

[this material is unchanged from the current Code of Ordinances]

CHAPTER 154: AGRICULTURE

§ 154.101 TITLE

An ordinance of the Board of County Commissioners of Gates County, North Carolina entitled, "Gates County Voluntary Agricultural District and Enhanced Voluntary District Ordinance."

§ 154.102 AUTHORITY

The divisions of this section are adopted pursuant to authority conferred by G.S. §§ 106-735 through 106-744 and G. S. Chapter 153A.

§ 154.103 PURPOSE

The purpose of this section is to promote agricultural values and the general welfare of the county and more specifically, increase identity and pride in the agricultural community and its way of life; encourage the economic and financial health of agriculture, horticulture and forestry; and increase protection from non-farm development and other negative impacts on properly managed farms.

§ 154.104 DEFINITIONS

The following are defined for purposes of this section:

ADVISORY BOARD	Gates County Agricultural Advisory Board.
BOARD OF COMMISSIONERS	Gates County Board of Commissioners.
CHAIRPERSON	Chairperson of the Gates County Agricultural Advisory Board.
DISTRICT	Voluntary Agricultural District as established by this section.
ENHANCED DISTRICT	Enhanced Voluntary Agricultural District as established by this section

§ 154.105 AGRICULTURAL ADVISORY BOARD

(A) CREATION

The Board of Commissioners shall establish an Agricultural Advisory Board to implement the provisions of this program.

(B) MEMBERSHIP

The Advisory Board shall consist of no less than five members appointed at-large by the Board of Commissioners.

(C) MEMBERSHIP REQUIREMENTS

- (1) Each Advisory Board member, except those serving in an ex officio capacity, shall be a county resident or landowner.
- (2) At least four of the members shall be actively engaged in agriculture as defined in G.S. § 106-581.1. The remaining member of the Voluntary Agriculture Board does or does not have to be actively engaged in agriculture as defined in G.S. § 106-581.1. This determination shall be made without reference to ex-officio members.
- (3) The members actively engaged in agriculture as defined in G.S. § 106-581.1 as well as other members, shall be selected for appointment by the Board of Commissioners from the names of individuals submitted to the Board of Commissioners by the Soil and Water

Conservation District Board of Supervisors, the County Office of North Carolina Cooperative Extension, the U.S. Farm Service Agency County Committee, nonprofit agricultural organizations, conservation organizations, agribusiness, horticultural businesses, forestry businesses, and the public at large.

- (4) Additional members may be appointed to the Board in an ex-officio capacity from the Soil and Water Conservation District Board of Supervisors, the County Office of North Carolina Cooperative Extension, the U.S. Farm Service Agency, or other agencies, as deemed necessary by the Board of Commissioners. Members serving in an ex officio capacity shall neither vote nor count toward quorum requirements.

(D) TENURE

The initial Board is to consist of one appointee for terms of one year; two appointees for terms of two years; and two appointees for terms of three years. Thereafter, all appointments are to be for terms of three years, with reappointment permitted.

(E) VACANCIES

Any vacancy on the Advisory Board is to be filled by the Board of Commissioners for the remainder of the unexpired term.

(F) REMOVAL

Any member of the Advisory Board may be removed by the Board of Commissioners upon a two-thirds vote of the Commissioners. No cause for removal shall be required.

(G) FUNDING

The per diem compensation, if any, of the members of the Advisory Board may be fixed by the Board of Commissioners and funds may be appropriated to the Advisory Board to perform its duties.

(H) ADVISORY BOARD PROCEDURE

(1) CHAIRPERSON

The Advisory Board shall elect a Chairperson and Vice-Chairperson each year at its first meeting of the fiscal year. The Chairperson shall preside over all regular or special meetings of the Advisory Board. In the absence or disability of the Chairperson, the Vice-Chairperson shall preside and shall exercise all the powers of the Chairperson. Additional officers may be elected as needed.

(2) DETERMINATION OF PROCEDURE

The Advisory Board may adopt rules of procedure not inconsistent with this section or with other provisions of state law.

(3) ADVISORY BOARD YEAR

The Advisory Board shall use the Gates County fiscal year as its meeting year.

(4) MEETINGS

Meetings of the Advisory Board shall be held at the call of the Chairperson and at such other times as the Advisory Board may specify in its rules of procedure or upon the request of at least a majority of the Advisory Board membership. A meeting shall be held at least annually and notice of any meetings to the members shall be in writing, unless otherwise agreed to by all Advisory Board members. Meeting dates and times shall be posted as far in advance as possible on the door of the meeting site and by advertisement in local newspapers or by other means of public dissemination of the meeting dates as

may be agreed upon by at least a majority of the Advisory Board membership. All meetings shall be open to the public.

(5) MAJORITY VOTE AND QUORUM REQUIREMENTS

All issues shall be decided by a majority vote of the members of the Advisory Board present, except as otherwise stated herein. A quorum is defined as at least two-thirds of the members in attendance. No business may be conducted by the Advisory Board without a quorum present.

(6) RECORDS

(a) The Advisory Board shall keep minutes of the proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact. The Advisory Board shall keep records of its examinations and other official actions, all of which shall be filed in the office of the Advisory Board, or its designee, and shall be a public record. All records are public records.

(b) The Advisory Board may contract with the county Soil and Water Conservation Board office to serve the Board for record keeping, correspondence, application procedures under this section, and any other services the Board needs to complete its duties.

(7) DUTIES

The Advisory Board shall:

- (a) Review applications of landowners, for enrollment of qualified farmland, horticultural land, or forest land into a District or Enhanced District, for compliance with this section;
- (b) Make recommendations concerning the establishment and modification of Districts or Enhanced Districts;
- (c) Conduct public hearings;
- (d) Advise the Board of Commissioners on projects, programs, or issues affecting the agricultural economy and agricultural, horticultural or forestry activities within the county that will affect Districts and Enhanced Districts;
- (e) Review and make recommendations concerning proposed amendments to this section;
- (f) Develop and maintain a countywide farmland protection plan as defined in G.S. § 106-744(e);
- (g) Study additional methods of protection for farming, horticulture, forestry, and the attendant land base, and make recommendations to the Board of Commissioners; and
- (h) Perform other related tasks or duties assigned by the Board of Commissioners.

§ 154.106 CREATION OF VOLUNTARY AGRICULTURAL DISTRICTS AND ENHANCED VOLUNTARY AGRICULTURAL DISTRICTS

In order to implement the purposes stated in §154.103, Purpose, this program provides for the creation of a District(s) and Enhanced Voluntary Agricultural District(s), which shall consist of one or more contiguous acres of qualifying farmland as certified under §154.107, Certification and Qualification of Farmland.

§ 154.107 CERTIFICATION AND QUALIFICATION OF FARMLAND

To secure county certification as qualifying farmland in a District, a farm must:

- (A) Be real property that is engaged in agriculture as defined in G.S. § 106-581.1;
- (B) Be managed, if highly erodible land exists on the farm, in accordance with the Natural Resources Conservation Service defined erosion-control practices that are addressed to said highly-erodible land;
- (C) Be the subject of a Conservation Agreement, as defined in G.S. § 121-35, between the county and the owner of such land that prohibits non-farm use or development of such land for a period of at least ten years, except for the creation of not more than three lots that meet applicable county zoning and subdivision regulations; and
- (D) Be located in the unincorporated area of Gates County, unless there is an agreement with a municipality through which the county is authorized to exercise the authority of the municipality on its behalf.

§ 154.108 APPLICATION, APPROVAL, AND APPEAL PROCEDURE

(A) APPLICATION PROCEDURE

- (1) A landowner, or landowners, may apply to participate in either the Voluntary Agricultural District or the Enhanced Voluntary Agricultural District program by making application, for certification of qualifying farmland to be included in a District or Enhanced District, to a designated staff person. The landowner, or landowners, must designate the application as for either Voluntary Agricultural District status or Enhanced Voluntary Agricultural District status. The application shall be on forms provided by the Advisory Board.
- (2) A Conservation Agreement (required by G.S. § 106-737 and G.S. § 106-743.3 and defined in G.S. § 121-35) suited to district type (Voluntary Agricultural District or Enhanced Voluntary Agricultural District) designated by the landowners) to sustain, encourage, and promote agriculture must be executed by the landowner(s) with the Advisory Board. The Conservation Agreement for the Enhanced Voluntary Agricultural District must be recorded with the County Register of Deeds. (This is a requirement under G.S. § 121-41(c)).

(B) REVIEW PROCESS

- (1) Upon receipt of an application, the Chairperson will forward copies immediately to the following offices which shall be asked to provide comments, if any, to the Advisory Board prior to the date set for the Advisory Board to review the application:
 - (a) The Gates County Tax office;
 - (b) The Gates County Soil and Water Conservation District office;
 - (c) The Gates County Cooperative Extension office;
 - (d) The Natural Resources Conservation Service;
 - (e) The North Carolina Forest Service; and
 - (f) Any other such agency or office the Advisory Board deems appropriate.
- (2) The Advisory Board or its administrative designees prior to, or at, the next regularly scheduled Board meeting shall review an application for certification of qualifying farmland to determine if the application is compliant with all requirements of this section. The Chairperson of the Board shall notify the applicant by first class mail of application compliance or non-compliance, and the reason(s) therefore, within 15 days of the determination.

(C) APPEAL

If an application is determined to be noncompliant with this section by the Advisory Board, the landowner may, within 15 days of notification of noncompliance of the application, request in writing that the Advisory Board reconsider its determination. The request for reconsideration shall state the reason(s) therefore. The Advisory Board shall meet at the next regularly scheduled Board meeting for reconsideration of the application and shall notify the applicant by first class mail of its determination, and the reason(s) therefore, within 15 days of the reconsideration of the application. Upon either an initial negative determination, if no request for reconsideration was made, or a negative determination after reconsideration, the landowner shall have 30 days from the date of notification to appeal the determination to the Board of Commissioners. Such appeal shall be presented in writing and shall state the reason(s) therefore. The decision of the Board of Commissioners is final.

§ 154.109 REVOCATION, TRANSFER, RENEWAL, AND ENFORCEMENT OF CONSERVATION AGREEMENTS

(A) REVOCATION

(1) DISTRICT

By providing 30 days advance written notice to the Advisory Board, a landowner of qualifying farmland within a District may revoke the Conservation Agreement or the Advisory Board may revoke the same Conservation Agreement based on noncompliance by the landowner with the provisions of §154.107, Certification and Qualification of Farmland, subject to the same provisions as contained in §154.108(C), Appeal, for appeal of denials. Such revocation shall result in loss of qualifying farm status and loss of eligibility to participate in a District. Absent noncompliance by the landowner, neither the Advisory Board nor the Board of Commissioners shall revoke any Conservation Agreement prior to its expiration. If the Advisory Board shall revoke this Conservation Agreement for cause, the landowner shall have the appeal rights set forth in §154.108(C), Appeal.

(2) ENHANCED DISTRICT

Conservation Agreements for land within Enhanced Districts are irrevocable for a period of ten years. At the end of the term, a notice of revocation shall be recorded in the county land record system (Register of Deeds Office) sufficient to provide notice that the land has been withdrawn from the Enhanced Voluntary Agricultural District program if the agreement is not automatically renewed or renewed voluntarily by the landowner(s).

(B) TRANSFER

(1) DISTRICT

Transfers of land in a District due to death of the landowner, sale, or gift shall not revoke the Conservation Agreement, if all new landowner(s) affirm the Conservation Agreement and affirm, on a supplemental application, updated information demonstrating that the enrolled land still qualifies for enrollment under §154.107, Certification and Qualification of Farmland. In the event that there are water or sewer assessments held in abeyance by this chapter, and where the new owner(s) fail(s) to agree in writing to accept liability for those assessments when land is withdrawn either voluntarily or involuntarily from the District, the Conservation Agreement shall be revoked. Revocation shall be undertaken pursuant to the provisions of §154.109, Revocation, Transfer, Renewal, and Enforcement of Conservation Agreements.

(2) ENHANCED DISTRICT

Transfers of land in a District due to death of the landowner(s), sale, or gift shall not revoke the Conservation Agreement. The Conservation Agreement for the Enhanced Voluntary Agricultural District shall be binding upon all successors in interest to the landowner, except for successors in interest resulting from the exercise of rights under a security interest or lien that preceded the Conservation Agreement.

(C) RENEWAL

(1) DISTRICT

A Conservation Agreement for land within a Voluntary Agricultural District, that continues to qualify under all provisions of §154.107, Certification and Qualification of Farmland, shall be automatically renewed for a period of ten years unless the landowner provides 30 day written notice to the Advisory Board of intent not to renew. Absent noncompliance by the landowner, neither the Advisory Board nor the Board of Commissioners shall fail to renew any Conservation Agreement unless this section or its authorizing legislation has been repealed.

(2) ENHANCED DISTRICT

A Conservation Agreement for the Enhanced Voluntary Agricultural District shall be deemed automatically renewed for an additional term of three years, unless either the Advisory Board or the landowner gives written notice to the contrary prior to the termination date of the Conservation Agreement. At the end of the three-year term, the Conservation Agreement for the Enhanced Voluntary Agricultural District shall thereafter automatically renew for successive one year terms, unless either the Advisory Board or the landowner gives written notice to the contrary prior to the termination date of the Conservation Agreement.

(D) ENFORCEMENT

(1) DISTRICT

Enforcement of the terms of a Conservation Agreement for land enrolled in a District shall be limited to revocation of the Conservation Agreement and the benefits derived therefrom. Revocation shall be undertaken pursuant to the provisions of §154.109, Revocation, Transfer, Renewal, and Enforcement of Conservation Agreements.

(2) ENHANCED DISTRICT

Conservation Agreements for the Enhanced Agricultural District program may, at the election of the parties, include provisions requiring that any disputes between the county and the landowner be resolved through arbitration or mediation, and, in the event of litigation, that the prevailing party be awarded costs, including reasonable attorney fees. Enforcement of the terms of the Conservation Agreement may be through an action for injunctive relief and/or damages in any court of competent jurisdiction. The county may also terminate any benefits to the owner under this program either permanently or during the period of violation, as appropriate. If the Advisory Board shall revoke this Conservation Agreement for cause, the landowner shall have the appeal rights set forth in §154.108(C), Appeal. The right to terminate program benefits is in addition to any legal rights that the county may have under either this section or the terms of the applicable Conservation Agreement. The county may seek costs of the action including reasonable attorney fees if such a provision is incorporated into the Conservation Agreement.

§ 154.110 WAIVER OF WATER AND SEWER OR ALL UTILITY ASSESSMENTS

(A) NO CONNECTION REQUIRED

A landowner of property enrolled in the VAD or EVAD program shall not be assessed for or be required to connect county water and/or sewer systems.

(B) ABEYANCE

Water and sewer assessments shall be held in abeyance, without interest, for qualifying farms in a District, until improvements on such property are connected to the water or sewer system for which the assessment was made.

(C) TERMINATION OF ABEYANCE

When the period of abeyance ends, the assessment is payable in accordance with the terms set out in the assessment resolution.

(D) SUSPENSION OF STATUTE OF LIMITATIONS

Statutes of limitations are suspended during the time that any assessment is held in abeyance without interest. The landowner shall be required to sign an acknowledgment, which shall be incorporated into the Conservation Agreement, of the abeyance of the statute of limitations upon collecting water and sewer assessments, or other utility assessments.

(E) OTHER STATUTORY ABEYANCE PROCEDURES

Nothing in this section is intended to diminish the authority of the county to hold assessments in abeyance under G.S. § 153A-201, or other applicable law.

(F) CONFLICT WITH WATER AND/OR SEWER SYSTEM CONSTRUCTION AND IMPROVEMENTS GRANTS

To the extent that this section conflicts with the terms of federal, state, or other grants under which county water and/or sewer systems are constructed, this section shall not apply. This section shall not apply to utilities that are not owned by the county unless the county has entered into an agreement with the entity(ies) owning the utilities and that agreement provides that this section shall apply.

§ 154.111 ADDITIONAL ENHANCED AGRICULTURAL DISTRICT BENEFITS

Land enrolled in the Enhanced Voluntary Agricultural District program is entitled to all of the benefits available under the Voluntary Agricultural District program, and to the following additional benefits under this section:

(A) SALE OF NON-FARM PRODUCTS

Landowners participating in Enhanced Districts may receive up to 25% of gross sales from the sale of nonfarm products and still qualify as a bona fide farm that is exempt from county zoning regulations under G.S. § 160D-903. For purposes of G.S. § 160D-903, the production of any non-farm product that the Department of Agriculture and Consumer Services recognizes as a "Goodness Grows in North Carolina" product that is produced on a farm that is subject to a Conservation Agreement under G.S. § 106-743.2 is a bona fide farm purpose. A farmer seeking to benefit from this division shall have the burden of establishing that the property's sale of non-farm products did not exceed 25% of its gross sales. A county may adopt an ordinance pursuant to this section that sets forth the standards necessary for proof of compliance.

(B) AGRICULTURAL COST SHARE PROGRAM

Landowners participating in Enhanced Districts are eligible under G.S. § 106-850(b) to receive the higher percentage of cost-share funds for the benefit of that farmland under the agriculture cost share program established for funds to benefit that farmland.

(C) PRIORITY CONSIDERATION

State departments, institutions, or agencies that award grants to farmers are encouraged to give priority consideration to landowners participating in Enhanced Districts.

(D) UTILITY ASSESSMENT WAIVER

As provided in § 154.110, Waiver of Water and Sewer or All Utility Assessments, waiver of all county utility assessments, in addition to waiver of water and sewer assessments, is available to all participants in Enhanced Districts.

§ 154.112 PUBLIC HEARINGS

(A) PURPOSE

G.S. § 106-740 provides that no state or local public agency or governmental unit may formally initiate any action to condemn any interest in qualifying farmland within a District or Enhanced District until such agency or unit has requested that the Advisory Board hold a public hearing on the proposed condemnation. This provision ensures that the condemning agency or unit considers the impact of its actions upon agricultural, forestal, and/or horticultural land prior to taking action that is not reversible. This provision is not intended to, and does not, prohibit the condemning agency or unit from taking action that is authorized by law.

(B) PROCEDURE

- (1) Upon receiving a request, the Advisory Board shall publish notice describing the proposed action in the appropriate newspapers of Gates County within five business days of the request and will in the same notice notify the public of a public hearing on the proposed condemnation, to be held within ten days of receipt of the request.
- (2) The Advisory Board shall meet to review:
 - (a) Whether the need for the project has been satisfactorily established by the agency or unit of government involved, including a review of any fiscal impact analysis conducted by the agency involved; and
 - (b) Whether there are alternatives to the proposed action that have less impact and are less disruptive to the agricultural activities of the District or Enhanced District within which the proposed action is to take place.
- (3) The Advisory Board shall consult with the Cooperative Extension Service office, the Soil and Water Conservation District office, the Natural Resources Conservation Service, and any other individuals, agencies, or organizations deemed by the Advisory Board to be necessary for its review of the proposed action.
- (4) Within five days after the hearing, the Advisory Board shall make a report containing its findings and recommendations regarding the proposed action. The report shall be made available to the public prior to its being conveyed to the decision-making body of the agency proposing the acquisition.
- (5) There will be a period of ten days allowed for public comment on the report of the Advisory Board.
- (6) After the ten-day period for public comment has expired, the Advisory Board shall submit a final report containing all of its findings and recommendations regarding the proposed action to the decision-making body of the agency proposing the acquisition within five days.

- (7) The total time period, from the day that a request for a hearing has been received to the day that a final report is issued to the decision-making body of the agency proposing the acquisition, shall not exceed 30 days. If the agency agrees to an extension, the agency and the Advisory Board shall mutually agree upon a schedule to be set forth in writing and made available to the public.
- (8) Pursuant to G.S. § 106-740, the condemning agency may not formally initiate a condemnation action while the proposed condemnation is properly before the Advisory Board within these time limitations.

§ 154.113 NOTIFICATION

(1) GEOGRAPHIC INFORMATION SYSTEM

Voluntary and Enhanced Voluntary Agricultural Districts, and all farms within one-half mile of a Voluntary and Enhanced Voluntary Agricultural District, shall be mapped in the county Geographic Information System.

(2) MAPS

Maps identifying approved Districts and Enhanced Districts shall be provided to the following agencies or offices:

- (a) Planning Department;
- (b) Tax Office;
- (c) Register of Deeds;
- (d) Natural Resources Conservation Service;
- (e) North Carolina Cooperative Extension;
- (f) Soil and Water Conservation District; and
- (g) Any other such agency or office the Advisory Board deems appropriate.

(3) SIGNAGE

Signs identifying parcels enrolled in an Agricultural District may be placed on enrolled parcels at the discretion of the owners. Signs shall not be placed along the right-of-way of any state or county-maintained road.

(4) EDUCATION

The county may take such action as it deems appropriate through the Advisory Board, or other entities or individuals, to encourage the formation of the Districts and Enhanced Districts and to further their purposes and objectives, including the implementation of a public information program to reasonably inform landowners of the District and Enhanced District programs.

§ 154.114 COUNTY LAND USE PLANNING

(A) DUTY OF THE ADVISORY BOARD

It shall be the duty of the Advisory Board to advise the Board of Commissioners, or the agency or office to which the Board of Commissioners delegate authority to oversee county land use planning, on the status, progress, and activities of the county's Voluntary Agricultural District program and Enhanced Voluntary Agricultural District program and to also coordinate the formation and maintenance of Districts and Enhanced Districts with the county's land use planning activities and the county's land use plan.

(B) POSTING OF NOTICE

The following notice, of a size and form suitable for posting, shall be posted in the office of the Register of Deeds, and any other office or agency the Advisory Board deems necessary:

Gates County has established Districts and Enhanced Districts to protect and preserve agricultural lands and activities. These Districts have been developed and mapped by the county to inform all purchasers of real property that certain agricultural and forestry activities, including but not limited to pesticide spraying, manure spreading, machinery and truck operation, livestock operations, sawing, burning, and other common farming activities may occur in these Districts and Enhanced Districts any time during the day or night. Maps and information on the location and establishment of these Districts and Enhanced Districts can be obtained from the North Carolina Cooperative Extension Service office, the Soil and Water Conservation District office, the office of the Register of Deeds, the County Planning office, or the Natural Resources Conservation Service office.

(C) GROWTH CORRIDORS

- (1) At such time as the county might establish designated growth corridors, Districts and Enhanced Districts shall not be permitted in those designated growth corridors, as delineated on the official county planning map, without the approval of the Board of Commissioners.
- (2) Districts and Enhanced Districts located in growth corridors designated after the effective date of this program may remain but shall not be expanded within the growth corridor area, without the approval of the Board of Commissioners.

§ 154.115 CONSULTATION AUTHORITY

The Advisory Board may consult with North Carolina Cooperative Extension office, the Soil and Water Conservation District Office, the Natural Resources Conservation Service office, the North Carolina Department of Agriculture and Consumer Services, and with any other individual, agency, or organization the Advisory Board deems necessary to properly conduct its business.

§ 154.116 NORTH CAROLINA AGENCY NOTIFICATION

Annual report to the North Carolina Department of Agriculture and Consumer Services. A copy of this section shall be sent to the Office of the North Carolina Commissioner of Agriculture and Consumer Services, the Board of Commissioners, the North Carolina Cooperative Extension office, and the Soil and Water Conservation District office after adoption. At least annually, the county shall submit a written report to the Commissioner of Agriculture and Consumer Services on the county's Voluntary Agricultural District program and Enhanced Voluntary Agricultural District program, including the following information:

- (A) Number of landowners enrolled;
- (B) Number of acres enrolled;
- (C) Number of acres certified during the reporting period;
- (D) Number of acres not certified during the reporting period;
- (E) Number of acres for which applications are pending;
- (F) Municipalities with which Memorandums of Understanding have been signed;
- (G) Municipalities with which Memorandums of Understanding are no longer in effect;
- (H) Municipalities that have adopted this section for the purpose of the county enforcing this section within their corporate boundaries;

- (I) Copies of any amendments to this section or Memorandums of Understanding signed with municipalities; and
- (J) Any other information the Advisory Board deems useful.

CHAPTER 155: ZONING

ARTICLE 155.1 ZONING DISTRICTS

§ 155.101 OFFICIAL ZONING MAP

- (A) For the purpose of this chapter, the County's zoning jurisdiction is hereby divided into zones or districts as shown on the official zoning map, which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Chapter.
- (B) Land within the County's planning jurisdiction shall not be developed except in accordance with the applicable zoning district regulations of this Chapter.
- (C) The official zoning map shall be identified by the signature of the Chair of the Board of Commissioners, attested by the County Clerk, and bear the seal of the County under the following words:
"This is to certify that this is the official zoning map referred to in Section 155.101 of the Chapter 155 of the Gates County, North Carolina, Code of Ordinances together with the date of adoption of this Ordinance."
- (D) The official zoning map, which shall be located in the Office of County Planning and Development Services, shall be the final authority as to the current zoning status of land and water areas in the zoning jurisdiction of the County.
- (E) The official zoning map and any other State or federal map incorporated by reference into this Ordinance are available for public inspection in the Office of the County Planning and Development Services during normal business hours.
- (F) Prior copies of the official zoning map and any other State or federal map incorporated by reference into this Ordinance are available for public inspection in the Office of the County Planning and Development Services during normal business hours. Prior copies may not be reproduced.
- (G) Copies of the current official zoning map may be purchased from the County and paper copies of the map that are certified by the Zoning Administrator in accordance with G.S. § 160A-79 shall be admissible in evidence and have the same force of effect as the original map.

§ 155.102 FLOOD INSURANCE RATE MAP

- (A) The Flood Insurance Rate Map (FIRM) shall designate the location and boundaries of floodplains, floodways, and non-encroachment areas associated with the County's flood damage prevention standards located in Chapter 150 of the County Code of Ordinances.
- (B) While the FIRM affects the range of allowable land uses and configuration of development within its boundaries, the FIRM is a separate map and is not part of the official zoning map.
- (C) Amendments to the FIRM shall be undertaken in accordance with the provisions in Chapter 150, Flood Damage Prevention.

§ 155.103 ZONING MAP CHANGES

- (A) Changes made in zoning district boundaries on the official zoning map shall be considered an amendment to this Ordinance and shall only be made in accordance with §155.510, or §155.509, as appropriate.

- (B) Changes to official zoning map boundaries approved by the Board of County Commissioners shall be entered on the official zoning map by the Zoning Administrator promptly after the approval. Such entry shall also include the date of the approval.
- (C) Where the ordinance enacting a zoning district boundary change contains wording explaining or clarifying the location of the new boundary, the Zoning Administrator shall enter the boundary on the official zoning map in accordance with the ordinance wording.
- (D) Upon entering the most recently approved amendment on the official zoning map, the Zoning Administrator shall also change the date of the map to indicate the date of its latest revision.

§ 155.104 REPLACEMENT OF OFFICIAL ZONING MAP

- (A) In the event that the official zoning map becomes damaged, destroyed, lost, or difficult to interpret, the Board of Commissioners, may, by ordinance, adopt a new official zoning map which shall be the same in every detail as the map it supersedes.
- (B) The new official zoning map shall bear the signatures of the Chairperson of the Board of Commissioners and the County Clerk and shall bear the seal of the County under the following words:

“This is to certify that this official zoning map supersedes and replaces the official zoning map adopted on (date of adoption of map replaced) - together with the date of the adoption of the new zoning map.”

§ 155.105 RESPONSIBILITY FOR MAINTENANCE OF THE OFFICIAL ZONING MAP

The Zoning Administrator shall be responsible for the maintenance of and revision to the official zoning map in accordance with the provisions of this Chapter.

§ 155.106 DETERMINATION OF ZONING DISTRICT BOUNDARIES

Where uncertainty exists with respect to the boundaries of any of the districts as shown on the official zoning map, the Zoning Administrator shall be responsible for determination of map boundaries in accordance with the standards in §155.507, and the following standards:

- (A) Boundaries shown as approximately following a utility line or a street, alley, railroad, or other public accessway shall be interpreted as following the centerline of the right-of-way or easement for the utility line or accessway.
- (B) If a street, alley, railroad, or utility easement forming the boundary between two separate zoning districts is abandoned or removed from dedication, the district boundaries shall be construed as following the centerline of the abandoned or vacated roadbed or utility easement.
- (C) Boundaries shown as approximately following a lot line shall be interpreted as following the lot line as it existed when the boundary was established. If a subsequent minor adjustment (such as from settlement of a boundary dispute or overlap) results in the lot line moving 10 feet or less, the zoning boundary shall be interpreted as moving with the lot line.
- (D) Boundaries shown as approximately following a river, stream, canal, lake, or other watercourse shall be interpreted as following the centerline of the watercourse as it actually exists, and as moving with that centerline to the extent the watercourse moves as a result of natural processes (flooding, erosion, sedimentation, etc.).
- (E) Boundaries shown parallel to or as extensions of features indicated in this subsection shall be interpreted as such.

- (F) Boundaries shown as following the boundary of city limits or extra territorial jurisdiction shall be interpreted as following the boundary of municipal incorporation or planning jurisdiction.
- (G) Wherever a single lot is located within two or more different zoning districts, each portion of the lot shall be subject to all the regulations applicable to the zoning district where it is located.
- (H) If the specific location of a depicted boundary cannot be determined from application of the above standards, it shall be determined by using the official zoning map's scale to determine the boundary's distance from other features shown on the map.
- (I) Where the actual location of existing physical or natural features varies from that shown on the official zoning map, or in other circumstances that are not covered by this subsection, the Zoning Administrator shall have the authority to determine the district boundaries.
- (J) In cases where boundaries on the official zoning map are based on another official map maintained by the State or other federal agency and the other State or federal map is amended, the County's map shall automatically be amended to remain consistent with the officially maintained State or federal map.

§ 155.107 ZONING DISTRICTS ESTABLISHED

The following table sets out the conventional and planned development districts established by this Chapter. All the land within the County’s planning jurisdiction shall be included in one of the zoning districts listed in the table below.

TABLE OF ZONING DISTRICTS ESTABLISHED	
ABBR.	DISTRICT NAME
A-1	Agricultural District
C-1	Commercial District
I-1	Industrial District
O&I	Office and Institutional District
PD	Planned Development /1/
R-1	Residential District
RMF	Multi-Family District
RMH-1	Residential Manufactured Home District
NOTES: /1/ Planned Development districts are applied to individual lots or developments, each with its own unique planned development district designator (for example: PD-1, PD-2, PD-3 etc.).	

§ 155.108 A-1, AGRICULTURAL DISTRICT

(A) PURPOSE AND INTENT

The Agricultural (A-1) district is established to accommodate agriculture, agriculturally related uses, and limited forms residential development at very low densities in rural portions of the County. The district is primarily intended to preserve and protect bona fide farms and resource lands for current or future agricultural use as well as to protect the rural character of the area. The district also accommodates a wide range of agricultural and agricultural-related uses like “agri-tourism” as well as service and support uses to the rural community, including day care, public safety facilities, parks, and utility features. Residential uses may be established through divisions of land that are exempted from the standards in Chapter 152, Subdivision Regulations, as well as by transfer subdivisions (see §152.204), or expedited subdivisions (see §152.205).

(B) DIMENSIONAL REQUIREMENTS

- (1) The table below sets out the dimensional requirements for lots and uses in the A-1 District.
- (2) Lawfully established lots of record created prior to June 16, 2021, that do not conform to the dimensional standards in the table below may be developed with one single-family home or as otherwise allowed in accordance with the standards in Article 155.4, Nonconformities.
- (3) Development shall comply with the generally applicable dimensional standards in §155.116.

A-1 AGRICULTURAL DISTRICT DIMENSIONAL STANDARDS TABLE /1/

MINIMUM LOT SIZE	MINIMUM LOT WIDTH (FEET) /2/	MINIMUM FRONT YARD SETBACK (FEET)	MINIMUM SIDE YARD SETBACK (FEET)	MINIMUM REAR YARD SETBACK (FEET)	MAXIMUM BUILDING HEIGHT (FEET)
As required by the Gates County Health Department, but not less than 1 acre /3/	175 /4/	40	20	20	35 /5/

NOTES:

/1/ Uses subject to an approved special use permit with differing dimensional requirements shall comply with the terms of the approved special use permit.

/2/ Measured at the building setback line.

/3/ Duplexes have a maximum residential density of 1 unit per acre and require a two-acre lot or site for one duplex.

/4/ All lots shall maintain a minimum width of at least 125 linear feet at any buildable location on the lot.

/5/ See §155.116 for features exempted from height limitations.

(C) SUBDIVISIONS LIMITED

Other than subdivisions exempted from Chapter 152, Subdivisions, transfer subdivisions, and expedited subdivisions, divisions of land for the establishment of residential land uses are prohibited within the A-1 district and shall require an amendment to the official zoning map in accordance with §155.510, or §155.509.

§ 155.109 C-1, COMMERCIAL DISTRICT

(A) PURPOSE AND INTENT

The Commercial (C-1) district is intended for low intensity retail and personal service use types located along major roadways and around significant roadway intersections in rural and suburban portions of the County. The district’s small scale and limited range of use types provides convenient access to basic goods and services to nearby residents in ways that protect the County’s scenic character and rural character. The district allows restaurants, offices, personal services, indoor recreation, retail, and visitor accommodation uses, as well as agricultural support uses, and institutional uses. Industrial and most forms of residential uses are not permitted.

(B) DIMENSIONAL REQUIREMENTS

The table below sets out the dimensional requirements for lots and uses in the C-1 District.

- (1) Lawfully established lots of record created prior to June 16, 2021, that do not conform to the dimensional standards in the table below may be developed with one single-family home or as otherwise allowed in accordance with the standards in Article 155.4, Nonconformities.
- (2) Development shall comply with the generally applicable dimensional standards in §155.116.

C-1 COMMERCIAL DISTRICT DIMENSIONAL STANDARDS TABLE /1/

MINIMUM LOT SIZE	MINIMUM LOT WIDTH (FEET) /2/	MINIMUM FRONT YARD SETBACK (FEET)	MINIMUM SIDE YARD SETBACK (FEET)	MINIMUM REAR YARD SETBACK (FEET)	MAXIMUM BUILDING HEIGHT (FEET)
1 acre or as required by the Gates County Health Department	175 /3/	30	20	20	35 /4/

NOTES:

/1/ Uses subject to an approved special use permit with differing dimensional requirements shall comply with the terms of the approved special use permit.

/2/ Measured at the building setback line.

/3/ All lots shall maintain a minimum width of at least 125 linear feet at any buildable location on the lot.

/4/ See §155.116 for features exempted from height limitations.

§ 155.110 I-1, INDUSTRIAL DISTRICT

(A) PURPOSE AND INTENT

The Industrial (I-1) district is established to accommodate agricultural processing, light and heavy manufacturing, and extractive industry (mining, quarrying, and oil and gas exploration, subject to use-specific standards). The district accommodates small-to-large-scale industrial uses including outdoor operations or storage with extensive movement of vehicles, materials, and goods, truck traffic and some potential for adverse environmental and visual impacts on neighboring lands. The district allows limited forms of retail sale of products produced on-site. Residential development, except for caretaker quarters as an accessory use, is prohibited in the district. District standards are intended to prevent the establishment of any use types that would interrupt industrial operations. Extractive operations may only take place in accordance with State-issued permits and shall be returned to their pre-extraction state upon completion.

(B) DIMENSIONAL REQUIREMENTS

- (1) The table below sets out the dimensional requirements for lots and uses in the I-1 District.
- (2) Lawfully established lots of record created prior to June 16, 2021 that do not conform to the dimensional standards in the table below may be developed only in accordance with the standards in Article 155.4, Nonconformities.
- (3) Development shall comply with the generally applicable dimensional standards in §155.116.

I-1 INDUSTRIAL DISTRICT DIMENSIONAL STANDARDS TABLE /1/

MINIMUM LOT SIZE	MINIMUM LOT WIDTH (FEET) /2/	MINIMUM FRONT YARD SETBACK (FEET)	MINIMUM SIDE YARD SETBACK (FEET)	MINIMUM REAR YARD SETBACK (FEET)	MAXIMUM BUILDING HEIGHT (FEET)
2 acres or as required by the Gates County Health Department	175 /3/	40	20 /4/	20 /4/	56 /5/

I-1 INDUSTRIAL DISTRICT DIMENSIONAL STANDARDS TABLE /1/

MINIMUM LOT SIZE	MINIMUM LOT WIDTH (FEET) /2/	MINIMUM FRONT YARD SETBACK (FEET)	MINIMUM SIDE YARD SETBACK (FEET)	MINIMUM REAR YARD SETBACK (FEET)	MAXIMUM BUILDING HEIGHT (FEET)
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NOTES:

- /1/ Uses subject to an approved special use permit with differing dimensional requirements shall comply with the terms of the approved special use permit.
- /2/ Measured at the building setback line.
- /3/ All lots shall maintain a minimum width of at least 125 linear feet at any buildable location on the lot.
- /4/ No side or rear yard shall be required when the lot line abuts an active railroad right-of-way or siding.
- /5/ See §155.116 for features exempted from height limitations.

§ 155.111 O&I, OFFICE AND INSTITUTIONAL DISTRICT

(A) PURPOSE AND INTENT

The Office Institutional (OI) District is established to accommodate office uses, research and development facilities, corporate headquarters, and multi-family residential uses in high quality single-building and multi-building developments. The district also accommodates the ancillary service uses necessary to support the predominant office development but is not intended as a retail district. Retail, personal service, and other commercial uses permitted as accessory to an office or institutional use shall not occupy more than 49 percent of the floor area. The OI district also serves as a transition area between higher intensity commercial uses and nearby lower density single-family residential neighborhoods.

(B) DIMENSIONAL REQUIREMENTS

- (1) The table below sets out the dimensional requirements for lots and uses in the O&I District.
- (2) Lawfully established lots of record created prior to June 16, 2021, that do not conform to the dimensional standards in the table below may be developed with one single-family home or as otherwise allowed in accordance with the standards in Article 155.4, Nonconformities.
- (3) Development shall comply with the generally applicable dimensional standards in §155.116.

OI OFFICE AND INSTITUTIONAL DISTRICT DIMENSIONAL STANDARDS TABLE

/1/

MINIMUM LOT SIZE	MINIMUM LOT WIDTH (FEET) /2/	MINIMUM FRONT YARD SETBACK (FEET)	MINIMUM SIDE YARD SETBACK (FEET)	MINIMUM REAR YARD SETBACK (FEET)	MAXIMUM BUILDING HEIGHT (FEET)
1 acre or as required by the Gates County Health Department	175 /3/	30	20	20	35 /4/

OI OFFICE AND INSTITUTIONAL DISTRICT DIMENSIONAL STANDARDS TABLE

/1/

MINIMUM LOT SIZE	MINIMUM LOT WIDTH (FEET) /2/	MINIMUM FRONT YARD SETBACK (FEET)	MINIMUM SIDE YARD SETBACK (FEET)	MINIMUM REAR YARD SETBACK (FEET)	MAXIMUM BUILDING HEIGHT (FEET)
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NOTES:

- /1/ Uses subject to an approved special use permit with differing dimensional requirements shall comply with the terms of the approved special use permit.
- /2/ Measured at the building setback line.
- /3/ All lots shall maintain a minimum width of at least 125 linear feet at any buildable location on the lot.
- /4/ See §155.116 for features exempted from height limitations.

§ 155.112 PD, PLANNED DEVELOPMENT DISTRICT

(A) PURPOSE AND INTENT

The Planned Development (PD) district is established and intended to encourage innovative land planning and site design concepts that support a high quality of life and achieve a high quality of development, environmental sensitivity, energy efficiency, and other County goals and objectives by:

- (1) Reducing or diminishing inflexibility or uniform design that sometimes results from the strict application of zoning and development standards designed primarily for individual lots;
- (2) Allowing greater freedom in selecting the means of providing access, open space, and development amenities;
- (3) Allowing greater freedom in providing a well-integrated mix of residential and nonresidential land uses in the same development, including a mix of housing types, lot sizes, and densities;
- (4) Providing for efficient use of land resulting in smaller networks of utilities and streets and thereby lowering development and housing costs; and
- (5) Promoting quality design and environmentally sensitive development that respects surrounding established land use character and respects and takes advantage of a site’s natural and man-made features, such as standards of mature trees, views or vistas, water resources, special flood hazard area, and historic features.

(B) FLEXIBILITY AUTHORIZED

- (1) A planned development district allows an applicant to propose development that may reduce or deviate from some of the minimum requirements of this Ordinance. In such cases, the burden shall be on the applicant to demonstrate, to the satisfaction of the Board of County Commissioners, the specific ways in which the proposed development will be of a higher quality or in closer alignment with the County’s adopted policy guidance than the development that would have resulted through a strict application of all the standards in this Ordinance.
- (2) The Board of County Commissioners shall, in their sole discretion, determine if the applicant has met this requirement. Failure to meet the requirement shall result in a denial of the planned development application.

(C) GENERAL STANDARDS FOR ALL PLANNED DEVELOPMENT DISTRICTS

(1) PLANNED DEVELOPMENT MASTER PLAN

The planned development master plan shall:

- (a) Include a statement of planning objectives for the district;
- (b) Identify the general location of individual development areas, land use(s) and development density or intensity;
- (c) Identify the acreage, types and mix of land uses, number of residential units (by use type), nonresidential floor area (by use type), residential density, and nonresidential intensity for all areas within the PD district;
- (d) Identify the general location, amount, and type of open space (whether active or passive recreation);
- (e) Identify the location of environmentally sensitive lands, wildlife habitat, and resource protection lands;
- (f) Identify the on-site transportation circulation system, including the general location of all streets, pedestrian and vehicular circulation features, and how they will connect with existing and planned County systems;
- (g) Identify the general location of centralized and/or on-site potable water and wastewater facilities, and how they will connect to County systems;
- (h) Identify the general location of on-site stormwater management facilities, and how they will address incoming stormwater flows and natural or constructed outfalls; and
- (i) Identify the general location of all other on-site public facilities serving the development, including but not limited to parks, schools, and facilities for fire protection, police protection, EMS, and solid waste management.

(2) COMPLIANCE WITH SUBDIVISION STANDARDS

Planned developments that include the division of land into two or more lots shall be subject to the subdivision standards in Chapter 152, Subdivision Regulations, including the requirements for approval of a preliminary and final, prior to the issuance of a building permit.

(3) SITE PLAN REVIEW

- (a) The planned development master plan may take the form of a generalized concept plan for development that provides a general indication of building and site feature location, or it may be configured to the level of detail associated with site plans and construction drawings depicting exact building placement, location and profile of public infrastructure, and configuration of site features like parking, landscaping, and similar elements.
- (b) In cases where the master plan is more general or conceptual in nature, the development proposed in the planned development designation shall also undergo site plan review in accordance with §155.511.
- (c) In cases where the master plan is detailed and meets the minimum requirements for a site plan in the opinion of the Board of County Commissioners, the applicant shall request, and the Board of County Commissioners may grant an exemption from subsequent site plan review.
- (d) If a site plan review exemption is granted by the Board of County Commissioners, the proposed development shall fully comply with the development configuration

depicted in the planned development master plan. Failure to comply with the approved master plan configuration shall require an amendment of the planned development application in accordance with §155.509.L.

(4) DENSITIES/INTENSITIES

The densities for residential development and the intensities for non-residential development applicable in each development area of a PD district shall be as established in the master plan and shall be consistent with adopted policy guidance.

(5) DIMENSIONAL STANDARDS

The dimensional standards applicable in each development area of a PD district shall be as established in the master plan. The master plan shall include at least the following types of dimensional standards:

- (a) Minimum lot area;
- (b) Minimum lot width;
- (c) Minimum setbacks;
- (d) Maximum lot coverage;
- (e) Maximum building height;
- (f) Maximum individual building size; and
- (g) Minimum setbacks from adjoining residential development or residential zoning districts.

(6) USES

The uses allowed in a PD district are identified in the Table of Permitted Uses and shall be listed in the approved master plan or terms and conditions documents. Allowed uses shall be consistent with adopted policy guidance, the purpose of the particular PD district, and subject to any additional limitations or requirements set forth in §155.204. Nothing shall limit an applicant from seeking to modify an otherwise applicable use-specific standard in accordance with the standards in §155.509.

(7) DEVELOPMENT STANDARDS

- (a) All development in a PD district shall comply with the development standards of Chapter 155.3 Standards, and the subdivision and infrastructure standards of Chapter 152, Subdivision Regulations, unless modified in accordance with this section.
- (b) In no instance shall a planned development district seek to modify, waive, or reduce any of the requirements in Chapter 150, Flood Damage Prevention.
- (c) In cases where a planned development district is proposed as part of redevelopment of an existing site and the existing site does not comply with the standards this Ordinance, the development contemplated in the planned development shall not be required to achieve full compliance but shall not increase the degree to which the development fails to comply with the standards of this Ordinance.

(8) CONSISTENCY WITH ADOPTED POLICY GUIDANCE

The PD zoning district designation, the master plan, and the terms and conditions document shall be consistent with the County's adopted policy guidance.

(9) COMPATIBILITY WITH SURROUNDING AREAS

Development along the perimeter of a PD district shall be compatible with adjacent existing or proposed development. Where there are issues of compatibility, the master plan shall provide for transition areas at the edges of the PD district that provide for

appropriate buffering and/or ensure a complementary character of uses. Determination of complementary character shall be based on densities/intensities, lot size and dimensions, building height, building mass and scale, hours of operation, exterior lighting, siting of service areas, or other aspects identified by the Board of County Commissioners.

(10) DEVELOPMENT PHASING PLAN

If development in the PD district is proposed to be phased, the master plan shall include a development phasing plan that identifies the general sequence or phases in which the district is proposed to be developed, including how residential and nonresidential development will be timed, how infrastructure (public and private) and open space will be provided and timed, and how development will be coordinated with the County's capital improvements program.

(11) CONVERSION SCHEDULE

(a) The planned development application may include a conversion schedule that identifies the extent to which one type of residential use may be converted to another type of residential use or one type of non-residential use may be converted to another type of non-residential use (i.e., residential to residential, or non-residential to non-residential). These conversions may occur within development areas and between development areas, as long as they occur within the same development phase, as identified by the approved development phasing plan, and are consistent with established extents of conversion set down in the conversion schedule.

(b) In the event an applicant seeks to revise the development in accordance with an approved conversion schedule, the applicant shall provide a revised site plan depicting the proposed conversions to the Technical Review Committee for review and approval prior to commencing any conversions.

(12) ON-SITE PUBLIC FACILITIES

(a) DESIGN AND CONSTRUCTION

The master plan shall establish the responsibility of the developer/landowner to design and construct or install required and proposed on-site public facilities in compliance with applicable County, State, and federal regulations.

(b) DEDICATION

The master plan shall establish the responsibility of the developer/landowner to dedicate to the public the right-of-way and easements necessary for the construction or installation of required and proposed on-site public facilities in compliance with applicable County, State, and federal regulations.

(c) MODIFICATIONS TO STREET STANDARDS

Revisions to public street standards shall be subject to NCDOT approval.

(D) PLANNED DEVELOPMENT TERMS AND CONDITIONS

The terms and conditions document shall incorporate by reference or include, but not be limited to the following:

- (1) Conditions related to approval of the application for the PD zoning district classification;
- (2) The master plan, including any density/intensity standards, dimensional standards, and development standards established in the master plan;
- (3) Conditions related to the approval of the master plan, including any conditions related to the form and design of development shown in the master plan;

- (4) Provisions addressing how transportation, potable water, wastewater, stormwater management, and other infrastructure will be provided to accommodate the proposed development;
- (5) Provisions related to environmental protection and monitoring;
- (6) The range of allowable and accessory uses; and
- (7) Any other provisions the Board of County Commissioners determines are relevant and necessary to the development of the PD in accordance with applicable standards and regulations.

(E) AMENDMENTS TO APPROVED MASTER PLAN

Amendments or modifications to a master plan shall be considered in accordance with the standards in §155.509(L).

§ 155.113 R-1, RESIDENTIAL DISTRICT

(A) PURPOSE AND INTENT

The Residential (R-1) district is the County’s primary district for suburban residential neighborhoods located along primary roadways and in locations bordering rural areas. The district has a one-acre minimum lot area requirement, which is the basic threshold size for lots with on-site wastewater systems. While the district allows single-family detached homes, mobile homes and manufactured homes are prohibited. Nonconforming mobile or manufactured homes may remain but may not be expanded or replaced with another mobile or manufactured home. The district accommodates utilities and various neighborhood-supporting institutional uses such as parks, schools, and public safety facilities. Commercial uses, other than home occupations, are prohibited. District regulations discourage uses that interfere with the development of residential neighborhoods or that are detrimental to the suburban nature of the district.

(B) DIMENSIONAL REQUIREMENTS

- (1) The table below sets out the dimensional requirements for lots and uses in the R-1 District.
- (2) Lawfully established lots of record created prior to June 16, 2021, that do not conform to the dimensional standards in the table below may be developed with one single-family home or as otherwise allowed in accordance with the standards in Article 155.4, Nonconformities.
- (3) Development shall comply with the generally applicable dimensional standards in §155.116.

R-1 RESIDENTIAL DISTRICT DIMENSIONAL STANDARDS TABLE /1/					
MINIMUM LOT SIZE	MINIMUM LOT WIDTH (FEET)	MINIMUM FRONT YARD SETBACK (FEET)	MINIMUM SIDE YARD SETBACK (FEET)	MINIMUM REAR YARD SETBACK (FEET)	MAXIMUM BUILDING HEIGHT (FEET)
1 acre or as required by the Gates County Health Department	175 /2/	40	20	20	35 /4/

R-1 RESIDENTIAL DISTRICT DIMENSIONAL STANDARDS TABLE /1/

MINIMUM LOT SIZE	MINIMUM LOT WIDTH (FEET) /2/	MINIMUM FRONT YARD SETBACK (FEET)	MINIMUM SIDE YARD SETBACK (FEET)	MINIMUM REAR YARD SETBACK (FEET)	MAXIMUM BUILDING HEIGHT (FEET)
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NOTES:

- /1/ Uses subject to an approved special use permit with differing dimensional requirements shall comply with the terms of the approved special use permit.
- /2/ Measured at the building setback line.
- /3/ All lots shall maintain a minimum width of at least 125 linear feet at any buildable location on the lot.
- /4/ See §155.116 for features exempted from height limitations.

§ 155.114 RMF, RESIDENTIAL MULTI-FAMILY DISTRICT

(A) PURPOSE AND INTENT

The Residential Multi-Family (RMF) district is established to accommodate a wide range of residential use types at moderate-to-high densities, including duplexes, townhouses, apartments, and condominiums. As a means of creating compact, functional neighborhoods, the district also allows a wide variety of institutional uses, including day care, schools, assisted living, religious institutions, parks, and utilities. Uses that are potentially detrimental to residential development are generally discouraged in the RMF district.

(B) DIMENSIONAL REQUIREMENTS

The table below sets out the dimensional requirements for lots and uses in the RMF District.

- (1) Lawfully established lots of record created prior to June 16, 2021, that do not conform to the dimensional standards in the table below may be developed with one single-family home or as otherwise allowed in accordance with the standards in Article 155.4, Nonconformities.
- (2) Development shall comply with the generally applicable dimensional standards in §155.116.

RMF RESIDENTIAL DISTRICT DIMENSIONAL STANDARDS TABLE /1/

MINIMUM DEVELOPMENT SIZE	MAXIMUM RESIDENTIAL DENSITY (UNITS/ACRE)	MINIMUM LOT WIDTH (FEET) /2/	MINIMUM FRONT YARD SETBACK (FEET)	MINIMUM SIDE YARD SETBACK (FEET)	MINIMUM REAR YARD SETBACK (FEET)	MAXIMUM BUILDING HEIGHT (FEET)
1 acre or as required by the Gates County Health Department	8 /3/ /4/ /5/	175 /6/	40	20	20	35 /7/

RMF RESIDENTIAL DISTRICT DIMENSIONAL STANDARDS TABLE /1/

MINIMUM DEVELOPMENT SIZE	MAXIMUM RESIDENTIAL DENSITY (UNITS/ACRE)	MINIMUM LOT WIDTH (FEET) /2/	MINIMUM FRONT YARD SETBACK (FEET)	MINIMUM SIDE YARD SETBACK (FEET)	MINIMUM REAR YARD SETBACK (FEET)	MAXIMUM BUILDING HEIGHT (FEET)
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NOTES:

- /1/ Uses subject to an approved special use permit with differing dimensional requirements shall comply with the terms of the approved special use permit.
- /2/ Measured at the building setback line.
- /3/ Duplexes have a maximum residential density of 1 unit per acre and require a two-acre lot or site for one duplex.
- /4/ Townhouses and multi-family uses require a lot of 43,560 square feet for first unit, another 7,000 sf of lot area required for second unit, then 5,000 sf of lot area for the third and each additional unit up to the maximum residential density.
- /4/ The maximum number of units for any single development shall be 72.
- /5/ The development as a whole shall maintain a minimum width of at least 125 linear feet at any buildable location.
- /6/ See §155.116 for features exempted from height limitations.

§ 155.115 RMH-1, RESIDENTIAL MANUFACTURED HOME DISTRICT

(A) PURPOSE AND INTENT

The Residential Manufactured Home (RMH-1) district is established as a means of providing reasonable opportunities for the placement of manufactured dwellings in the County’s planning jurisdiction. The district provides attainable housing opportunities for low and moderate-income residents while at the same time establishing minimum design requirements for these uses to ensure a minimum level of quality and safety. The standards are intended to protect property values and preserve the character and integrity of the community or individual neighborhoods within the community. In addition to manufactured homes on individual lots and in multi-unit park settings, the district also allows single-family detached residential development and a very limited range of supporting institutional uses. Commercial and industrial uses are prohibited. Mobile homes existing on June 16, 2021, may remain as nonconforming uses, but may only be replaced with a manufactured home, modular home, or site-built home. All individual manufactured homes and parks are subject to the applicable use-specific standards in Article 155.3 Standards.

(B) DIMENSIONAL REQUIREMENTS

- (1) The table below sets out the dimensional requirements for lots and uses in the RMH-1 District.
- (2) Lawfully established lots of record created prior to June 16, 2021, that do not conform to the dimensional standards in the table below may be developed with one single-family home (including a manufactured home) or as otherwise allowed in accordance with the standards in Article 155.4, Nonconformities.
- (3) Development shall comply with the generally applicable dimensional standards in §155.116.

RMH-1 RESIDENTIAL DISTRICT DIMENSIONAL STANDARDS TABLE /1/

MINIMUM LOT SIZE	MINIMUM LOT WIDTH (FEET) /2/	MINIMUM AVERAGE LOT DEPTH (FEET)	MINIMUM FRONT YARD SETBACK (FEET)	MINIMUM SIDE YARD SETBACK (FEET)	MINIMUM REAR YARD SETBACK (FEET)	MAXIMUM BUILDING HEIGHT (FEET)
1 acre or as required by the Gates County Health Department /3/	175 /4/	200	40	20	20	35 /5/

NOTES:

/1/ Uses subject to an approved special use permit with differing dimensional requirements shall comply with the terms of the approved special use permit.

/2/ Measured at the building setback line.

/3/ Individual mobile or manufactured homes in parks shall be subject to the minimum lot size.

/4/ All lots shall maintain a minimum width of at least 125 linear feet at any buildable location on the lot.

/5/ See §155.116 for features exempted from height limitations.

§ 155.116 GENERALLY APPLICABLE DIMENSIONAL REQUIREMENTS

(A) REDUCTIONS PROHIBITED

- (1) No lot shall be reduced in minimum lot size below the minimum requirements for the district where located.
- (2) Lots created after June 16, 2021, shall meet the minimum lot dimensional requirements for the district where located.

(B) REQUIRED YARDS

- (1) The land area between a lot line and the boundary of a required setback is considered as a required yard.
- (2) The location of front, side, or rear yards on irregularly shaped lots shall be determined by the Zoning Administrator. Wherever possible, the Zoning Administrator shall interpret these boundaries in ways that minimize nonconformities.
- (3) Except where otherwise provided in this section, required yards shall not be subject to encroachment by a building, structure, or outdoor use area.

(C) REQUIRED FRONTAGE

The minimum frontage of any lot at the right-of-way line shall be at least 30 linear feet.

(D) SPLIT ZONING

Wherever a single lot is located within two or more different zoning districts, each portion of the lot shall be subject to all the regulations applicable to the zoning district where it is located.

(E) SETBACKS FROM STREETS

No building shall be located closer to any public street right-of-way or private street pavement edge than the minimum setback line established by this Ordinance.

(F) ALLOWABLE ENCROACHMENTS

- (1) Features identified in the table of allowable encroachments below may encroach into a required setback or required yard but may not cross a lot line into a lot under separate ownership or a lot included as part of a separate development.

- (2) Regardless of the amount of permitted encroachment, features shall not:
- (a) Obstruct visibility for motorists, pedestrians, or bicyclists at any street, driveway, accessway, or intersection;
 - (b) Obstruct access for vehicles, pedestrians, or bicyclists along streets, sidewalks, trails, or internal circulation routes; and
 - (c) Interfere with the function of infrastructure facilities.

TABLE OF ALLOWABLE ENCROACHMENTS	
FEATURE	MAXIMUM ALLOWABLE ENCROACHMENT INTO A REQUIRED YARD OR SETBACK
Attached Canopy	May encroach into a required yard or setback, but be no closer than 20 feet from a lot line
Deck	May not encroach into required yards or setbacks
Fence or Privacy Wall	May encroach into required yards or setbacks
Flagpole of 30 feet or less	May encroach into a required yard or setback
Garage or Carport	May not encroach into required yards or setbacks
Landscaping	May encroach into required yards or setbacks
Off-Street Parking Area	May encroach into required yards or setbacks but may not be located within a required landscaping area
Outdoor Storage of Goods for Sale or Raw Materials	May not encroach into required yards or setbacks
Retaining Wall	Walls of five feet in height or less may encroach into required yards or setbacks
Roof Overhang	May encroach up to four feet into a required yard or setback but shall maintain a minimum height of none feet above any right-of-way
Sign	May encroach into a required yard or setback
Stairs or Ramps	May encroach into required a yard or setback, but be no closer than five feet from the edge of street paving
Underground Structures	May not encroach into required yards or setbacks
Underground Utility Features (water, sewer, septic lines, etc.)	May encroach into required yards or setbacks as approved by the Gates County Health Department
Wooden Walkway	May encroach into required yards or setbacks provided it maintains a maximum height of one foot or less above grade and five feet or less above water

(G) EXCLUSIONS FROM HEIGHT REQUIREMENTS

The following features are exempted from the maximum height requirements in this Ordinance:

- (1) Parapet walls of less than five feet in height above the roof deck;
- (2) Spires, steeples, minarets, belfries, cupolas, domes, and similar architectural features not intended for human habitation;
- (3) Silos or feed elevators;
- (4) Water tanks, vent housings, elevator housings, and equipment covers; and
- (5) Chimneys, vent pipes, skylights, flag poles, or mechanical equipment.

(H) MULTIPLE BUILDINGS OR STRUCTURES ON A LOT

- (1) Developments that include multiple principal buildings on a single lot shall meet the minimum required setbacks around the perimeter of the development.
- (2) Buildings within a multiple building development shall be separated from one another the minimum distance required by the applicable building and fire codes.

ARTICLE 155.2 USES

§ 155.201 USES DISTINGUISHED

This article contains all the standards related to the use of land in the County's planning jurisdiction and is organized by the three kinds of land uses: principal, accessory, or temporary use.

(A) GENERALLY

- (1) Principal uses are the primary, permanent use types proposed on a lot (like a single-family home).
- (2) Accessory uses are subordinate to the principal use located on the same lot (like a detached garage serving a single-family home) and may be a structure or an activity.
- (3) Temporary uses are structures or activities allowed for a short duration of time (like a portable storage container used for the purposes of storing or moving a household's belongings).

(B) USE TYPES

- (1) Use types are the specific individual principal uses included within a particular use classification.
- (2) Individual use types are defined in Article 155.8, Definitions.

(C) DEVELOPMENTS WITH MULTIPLE PRINCIPAL USES

Developments with multiple principal uses, such as shopping centers, shall incorporate only those use types allowed in the applicable zoning district.

(D) PROCEDURE FOR CLASSIFICATION OF UNLISTED USE TYPES

- (1) In the event that a proposed principal or accessory use type is not listed in Summary Use Table, and such land use is not listed in §155.207, or is not otherwise prohibited by law, the Zoning Administrator shall determine whether a materially similar land use exists in this Article.
- (2) The Zoning Administrator shall determine whether or not an unlisted use is similar to an existing use type set out in the Summary Use Table, based on the definitions in Article 155.8, and the standards for unlisted uses in §155.507. Nothing shall limit the Zoning Administrator from seeking input from County staff, the Planning Board, or the Board of County Commissioners in making a determination of how to categorize an unlisted use.
- (3) Should the Zoning Administrator determine that a materially similar land use does exist, the regulations governing that land use shall apply to the unlisted use type and the Zoning Administrator's determination shall be recorded in writing.
- (4) In cases where a proposed unlisted use type is not found to be similar to an existing use type, the Zoning Administrator may, but shall not be required to, initiate a text amendment application to revise the text of this Ordinance to add the use type in accordance with §155.513.

§ 155.202 PRINCIPAL USES

(A) GENERALLY

The Summary Use Table lists the range of allowable principal uses, the zoning districts where they are permitted, and the procedure to be followed for their establishment. The table

also includes cross references to any applicable use-specific standards that may apply to a principal use.

(B) USES PERMITTED BY-RIGHT

A “P” in a cell of the table indicates that the specific use type is permitted by-right in the corresponding zoning district, subject to compliance with any additional use-specific standards referenced in the principal use table, and any other applicable standards in this Ordinance.

(C) USES PERMITTED BY SPECIAL USE PERMIT

An “S” in a cell of the table indicates that the specific use type is permitted in the corresponding zoning district only upon approval of a special use permit in accordance with §155.512, any additional use-specific standards referenced in the principal use table, and any other applicable requirements of this Ordinance.

(D) USES ALLOWED IN A PLANNED DEVELOPMENT DISTRICT

- (1) An “A” in a cell of the table indicates that the specific use type is permitted in a planned development district, provided the specific use type is included in the list of potential use types in the master plan or terms and conditions document. If a use is not listed, then it is not permitted within the planned development.
- (2) Allowed uses are subject to any additional use-specific standards referenced in the principal use table.
- (3) If a use type is listed as not permitted in a planned development district in the table, it may not be included in a master plan or terms and conditions statement.

(E) USES NOT PERMITTED

An “X” in a cell of the table indicates that the specific use type is not permitted in the corresponding zoning district.

(F) USE-SPECIFIC STANDARDS

When a specific use type is permitted in a zoning district, there may be use-specific standards that are applicable. Such additional standards are referenced in the table column titled “Use-Specific Standards.” These standards shall apply to a specific use type regardless of the zoning district, unless otherwise specified.

§ 155.203 SUMMARY USE TABLE

The following table sets out the range of allowable principal uses by zoning district.

SUMMARY USE TABLE (FOR PRINCIPAL USES)

“P” = Permitted, subject to any applicable use-specific standards
 “S” = Permitted subject to §155.512, and any applicable use-specific standards
 “A” = If included in a PD master plan or terms and conditions document
 “•” = Prohibited

USE TYPE	ZONING DISTRICTS								USE-SPECIFIC STANDARDS § 155.-
	R-1	RMH-1	C-1	I-1	A-1	O&I	RMF	PD	
AGRICULTURAL USES									
Agriculture or Horticulture	P	P	P	P	P	P	•	A	
Farm Implement Sales	•	•	P	P	P	•	•	A	
Livestock Sales	•	•	•	P	P	•	•	•	
Stables, Commercial	•	•	P	•	P	•	•	A	
Wholesale Nurseries and Greenhouses	S	S	P	P	P	•	•	A	
RESIDENTIAL USES									
Duplex	•	•	•	•	S	•	P	A	204.A.1
Family Care Home	P	P	S	S	P	P	•	A	204.A.2
Group Home	S	•	•	•	•	S	•	A	204.A.3
Manufactured Home, Double-wide	•	P	•	•	S	•	•	A	204.A.4
Manufactured Home, Single-wide /1/	•	P	•	•	S	•	•	•	204.A.4
Manufactured Home Park	•	P	•	•	•	•	•	•	204.A.5
Mobile Home	•	•	•	•	•	•	•	•	204.A.6
Multi-Family Dwelling	•	•	•	•	•	•	P	A	204.A.7
Seasonal Agricultural Housing	•	•	•	•	P	•	•	A	204.A.8
Single-Family Dwelling	P	P	S	•	P	P	•	A	
Townhouse Dwelling	•	•	•	•	•	•	P	A	204.A.9
INSTITUTIONAL USES									
Adult Day Care	S	S	S	•	S	P	S	A	204.B.1
Air Transportation	•	•	S	P	P	S	•	A	
Antenna Collocation, Major	•	•	P	P	P	P	•	A	204.B.2
Antenna Collocation, Minor	P	P	P	P	P	P	P	A	204.B.2
Assisted Living Facility	S	S	S	•	S	P	S	A	204.B.3
Bus and Taxi Terminals	•	•	P	P	•	P	•	A	
Cemetery	S	S	•	•	S	S	S	A	204.B.4
Children’s Day Care/Community Center	S	S	S	S	P	P	S	A	204.B.5
Church /2/	S	S	P	•	S	P	S	A	204.B.6
Colleges, Universities, Professional Schools and Technical Institutions	•	•	P	S	S	P	•	A	204.B.7
Electrical Sub-Station	P	P	P	P	P	P	P	A	204.B.8

SUMMARY USE TABLE (FOR PRINCIPAL USES)

“P” = Permitted, subject to any applicable use-specific standards
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USE TYPE	ZONING DISTRICTS								USE-SPECIFIC STANDARDS § 155.-
	R-1	RMH-1	C-1	I-1	A-1	O&I	RMF	PD	
Elementary and Secondary Schools	S	S	P	•	S	•	S	A	
Fraternal and Social Organizations	S	S	P	•	S	•	S	A	204.B.9
Fire Station, Law Enforcement, and Emergency Services	P	P	P	P	P	P	P	A	
Government Offices and Buildings	•	•	P	S	•	P	•	A	204.B.10
Hospital	•	•	S	•	S	P	•	A	204.B.11
Library	P	P	P	•	P	P	•	A	
Jail	•	•	S	S	S	•	•	•	
Marina, Residential	S	S	•	•	•	•	S	A	204.B.12
Medical Transport/Ambulance Service	S	•	P	•	S	P	•	A	
Museum	•	•	P	•	P	P	•	A	
Nursing and Personal Care Facilities	S	S	S	•	S	P	S	A	
Outpatient Clinic	•	•	P	•	•	P	•	A	
Parks and Recreation Areas	P	P	P	P	P	P	P	A	
Post Office	•	•	P	•	•	P	•	A	
Private Club or Lodge	S	S	P	•	S	•	S	A	204.B.13
Railroad Transportation	•	•	•	P	•	•	•	•	
Residential Support Center	•	•	P	•	S	P	•	•	204.B.14
Small Wireless Facility	P	P	P	P	P	P	P	A	204.B.15
Solar Energy Conversion System, Major	•	•	•	P	S	•	•	A	204.B.16
Telecommunications Tower, Major	•	•	S	S	S	•	•	•	204.B.17
Telecommunications Tower, Minor or Concealed	P	P	P	P	P	P	P	A	204.B.17
Telephone and Telegraph Facilities	•	•	P	P	P	P	•	A	
Wastewater Treatment Facility	•	•	•	P	S	•	•	A	
Water Transportation Facility	•	•	•	P	•	•	•	A	
Water Treatment Plant	•	•	P	P	P	•	•	A	

SUMMARY USE TABLE (FOR PRINCIPAL USES)

“P” = Permitted, subject to any applicable use-specific standards

“S” = Permitted subject to §155.512, and any applicable use-specific standards

“A” = If included in a PD master plan or terms and conditions document

“•” = Prohibited

USE TYPE	ZONING DISTRICTS								USE-SPECIFIC STANDARDS § 155.-
	R-1	RMH-1	C-1	I-1	A-1	O&I	RMF	PD	
Wind Energy Conversion System	•	•	S	S	S	•	•	•	204.B.18
COMMERCIAL USES									
Automobile/Boat Repair	•	•	P	•	S	•	•	A	204.C.1
Automobile Rental	•	•	P	•	•	•	•	A	
Automobile /Boat Sales	•	•	P	•	•	•	•	A	
Automobile Service Station	•	•	P	•	•	•	•	A	
Banks, Credit Agencies, Savings and Loans	•	•	P	•	•	P	•	A	
Bars, Cabarets, and Discos	•	•	S	•	•	•	•	A	204.C.2
Bed and Breakfast Inn	P	•	P	•	P	•	P	A	204.C.3
Building Materials and Garden Supplies	•	•	P	•	•	•	•	A	
Business Services Including Printing	•	•	P	•	•	P	•	A	
Camping, Travel Trailer Parks	•	S	•	•	S	•	•	•	204.C.4
Commercial Recreation Establishment, Indoor and Outdoor	•	•	P	•	•	•	•	A	
Contractor, Building, Mechanical, or Landscape	•	•	P	P	P	P	•	A	204.C.5
Convenience Store	S	S	P	P	P	•	•	A	204.C.6
Dry Cleaning/Laundry	•	•	P	•	•	•	•	A	
Electronic Gaming Operation	•	•	•	•	•	•	•	•	
Event Venue	•	•	P	•	•	P	•	A	204.C.7
Funeral Home	•	•	P	•	•	•	•	A	
Golf Course	P	P	•	•	P	•	P	A	
Grocery Store	•	•	P	•	P	•	•	A	
Hotel or Motel	•	•	P	•	•	•	•	A	
Landscaping Services	•	•	P	P	P	•	•	A	
Marina, Commercial	•	•	P	P	•	•	•	A	
Office, Dentist	•	•	P	•	•	P	•	A	
Office, Doctor	•	•	P	•	•	P	•	A	
Office, Professional	•	•	P	•	•	P	•	A	
Outdoor Advertising	•	•	P	P	P	•	•	•	204.C.8

SUMMARY USE TABLE (FOR PRINCIPAL USES)

“P” = Permitted, subject to any applicable use-specific standards
 “S” = Permitted subject to §155.512, and any applicable use-specific standards
 “A” = If included in a PD master plan or terms and conditions document
 “•” = Prohibited

USE TYPE	ZONING DISTRICTS								USE-SPECIFIC STANDARDS § 155.-
	R-1	RMH-1	C-1	I-1	A-1	O&I	RMF	PD	
Outdoor Shooting Range, Public	•	•	•	S	S	•	•	•	204.C.9
Outdoor Storage (as a principal use)	•	•	P	P	S	•	•	A	204.C.10
Personal Service Use	•	•	P	•	•	•	•	A	
Repair Shop, Small Item (clothing, jewelry, electronics)	•	•	P	•	•	•	•	A	
Retail, Large Goods	•	•	P	P	P	•	•	•	
Retail, Miscellaneous	•	•	P	•	•	•	•	A	
Retail Nurseries	•	•	P	•	P	•	•	A	
Restaurant/Catering	•	•	P	•	S	•	•	A	204.C.11
Sexually-Oriented Business	•	•	S	•	•	•	•	•	204.C.12
Shopping Center	•	•	P	•	•	•	•	A	204.C.13
Theatre, Indoor or Drive In	•	•	P	•	•	•	•	A	
TV, Radio Broadcasting	•	•	P	P	P	P	•	A	
Veterinaries/Pet Grooming/Kennels	•	•	P	P	P	S	•	A	204.C.14
INDUSTRIAL USES									
Asphalt Plant	•	•	•	P	•	•	•	•	
Bakery Products	•	•	S	P	•	•	•	A	
Beverages (Bottling and Manufacture)	•	•	S	P	•	•	•	A	
Cabinet and Woodworking Shop	•	•	P	P	S	•	•	A	204.D.1
Chemicals and Related Products	•	•	•	P	•	•	•	•	
Concrete Plant	•	•	•	P	•	•	•	•	
Equipment Rental and Leasing	•	•	P	P	P	•	•	A	
Junkyards, Scrap Processing	•	•	•	S	•	•	•	•	204.D.2
Manufacturing, Heavy	•	•	•	P	•	•	•	•	204.D.3
Manufacturing, Light	•	•	S	P	•	•	•	A	204.D.4
Mini-Warehouses/Recreational Vehicle/Boat Storage	•	•	P	P	•	•	•	A	
Mining and Quarrying	•	•	•	S	S	•	•	•	204.D.5

SUMMARY USE TABLE (FOR PRINCIPAL USES)

“P” = Permitted, subject to any applicable use-specific standards
 “S” = Permitted subject to §155.512, and any applicable use-specific standards
 “A” = If included in a PD master plan or terms and conditions document
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USE TYPE	ZONING DISTRICTS								USE-SPECIFIC STANDARDS § 155.-
	R-1	RMH-1	C-1	I-1	A-1	O&I	RMF	PD	
Motor Freight Transportation Warehousing	•	•	S	P	•	•	•	A	
Recycling Collection Center	S	S	P	P	P	S	S	A	
Research and Design Facilities	•	•	P	P	•	P	•	A	204.D.6
Sanitary Landfill	•	•	•	S	S	•	•	•	204.D.7
Septage Disposal	•	•	•	S	S	•	•	•	204.D.8
Septic Tank Vacuum Service	•	•	•	P	•	•	•	•	
Slaughter House	•	•	•	P	S	•	•	•	
Sludge Disposal	•	•	•	S	S	•	•	•	
Warehousing	•	•	P	P	•	•	•	A	
Wholesaling	•	•	P	P	•	•	•	A	

NOTES:

- /1/ The operation of an institutional or commercial use type as a principal use within a pre-fabricated manufactured home structure is not considered a manufactured home.
- /2/ A church may include a school or day care as an accessory use, subject to the standards in § 155.205.

§ 155.204 USE-SPECIFIC STANDARDS

(A) RESIDENTIAL USES

(1) DUPLEX

Duplexes are strongly encouraged to be configured to appear as a single-family home through the use of a shared primary entrance, shared parking facilities, and the consolidation of mechanical equipment into one location on the lot.

(2) FAMILY CARE HOME

- (a) Family care homes shall comply with the standards in G.S. § 160D-907.
- (b) A lot containing a family care home shall not be located within one-half mile (2,640 feet) of another lot containing a family care home or a group home.

(3) GROUP HOME

A group home shall comply with the following standards:

- (a) A lot containing a group home shall not be located within one-half mile (2,640 feet) of another lot containing a family care home or another group home;

- (b) The use shall be operated in a manner that is compatible with the surrounding neighborhood and shall not be detrimental to adjacent lands as a result of traffic, noise, refuse, parking, loitering, or other activities;
- (c) The number of occupants in a group home shall be limited to the maximum number that may be accommodated while at the same time complying with all applicable County regulations and State requirements;
- (d) The use shall maintain a residential appearance compatible with its surroundings when proposed within 100 feet of a residential district; and
- (e) The use shall meet all State requirements, as well as all applicable housing and building code requirements.

(4) MANUFACTURED HOME DWELLING

A manufactured home dwelling shall comply with G.S. § 160D-910, and the following standards:

- (a) It shall be occupied only as a single-family dwelling;
- (b) It shall be configured in accordance with the standards established by the North Carolina Department of Insurance and the most current version of the State of North Carolina Regulations for Manufactured Homes;
- (c) It shall be oriented with the longest axis parallel to the lot frontage, to the maximum extent practicable;
- (d) The towing apparatus, wheels, axles, and transporting lights shall be removed;
- (e) It shall include a continuous, permanent masonry foundation or masonry curtain wall of solid brick or brick veneer, installed under the perimeter and unpierced except for required ventilation and access;
- (f) It shall include stairs, porches, entrance platforms, ramps, and other means of entrance and exit that are installed or constructed in accordance with the standards set by the North Carolina Building Code. They shall be attached firmly to the primary structure and anchored securely to the ground;
- (g) It shall maintain exterior siding comparable in composition, appearance, and durability to the exterior siding commonly used in standard residential construction, which consists of one or more of the following:
 1. Vinyl or aluminum lap siding (whose reflectivity does not exceed that of flat white paint);
 2. Cedar or other wood siding;
 3. Stucco siding; or
 4. Brick or stone siding;
- (h) No living compartment or structure other than a “Florida room”, or other prefabricated structure specifically designed for manufactured home use or extension, shall be added to the dwelling;
- (i) It shall maintain a roof pitch with a minimum vertical rise of three feet for each 12 feet of horizontal run;
- (j) It shall include a roof finished with a Class C or better roofing material that is commonly used in standard residential construction;
- (k) It shall provide an eave projection of no less than six inches, which may include a gutter;

- (l) Lumber, pipe, and other building materials shall be stored at least one foot above the ground; and
- (m) It shall display, on the side of the home facing the street, the street address number assigned by the County Emergency Management Central Communications with numbers of three inches in height or taller that contrast with the background they are placed on.

(5) MANUFACTURED HOME PARK

(a) ESTABLISHMENT OR EXPANSION

- 1. No manufactured home park shall be established or expanded until a zoning compliance permit is issued in accordance with the standards of this section.
- 2. Applications to establish or expand a manufactured home park shall be accompanied by five copies of a proposed park plan at least 30 working days prior to a regularly scheduled meeting of the County Planning Board where the application will be considered.

(b) PARK PLAN REQUIRED

1. NINE OR FEWER HOME SPACES

A registered surveyor or engineer's signature shall not be required on manufactured home park plans for manufactured home parks of nine or fewer manufactured home spaces.

2. TEN OR MORE HOME SPACES

All manufactured home parks of ten or more shall exhibit the seal and signature of a registered surveyor or engineer.

3. ADDITIONS TO EXISTING PARKS

- a. Any addition to an existing manufactured home park shall present a plan as required by these standards. The plan shall depict the original spaces as well as the additional spaces proposed.
- b. Any addition to an existing manufactured home park that brings the total spaces in the park to ten or more shall present a plan executed by a registered engineer or surveyor.

(c) PARK PLAN REQUIREMENTS

The park plan shall be drawn at a scale of 50 feet to one inch or larger and shall include the following:

- 1. The name of the park, the names and addresses of the owner or owners, and the designer or surveyor;
- 2. Date, scale, and approximate North arrow;
- 3. Boundaries of the tract shown with bearings and distances;
- 4. Site plan showing streets, driveways, open areas, parking spaces, service buildings, watercourses, easements, manufactured home spaces, and all structures to be located on the park site and all existing structures;
- 5. Vicinity map showing the location of the park and the surrounding land usage;
- 6. Names of adjoining property owners;

7. Land contours with vertical intervals of not more than two feet for all manufactured home parks with sufficient land to accommodate 25 or more spaces;
8. Manufactured home spaces well defined;
9. Surface water drainage plans;
10. Method of surfacing roads within the park;
11. Location and intensity of area lights and typical connections to manufactured homes and/or travel trailer, or a statement from the power company serving the area where the park is to be located indicating that it will be responsible for design and installation of the electric system; and
12. The proposed utility system for gas, surface water drainage, streetlights, electrical power, water supply, and solid waste and sewage disposal facilities.

(d) APPROVAL PROCESS

The following agencies shall review and approve the manufactured home park plan before the plan is considered by the County Planning Board. Each agency shall conduct its initial review of the plan within 30 days. The applicant shall be notified, in writing, of any deficiencies in the proposed park plan, and shall have the opportunity to correct such deficiencies.

1. INITIAL REVIEW

a. NC DEPARTMENT OF TRANSPORTATION

The District Highway Engineer of the State’s Highway Commission shall review the proposed park plan to determine if the proposed access conforms to the standards of the state’s Highway Commission.

b. GATES COUNTY HEALTH DEPARTMENT

The County Health Department shall review the proposed park plan. This agency shall be responsible for the review of the following, to determine if the plan is in accordance with the minimum health standards and regulations:

- i. Source of water and water distribution system;
- ii. Sanitary sewerage system;
- iii. Adequate lot size, if septic tanks are to be used; and
- iv. Adequate facilities for solid waste storage, collection, and disposal.

c. SOIL CONSERVATION SERVICE

The Soil Conservation Service shall review the proposed park plan to determine if it lies within the 100-year floodplain.

2. REVIEW BY THE PLANNING BOARD

- a. The County Planning Board shall review the plan to determine if the proposed park plan is in accordance with the design standards set forth in this section.
- b. If the Planning Board disapproves the proposed park plan, the reasons for the disapproval and recommended changes shall be provided to the applicant.

3. ISSUANCE OF CONSTRUCTION PERMIT

- a. After receiving approval of the park plan by the County Planning Board, the Zoning Administrator shall issue a construction permit.

- b. If the construction of the park has not begun within 12 months from the issue date of the construction permit, the construction permit shall become null and void.
- c. The Planning Board may grant an extension of the construction permit if the developer appears before the Planning Board and shows cause.
- d. When the developer has completed the construction of the manufactured home park, they shall apply to the Zoning Administrator for an operating license.

4. ISSUANCE OF OPERATING LICENSE

- a. The Zoning Administrator and a representative of the County Health Department shall make an on-site inspection of the park.
- b. If the plan conforms to the approved park plan, the Zoning Administrator shall issue an operating license.
- c. If the plan does not conform to the approved plan, the Zoning Administrator shall delay issuance of the operating permit until it comes into conformity with the approved park plan.
- d. In no case shall the operating permit be issued for less than the minimum number of spaces required by this section.
- e. The operating permit issued to the developer shall constitute authority to lease or rent spaces in the manufactured home park.
- f. When the manufactured home park is to be developed in stages, the proposed park plan may be submitted for the entire development, and application for an operating license may be made for each stage developed.

(e) STANDARDS

The following standards shall be considered the minimum requirements of all new manufactured home parks.

1. GENERAL REQUIREMENTS

- a. Individual manufactured home spaces in manufactured home parks shall not be sold or transferred as long as the park is in operation.
- b. Manufactured home park identification signs shall be limited to one sign per entrance. No sign shall exceed 36 square feet in area.
- c. The park shall maintain visual separation from all developed properties with a planted screen of three feet in height or a solid fence of six feet in height. No screen or fence shall extend nearer to the street right-of-way than the established building line of adjoining lots.
- d. Within a manufactured home park, one manufactured home may be used as an administrative office.
- e. Mobile homes connected with a fair, carnival, or circus may be parked for the duration of the fair, carnival, or circus, but not to exceed 15 days, provided that all sewage and solid waste is disposed of in a manner approved by the County Health Department.

2. STREETS

- a. Streets located within manufactured home parks consisting of three homes or fewer must be graded and surfaced with asphalt, concrete, or similar and impervious materials.

- b. All streets within manufactured home parks of greater than three homes shall be designated as private, configured in accordance with the table below, and shall be paved to the state’s Department of Transportation standards.

TABLE OF MANUFACTURED HOME PARK STREET STANDARDS					
TYPE OF STREET	PAVED WITH CURB AND GUTTER (FEET)	PAVED WITHOUT CURB AND GUTTER (FEET)		GRADED STREET (FEET)	
		DITCH-TO-DITCH	PAVED	DITCH-TO-DITCH	GRADED
Cul-de-Sac	80	86	80	86	80
Major Collectors	28	38	30	N/A	N/A
Minor Collectors	20	26	22	32	24
Service Road	12	14	12	14	14

- c. All streets shall be named and marked by street signs.
- d. Proposed street names, regardless of the prefix or suffix used, shall not duplicate or be phonetically similar to the name of any other street or road name anywhere in the County.
- e. Street name signs which meet County specifications and traffic control signs which conform to the manual of uniform traffic control devices and the State’s department of transportation specifications shall be installed at the expense of the developer.

3. OFF-STREET PARKING

- a. Each manufactured home space shall be provided with off-street parking for two cars.
- b. Off-street parking located within manufactured home parks consisting of three homes or fewer must be graded and surfaced with asphalt, concrete, or similar and impervious materials.
- c. Off-street parking located within manufactured home parks of greater than three homes must provide parking pads not be less than 20 feet by 20 feet, and shall be graded and surfaced with asphalt or concrete. Each parking pad shall be directly connected to a driveway.
- d. Maintenance of such streets and parking areas shall be provided by the owner or operator of the park.

4. DRIVEWAYS

- a. Each manufactured home park space shall have direct access onto an approved manufactured home park street or state road by way of a driveway.
- b. Driveways located within manufactured home parks consisting of three homes or fewer must be graded and surfaced with asphalt, concrete, or similar and impervious materials.
- c. Driveways located in manufactured home parks of greater than three homes shall be at least ten feet wide and graded and surfaced with asphalt or concrete.

5. DEAD ENDS AND CUL-DE-SACS

Permanent dead-end streets or cul-de-sacs shall not exceed 600 feet in length and shall be provided with a turn-around of at least 80 feet in diameter.

6. INTERSECTIONS

- a. Streets shall intersect as nearly as possible at right angles, and no street shall intersect at less than 60 degrees.
- b. Where a street intersects a highway, the design standards of the state's Highway Commission shall apply. Street jogs of less than 125 feet shall not be allowed.

7. MANUFACTURED HOME SPACES

- a. All manufactured homes shall be located on its own individual manufactured home spaces.
- b. Each manufactured home space shall contain at least 43,560 square feet of ground area. When individual septic tank systems are proposed, the minimum space size shall be increased if the results of percolation tests and subsoil investigations indicate a need for a larger lot size.
- c. Each manufactured home space shall be clearly defined by means of concrete or iron pipe markers placed at all corners.
- d. Each manufactured home space shall be located outside the 100-year floodplain and graded so as to prevent any water from ponding or accumulating on the premises.
- e. Each manufactured home space shall have a site number, a four-inch-high permanent lettering attached or painted on the electrical service, in dark letters.

8. MANUFACTURED HOME DWELLINGS

- a. Each manufactured home shall be configured in accordance with the standards in § 155.204(A)(4).
- b. No living compartment or structure other than a "Florida room", or other prefabricated structure specifically designed for manufactured home use or extension, shall be added to any manufactured home.
- c. Each manufactured home shall be located at least 40 feet from any other manufactured home, at least 20 feet from any building within the manufactured home park, at least 20 feet from any property line, and at least 20 feet from the edge of the right-of-way of any street.
- d. Each manufactured home shall be put on a permanent foundation and properly tied down.

9. WATER SUPPLY REQUIREMENTS

- a. If County water service is available within 1,500 feet of the proposed manufactured home park, the developer shall construct a water system and connect it to the County water system, subject to the following conditions:
 - i. Construction plans for the proposed system shall be prepared by a registered engineer, materials and construction shall be in accordance with the specifications established by the County water system as prepared by the County's consulting engineer and shall be submitted with the plan for approval by the Planning Board, the County's consulting engineer, and appropriate State agencies.

- ii. The cost of the construction, connection, and approval of the manufactured home park water system shall be paid by the developer.
 - iii. All water mains, laterals, meter boxes, and utility easements shall be dedicated to the County water system. Water lines shall be installed within street rights-of-way where possible.
- b. All new manufactured home lots that connect to an existing water line shall comply with the rules and regulations of the County water system including, but not limited to, any installation charge, security deposit, or assessment required by the water system. These charges, deposits, or assessments shall be paid or secured as provided herein prior to the approval of the construction plan.
 - c. If County or municipal water service is not available, the plans for the construction of the proposed facilities or private water supplies shall meet the standards of the District Health Department, the State's Commission on Health Services, or the Division of Environmental Management, whichever is appropriate. Plans with signed approval certificates from the appropriate regulating agency shall be submitted with the construction plan.

10. SEWAGE DISPOSAL REQUIREMENTS

- a. Adequate and safe sewage disposal facilities shall be provided in all manufactured home parks.
- b. Collection systems and sewage treatment plants complying with the requirements of the State's Department of Water and Air Resources should be provided.
- c. Plans for sewage collection systems and treatment facilities shall be submitted to the State's Department of Water and Air Resources. Individual septic tank systems can be considered if soil, topography, and ground water conditions are favorable.
- d. Each manufactured home space shall be provided with at least a four-inch diameter sewer riser pipe. The sewer riser pipe shall be so located on each space that the sewer connection to the manufactured home drain outlet will approximate a vertical position.
- e. A two-foot by two-foot concrete apron shall be installed around all sewer connection riser pipes for support and protection.
- f. The sewer connection shall have a nominal inside diameter of at least four inches, and the slope of any portion thereof shall be at least one-eighth inch per foot. All joints shall be water-tight, including connection from trailer to sewer riser pipe.
- g. All material used for sewer connections shall be semi-rigid, corrosion resistant, nonabsorbent, and durable. The inner surface shall be smooth.
- h. A clean out with a brass screw-in plug attached by a chain shall be provided for plugging the sewer pipe when a manufactured home does not occupy a space. Surface drainage shall be diverted away from the riser. The rim of the riser pipe shall extend at least four inches above ground elevation.

11. SOLID WASTE DISPOSAL REQUIREMENTS.

- a. The storage, collection, and disposal of solid waste in the manufactured home park shall be so conducted as to create no health hazards or pollution.
- b. Each manufactured home shall store all solid waste in standard fly-tight, water-tight, rodent-proof containers and shall be located not more than 150 feet from any manufactured home lot. Containers shall be provided in sufficient number and capacity to properly store all waste. The manufactured home park management shall be responsible for the proper storage, collection, and disposal of solid waste.
- c. Stands shall be provided for all containers. Such container stands shall be so designed as to prevent containers from being tipped, to minimize spillage and container deterioration, and to facilitate cleaning around them.
- d. All solid waste shall be collected at least twice weekly. Where suitable collection is not available from municipal or private agencies, the manufactured home park operator shall provide this service. All solid waste shall be collected and transported in covered vehicles or covered containers.
- e. Where municipal or private disposal is not available, the manufactured home park operator shall dispose of the solid waste by transporting to a disposal site approved by the Health Director.

12. GROUNDS MAINTENANCE REQUIREMENTS

- a. Grounds, buildings, and structures shall be maintained free of insect and rodent harborage and infestation. Extermination methods and other measures to control insects and rodents shall conform to the requirements of the Health Director.
- b. Parks shall be maintained free of accumulations of debris which may provide rodent harborage or breeding places for flies, mosquitoes, or other pests.
- c. Storage areas shall be so maintained as to prevent rodent harborage; lumber, pipe, and other building material shall be stored at least one foot above the ground.
- d. Where the potential for insect and rodent infestation exists, all exterior openings in or beneath any structure shall be appropriately screened with wire mesh or other suitable materials.
- e. 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 areas shall be free of heavy undergrowth of any description.

13. LIGHTING REQUIREMENTS

- a. All streets in the manufactured home park shall be adequately illuminated from sunset until sunrise.
- b. The minimum size streetlight shall be a 175-watt mercury-vapor (approximately 7,000 lumen class), or its equivalent, spaced at intervals of not more than 400 feet.

(f) OPERATION

1. The owner or operator of the manufactured home park shall operate the park in compliance with these standards and shall maintain the park in good repair and in a clean and sanitary condition.
2. The park owner or operator shall notify park occupants of these provisions and inform them of their responsibility to comply.
3. A copy of these standards shall be on display and be readily available for occupants of the manufactured home park.

(g) REGISTRATION OF OCCUPANTS

1. Every manufactured home park owner or operator shall maintain an accurate register containing a record of all occupants and manufactured homes in the park. The register shall be maintained at all times and shall be available for inspection at all times by authorized County representatives.
2. The register shall contain the following information:
 - a. Name of owner and occupant;
 - b. Site number; and
 - c. Date of arrival and departure of the occupants.

(h) INSPECTION

The County Health Department and/or the Zoning Administrator shall inspect each manufactured home park for compliance with these standards, and no one shall attempt to prevent an inspection conducted in accordance with State law and these standards.

(i) LOSS OF OPERATING PERMIT

1. The Zoning Administrator shall revoke an operating permit from any manufactured home park that fails to correct a violation of any part of this Ordinance.
2. Any manufactured home park that is found to be in violation of these standards will cease to operate any and all rental manufactured homes immediately and shall remain liable to renters for fulfillment of contractual obligations. All rental spaces, those plots of land rented or leased to individual owners, shall cease operation at the end of the rental period, not to exceed 40 days from date of notice of permit violation. Unless an inspection shows the violation to have been corrected before the end of the 40-day grace period, then the permit for all remaining spaces shall be revoked.
3. Once the 40-day grace period has ended, if the owner has not corrected the violation, they shall be required to re-submit a manufactured home park plan in compliance with this section in order to obtain a new operating permit.

(j) PRE-EXISTING MANUFACTURED HOME PARKS

1. Manufactured home parks that are lawfully established prior to June 16, 2021 may continue in operation but shall not be expanded or increased unless they are permitted in the zoning district where located and provided the expanded portion of the park complies with all the standards in this section.
2. If a manufactured home park, existing before the adoption date of this chapter, should lose its operating permit, then it shall be subject to the regulations and requirements of this chapter in the re-application for an operating license.

(6) MOBILE HOMES

- (a) Mobile homes which, at the time of construction, were not built to the standards of the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. §§ 5401 et seq., (effective 1976) are prohibited in the County's planning jurisdiction.
- (b) Mobile homes lawfully established prior to June 16, 2021, may remain subject to the standards in §155.403.

(7) MULTI-FAMILY DWELLING

Multi-family development shall comply with the following provisions:

(a) BUILDING PLACEMENT

- 1. Buildings shall be setback from one another in accordance with the North Carolina Building Code.
- 2. Buildings must be set back from private drives and parking lots a minimum of ten feet as measured from back of curb or edge of pavement, if no curb is provided.
- 3. Buildings shall be setback from public streets in the development in accordance with the setbacks for the zoning district where located.

(b) BUILDING LENGTH

- 1. The maximum length of a multi-family building shall be 250 linear feet.
- 2. No maximum building length shall be applied if the building is designed for occupancy by the elderly and it has central facilities for dining and recreation.
- 3. In no instance shall the provision of a firewall between different building sections constitute two separate buildings for the purpose of meeting the building length requirement.

(c) UTILITIES

All electric, communications, water and sewer utility lines shall be installed underground.

(d) CONDOMINIUMS

Multi-family development configured as condominiums shall comply with the following standards:

- 1. Condominiums shall conform to the use and development requirements of this Ordinance for the zoning district(s) where located.
- 2. Condominiums shall conform to the requirements of the North Carolina Condominium Act, in Chapter 47C of the North Carolina General Statutes.
- 3. Condominium ownership may be created by the owner or co-owners of a structure(s) by an express declaration of their intention to submit such property to the provisions of the North Carolina Condominium Act, which declaration shall be subject to approval by the Board of County Commissioners and recorded in the office of the Gates County Register of Deeds.

(e) SCREENING

Utility areas such as clothes drying yards and outdoor storage areas shall be fully screened from public streets and adjacent lots zoned for single-family detached residential dwellings.

(8) SEASONAL AGRICULTURAL HOUSING

The facility may only be used for a total of 180 days during the calendar year. This does not mean continuous days but the total number of days between January 1 and December 31 in any year.

(9) TOWNHOUSE DWELLING

Townhouse development shall comply with the following provisions:

(a) BUILDING PLACEMENT

1. A minimum ten feet of separation shall be maintained between all buildings in the development.
2. Buildings must be set back from private drives and parking lots a minimum of ten feet as measured from back of curb or edge of pavement, if no curb is provided.
3. Buildings shall be set back from public streets in the development in accordance with the setbacks for the zoning district where located.

(b) UTILITIES

All electric, communications, water and sewer utility lines shall be installed underground.

(c) CONDOMINIUMS

Townhouse developments configured as condominiums shall comply with the following standards:

1. Condominiums shall conform to the use and development requirements of this Ordinance for the zoning district(s) where located.
2. Condominiums shall conform to the requirements of the North Carolina Condominium Act, in Chapter 47C of the North Carolina General Statutes.
3. Condominium ownership may be created by the owner or co-owners of a structure(s) by an express declaration of their intention to submit such property to the provisions of the North Carolina Condominium Act, which declaration shall be subject to approval by the Board of County Commissioners and recorded in the office of the Gates County Register of Deeds.

(d) ACCESS

Townhouse developments shall abut a public street.

1. Individual single-family attached lots need not abut a public street provided that every dwelling unit shall be provided access to their property via either a public right-of-way or a private vehicular or pedestrian way owned by the individual lot owner in fee or in common ownership with other property owners in the development.
2. Adequate access shall be provided for firefighting equipment, service deliveries, and refuse collection.

(B) INSTITUTIONAL USES

(1) ADULT DAY CARE

An adult day care facility may be permitted in districts designated in the Table of Permitted Uses, subject to the dimensional requirements of the district and provided:

- (a) If five or more patients are served by the facility, a paved driveway, with ingress and egress directly onto a public street, must be constructed in such a manner as to provide entrance to and exit from the property without backing onto the street right-of-way;
- (b) No outside sign in excess of four square feet in area shall be permitted; and
- (c) The construction and operation of the adult day care shall comply with the provisions of the General Statutes and any other applicable laws.

(2) ANTENNA COLLOCATION

The collocation of wireless telecommunications antennae shall be in accordance with the applicable requirements in §155.204(B)(17).

(3) ASSISTED LIVING FACILITY

An assisted living facility shall comply with the following standards:

- (a) If provided, shared food preparation, service, and major dining areas shall be centrally located;
- (b) Common social and service facilities shall be provided at a minimum rate of 30 square feet per dwelling or rooming unit in addition to the minimum amount of required open space;
- (c) All facilities and services shall be solely for the use of residents and their guests;
- (d) Facilities for administrative services and limited medical services for the exclusive use of the residents may be located on the site.

(4) CEMETERY

New cemeteries and the expansion of existing cemeteries (as a principal use) shall comply with the following standards:

- (a) New cemeteries shall be located on a site or parcel with an area of at least two-and-one-half acres; this standard shall not apply to existing cemeteries or the expansion of existing cemeteries;
- (b) New cemeteries shall be located on a site or parcel that fronts a major street; this standard shall not apply to existing cemeteries or the expansion of existing cemeteries;
- (c) Cemeteries shall include drive aisles or vehicular accessways of at least 12 feet in width or greater as needed for the parking and maneuvering of funeral processions; and
- (d) Interments shall take place at least 25 feet from any lot line and comply with all applicable requirements of the North Carolina General Statutes.

(5) CHILDREN'S DAY CARE/COMMUNITY CENTER

A child day care center may be permitted in districts designated in the Table of Permitted Uses, subject to the dimensional requirements of the district and provided:

- (a) A paved or otherwise improved driveway, with ingress and egress directly onto a public street, is constructed in such a manner as to provide entrance to and exit from the property without backing onto the street right-of-way;
- (b) The entire play area is enclosed with a fence having a minimum height of four feet and constructed in such a manner that maximum safety is ensured;
- (c) No outside sign in excess of two square feet in area shall be permitted in residential districts; and
- (d) The construction and operation of such facilities shall comply with the provisions of the general statutes of the state and any other applicable federal, state, or local codes.

(6) CHURCH

Churches shall be subject to the following standards:

- (a) There shall be at a minimum 150 feet of road frontage.
- (b) The proposed parking facilities shall be set back at least 50 feet from adjacent residential uses.
- (c) Off-street parking areas shall be surfaced and maintained to provide a durable, dust-free surface and shall provide adequate drainage facilities for disposal of all collected surface water. Surfacing materials may include pavement, gravel, wood chips, pervious paving materials, or grass.

(7) COLLEGES, UNIVERSITIES, PROFESSIONAL SCHOOLS, AND TECHNICAL INSTITUTIONS

All facilities within a vocational or trade school which typically generate significant noise or fumes, such as auto body or engine repair, industrial/auto body painting, manufacturing processes, or campus-wide energy/utility systems, and that are adjacent to a residential district shall comply with the following standards:

- (a) Be at least 100 feet from any building line in an adjacent residential district;
- (b) Provide a landscaped buffer at least 25 feet in depth along any lot lines shared with a residential zoning district; and
- (c) Include information on site plans indicating any other mitigation steps appropriate to the impacts of the use(s) (such as additional sound-containment features.)

(8) ELECTRICAL SUB-STATION

An electrical power facility, substation, or transmission station shall be set back at least 100 feet from all lot lines.

- (a) The long-term storage of vehicles or equipment associated with a sub-station shall be fully screened on all sides by an opaque wall, fence, retained vegetation, or planted vegetation to a height of eight feet. If planted vegetation is used, it must satisfy the height standard within three years after planting.
- (b) Driveways and parking areas shall be provided as required in this Ordinance.

(9) FRATERNAL AND SOCIAL ORGANIZATIONS

Fraternal and social organizations may be allowed subject to the requirements of the district where located and provided that:

- (a) The lot size shall be no less than one acre for new construction and no less than one acre for the conversion of existing buildings;
- (b) The usable floor space shall be no less than 250 square feet per resident; and

- (c) The parking lot shall be provided with a continuous visual buffer with a minimum height of six feet. The buffer shall be a combined fence and evergreen hedge or shrubbery screen.

(10) GOVERNMENT OFFICES AND BUILDINGS

State, local, and federal offices and buildings shall be subject to the requirements of the zoning district where proposed and all other applicable requirements of this Ordinance.

(11) HOSPITAL OR PERSONAL CARE FACILITY

A hospital or personal care facility shall comply with the following standards:

- (a) The lot size shall be no less than two acres; and
- (b) The structure shall have minimum side and rear yards of 50 feet and a front yard of at least 25 feet greater than that required of single-family residences within the district in which located.

(12) MARINA, RESIDENTIAL

Residential marina shall comply with the following standards:

- (a) A buffer shall be provided along all property lines abutting residential property;
- (b) The illumination from exterior lighting shall be contained on the site and shall not exceed one footcandle at any lot line; and
- (c) A site plan shall be submitted for review and approval.

(13) PRIVATE CLUB OR LODGE

A private club or lodge shall comply with the following standards:

- (a) All new sites shall be no less than two acres in size;
- (b) Structures shall have minimum side and rear yards of 50 feet and a front yard of at least 25 feet greater than that required for single-family residences within the district located;
- (c) Provisions for food, refreshment, and entertainment for club members and their guests may be provided with enclosed buildings or on an improved surface such as a deck or a patio.
- (d) The parking lot shall be provided with a continuous visual buffer with a minimum height of six feet. The buffer shall be a combined fence and evergreen hedge or shrubbery screen.

(14) RESIDENTIAL SUPPORT CENTER

A residential support center shall comply with the following standards:

- (a) The structure shall have a minimum side yard of 20 feet and front yard of 50 feet; and
- (b) A paved driveway, with ingress and egress directly onto a public street, is constructed in such a manner as to provide entrance and exit from the property without backing onto the street right-of-way.

(15) SMALL WIRELESS FACILITY

Small wireless facilities located outside a public right-of-way shall comply with the applicable standards in §155.204(B)(17).

(16) SOLAR ENERGY CONVERSION SYSTEM, MAJOR

- (a) GENERAL REQUIREMENTS

1. A special use permit approval shall not supersede any other applicable State or federal laws or requirements.
2. A valid special use permit, building permit, electrical permit, U. S. Army Corp of Engineers approval, any other State or federal permit is a mandatory requirement for the establishment of a major solar energy conversion system.
3. Full disclosure of solar panel contents and materials are required as part of the building permit and/or electrical permit application. Documentation of compliance with all State and federal requirements shall be provided with the seal and signature of a design professional licensed in North Carolina.

(b) SPECIAL USE PERMIT APPLICATION REQUIREMENTS

All applications and plans shall include the following:

1. Name of the project, names and addresses of the owners(s), and the engineers and surveyors;
2. Date, scale and accurate North arrow;
3. Boundaries and actual dimensions and shape of parcel, including total acreage, with bearings and distances from any proposed solar farm facility or structure to the surrounding property lines;
4. A site plan showing streets, circulations, driveways, service buildings, easements, arrangement of solar panels and streets; also fencing, gates and vegetative buffers;
5. Horizontal and vertical (elevation) to scale drawings with dimensions that show the location of solar panels and system on the property;
6. Copy of deed, land purchase agreement, and/or land lease agreement;
7. Vicinity map showing the location and surrounding land use;
8. Other features and designs as deemed reasonably necessary by the County review authority; and
9. A decommissioning plan that is in compliance with or exceeds the requirements of this section.

(c) REVIEW PROCEDURE

1. Prior to or concurrent with the review of a special use permit application, all major solar energy conversion systems shall be subject to review of a site plan by the Technical Review Committee review.
2. No development or land clearing shall occur until after the project receives all State or federal permits and the site plan is approved by the Technical Review Committee.
3. No building permit or electrical permit shall be issued until the project receives approval of a special use permit and approval of a site plan.

(d) STANDARDS

A major solar energy conversion system shall comply with the following standards:

1. LOT SIZE AND SETBACKS

- a. The minimum lot size shall be ten or more acres.
- b. A minimum setback distance of 100 feet from all property boundary lines shall be required in any zoning district.

- c. A fence enclosing the solar panels configured in accordance with these standards is required and shall be setback at least 200 feet from all lot lines.
- d. A setback of at least 150 feet from any portion of the major solar energy conversion facility shall be maintained between any wetlands found on the subject site or any adjacent lots.
- e. Facilities located within a projected future transportation corridor shall reserve right-of-way for the corridor as deemed appropriate by the North Carolina Department of Transportation.
- f. Power inverters and other sound producing equipment shall not be sited less than 150 feet from any dwelling unit at the time of construction/installation.

2. SCREENING

- a. A chain link fence no less than six feet in height with a locked gate shall enclose all solar collectors and shall include "No Trespassing" and "High Voltage" signs located every 100 feet along all fence sides.
- b. The entrance to the site shall include signage with the name and emergency contact information of the operator.
- c. Except for accessways into the site, the entire facility shall be enclosed by an evergreen vegetative planting strip located at least six feet outside the fenced area wherever existing vegetation does not adequately obscure view of the facility from adjacent parcels or public roads. Failure to continually maintain required screening shall constitute a violation for which the special use permit may be revoked.
- d. The evergreen vegetative planting strip shall be composed of evergreen trees or shrubs with a minimum of four feet in height at time of planting. The evergreen trees or shrubs shall be spaced no more than ten feet from the base of one plant to the base of the next plant. At maturity, required vegetative screening shall be no less than 15 feet tall and touching, regardless of line of sight.

(e) DECOMMISSIONING, ABANDONMENT, HAZARD ABATEMENT

A signed and notarized decommissioning plan shall be submitted with the special use permit application and shall be in a form suitable to be recorded with the Register of Deeds. The decommissioning plan shall include, at a minimum, all the following provisions and requirements:

- 1. Following a six-month period in which no electricity is generated, the permit holder will have six months to complete decommissioning of the system. Decommissioning includes removal of solar panels, support columns, buildings, cabling, electrical components, and any other associated facilities down to 72 inches below grade;
- 2. Identification of any other conditions or circumstances upon which decommissioning will be initiated (e.g., end of lease, condition of a potential public safety hazard, etc.);
- 3. Following removal, disturbed earth shall be graded and reseeded, unless the landowner requests in writing that access roads or other land surface areas are not to be restored;

4. Prompt repair or removal of any structures that no longer function, become damaged, or that constitute a safety hazard regardless of whether due to neglect, man-made, or natural causes;
5. The timeframe for completion of removal and decommissioning activities shall be from 180 days to 12 months unless otherwise extended following receipt of an application for extension; and
6. A signed statement from the party responsible for completing the decommissioning plan acknowledging their responsibility to execute the decommissioning plan in accordance with these standards.

(f) DECOMMISSIONING PERFORMANCE GUARANTEE

A performance guarantee for the potential decommissioning of a major solar energy conversion system shall be provided to the County by an applicant in accordance with the following standards:

1. The guarantee shall be posted with the County prior to establishment of the facility;
2. The performance guarantee shall renew automatically and shall include a minimum 60-day notice to the County prior to cancellation;
3. The guarantee shall be provided by a company on the U.S. Department of Treasury's Listing of Certified Companies;
4. A guarantee consisting of a bond certificate shall be submitted to the Zoning Administrator each year verifying the bond has been properly renewed;
5. The amount of the guarantee shall be one and a quarter times the estimated decommissioning cost, or \$50,000, whichever is greater, and shall not be reduced by the salvage value;
6. Cost estimates for decommissioning shall be determined by a North Carolina licensed engineer or a licensed contractor and shall be provided by the applicant;
7. Compliance with these requirements shall be fulfilled upon deposit of a certified check deposited with the County Finance Director;
8. Funds deposited with the Finance Director will only be returned when the facility is decommissioned, and any necessary site restoration is completed; and
9. The full amount of the bond or certified check shall remain in full effect until the facility is decommissioned and any necessary site restoration is complete.

(g) TRANSFER OF OWNERSHIP

Any major solar energy conversion system that is sold or transferred to another entity shall remain still bound to the rules and regulations in this section, any State or federal permits, conditions of approval imposed as part of the special use permit, site plan requirements, or the building permit process.

(17) TELECOMMUNICATIONS FACILITIES

(a) PURPOSE AND INTENT

This section establishes general standards for the siting of wireless telecommunications facilities that will provide for the public health, safety, and welfare. The standards are intended to ensure that residents, businesses, and public safety operations in the County's planning jurisdiction have reliable access to

wireless communications services. More specifically, the provisions of this section are intended to:

1. Ensure adequate protection of residential areas and uses from potential adverse impacts of wireless communications facilities, and to generally encourage the location of these facilities in areas where adverse impact on the community is minimal;
2. Encourage the placement of wireless telecommunications facilities in non-residential areas;
3. Minimize the number of new major telecommunications towers generally;
4. Create conditions where wireless telecommunications service providers are able to provide wireless telecommunications services effectively and efficiently in accordance with State and federal law;
5. Strongly encourage the joint use or collocation of new and existing wireless telecommunications facilities so as to minimize the number of new telecommunications towers throughout the County;
6. Establish collocation and concealed towers as the preferred options for the accommodation of wireless telecommunications equipment; and
7. Ensure that wireless telecommunications facilities located within the public right of way do not obstruct sight distance triangles or create safety hazards for pedestrians or bicyclists.

(b) APPLICABILITY

The standards in this section shall apply to all wireless telecommunications facilities except for the following, which are exempted from these standards but remain subject to all other applicable standards in this Ordinance:

1. Removal of antennas, antenna support structures, or wireless telecommunications equipment on an existing telecommunications tower, utility pole, vertical projection, or equipment compound that does not result in a substantial modification;
2. The operation of a small wireless facility solely within the interior of a structure, stadium, or athletic facility;
3. Routine maintenance on an existing wireless telecommunication facility;
4. Installation, modification, or operation of a micro-wireless facility, receive-only television antenna, or receive-only radio antenna for noncommercial use;
5. Installation, modification, or operation of FCC-licensed amateur (“ham”) radio equipment; and
6. Dish antenna or earth stations.

(c) RETENTION OF EXPERT ASSISTANCE AND REIMBURSEMENT BY APPLICANT

The County may hire any consultant and/or expert necessary to assist the County in reviewing and evaluating application for a wireless telecommunications facility, including the construction and modification of the site, in accordance with these standards.

1. Upon filing an application, an applicant shall deposit with the County funds sufficient to reimburse the county for all reasonable costs of consultant and expert evaluation and consultation to the county in connection with the review of any application, including the construction and modification of the site, once permitted.
2. The initial deposit shall be in the amount set forth in the adopted fee schedule and shall be paid at the time the application is submitted. The County will maintain a separate escrow account for all such funds.
3. The County's consultants/experts shall invoice the County for its services in reviewing the application, including the construction and modification of the site, once permitted.
4. If at any time during the process this escrow account has a balance less than an amount set forth in the adopted fee schedule, the applicant shall immediately, upon notification by the County, replenish the escrow account so that it maintains the minimum required balance. Any additional escrow funds shall be deposited with the County before any further action or consideration is taken on the application.
5. In the event that the amount held in escrow by the County is more than the amount of the actual invoicing at the conclusion of the project, the remaining balance shall be promptly refunded to the applicant.

(d) WIRELESS TELECOMMUNICATIONS FACILITIES DISTINGUISHED

The following use types and configurations are considered to be wireless telecommunications facilities subject to these requirements:

1. New and replacement major telecommunication towers of 50 feet in height or taller;
2. New and replacement minor telecommunication towers of up to 50 feet in height;
3. Stealth or concealed telecommunication towers, antennae, or wireless telecommunications equipment;
4. Major collocations of antennae and associated equipment on existing towers, buildings, or other vertical projections;
5. Minor collocations of antennae and associated equipment on existing towers, buildings, or other vertical projections; and
6. The installation of small wireless telecommunications facilities on land outside a public street right-of-way.

(e) GENERAL STANDARDS APPLICABLE TO ALL TYPES OF WIRELESS TELECOMMUNICATIONS FACILITIES

The following requirements shall apply to all new wireless telecommunications facilities and any modifications to an existing wireless telecommunications facility that exceeds the scope of routine maintenance, as defined in this section.

1. BUILDING PERMIT REQUIRED

Prior to installation or modification exceeding the scope of routine maintenance, all wireless telecommunications facilities shall receive a building permit in accordance with the requirements in this Chapter.

2. COMPLIANCE WITH FEDERAL AND STATE REGULATIONS

All wireless telecommunication facilities shall comply with or exceed current standards and regulations of the Federal Aviation Administration (FAA), the Federal Communications Commission (FCC), and any other agency of the federal government that regulates telecommunications facilities. In addition to federal requirements, all wireless telecommunication facilities shall comply with or exceed current standards and regulations of the State of North Carolina pertaining to wireless telecommunications facilities in G.S. §160D-930 through §160D-934.

3. INTERFERENCE

No wireless communication facility shall disturb, diminish, or interfere with public safety, radio, television, or other wireless telecommunications signals in accordance with FCC requirements.

4. STRUCTURALLY SOUND

All elements of a wireless telecommunication facility shall demonstrate, to the satisfaction of the County, that the equipment and the structure supporting the equipment is structurally sound and can accommodate the proposed equipment and appurtenances.

5. SIGHT DISTANCE AT INTERSECTIONS

All elements of a wireless telecommunication facility shall be located outside of, and shall in no way obstruct, required sight distance triangles. This requirement shall apply to existing streets as well as to future street intersections that have been designed or where right-of-way is currently being protected by the County or the State.

6. ACCESSORY EQUIPMENT

Accessory equipment, including any buildings, cabinets, or shelters, shall be used only for the purposes of housing wireless telecommunications equipment and other supplies in direct support of the operation of the wireless telecommunications facility. Any equipment or materials not used in direct support of such operation shall not be stored on the site.

7. OBSTRUCTION LIGHTING

Lighting of a wireless telecommunications facility shall be limited to that required for compliance with FAA minimum standards. Any lighting required by the FAA must be of the minimum intensity and number of flashes per minute (i.e., the longest duration between flashes) allowable by the FAA. Nighttime strobing or flashing lights are prohibited, unless required by the FAA.

8. SIGNAGE

Signage shall be limited to safety or informational signage identifying the party responsible for the operation and maintenance of the facility and any additional security or safety signs, as necessary, in the opinion of the Zoning Administrator.

9. UNAUTHORIZED ACCESS PROHIBITED

Telecommunications towers and vertical projections with wireless telecommunications equipment with a height of 30 feet above grade or more shall be designed or configured to prevent unauthorized persons from climbing on the wireless telecommunication facility whether through use of walls or fencing with a minimum height of six feet above adjacent grade, or anti-climbing devices.

10. NONCONFORMING WIRELESS TELECOMMUNICATIONS FACILITIES

- a. Lawfully established wireless telecommunications facilities in operation prior to June 16, 2021, that do not comply with these standards may remain and operate as nonconforming uses.
- b. In the event of conflict between these standards and the standards for nonconforming situations in Article 155.4, the standards in this section shall control with respect to wireless communications facilities.
- c. Ordinary and routine maintenance may be performed on a nonconforming wireless telecommunications facility.
- d. Minor collocation of antennae, antenna-support structures, and related wireless telecommunications equipment is allowed, provided that the overall height of the existing nonconforming wireless telecommunications facility remains unchanged or is reduced.
- e. In no instance shall a collocation resulting in an increased overall height or a requiring substantial modification, as defined in this section and G.S. §160D-932, be permitted on a nonconforming wireless telecommunications facility.
- f. In the event a nonconforming telecommunications tower is removed, it shall not be replaced with another nonconforming wireless telecommunications tower.

11. CESSATION

- a. A wireless telecommunication facility shall be considered to have ceased operation if the County receives written notice from a wireless services provider that it intends to cease operations at a particular wireless telecommunication facility, or a wireless telecommunications facility ceases to transmit a wireless telecommunications signal for a period of 30 consecutive days or longer.
- b. Upon receipt of a written notice from a wireless services provider or upon determination that a wireless communication facility has ceased operation, the County shall forward written documentation of the cessation to the wireless services provider, or the owner of the land, if different.

12. ABANDONMENT

- a. The wireless telecommunications facility shall be deemed abandoned if wireless telecommunications signals do not resume for a period of 180 consecutive days or longer from the date the written documentation of cessation is filed.
- b. Upon making a determination that a wireless telecommunications facility has been abandoned, the County shall forward written documentation of the abandonment to the wireless services provider, or the owner of the land, if different.

13. REMOVAL

- a. The County may require the wireless services provider or the owner of the land, if different, to remove an abandoned wireless telecommunications facility within 30 days of the date it is deemed abandoned.

- b. Should the wireless services provider, or the owner of the land, if different, fail to remove the abandoned telecommunications facility within 30 days of the date that notice of abandonment is filed, the County may cause the wireless telecommunications facility to be removed and may recover the actual cost of such removal, including legal fees, if any, from the wireless services provider, or the owner of the land, if different.

14. LIABILITY INSURANCE

- a. The permit holder for wireless telecommunications facilities shall secure and at all times maintain public liability insurance for personal injuries, death, and property damage, and umbrella insurance coverage, until the tower is removed from the site, in amounts as set forth below:
 - i. Commercial general liability covering personal injuries, death, and property damage: \$1,000,000 per occurrence/\$2,000,000 aggregate;
 - ii. Automobile coverage: \$1,000,000 per occurrence/\$2,000,000 aggregate; and
 - iii. Worker's compensation and disability: statutory amounts.
- b. The commercial general liability insurance policy shall specifically include the County and consultants as an additional named insured.
- c. The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the state and with a Best's rating of at least A.
- d. The insurance policies shall contain an endorsement obligating the insurance company to furnish the county with at least 30 days' prior written notice in advance of the cancellation of the insurance.
- e. Renewal or replacement policies or certificates shall be delivered to the County at least 15 days before the expiration of the insurance that such policies are to renew or replace.
- f. Before construction of a permitted wireless telecommunications facility is initiated, but in no case later than 15 days after issuance of the zoning compliance permit, the permit holder shall deliver to the County a copy of each of the policies or certificates representing the insurance in the required amounts.

(f) STANDARDS FOR SPECIFIC TYPES OF WIRELESS TELECOMMUNICATION FACILITIES

1. COLLOCATION OF ANTENNAE

a. COLLOCATIONS DISTINGUISHED

All collocations shall be classified as either a major collocation or a minor collocation in accordance with Section 10.3: Definitions, and the following:

- i. A major collocation includes placement of antennas, antenna-support structures, and related wireless telecommunications equipment on any of the following: a building’s roof; a building’s wall; a vertical projection such as a water tank, electric transmission tower, or similar vertical projection not constructed for the sole purpose of providing wireless telecommunications services; or an existing or replacement telecommunications tower where the collocation requires a substantial modification, as defined in these standards and G.S. § 160D-931.
- ii. A minor collocation includes placement of antennas, antenna-support structures, and related wireless telecommunications equipment on an existing or replacement telecommunications tower, provided no substantial modification, as defined in these standards and G.S. § 160D-931, is required. A minor collocation may also be referred to as an “eligible facility,” as defined in these standards and G.S. § 160D-931.
- iii. In addition to the placement of antennas and antenna-support structures, collocations may also include the placement of wireless telecommunications equipment on a telecommunications tower, on a vertical projection, on the ground in close proximity to a telecommunications tower or vertical project, within an equipment compound, within an equipment cabinet, within a building, or on a building’s roof. Nothing shall prohibit the replacement of an existing telecommunications tower or activities that increase the overall height of an existing telecommunications tower in order to accommodate a proposed collocation.

2. SUBSTANTIAL MODIFICATION

Collocations on an existing or replacement telecommunications tower that require or result in any of the following shall be considered a substantial modification:

- a. Increasing the existing overall height of the telecommunications tower by the greater of: 20 feet or more than ten percent; or
- b. Adding an appurtenance (excluding cabling supports) to the body of an existing telecommunications tower that protrudes horizontally from the edge of the tower by the greater of: more than the width of the telecommunications tower at the height of the appurtenance; or more than 20 feet from the edge of the tower; or
- c. Increasing the square footage of an existing equipment compound by more than 2,500 square feet.
- d. Substantial modifications that require an increase in the overall height of an existing telecommunications tower or require a replacement tower that exceeds the height of the existing telecommunications tower by more than 40 feet shall require review as a new telecommunication tower.

e. MAXIMUM HEIGHT

Antennae, antenna-support structures, or other wireless telecommunications equipment, associated with a major collocation on a building wall or roof shall not project more than ten feet above the highest point of the building’s roof or parapet wall.

f. METHOD OF ATTACHMENT

Antennae, antenna-support structures, or other wireless telecommunications equipment, associated with a collocation shall be mechanically fastened to the building, roof, vertical projection, or telecommunications tower in a manner that minimizes the potential for structural failure or endangerment of the public from falling wireless telecommunications equipment. The Zoning Administrator shall require an applicant for a collocation to furnish evidence from a professional engineer licensed in the State of North Carolina that the proposed collocation meets the applicable State and local building and fire code requirements.

g. APPEARANCE WHEN CONCEALED

When a collocation is proposed on a concealed telecommunications tower, the collocation shall be configured in the manner necessary to ensure the tower's concealment is not compromised or negatively impacted.

h. SETBACKS

In cases where an existing telecommunication tower's height is increased or where an existing telecommunications tower is replaced in order to accommodate a collocation, the existing or replacement tower shall be set back at least one foot from the front, side, and rear lot lines for each foot of overall wireless telecommunications facility height, to the maximum extent practicable. Accessory structures, including equipment cabinets, guy wire anchors, and other ground-based equipment shall conform with the applicable dimensional requirements for the zoning district where located.

3. TELECOMMUNICATIONS TOWER, MAJOR

a. TOWERS DISTINGUISHED

A new or replacement telecommunications tower with a height of 50 feet or more above grade is a major telecommunications tower subject to these standards. A new or replacement telecommunications tower with a height less than 50 feet above grade shall be considered a minor telecommunications tower.

b. SETBACKS

Towers and their associated antennas shall be set back at least one foot from the front, side, and rear lot lines for each foot of overall wireless telecommunications facility height. In cases where an existing telecommunication tower's height is increased or where an existing telecommunications tower is replaced in order to accommodate a major or minor collocation, the existing or replacement tower shall comply with the setback requirements, to the maximum extent practicable.

c. MAXIMUM HEIGHT

The maximum height (including antenna and other appurtenances) for any new, replaced, or collocated wireless telecommunication tower is 200 feet, as measured from the adjacent pre-construction grade to the top of the highest appurtenance on the tower. In no instance shall the collocation of an eligible facility or a collocation that constitutes a substantial modification result in a telecommunication tower with a height that exceeds 200 feet above the adjacent pre-construction grade. In cases where a telecommunications tower is mounted to or on top of a building, the overall height of the building and the

attached tower shall not exceed 200 feet from the adjacent preconstruction grade. The adjacent pre-construction grade shall be the grade at the base of the building closest to the tower.

d. COLLOCATION REQUIRED

Telecommunications towers shall be designed to accommodate the present and future needs of the owner and as well as the collocation of additional equipment, in accordance with the following standards:

- i. Towers of 50 to 80 feet in height shall be configured to accommodate the collocation of at least two wireless telecommunications service provider's equipment.
- ii. Towers of 81 to 130 feet in height shall be configured to accommodate the collocation of at least three wireless telecommunications service provider's equipment.
- iii. Towers of 131 feet in height or higher shall be configured to accommodate the collocation of at least four wireless telecommunications service provider's equipment.

4. TELECOMMUNICATIONS TOWER, MINOR

a. TOWERS DISTINGUISHED

A concealed telecommunications tower is a telecommunications tower and associated equipment that is designed to appear as something other than a traditional wireless communications facility. A minor wireless telecommunications tower is a use that is designed to appear as a traditional wireless communications facility except that the maximum height of the tower portion of the facility is less than 30 feet above grade.

b. APPEARANCE OF A CONCEALED TELECOMMUNICATIONS TOWER

A concealed telecommunications tower shall be configured to conceal the presence of the tower, antennas, antenna-support structures, and related wireless telecommunications equipment in order to obscure its purpose as a wireless telecommunications facility, to the maximum extent practicable. Allowable configurations include, but are not limited to: bell towers, clock towers, water towers, silos, chimneys, steeples, light poles, flag poles, or evergreen trees. Antennae, antenna support structures, cabling, and related appurtenances shall be enclosed, camouflaged, screened, or otherwise obscured so that they are not readily identifiable as wireless telecommunications equipment to the casual observer.

c. SETBACKS

Concealed and minor telecommunications towers and associated accessory structures, including equipment cabinets, shall comply with the applicable dimensional requirements for non-residential uses in the zoning district where located. In no instance shall a concealed or minor telecommunications tower be exempted from the minimum applicable setback requirements for non-residential uses. In cases where an existing concealed telecommunication tower's height is increased or where an existing concealed telecommunications tower is replaced in order to accommodate a major or minor collocation, the existing or replacement concealed telecommunications

tower shall comply with the setback requirements above, to the maximum extent practicable.

d. MAXIMUM HEIGHT

The maximum height for any concealed wireless telecommunication tower is 200 feet, as measured from the adjacent pre-construction grade to the top of the highest appurtenance on the tower. In no instance shall a collocation of an eligible facility or work associated with a substantial modification result in a concealed telecommunication tower with a height that exceeds 200 feet above the adjacent pre-construction grade. The maximum height for a minor telecommunications tower is less than 50 feet from the adjacent pre-construction grade to the top of the highest appurtenance on the tower.

e. COLLOCATION

Concealed and minor telecommunications towers are encouraged (but not required) to accommodate the collocation of other antennae. Collocations of equipment on a minor telecommunications tower (whether a major or minor collocation) shall not increase the overall height of the tower by more than 10 feet beyond the initially approved height of the minor telecommunications tower. Actions that result in an increase in tower height by more than 10 feet shall require the minor telecommunications tower to undergo review as a major telecommunications tower. Any collocated equipment on a concealed telecommunications tower must maintain the appearance of the facility as a concealed telecommunications tower. In no instance shall a concealed telecommunications tower be replaced with a telecommunications tower that is not concealed in order to accommodate a collocation.

5. WIRELESS COMMUNICATIONS FACILITIES, SMALL

a. CONSOLIDATED APPLICATION

An applicant may file a single consolidated application for up to 25 separate small wireless facilities at one time, but the County may choose to issue separate decisions on one or more of the facilities included within a consolidated application.

b. LOCATED WITHIN PUBLIC RIGHT-OF-WAY

In cases where a small wireless facility is proposed within a public right-of-way, the small wireless facility shall comply with all standards applicable to the right-of-way.

c. TIMEFRAME FOR REVIEW

Applications for establishment of a small wireless facility shall be processed and decided within 45 days from the date the application is determined to be complete. Nothing shall prohibit the County and the applicant from mutually agreeing to a longer review period.

d. TIMING FOR OPERATION

Construction of a small wireless facility shall commence within six months of its approval and the small wireless facility shall be activated for use within one year from the permit issuance date, unless delayed by a lack of commercial power at the site.

e. MAXIMUM EQUIPMENT SIZE

In no instance shall a small wireless facility exceed the following maximum size limitations; a small wireless facility that exceeds these maximum size limitations shall be reviewed in accordance with the standards for a collocation.

- i. Each antenna, and any exposed elements, shall be capable of fitting within an enclosure of six cubic feet, or less.
- ii. All other wireless equipment associated with the small wireless facility shall maintain a maximum cumulative volume of 28 cubic feet, or less. The following types of ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation boxes, grounding equipment, power transfer switches, cut-off switches, vertical cable runs for the connection of power and other services, or the support structure.

f. MAXIMUM HEIGHT

No new structure intended to support a small wireless facility shall be taller than 50 feet above the adjacent pre-construction grade. An existing structure (such as a utility pole, light standard, sign, etc.) may be replaced in order to accommodate a small wireless facility, but the replacement structure shall not exceed the height of the original structure being replaced. In no instance shall the antennae or equipment associated with a small wireless facility project more than ten feet above the height of the structure the small wireless facility is mounted on. In cases where a new structure installed to serve a small wireless facility exceeds 50 feet in height, the structure shall be reviewed and decided in accordance with the standards for a telecommunications tower. In cases where a replacement structure intended to serve a small wireless exceeds the height of the original structure, the replacement structure shall be reviewed and decided in accordance with the standards for a collocation.

g. PLACEMENT

A small wireless facility, including the support structure and all other equipment, shall not obstruct the safe passage of vehicles, pedestrians, or bicycles.

h. METHOD OF ATTACHMENT

Antennae, antenna-support structures, or other wireless communications equipment, associated with a small wireless facility shall be mechanically fastened to the supporting structure in a manner that minimizes the potential for structural failure or endangerment of the public from falling wireless telecommunications equipment. The Zoning Administrator shall require an applicant for a small wireless facility to furnish evidence from a professional engineer licensed in the State of North Carolina that the proposed wireless telecommunications facility meets the applicable State and local building and fire code requirements.

i. APPEARANCE

The portion of a small wireless facility attached to the support structure shall match the color of the support structure, to the maximum extent practicable. In cases where an applicant proposes inclusion of a small wireless facility on a decorative support structure, sign, or other existing structure not constructed

solely for the purposes of providing wireless telecommunications services, the County may require the small wireless facility to be configured or concealed to ensure compatibility with the structure.

j. ELECTRICAL SERVICE

In cases where a small wireless facility is proposed in areas where electrical service is underground, all electrical service to the small wireless facility shall also be underground.

(18) WIND ENERGY CONVERSION SYSTEM

(a) PURPOSE AND INTENT

The purpose of these standards is to provide for the regulation of the construction and operation of wind energy conversion systems in the County, subject to reasonable conditions that will protect the environment, public health, safety, and welfare.

(b) PERMIT REQUIREMENT

No new establishment or expansion of an existing wind energy conversion system shall be allowed until a permit has been issued to the owner or operator approving construction of the system. Consideration of what constitutes an expansion shall be based on the total rated capacity, including existing facility but excluding like-kind replacements.

1. Any physical modification to an existing and permitted system that materially alters the size and/or type of wind turbines or other equipment shall require a permit, but like-kind replacements shall not require an additional permit.
2. Throughout the permitting process, the applicant shall promptly notify the County of any proposed changes to the information contained in the permit application that would alter the impact of the project.

(c) APPLICATION

The application for a wind energy conversion system shall contain all the following:

1. A narrative describing the proposed wind energy facility, including an overview of the project;
2. The proposed total rated capacity of the system;
3. The proposed number, representative types and height or range of heights of wind turbines to be constructed; including their generating capacity, dimensions and respective manufacturers, and a description of ancillary facilities;
4. Identification and location of the properties on which the proposed facility will be located;
5. A site plan showing the planned location of all wind turbines, property lines, setback lines, access roads and turnout locations, substation(s), electrical cabling from the wind energy facility to the substation(s), ancillary equipment, building(s), transmission and distribution lines. The site plan must also include the location of all structures and properties, demonstrating compliance of the setbacks;
6. Certification of compliance with applicable local, State, and federal regulations, such as FAA and FCC regulations;

7. An Environmental Assessment for Large Wind Energy Facilities, which shall be provided for review by the applicant to the agency point of contact and to the State clearinghouse for distribution. The applicant must also present a certification of distribution of the Environmental Assessment;
8. Other relevant information as may be reasonably requested by the County to ensure compliance with the requirements of this section;
9. Decommissioning plans that describe the anticipated life of the system, the estimated decommissioning costs in current dollars, the method for ensuring that funds will be available for decommissioning and restoration that meets or exceeds this section, the anticipated manner in which the system will be decommissioned and the site restored;
10. A performance guarantee for the potential decommissioning of a wind energy conversion system shall be provided to the County by an applicant in accordance with the following standards:
 - a. The guarantee shall be posted with the County prior to establishment of the facility;
 - b. The performance guarantee shall renew automatically and shall include a minimum 60-day notice to the County prior to cancellation;
 - c. The guarantee shall be provided by a company on the U.S. Department of Treasury's Listing of Certified Companies;
 - d. A guarantee consisting of a bond certificate shall be submitted to the Zoning Administrator each year verifying the bond has been properly renewed;
 - e. The amount of the guarantee shall be one and a quarter times the estimated decommissioning cost, or \$50,000, whichever is greater, and shall not be reduced by the salvage value;
 - f. Cost estimates for decommissioning shall be determined by a North Carolina licensed engineer or a licensed contractor and shall be provided by the applicant;
 - g. Compliance with these requirements shall be fulfilled upon deposit of a certified check deposited with the County Finance Director;
 - h. Funds deposited with the Finance Director will only be returned when the facility is decommissioned, and any necessary site restoration is completed;
 - i. The full amount of the bond or certified check shall remain in full effect until the facility is decommissioned and any necessary site restoration is complete;
 - j. Documentation of agreement between participating landowner(s) and the facility owner/operator of the wind energy facility; and
 - k. Signature of the applicant.

(d) SETBACK REQUIREMENTS

Wind energy conversion systems shall comply with the setbacks for the zoning district where located as well as the setbacks in the wind energy conversion system setbacks table listed below.

WIND ENERGY CONVERSION SYSTEM SETBACK TABLE

TYPE OF WIND ENERGY FACILITY	MINIMUM SETBACK MEASUREMENT FACTOR /1/				MAX. WIND TURBINE HEIGHT (FEET)
	OCCUPIED BUILDINGS ON PARTICIPATING LANDOWNER LAND	OCCUPIED BUILDINGS ON NON-PARTICIPATING LANDOWNER LAND	PROPERTY LINES ON NON-PARTICIPATING LANDOWNER LAND	PUBLIC ROADS	
Small System	1.5	1.5	1.5	1.5	120
Medium System	1.1	2.0	1.5	1.5	300
Large System	1.1	2.5	1.5	1.5	300

NOTES:

/1/ The setback distance is calculated by multiplying the required setback number by the wind turbine height and measured from the center of the wind turbine base to the property line, public road, or nearest point on the foundation of an occupied building.

(e) NOISE AND SHADOW FLICKER

Noise and shadow flicker issues for small and medium wind energy facilities are addressed by setbacks or will be addressed by the existing noise ordinance.

1. Audible sound from a large wind energy facility shall not exceed 55 dBA, as measured at any occupied building of a non-participating landowner.
2. Shadow flicker at any occupied building on a non-participating landowner's property caused by a large wind energy facility located within 2,500 feet of the occupied building shall not exceed 30 hours per year.
3. Noise and/or shadow flicker provisions may be waived if the following conditions are met:
 - a. Property owners may waive the noise and/or shadow flicker provisions of this division by signing a waiver of their rights.
 - b. The written waiver shall notify applicable property owner(s) of the noise and/or flicker limits required by this division, describe how the wind energy facility is not in compliance, and state that consent is granted for the wind energy facility to waive noise and/or flicker limits as required by this division.
 - c. Any such waiver shall be signed by the applicant and the non-participating landowner(s) and recorded in the deeds office where the property is located.

(f) INSTALLATION AND DESIGN

The installation and design of the wind energy conversion system shall conform to applicable industry standards, including those of the American National Standards Institute, and take into consideration local conditions.

1. All structural, electrical, and mechanical components of the wind energy conversion system shall conform to relevant and applicable local, State and national codes.
2. Any on-site electricity collector system shall, to the maximum extent possible, be placed underground.

3. The visual appearance of a wind turbines shall:
 - a. Be a non-obtrusive color such as white, off-white, or gray;
 - b. Not be artificially lighted, except to the extent required by the Federal Aviation Administration or other applicable authority that regulates air safety; and
 - c. Not display advertising (including flags, streamers or decorative items), except for identification of the turbine manufacturer, facility owner and operator.

(g) DECOMMISSIONING

1. The system owner shall have six months to complete decommissioning of the facility if no electricity is generated for a continuous period of 12 months.
2. Decommissioning shall include removal of wind turbines, buildings, cabling, electrical components, roads, and any other associated facilities down to 36 inches below grade.
3. Disturbed earth shall be graded and re-seeded, unless the landowner requests in writing that the access roads or other land surface areas not be restored.

(C) COMMERCIAL USES

(1) AUTOMOBILE/BOAT REPAIR

Automobile/boat repair uses shall comply with the following standards:

- (a) All new sites shall be no less than one acre in size;
- (b) Structures shall have minimum side and rear yards of 30 feet and a minimum front yard of 50 feet; and
- (c) Proposed automobile/boat repair uses located within 100 feet of a parcel used for residential purposes as its principal use or located within 100 feet of an adjacent residential zoning district shall provide a Type B landscaping buffer to screen the commercial activity from the residential use.

(2) BARS, CABARETS, AND DISCOS

Bars, cabarets, and discos shall maintain a minimum separation of 1,500 linear feet from the nearest property line of any residential zoning district, residential use property, church, child nursery, school, college, or university shall be required for purposes of such establishments.

(3) BED AND BREAKFAST INN

A bed and breakfast shall comply with the following standards:

- (a) Be owner-occupied or have a manager who resides on the premises;
- (b) Have no more than six sleeping rooms;
- (c) Have only one kitchen;
- (d) Limit meals served on the premises to overnight guests only; and
- (e) Limit any signage to ground signage with a maximum sign face area of six square feet.

(4) CAMPING, TRAVEL TRAILER PARKS

A travel trailer park shall comply with the provisions for manufactured home parks in § 155.204(A)(5) except that individual travel trailer spaces may be smaller than one acre each provided the total area of the use includes one acre of land area for each travel trailer space.

(5) CONTRACTOR, BUILDING, MECHANICAL, OR LANDSCAPE

Contractor uses are permitted in the O&I district provided there is no outdoor storage associated with the use.

(6) CONVENIENCE STORE

A convenience store shall comply with the following standards:

- (a) The total amount of land devoted to such use shall not exceed one acre;
- (b) The gross square footage of the structure shall not exceed 3,000 square feet;
- (c) The use shall be limited to providing convenience food sales and gasoline sales to the surrounding residential area, provided that vehicular services such as, but not limited to, auto repair, sale of auto accessories, washing, and the like shall not be permitted;
- (d) A convenience food store shall not be permitted within the interior of a residential subdivision;
- (e) Specifications for a proposed principal use sign shall be submitted with the application for the special use permit;

- (f) Fuel sales may be approved provided each pump island is located a minimum distance of 30 feet from any street right-of-way and 40 feet from any side or rear lot line; and
- (g) Where the rear lot lines or side lot line of commercial property abuts a residential district, a minimum side yard and rear yard of 75 feet shall be required.

(7) EVENT VENUE

Event venues shall be operated in accordance with the following standards:

- (a) Outdoor activity areas shall be set back from lot lines shared with a residential use by an amount at least twice the minimum rear setback for the district where the use is located.
- (b) The maximum number of guests shall be in accordance with the maximum occupancy of the principal structure as determined by the fire marshal or fire chief.
- (c) Outdoor activities shall not take place between the hours of midnight and 7:00 AM.
- (d) Exterior lighting shall not project into adjoining residential lots. Use of stadium-style or other pole-mounted lighting is prohibited. Lighting of accessible paths may be provided, if necessary.
- (e) The event venue must comply with all applicable noise restrictions in the County Code of Ordinances.
- (f) In cases where off-site parking is employed, the event venue shall maintain an agreement with the owner of land where vehicles are parked.
- (g) In no instance shall vehicles be parked along streets in ways that block driveways, sight triangles, or emergency access.
- (h) The event venue shall provide sufficient on-site trash receptacles and shall ensure that windblown trash or other debris does not accumulate anywhere on the site.
- (i) Event venue uses shall demarcate the boundaries of the event venue site for guests and shall include fences, walls, or other techniques such as landscaping to ensure guests to do not inadvertently trespass on adjacent lots.
- (j) Event venues shall ensure adequate ingress and egress from all buildings and structures to accommodate emergencies.

(8) OUTDOOR ADVERTISING

Outdoor advertising shall comply with the applicable requirements in G.S. § 160D-912.

(9) OUTDOOR SHOOTING RANGE, PUBLIC

Outdoor shooting ranges may be permitted in districts designated in the Table of Permitted Uses, subject to the requirements of the district and provided that:

(a) MINIMUM AREA

Outdoor shooting ranges shall be located on a site or parcel with an area of at least ten acres.

(b) SEPARATION

No part of a shooting range shall be located within 100 feet of any property line and less than 1,000 feet from any residential dwelling or school, as measured from the firing line in the direction of the line of fire.

(c) CONFIGURATION

Shooting range facilities shall be constructed, at a minimum to include the following protective barriers:

1. Backstops with a minimum height of twenty feet;
2. Side berms or walls with a minimum height of eight feet; and
3. Firing line covers or overhead safety baffles for rifle fire only.
4. The range shall be enclosed by a six-foot chain link fence with a lockable gate at the entrance.
5. No trespassing – Danger – Shooting Range signs shall be posted along range fence lines every 150 feet.

(d) OPERATION

Weapon types are restricted to pistol, rifle, or shotgun.

1. The use of explosives or any target that detonates is prohibited.
2. At least one qualified individual in the sponsoring club or organization shall be certified for shooting range supervision. Each facility shall adopt safety rules and regulations as determined by the sponsoring club or organization
3. Law Enforcement Firing Range- shall be utilized by duly sworn law enforcement personnel only, except as provided in standard (5) below.
4. No individuals under the age of 18 are permitted on the range during any practice or qualification of firearms unless such individual is participating in an organized, Gates County-approved function, properly supervised onsite by Gates County law enforcement personnel. All activities shall adhere to the Sheriff's Policy and Procedure Manual for the site.
5. The operators of the shooting range shall provide proof of accident and liability insurance coverage. A minimum coverage of \$1,000,000 per individual and \$2,000,000 in the aggregate shall be maintained.

(10) OUTDOOR STORAGE (AS A PRINCIPAL USE)

The following standards shall apply to all outdoor storage areas:

- (a) The extent of the outdoor storage area shall be clearly delineated on an application for establishment of the use;
- (b) Outdoor storage areas shall comply with the minimum setback standards applicable in the zoning district where the outdoor storage area is located;
- (c) Outdoor storage areas are prohibited between the development's principal structure(s) and an arterial or collector street;
- (d) Outdoor storage of materials and equipment shall be fully screened from view by adjacent residential lots;
- (e) No outdoor storage area shall be located within a required landscaping buffer;
- (f) Flammable liquids or gas shall only be stored in accordance with applicable Fire Code requirements;
- (g) No materials shall be stored in areas intended for vehicular or pedestrian circulation; and
- (h) No materials shall be stored on any potable or non-potable water easement, stormwater easement, or sanitary sewer easement.

(11) RESTAURANT/CATERING

Restaurant/catering uses shall comply with the following standards:

- (a) A paved driveway, with ingress and egress directly onto a public street, is constructed in such manner as to provide entrance to and exit from the property without backing onto the street right-of-way;
- (b) There shall be no structure or parking within 25 feet of side or rear lot boundary lines;
- (c) The illumination from exterior lighting shall be contained on the site and shall not exceed one footcandle at any lot line; and
- (d) Proposed restaurant/catering structures located within 100 feet of a parcel used for residential purposes as its principal use or located within 100 feet of an adjacent residential zoning district shall provide a Type B landscaping buffer to screen the commercial activity from the residential use.

(12) SEXUALLY-ORIENTED BUSINESS

A sexually-oriented business may be permitted on parcels accessed by Highways 13, 158, 37, 32, and 137 (either by direct access, frontage road, or minor street) provided that:

(a) SEPARATION

Structures in which sexually-oriented businesses are located shall not be:

- 1. Located within 2,500 feet of any building that occupies an existing sensitive use such as churches or other religious uses, educational facilities, child or adult day care facilities, health care facilities, library, and recreational facilities. This is not intended to be an all-inclusive list;
- 2. Located within 2,500 feet of a residential zoning district;
- 3. Located within 2,500 feet of an existing structure used for residential purposes;
- 4. Located within 2,500 feet of an existing structure in which a sexually-oriented business is located; or
- 5. Located within 2,500 feet of an existing structure in which a restaurant is the principal business.

(b) MEASUREMENTS

Measurements shall be made along the street right-of-way beginning at a point perpendicular to the nearest portion of the building or structure where a sexually-oriented business is conducted or is proposed to be conducted to a point that is perpendicular to the nearest portion of an existing building or structure identified in the section on separation above or to a residential zoning district;

(c) SIGNS

One sign is permitted per sexually-oriented business establishment provided the sign shall conform to the following:

- 1. Maximum size shall be four feet by four feet;
- 2. Shall depict name of business and business hours only;
- 3. No photographs, silhouettes, drawings, or pictorial representations; and
- 4. No neon, flashing, or obtrusive lights.

(d) SLEEPING QUARTERS

No sexually-oriented business shall have sleeping quarters.

(e) PROHIBITION AGAINST YOUTH

No person under the age of 18 years shall be permitted on the premises.

(f) HOURS OF OPERATION

Except for adult motels, sexually-oriented businesses shall be permitted to operate daily only between the hours of 11:00 a.m. through 2:00 a.m. Monday through Saturday.

(g) SETBACK REQUIREMENTS

There shall be no structure or parking located within 25 feet of side yard lot boundary lines and within 30 feet of rear yard lot boundary lines.

(h) ILLUMINATION

All parking areas and exterior entrance/exits shall be fully illuminated with night lighting to deter criminal activities. Lighting shall be shielded so as not interfere with adjoining property owners or traffic traveling the public highways.

(i) APPLICATION

It shall be unlawful for any person to operate a sexually-oriented business without a special use permit.

1. Application for a special use permit shall be submitted to the Zoning Administrator.
2. Specific information to be submitted with the application shall include:
 - a. A map certified by a registered land surveyor in the State indicating sufficient information to verify that the proposed location for the sexually-oriented business meets minimum separation requirements above;
 - b. A site plan accurately drawn to a scale no larger than one inch equals 100 feet for the proposed location for the sexually-oriented business shall be submitted to indicate that minimum building setbacks and parking requirements;
 - c. A scaled drawing of the sign that will be used for identifying the sexually-oriented business; and
 - d. A statement defining the type of sexually-oriented business for which the special use permit application is submitted. The statement shall include a description of the product and/or services to be provided.

(13) SHOPPING CENTER

To the maximum extent practicable a shopping center shall be configured to connect its off-street parking and vehicular circulation systems with adjacent commercial and multi-family uses.

(14) VETERINARIES/PET GROOMING/KENNELS

If the rear lot lines or side lot lines of a kennel operation, which is permitted in the C-1, Commercial District, directly abuts a R-1, Residential District or a lot used for residential purposes, then such operation shall be completely enclosed within a building except for outside runs. Animals shall not be stored outside overnight.

(D) INDUSTRIAL USES

(1) CABINET AND WOODWORKING SHOP

A cabinet and woodworking shop shall comply with the following requirements:

- (a) No other principal use exists on the property;
- (b) The use shall have a maximum lot size of two acres;
- (c) The lot shall have no more than 25% lot coverage, including structure and impervious surfaces;
- (d) The use must be screened from adjacent residential uses by a vegetative buffer ten feet in width and which reaches a minimum of six feet in height within a three-year time period; and
- (e) The use shall be limited to a maximum of ten employees.

(2) JUNKYARDS, SCRAP PROCESSING

A junkyard or scrap processor may be permitted in districts designated in the Table of Permitted Uses, subject both to the requirements of that district and to the requirements of the “Ordinance to Regulate Junkyards and Junked or Abandoned Motor Vehicles in Gates County” (July 10, 2003, and any subsequent amendments), the latter having certain restrictions regarding fencing and proximity to residential areas.

(3) MANUFACTURING, HEAVY

Heavy manufacturing uses shall comply with the following standards:

- (a) Heavy manufacturing uses shall be located at least 1,000 feet from any residential district; and
- (b) A Type B landscaping buffer of at least 25 feet in depth shall be provided along any boundary with another property not zoned for heavy industry.

(4) MANUFACTURING, LIGHT

All light manufacturing uses shall comply with the following standards:

- (a) Buffer and setback areas in the side and rear may not be used for parking; and
- (b) Finished products for display and sale shall not occupy more than 40 percent of the land area between the principal building and all adjacent streets.

(5) MINING AND QUARRYING

Mining and quarrying uses shall comply with the State mining permit and the following specific standards:

- (a) Any mine or quarry activity affecting more than one acre (including excavation, area where overburden is placed, area used for processing or treatment and settling ponds, access roads, and the like) shall be subject to these regulations and require a special use permit. In the event that one acre or less is disturbed, excluding haul roads, such use shall be permitted by right with a zoning permit in all zoning districts subject to a minimum 100-foot excavation area setback from all property lines, a maximum three to one slope above the water, a maximum two to one slope in the water, an average minimum depth of four feet, and a \$1,000 bond posted with the County Planning and Development Services Department to ensure proper reclamation of the mine.
- (b) If at any time a State agency suspends or revokes any permits it has issued for the mining and quarrying operation, the revocation or suspension shall cause the special use permit to become void.

- (c) No more than 30% of the total site shall be excavated.
- (d) All State permits and applications for state permits associated with the mining and quarrying activity, including permit modifications, shall be filed within ten working days of issuance or submittal in the County Planning and Development Services Department by the applicant.
- (e) The special use permit shall be valid for a period of ten years from the date it is granted. In the event the property owner desires to continue the mining and quarrying operation thereafter, they shall apply for a new special use permit.
- (f) The hours of operation of all mining and quarrying related facilities and activities on the mining or quarrying site shall be established in the special use permit approval to minimize:
 - 1. Traffic delays and interruptions on public roads; and
 - 2. Noise levels and sound disturbances to adjoining property owners and the community at large.
- (g) Appropriate buffers and screens for mining and quarrying activities shall be determined during review of the special use permit in order to minimize the negative impacts on adjoining properties and street rights-of-way. The use of earth berms for visual screening shall be encouraged where appropriate.
- (h) No activities associated with the mine or quarry, including, but not limited to, excavation activities, vehicular access (except for driveways providing access to the site), and detention ponds, shall be located within 100 feet of any property line and 1,500 feet of any school, church, hospital; within 500 feet of any residence, commercial or industrial building, public road, or cemetery. Setbacks will be reduced by 50% when there is a visual screen of at least six feet in height between the mining or quarrying activity and the adjoining use.
- (i) The review authority may reduce non-modified setbacks by 50% when the mining or quarrying activity adjoins a vacant parcel or farmland. Where mining or quarrying activities remove four feet or less of soil and maintain at least one foot above the seasonal high-water table, the mining or quarrying activity setback shall not be less than 25 feet from any property line or use.
- (j) When shared with other uses, roads entering mining or quarrying areas shall be properly graded and drained in order to minimize potholes and standing water.
- (k) Where two or more accesses to the mining or quarrying operation exist, traffic shall be routed to the access having the least negative impact on adjoining properties.
- (l) All trucks hauling mined or quarried materials (i.e., sand, clay, and topsoil) shall be covered with a tarpaulin when materials extend above the raised board of the truck.
- (m) Overburden to be used for future reclamation shall be placed where it will not be disturbed by normal mining or quarrying activities and shall be stabilized to reduce wind and water erosion. Use of overburden for earth berms is encouraged to reduce the impact of the mining or quarrying operation on adjoining properties.
- (n) No bulk waste, hazardous waste, commercial waste, garbage, construction, or demolition waste shall be placed on-site.
- (o) Discharging of water from the mine or quarry site shall be permitted subject to obtaining a State permit. The County may take random samples and have the results tested for settleable solids, turbidity, and pH at the operator's expense. Such testing

shall not exceed six tests per year. Discharging without proper State permits will result in initiating procedures to revoke the special use permit.

- (p) No trespassing signs shall be posted around the site being mined or quarried at a maximum distance of 250 feet apart indicating that a mining or quarrying operation is being conducted on the property.
- (q) Reclamation shall be conducted simultaneously with mining and quarrying operations. Annual reclamation reports shall be submitted to the Planning and Development Services Department within ten days of being filed with the State;
- (r) Drainage patterns shall not be altered so as to cause flooding off-site while the permit is valid and after reclamation.
- (s) All provisions of State and local permits issued for the operation shall be met.
- (t) In addition to all other application submittal requirements established in this section, the applicant shall provide the following:
 - 1. Name of mine/quarry;
 - 2. Mine/quarry manager, address, and phone number;
 - 3. Mining/quarrying methods;
 - 4. Steps taken to maintain haul roads when appropriate;
 - 5. Description of day-to-day operations;
 - 6. Statement of timing of reclamation;
 - 7. Description of project stages at beginning, halfway through, and reclamation (size, timing, status of site);
 - 8. Description of sedimentation control measures and drainage patterns;
 - 9. All State permits issued and all materials turned in to obtain such permits;
 - 10. Proposed use after mining/quarrying along with site plans and a description of how sewage will be handled;
 - 11. Boundaries of pit(s);
 - 12. Location of haul roads; and
 - 13. Buffers, existing vegetation on site, and berms.

(6) RESEARCH AND DESIGN FACILITIES

- (a) No outdoor storage of raw materials will be permitted. Raw materials shall be contained and covered (e.g., silos, receiving hopper, and the like).
- (b) Outdoor storage of finished test products prior to shipment is permitted on a temporary basis provided it is in an enclosed fenced area.
- (c) All equipment shall be stored internally.
- (d) Finished products may be located outside for the purpose of testing (e.g., exposure and ultraviolet light impact). Product shall be located in an area enclosed by fence.
- (e) No product emissions will be permitted.

(7) SANITARY LANDFILL

A sanitary landfill shall comply with the following standards:

- (a) No refuse shall be deposited within 100 feet of the nearest property line; and
- (b) The operation of said fill shall be carried out in accordance with the requirements of the Department of Environmental Quality.

(8) SEPTAGE DISPOSAL

Septage disposal shall be carried out in accordance with all standards and rules prescribed by the state's Department of Environmental Quality and the County Health Department.

§ 155.205 ACCESSORY USES

(A) PURPOSE AND INTENT

This section authorizes the establishment of accessory uses and structures that are incidental and subordinate to principal uses. The purpose of this section is to allow a broad range of accessory uses and structures, provided they comply with the standards set forth in this section in order to reduce potentially adverse impacts on surrounding lands.

(B) PROCEDURE FOR ESTABLISHMENT

- (1) Accessory uses or structures may be approved in conjunction with the approval of the principal use or subsequently following the establishment of the principal use. No accessory use or structure shall be approved, established, or constructed before a principal use is approved in accordance with this Chapter.
- (2) Applications to establish a planned development shall be supplemented by a site plan showing proposed accessory uses or by a written list of proposed accessory uses which shall be attached to the application approval along with other conditions of approval.
- (3) The Common Accessory Use Table may not be inclusive of all possible accessory uses, and in the event an accessory use is proposed that is not listed in the table, the Zoning Administrator shall consult the Summary Use Table to determine if the proposed accessory use corresponds to a listed principal use. Any permitted principal use in a zoning district is also permitted as an accessory use. In no instance shall an accessory use be permitted in a zoning district where it is prohibited as a principal use.
- (4) In the event a proposed accessory use is not listed in the Common Accessory Use Table, and there is no corresponding principal use, the Zoning Administrator shall determine how to treat the accessory use in accordance with §155.201(D).

(C) GENERAL STANDARDS FOR ALL ACCESSORY USES AND STRUCTURES

(1) PERMITTED ACCESSORY USES AND STRUCTURES

Permitted accessory uses and structures shall comply with the following:

- (a) Are clearly incidental to an allowed principal use or structure;
- (b) Are subordinate to and serve an allowed principal use or structure;
- (c) Are subordinate in area, extent, and purpose to the principal use or structure; and
- (d) Contribute to the comfort, convenience, or needs of occupants associated with the principal use or structure.
- (e) In no instance shall an accessory use or structure be established on a lot or site prior to the principal use it serves.

(2) LOCATION OF ACCESSORY USES AND STRUCTURES

(a) WITHIN REQUIRED LANDSCAPING BUFFERS

Except for fences and walls contributing to the screening function of a landscaping buffer, no accessory structure shall be located within a required landscaping buffer except in accordance with §155.302.

(b) WITHIN A REQUIRED SETBACK

No accessory use or structure may be located in a required setback except as permitted by §155.116(F).

(c) WITHIN OTHER AREAS ON A SITE

No accessory use or structure shall:

1. Be within 20 feet of a lot line, except as authorized by §155.116(F);
2. Be located within a designated fire lane;
3. Obstruct required sight distance triangles;
4. Impede ingress or egress to a lot, site, or principal structure;
5. Be located above or beneath public utilities (except for fences or walls);
6. Interfere with drainage or stormwater control measures;
7. Be closer than ten feet from a residential dwelling unit, except for detached garages or carports and swimming pools; or
8. Be within an emergency access route designated on an approved site plan.

(d) WITHIN AN EASEMENT

Except for authorized stormwater control measures within a drainage easement, no accessory use or structure shall be located within any platted or recorded drainage or utility easement.

(e) ON A CORNER LOT

If on a corner lot, it shall not be located closer to the street side yard property line than one-half of the required front yard setback.

(3) STRUCTURE HEIGHT

Accessory structures shall comply with the height requirements for the zoning district where located.

(4) LIMITATIONS ON MOBILE AND MANUFACTURED HOME STRUCTURES

In no instance shall a mobile home or manufactured home be used as an accessory use or structure.

(D) COMMON ACCESSORY USE TABLE

The Common Accessory Use Table is established as a guide to identify the appropriateness of the more common accessory uses in each zoning district.

- (1) If a specific accessory use is allowed by-right, the cell underneath the zoning district is marked with a "P".
- (2) If a specific accessory use is allowed subject to a special use permit, the cell underneath the zoning district is marked with a "S".
- (3) If the accessory use or structure is not allowed in a zoning district, the cell is marked with an "•".
- (4) In the case of planned development districts, if an accessory use is allowable, it is marked with an "A", and the accessory use must be set out in the approved master plan or terms and conditions document.
- (5) If there is a reference contained in the column entitled "Acc. Use-Specific Standards," refer to the cited section(s) for additional standards that apply to the specific accessory use.

COMMON ACCESSORY USE TABLE

“P” = Permitted, subject to any applicable use-specific standards
 “S” = Permitted subject to §155.512, and any applicable use-specific standards
 “A” = If included in a PD master plan or terms and conditions document
 “•” = Prohibited

USE TYPE	ZONING DISTRICTS								ACC. USE-SPECIFIC STANDARDS § 155.205 (E)
	R-1	RMH-1	C-1	I-1	A-1	O&I	RMF	PD	
Accessory Dwelling Unit	S	•	P	•	S	S	•	A	1
Amateur Communications Equipment	P	P	P	P	P	•	•	A	2
Automated Teller Machine	•	•	P	•	•	P	•	A	3
Childcare, Incidental	P	P	•	•	P	P	P	A	4
Detached Garage or Carport	P	P	P	P	P	P	P	A	
Drive-Through	•	•	P	•	•	S	•	A	5
Family Health Care Structure	P	P	•	•	P	P	•	A	6
Fence or Wall	P	P	P	P	P	P	P	A	7
Greenhouse	P	P	•	•	P	•	S	A	
Guard House or Gatehouse	•	P	P	P	P	•	P	A	
Home Occupation	P	P	•	•	P	•	P	A	8
Outdoor Dining or Seating	•	•	P	•	•	S	•	A	9
Outdoor Display or Sales	•	•	P	P	P	S	•	A	10
Outdoor Storage	•	•	P	P	P	•	•	A	11
Pier, Private	P	P	•	•	P	•	P	A	
Produce Stand	P	P	P	•	P	•	P	A	
Retail Associated with an Industrial Use	•	•	P	P	•	•	•	A	12
Solar Energy System (small-scale)	P	P	P	P	P	P	P	A	13
Swimming Pool or Hot Tub (non-commercial)	P	P	•	•	P	P	P	A	14
Tool or Storage Shed	P	P	P	P	P	P	P	A	
Underground Storage Tank	•	•	S	S	S	•	•	A	
Wind Energy Conversion System, Small	S	•	S	•	S	S	•	A	15

(E) SPECIFIC STANDARDS FOR SELECTED ACCESSORY USES

Standards for a specific accessory use or structure shall apply to the particular individual accessory use or structure regardless of the zoning district in which it is located or the review procedure by which it is approved, unless otherwise specified in this Chapter. This section sets forth and consolidates the standards for all accessory uses and structures for which a reference to this section is provided in the “Acc. Use-Specific Standards” column of the Common Accessory Use Table. These standards may be modified by other applicable standards or requirements in this Ordinance.

(1) ACCESSORY DWELLING UNIT

(a) ACCESSORY DWELLING UNIT, DETACHED

A detached accessory dwelling unit (DADU) is permitted as accessory to a single-family detached dwelling only in accordance with the following standards:

1. No more than one DADU shall be located on a lot with a single-family detached dwelling;
2. A DADU shall not exceed 35 percent of the total amount of finished floor area in the principal structure;
3. A DADU shall not exceed one story, but nothing shall limit an DADU from being located on a second or third story of a structure provided the structure complies with the applicable maximum height limitations in the district where located;
4. A DADU and the principal dwelling shall have the same street address and mailbox;
5. A DADU shall not be subdivided or otherwise separated in ownership from the principal dwelling unit;
6. A DADU and the principal dwelling shall utilize the same driveway, unless the DADU is accessed from a right-of-way not used by the principal dwelling (e.g., a rear alley or separate street access on a corner or through lot); and
7. A DADU may be served by separate or shared water, sanitary sewer, gas, and electrical utilities.

(b) ACCESSORY DWELLING UNIT, INTERNAL

An internal accessory dwelling unit (IADU) is permitted as accessory to a residential or non-residential use only in accordance with the following standards:

1. No more than one IADU shall be located on a lot or development;
2. The IADU shall be fully enclosed within the outer extents of the principal structure walls and roof, and shall not be located in a detached structure of any kind;
3. An IADU shall not exceed the greater of: 35 percent of the total amount of finished floor area in the principal structure or 1,500 square feet;
4. An IADU and the principal structure shall have the same street address and mailbox;
5. An IADU and the principal structure shall utilize the same driveway; and
6. An IADU may be served by separate or shared water, sanitary sewer, gas, and electrical utilities.

(2) AMATEUR COMMUNICATIONS EQUIPMENT

Amateur radio antennas shall comply with Section 160D-905 of the North Carolina General Statutes and the following:

- (a)** Towers associated with an amateur ham radio operator or private television antenna shall not exceed 100 feet above grade;
- (b)** Towers or antennas attached to a principal structure shall be located on a side or rear elevation; and
- (c)** Freestanding towers or antennas shall be located behind the principal structure.

(3) AUTOMATED TELLER MACHINE (ATM)

- (a) An ATM designed for walk-up use and located in the exterior wall of a building or a parking area shall be designed to avoid obstructions to pedestrian movement along sidewalks, through public use areas, or between parking areas and building entrances, or vehicular movement in front of buildings or through parking areas.
- (b) If an ATM is designed for use by customers in their vehicles, it shall comply with the accessory use standards (including districts where permitted) in §155.205(E)(5) .
- (c) The overall character of an automated teller machine in terms of materials, colors, and architectural character shall be compatible with that of the principal structure.

(4) CHILDCARE, INCIDENTAL

An incidental childcare or home day care for three or more children is permitted as an accessory use to an occupied residential dwelling unit if it complies with Article 7 of Chapter 110 of the North Carolina General Statutes, and the Summary of North Carolina Child Care Laws and Rules pamphlet prepared by the NC Department of Health and Human Services.

(5) DRIVE-THROUGH

Drive-through facilities shall comply with the following standards:

- (a) Outdoor speakers associated with a drive-through shall be at least 100 feet from any lot with a residential zoning district designation;
- (b) Drive-through windows, menus, or order boxes shall not be located in a street setback or on the front façade of the building they serve;
- (c) Drive-through facilities shall be designed so as not to obstruct the movement of pedestrians along sidewalks, through areas intended for public use, or between the building entrance and customer parking spaces; and
- (d) Canopies or other features installed over a drive through window shall maintain common roof lines and materials with the principal structure.

(6) FAMILY HEALTH CARE STRUCTURE

One family health care structure is permitted on a lot with a single-family detached dwelling, in accordance with the standards in G.S. 160D-915, and the following standards:

(a) STRUCTURE

A family health care structure is one that:

1. Is transportable and primarily assembled at a location other than the site of installation;
2. Is located on a lot with an existing single-family detached dwelling;
3. Is limited to one occupant who is a mentally or physically impaired person related to the caregiver;
4. Is used by a caregiver or legal guardian in providing care for one mentally or physically impaired person on property owned or occupied as the caregiver's or guardian's residence;
5. Has no more than 300 square feet of gross floor area;
6. Is connected with water, wastewater, and electricity electrical systems by branching service from the single-family detached dwelling;
7. Has the same street address and mailbox as the existing single-family detached dwelling;

8. Uses the same driveway as the existing single-family dwelling, unless the structure is accessed from a right-of-way not used by the dwelling (e.g., a rear alley or separate street access on a corner or through lot);
9. Meets the dimensional standards of the zoning district for a single-family detached dwelling; and
10. Meets the applicable provisions in the North Carolina Building Code; however, is not located on a permanent foundation.

(b) NEED AND RELATIONSHIP

1. The occupant of the structure must be a mentally or physically impaired person that is a resident of the State who requires assistance with two or more activities of daily living (bathing, dressing, personal hygiene, ambulation or locomotion, transferring, toileting, and eating) as certified in writing by a physician licensed to practice in North Carolina.
2. The caregiver must be an individual 18 years of age or older who provides care for the mentally or physically impaired person and is a first or second degree relative of the impaired person. A first- or second-degree relative is a spouse, lineal ascendant, lineal descendant, sibling, uncle, aunt, nephew or niece, including half, step, and in-law relationships.

(c) PERMIT CONDITIONS

1. Once the applicant provides sufficient proof that the family health care structure meets all standards, then the structure shall be permitted for a period of 12 months.
2. The applicant may renew the zoning compliance permit prior approval for a 12-month period and continue to renew it provided the applicant provides evidence of continued need and compliance with these standards.
3. The County may make permit renewal and periodic inspections of the temporary family health care structure at reasonable times convenient to the applicant.
4. No signage shall be permitted on the exterior of the structure or on the lot that identifies or promotes the existence of the structure.
5. The structure shall not be subdivided or otherwise separated in ownership from the single-family detached dwelling.
6. The structure shall be removed within 60 days if the impaired occupant is no longer receiving or in need of assistance.
7. The zoning compliance permit may be revoked, or other enforcement actions taken if these standards are violated.

(7) FENCE OR WALL

Fences and walls shall be configured in accordance with the standards in §155.303.

(8) HOME OCCUPATION

Home occupations are permitted only as an incidental use and are limited to the following:

- (a) The office or studio of a physician, artist (not inclusive of a studio of a commercial photographer), general or trades contractor, musician, insurance agent, lawyer, real estate broker, teacher, or other like professional person residing on the premises,

- provide no chattels or goods, wares, or merchandise are commercially created, displayed, exchanged, or sold;
- (b) Workshops that do not employ individuals outside the immediate household;
 - (c) Customary home occupations such as millinery, dressmaking, laundering or pressing, and tailoring conducted by a person residing on the premises;
 - (d) Single operator beauty shop or barber shop;
 - (e) Bakeries; and
 - (f) The home occupation shall only be permitted subject to the following limitations:
 1. The area devoted to the home occupation shall not exceed 25% of the total floor area of the residence or 500 square feet, whichever is greater;
 2. There shall be no display of products;
 3. No mechanical equipment shall be installed or used except such that is normally used for domestic or professional purposes and which does not cause noises or interference in radio and television reception;
 4. Signage shall be limited to one stand-alone sign identifying the business, not to exceed three feet by three feet (printed area), may be located on the site. Lighting for such signs shall be shielded so as not interfere with adjoining property owners or traffic traveling the public highways.
 5. Only residents of the dwelling may be engaged in the home occupation, except any physician, dentist, or other professional licensed by the State of North Carolina. Those persons shall be allowed to have one nurse or assistant who is not a resident of the dwelling.

(9) OUTDOOR DINING OR SEATING

Restaurant and similar entertainment uses may provide outdoor dining and seating only in accordance with the following standards:

- (a) Outdoor seating and dining shall be located to the front or side of the principal use served;
- (b) Outdoor dining and seating shall be located outside the public right-of-way, and shall not obstruct pedestrian or vehicular access;
- (c) All State requirements must be obtained prior to serving alcohol; and
- (d) The outdoor dining or seating area must be at least 100 feet from any residential zoning district boundary.

(10) OUTDOOR DISPLAY OR SALES

The outdoor display and sale of goods shall be limited to a commercial or industrial development and shall comply with the following standards:

- (a) Outdoor display/sales areas shall not encroach into any required setback;
- (b) Outdoor display/sales areas shall not be located any closer than five feet from any lot line;
- (c) Outdoor display/sales areas shall not be located within any local or State site easement; and
- (d) Outdoor display areas shall maintain at least five feet of space along the side of the display free of obstruction to allow for pedestrian and handicap movement, such that pedestrians do not have to step off the sidewalk or enter the drive aisle to see the merchandise.

(11) OUTDOOR STORAGE

The following standards shall apply to all outdoor storage areas other than uses where outdoor storage is the principal use of land:

- (a) The extent of the outdoor storage area shall be clearly delineated on a site plan;
- (b) Outdoor storage areas shall comply with the minimum setback standards applicable in the zoning district where the outdoor storage area is located;
- (c) Outdoor storage areas are prohibited between the development's principal structure(s) and an adjacent street;
- (d) Outdoor storage areas shall be fully screened with an opaque fence, wall, landscaping, or a combination in a manner that obstructs view of the material or products being stored from all off-site views;
- (e) No outdoor storage area shall be located within a required landscaping or off-street parking area;
- (f) Stored goods, materials, and equipment shall be limited to those goods, materials, and equipment associated with the principal use or uses of the lot;
- (g) No materials shall be stored in areas intended for vehicular or pedestrian circulation; and
- (h) No materials shall be stored on any potable or non-potable water easement, stormwater easement, or sanitary sewer easement.
- (i) Use of a shipping container for purposes of outdoor storage is permitted in the C-1 and I-1 districts provided the storage container is located to the side or rear of the building, does not exceed more than one container for every 5,000 square feet of building floor area, and provided the container is anchored to the ground to prevent movement or shifting.

(12) RETAIL ASSOCIATED WITH AN INDUSTRIAL USE

Limited retail sales may be developed in conjunction with an industrial use whereby products sold are limited to those produced on the premises. Retail space shall be limited to a maximum of 25% of the gross floor space of the principal structure.

(13) SOLAR ENERGY SYSTEM (SMALL-SCALE)

A small-scale solar energy system (SES) shall comply with the following requirements:

- (a) A SES may be roof-mounted, attached to a principle or accessory structure, be ground-mounted, or placed over a parking or other hard-surface area;
- (b) The footprint of a ground-mounted SES shall not exceed 35 percent of the floorplate of the principal structure, or one acre, whichever is less;
- (c) An SES shall comply with the dimensional requirements for the district where located;
- (d) An SES shall not obscure required sight distance triangles; and
- (e) Ground-mounted SES facilities shall not exceed 20 feet in height above adjacent pre-construction grade.

(14) SWIMMING POOL/HOT TUB

- (a) Swimming pools or hot tubs provided as accessory uses shall be completely isolated from adjacent lands and streets by a fence or other structure having a minimum height of five feet and configured to prevent small children from gaining unsupervised access to the pool or hot tub.

- (b) Gates or doors opening into the area around the swimming pool from outside the dwelling shall have self-closing and self-latching devices for keeping the gate or door closed at all times when not in use.
- (c) These standards shall apply to any built structure placed or constructed for the purpose of bathing or swimming with a depth of two feet or more.
- (d) Access to a pool or hot tub serving a non-residential use shall limit access to the pool or hot tub by members of the general public.
- (e) Swimming pools and hot tubs included as an accessory use to a single-family subdivision shall include one off-street parking space for every four persons of design capacity.

(15) WIND ENERGY CONVERSION SYSTEM, SMALL

A small wind energy conversion (WEC) system is permitted as accessory use if it complies with the following standards.

- (a) There shall be no more than one WEC on a lot.
- (b) The maximum height of a WEC shall be the maximum height allowed in the zoning district plus 35 feet.
- (c) The tower shall be set back from all lot lines a distance greater than or equal to the height of the WEC.
- (d) Sound produced by the WEC shall not exceed 55 decibels as measured at the lot line. The maximum sound level may be exceeded during short term events that occur, that are beyond the landowner's control, such as utility outages or windstorms.
- (e) The blade tip or vane of any WEC shall have a minimum ground clearance of 15 feet, as measured at the lowest point of the arc of the blades. No blade shall extend over parking areas, public right of ways, driveways, or sidewalks.
- (f) No illumination of the turbine or tower shall be allowed, unless required by the FAA.
- (g) The tower shall be designed to prevent unauthorized climbing.
- (h) A WEC shall not include signage visible from a public street.
- (i) On determining that a WEC is inoperable for 180 days or more, the Zoning Administrator shall send the owner a notice and order requiring restoration of the system. Failure of the owner to restore the system to operating condition shall constitute a violation of this Ordinance.

§ 155.206 TEMPORARY USES

(A) PURPOSE

This section allows for the establishment of specific temporary uses of limited duration, provided that such uses do not negatively affect adjacent land, and provided that such temporary uses are discontinued upon the expiration of a set time period. Temporary uses shall not involve the construction or alteration of any permanent building or structure.

(B) APPLICABILITY

The standards in this section apply to non-permanent uses that take place on a temporary basis whether on the same site or in different locations in the County. The activities listed in this section require the issuance of a zoning compliance permit.

(C) GENERAL STANDARDS FOR ALL TEMPORARY USES AND STRUCTURES

All temporary uses and structures shall comply with the following general standards, unless otherwise specified in this Ordinance:

(1) GENERAL STANDARDS

An applicant proposing a temporary use or structure shall:

- (a) Secure written permission from the landowner;
- (b) Obtain the appropriate permits and licenses from the County and other agencies;
- (c) Comply with the applicable requirements in §155.304, if signage is proposed;
- (d) Meet public utility and County requirements for proper connection to water, sewer, electrical and other utility service connections, as applicable;
- (e) Not violate the applicable conditions of approval that apply to a site or use on the site;
- (f) Not result in a situation where the principal use, if present, fails to comply with the standards of this Chapter;
- (g) Ensure the site of a temporary use or structure contains sufficient land area for the temporary use and for the parking and traffic movement associated with the temporary use, without impacting environmentally sensitive lands;
- (h) Ensure temporary uses remain in place no longer than 90 days if located within a special flood hazard area;
- (i) Provide adequate on-site restroom facilities (as appropriate); and
- (j) Cease all outdoor activities within 500 feet of a residential use by 10:00 PM.

(2) GENERAL CONDITIONS

In approving a temporary use permit, the Zoning Administrator is authorized to impose any of the following requirements as may be necessary to reduce or minimize any potential adverse impacts upon other property in the area, as long as the condition relates to a situation created or aggravated by the proposed temporary use. The Zoning Administrator is authorized, where appropriate, to require:

- (a) Provision of temporary parking facilities, including vehicular access and egress;
- (b) Control of nuisance factors, such as but not limited to, the prevention of glare or direct illumination of adjacent properties, noise, vibrations, smoke, dust, dirt, odors, gases, and heat;
- (c) Prohibition of the storage or use of hazardous materials;
- (d) Regulation of placement, height, size, and location of equipment;
- (e) Provision of sanitary and medical facilities;

- (f) Provision of solid waste collection and disposal;
- (g) Provision of security and safety measures;
- (h) Use of an alternate location or date;
- (i) Modification or elimination of certain proposed activities;
- (j) Regulation of operating hours and days, including limitation of the duration to a shorter time period than requested or specified in this subsection; and
- (k) Submission of a performance guarantee to ensure that any temporary use will be removed from the lot or site within a reasonable time and the lot or site will be restored to its former condition.

(D) STANDARDS FOR SPECIFIC TEMPORARY USES

(1) FOOD TRUCK VENDORS

(a) PURPOSE

This section is designed to provide standards relative to the accessibility, appearance, and safety regarding commercial food vending, as well as to preserve the peace and enjoyment of residences and occupation of a site by a properly licensed business.

(b) OPERATIONAL REGULATIONS

1. A zoning compliance permit shall be required for a food truck as provided for herein.
2. Noncommercial private events held on single-family detached and duplex lots shall not be required to obtain a zoning compliance permit, provided that all required permits are obtained, if applicable, and that the food truck vendor:
 - a. Is not open to the public, such as at outdoor weddings and employee parties;
 - b. Is located on a site with a single user and/or tenant; and,
 - c. Will not make, cause, or allow the making of any noise or sound which exceeds the limits set forth in the County’s noise ordinance, and will not generate adverse traffic, or other nuisance impacts on adjacent properties.
3. Permits shall be valid for no longer than one year expiring at the end of the calendar year.
4. Permit certificates shall be attached to the food truck where they are readily visible and shall include the name, mailing address, and valid phone number of the vendor and shall list the addresses and parcel identification numbers where the permit is valid.
5. Routine inspections may be conducted by local inspectors on each food truck at any time and at any frequency deemed appropriate by the County.
6. Any food truck that has a suspended or revoked permit by the State of North Carolina, and on a subsequent inspection, an inspector determines that the food truck vendor has not corrected the violation(s), shall have its zoning compliance permit revoked and food service shall cease in the County.
7. A permit issued under this section is not transferable.

(c) STANDARDS

The following standards shall apply to all food trucks:

1. No products shall be sold from any food truck which is stopped, standing, or parked in any public street, right-of-way, or easement. Nor shall the food truck vendor impede the flow of traffic or pedestrians on the sidewalk.
2. Food trucks are prohibited on all parcels in a residential zoning district.
3. Food trucks are permitted on private property zoned for commercial, industrial, or nonresidential purposes, subject to the following conditions:
 - a. Food trucks shall not provide customer seating.
 - b. No display areas, merchandise, or stored items in association with the vendor or those associated with the principal use on the property, which are displaced due to the vending activity, shall encroach onto any public street, right-of-way, or easement, or onto any adjacent private property without express permission from the property owner.
 - c. The food truck vendor shall set up and locate the vehicle, wares, and/or any associated displays in accordance with the principal structure setback requirements of the district where located.
 - d. The food truck sales area shall not exceed more than two parking spaces or six hundred square feet in area, whichever is greater. However, at no time may the required number of parking spaces for the principal use of the property be rendered nonconforming due to food truck use.
 - e. The food truck shall not interfere with required parking, loading, and unloading spaces or the vehicular access to those spaces for the principal use.
 - f. The food truck shall not block, damage, or interfere with required landscaping, buffers, or stormwater drainage systems on the subject property.
 - g. During periods of nonuse, food truck vendor equipment must remain locked and secured, unless otherwise required by the State.
 - h. The food truck vendor shall be prohibited from selling or distributing any type of glass container with the exception of sealed prepackaged nonalcoholic beverages such as sodas or juices.
 - i. Amplified music or other sounds from any food truck for the purposes of vending products is prohibited.
 - j. Food truck vendors shall be prohibited from discharging fat, oil, grease, or wastewater into the sanitary sewer system. Waste shall be properly stored and disposed of at a properly designated location.
 - k. Each food truck shall be equipped with adequate trash receptacles and shall be responsible for the proper disposal of solid waste from the site daily without using public waste receptacles. All disturbed areas must be cleaned following each stop at a minimum of 20 feet of the sales location.
 - l. Each food truck shall be equipped with at least one fire extinguisher with a minimum of a 2A-10-BC rating.

(2) ITINERANT MERCHANT SALES

Itinerant merchant sales, not including food truck vendors, are permitted subject to the following standards:

- (a) The sale of merchandise, products, or material must be a permitted principal use in the zoning district where the sales are temporarily located;

- (b) Itinerant merchants shall file an indemnification form with the County when engaged in open air sales;
- (c) Itinerant merchant sales shall be located outside of street rights-of way, required sight distance triangles, required landscape areas, vehicular circulation areas, or and areas where pedestrian access is needed to ensure safe movement through or across a site;
- (d) All merchandise and related materials shall be removed from the site following the sale;
- (e) The maximum period of operation of itinerant merchant sales shall be from 8:00 AM to 11:00 PM; and
- (f) Permitted itinerant merchant sales shall be limited in duration to a maximum of 45 continuous days from the date the temporary use permit is issued.

(3) OUTDOOR SEASONAL SALES

Outdoor seasonal sales are permitted on a lot in all non-residential zoning districts, subject to the following standards:

- (a) Seasonal sales shall be limited to seasonal agricultural products such as Christmas trees, pumpkins, and living plants;
- (b) The maximum hours of operation of an outdoor seasonal sales use shall be from 8:00 AM to 11:00 PM, except when abutting a residential district, then the seasonal sales use shall cease by 9:00 PM;
- (c) One recreational vehicle or similar structure is allowed as a temporary dwelling for security purposes in association with the seasonal sales use, provided it meets the general standards of §155.206(D)(6), and is removed at the end of the sale;
- (d) The on-site accessory sales of seasonal products by an agricultural use or retail sales use is not considered outdoor seasonal sales and is not subject to these standards; and
- (e) Outdoor seasonal sales shall be limited in duration to a maximum of 45 continuous days from the date the temporary use permit is issued.

(4) PORTABLE STORAGE CONTAINER

Portable storage containers may be permitted as a temporary use accessory to a single-family detached, townhouse, or duplex unit, subject to the following standards.

(a) TYPES DISTINGUISHED

Portable storage containers shall take one of the following three forms:

1. A container used for the purposes of storage of personal property such as household items being temporarily stored or relocated;
2. A roll-off box, bin, or construction dumpster used for the collection and hauling of waste or debris; or
3. A fully enclosed, non-motorized, trailer (commonly known as a semi-trailer) with wheels intended to be towed to a site for the purpose of storage or transport of goods, materials, or equipment.

(b) PERMIT REQUIRED

A building permit shall not be required for a portable storage container, but a zoning compliance permit issued in accordance with §155.515, is required.

(c) EXEMPTIONS

The standards in this section shall not apply to portable storage containers used as temporary construction trailers, construction dumpsters, or construction materials recycling facilities, provided construction on the site is on-going.

(d) MAXIMUM SIZE

Containers shall be no larger in dimension than eight feet in height, eight feet in width, or 20 feet in length.

(e) MAXIMUM NUMBER

1. No more than two portable storage containers shall be located on a single lot or parcel of land.
2. No other type of container or shipping container shall be located on the same lot or parcel of land when one or two portable shipping containers are in place.

(f) HAZARDOUS SUBSTANCES

Portable storage containers shall not be used to store or transport non-residential materials and substances, including but not limited to the following: solid waste, hazardous materials, explosives, and or unlawful substances and materials.

(g) LOCATION

1. A portable storage container may be located in a driveway, a designated parking area, or behind a dwelling.
2. If site conditions make placement of the portable storage container behind a dwelling, on a driveway, or in a designated parking area impossible, then the portable storage container may be located immediately adjacent to the driveway or designated parking area.
3. A portable storage container shall not be located between the front of a dwelling and the street it faces unless any other placement is impossible due to site conditions.
4. In no instance shall a portable storage container be located within a Town street, public street right-of-way, or in a location that poses a threat to public health or safety.

(h) DURATION

1. Portable storage containers may be located on a site for a maximum of up to 90 days per calendar year.
2. In no instance shall these standards be construed to allow placement of one or more portable storage containers on a single site for more than 90 days in any single calendar year.

(5) SPECIAL EVENTS

(a) EXEMPT EVENTS

A special event is not subject to the requirements in this section if:

1. The event lasts two or fewer days within a 180-day period on a lot with an established principal use; or
2. The event is sponsored by a Town, the County, or the State.

(b) SUBJECT TO THIS ORDINANCE

A special event not otherwise exempted from the standards in this section is permitted on a lot in a non-residential district, subject to the following standards:

1. A special event includes, but is not limited to arts and crafts shows, cultural events, musical events, concerts and stage shows, celebrations, festivals, fairs, carnivals, circuses, or outdoor religious events;
2. Circuses, carnivals and similar amusements may be subject to the applicable provisions of the County Code of Ordinances; and
3. Temporary dwelling(s) are allowed in association with the special event provided they meet the general standards of §155.206(D)(6), and are removed at the end of the event.

(6) TEMPORARY DWELLING

A temporary dwelling is permitted on a lot subject to the following standards:

(a) GENERAL STANDARDS

1. A temporary dwelling may be either a dwelling that meets all applicable North Carolina Building Code requirements for a dwelling or a recreational vehicle.
2. The temporary dwelling shall be located on a lot and meet the dimensional standards of the zoning district, to the maximum extent practicable.
3. Temporary emergency dwellings operated by a religious institution, governmental agency, or nonprofit organization may be located to provide emergency shelter where fire, flood, or other natural disaster has displaced persons.

(b) TEMPORARY CONSTRUCTION DWELLING

1. One temporary dwelling may be used to house occupants of the principal dwelling under construction or subject to repair or casualty damage.
2. Temporary dwellings may be used on a construction site and occupied by persons having construction or security responsibilities over such construction site.
3. Temporary dwellings shall be located on the same lot as the principal dwelling under construction.
4. The temporary use permit shall not be issued until a site plan approved or a building permit is issued for a principal structure.
5. A temporary dwelling shall be removed within 30 days of issuance of a certificate of occupancy for the structure or removed immediately if the building permit expires or is revoked.

(c) DURATION

A temporary dwelling shall be limited in duration to a maximum of six months, except that the temporary use permit may be renewed for good cause shown.

(7) TEMPORARY FIELD OFFICE/STORAGE UNIT

A temporary field office/storage unit may be permitted in any district except the A-1 district in accordance with the following standards:

- (a)** It may only be established as part of a residential subdivision ten or more lots;
- (b)** No more than one unit per ten lots will be permitted;
- (c)** Location for each unit(s) shall be located within the subdivision so that it is aesthetically pleasing for both the development and all lots within the subdivision and the adjoining properties;
- (d)** Temporary units shall not be located on residential lots that adjoin a state maintained road;

- (e) A temporary field office may remain in place for a maximum term of six months. The applicant may reapply for the special use permit to be extended in increments of no more than six months. Applications for extensions must be submitted prior to expiration date of the special use permit; and
- (f) Unit(s) must be anchored in accordance with the manufacturer's specifications and inspected by the County Building Inspector.

(8) TEMPORARY REAL ESTATE OFFICE

A temporary real estate office is permitted on a lot, subject to the following standards:

- (a) The office is located on a lot that is part of the real estate development being sold or leased;
- (b) The permit for a temporary sales office shall be valid for 12 months and may be renewed for additional 12-month increments providing the building and grounds are being maintained and used in conformity with this section;
- (c) The office complies with the dimensional standards of the zoning district in which it is located;
- (d) The structure shall not be used for residential purposes and no sleeping quarters shall be provided;
- (e) Lighting shall be shielded so as not interfere with adjoining property owners or traffic traveling the public highways;
- (f) Signs identifying the business may be attached to the structure. In addition, one standalone sign not to exceed three feet by three feet (printed area) may be located on the site;
- (g) A landscape plan shall be submitted in conjunction with the building permit application and landscaping shall be established prior to a certificate of occupancy/compliance being issued;
- (h) The temporary office is converted into a dwelling or removed upon the sale and transfer of 95% of the lots within the development; and
- (i) In the event a temporary real estate office is a trailer, it shall be removed within 30 days after 95% of the units are sold or leased.

(E) TEMPORARY RELOCATION HOUSING

Temporary housing utilizing nonpermanent facilities for the displaced as a result of a natural or other disaster in a neighborhood or area shall be allowed, provided they meet the following requirements:

- (1) The proposed location shall be within a disaster area with specifically defined boundaries and under specific conditions as determined by a federal Disaster Declaration where public or individual assistance is made available, or as determined by the County Manager.
- (2) Temporary accommodations for the displaced as permitted by this section shall not be installed for more than 12 months from the date of the declaration or determination, except as authorized by the Board of County Commissioners.
- (3) Temporary housing units shall be removed from the site within 30 calendar days after completion of the rehabilitation work if work on replacement housing occurs prior to the 12-month expiration or approved authorization term.
- (4) All applicants for temporary housing units shall register with the Planning Department.

- (5) Temporary housing units may be subject to additional agency approvals which may include, but not be limited to, water supply, wastewater disposal, solid waste management and disposal, building permits, storm water permits, or other utilities through the applicable regulatory office. Additional code requirements which may include, but not be limited to, building code and fire code shall be adhered to.
- (6) Temporary housing units shall comply with both the minimum National Flood Insurance Program standards as well as Chapter 150 of this Ordinance.
- (7) Each housing unit shall have a minimum setback of 20 feet from any street right-of-way or property line.
- (8) For temporary housing units in a community or group setting, the following shall apply:
 - (a) All units shall be setback a minimum of 20 feet from the perimeter of the site;
 - (b) A sketch plan showing the general location and estimated number of units, parking, access points and traffic circulation, and provisions for utilities including power, water supply, wastewater disposal, storm water management, and solid waste management shall be submitted to the Planning Department.

(9) TEMPORARY WIRELESS TELECOMMUNICATIONS FACILITY

A temporary wireless telecommunications facility shall comply with the following standards:

- (a) A temporary wireless communications facility may be allowed on a lot after a disaster or other emergency for a period not to exceed 30 days, except that the temporary use permit may be renewed for good cause shown;
- (b) A temporary wireless telecommunications facility may be allowed on a lot to evaluate the technical feasibility of a site for a period not to exceed 14 days, except that the temporary use permit may be renewed for good cause shown;
- (c) A temporary wireless telecommunications facility may be allowed on a lot in association with an event where the anticipated demand cannot be handled by existing facilities for a period not to exceed 14 days;
- (d) A temporary wireless telecommunications facility may be allowed on a lot with an existing permanent wireless telecommunications facility where the permanent structure is undergoing reconstruction or maintenance and the temporary facility is needed to maintain sufficient levels of service. The temporary facility shall be removed after reconstruction or maintenance is complete and service restored on the permanent structure; and
- (e) All temporary wireless telecommunications facilities, including all supporting cables and anchors, shall be contained on the lot.

(F) TEMPORARY RELOCATION HOUSING

Temporary housing utilizing nonpermanent facilities for the displaced as a result of a natural or other disaster in a neighborhood or area shall be allowed provided, they meet the following requirements:

- (1) The proposed location shall be within a disaster area with specifically defined boundaries and under specific conditions as determined by a federal Disaster Declaration where public or individual assistance is made available, or as determined by the County Manager.

- (2) Temporary accommodations for the displaced as permitted by this section shall not be installed for more than 12 months from the date of the declaration or determination, except as authorized by the Board of Commissioners.
- (3) Temporary housing units shall be removed from the site within thirty (30) calendar days after completion of the rehabilitation work which may include, but not be limited to, issuance of a Certificate of Occupancy, Certificate of Completion, or final inspection if this occurs prior to the 12-month expiration or Board authorization term.
- (4) All applicants for temporary housing units shall register with the Planning Department.
- (5) Temporary housing units may be subject to additional agency approvals which may include, but not be limited to, water supply, wastewater disposal, solid waste management and disposal, building permits, storm water permits, or other utilities through the applicable regulatory office. Additional code requirements which may include, but not be limited to, building code and fire code shall be adhered to.
- (6) Temporary housing units shall comply with both the minimum National Flood Insurance Program standards as well as Gates County Flood Damage Prevention Ordinance.
- (7) Each housing unit shall have a minimum setback of 20 feet from any street right-of-way or property line.
- (8) For temporary housing units in a community or group setting, the following shall apply:
 - (a) All units shall be setback a minimum of 20 feet from the perimeter of the site; and
 - (b) A sketch plan showing the general location and estimated number of units, parking, access points and traffic circulation, and provisions for utilities including power, water supply, wastewater disposal, storm water management, and solid waste management shall be submitted to the Planning Department.

§ 155.207 PROHIBITED USES

- (A) The following use types are not listed in the summary use table or the common accessory use table and are prohibited throughout the County's planning jurisdiction in all zoning districts.
- (B) In cases where one or more of these uses is lawfully established and in operation prior to June 16, 2021, the use shall be subject to the provisions in Article 155.4.

(1) INDUSTRIAL USES

- (a) Acetylene gas manufacture;
- (b) Acid manufacture;
- (c) Ammonia, bleaching powder, or chlorine manufacture;
- (d) Brick, tile, or terra cotta manufacture;
- (e) Cellophane manufacture;
- (f) Creosote manufacture or treatment plants;
- (g) Distillation of bones, coal, petroleum, refuse, tar, or wood;
- (h) Explosives, ammunition, fireworks, or gunpowder manufacture;
- (i) Fat rendering, or production of fats and oils from animal or vegetable products by boiling or distillation;
- (j) Garbage, offal, or animal reduction and processing;
- (k) Glue and size manufacture;
- (l) Hazardous materials handling or storage;
- (m) Linseed oil, shellac, turpentine manufacture or refining;
- (n) Nitrogenous tankage, fish meal or manufacture of any fertilizer materials carrying an objectionable odor;
- (o) Oilcloth or linoleum manufacture;
- (p) Ore reduction;
- (q) Pulp mills; and
- (r) Vinegar manufacturing.

(2) INSTITUTIONAL USES

- (a) Package treatment plant wastewater disposal systems that discharge to surface waters; and
- (b) Storage or processing of radioactive or infectious waste.

(3) RESIDENTIAL USES

- (a) Use of a boat, houseboat, or other floating structure as a temporary or permanent residence (this shall not prevent the overnight occupancy of a vessel temporarily moored while in transit on navigable waters); and
- (b) Use of a recreational vehicle or travel trailer as a permanent residence.

ARTICLE 155.3 STANDARDS

§ 155.301 OFF-STREET PARKING AND LOADING REGULATIONS

(A) PURPOSE

The purpose of this section is to ensure provision of off-street parking and loading facilities in proportion to the generalized parking, loading, and transportation demand of the different uses allowed by this Chapter. The standards are further intended to:

- (1) Provide for adequate off-street parking, off-street loading, and safe movement of vehicles into, out of, and through parking areas;
- (2) Reduce the aesthetic impact of surface parking lots along major roadways, in nonresidential and multi-family areas through standards addressing on-site parking lot locations;
- (3) Avoid excessive paved surface areas and the resulting problems associated with stormwater runoff and areas of accelerated heating in the summer months; and
- (4) Protecting compatibility between adjacent uses of land.

(B) APPLICABILITY

The standards in this section shall apply to all development in the County's planning jurisdiction, unless exempted in accordance with § 155.301(C).

(1) GENERALLY

Whenever a building is constructed, an open-air use of land is conducted, or a principal or accessory use is established, the development shall meet the requirements of this section.

(2) ADDITIONS AND EXPANSIONS

Whenever an existing building, open air use of land, or principal or accessory use is enlarged or increased in capacity after June 16, 2021, the development shall comply with all the requirements in this section.

(3) CHANGES IN USE

(a) If the principal use changes, then the new principal use shall meet the requirements of this section, except that if the use change results in an increase of less than five percent in the required number of parking spaces, or less than two additional parking spaces, no additional parking spaces are required.

(b) In cases where an existing parking lot does not comply with the parking lot configuration requirements of this section, changes in use shall require the parking lot's configuration to be brought into compliance with these standards, to the maximum extent practicable.

(4) PRE-EXISTING DEVELOPMENT

Lawfully established off-street parking and loading areas established prior to June 16, 2021, that do not comply with these standards shall be subject to the applicable standards in Article 155.4, Nonconformities.

(C) EXEMPTIONS

The following forms of development are exempt from the requirements of this section:

- (1) Lawfully established lots of record existing prior to June 16, 2021, that are 33 feet wide or less, contain a single-family detached residential structure, and are not served by an alley; and

- (2) Re-stripping an existing parking lot which does not create a deficient number of parking spaces or a nonconforming situation.

(D) OFF-STREET PARKING REQUIREMENTS

Off-street parking shall be provided on every lot on which any uses are hereafter established. The number of spaces provided shall equal or exceed the number shown in this section.

(1) PARKING PLAN REQUIRED

Every application for a site plan or zoning compliance permit shall include a parking plan or plot plan drawn to scale and fully dimensioned as necessary in order to demonstrate compliance with the standards in this Chapter.

(2) MINIMUM OFF-STREET PARKING SPACES REQUIRED

- (a) The minimum number of off-street parking spaces required for development shall be in accordance with the Minimum Off-Street Parking Requirements Table.
- (b) Off-street parking shall be provided to meet the parking demand without the use of streets or driveways, except as specifically allowed by this section.

(3) USE TYPE NOT LISTED

- (a) For use types that do not correspond to the use types listed in Minimum Off-Street Parking Requirements Table, any one of the following actions may be taken as part of determining the applicable off-street parking requirements:
 - 1. The applicant may provide a parking study for the use(s) prepared by a professional engineer licensed by the State of North Carolina;
 - 2. The applicant may propose a text amendment to this Ordinance in accordance with §155.513;
 - 3. The applicant may request a formal determination of these off-street parking standards in accordance with §155.507; or
 - 4. The Zoning Administrator may determine the minimum parking space requirement based on a similar use in accordance with the standards of this Ordinance.
- (b) In cases where the applicant desires the Zoning Administrator to make a determination, the application shall provide adequate information for review, which includes, but is not limited to: the type of use(s), number of employees, the availability of transit, the occupancy of the building, square feet of sales, service and office area, parking spaces proposed, and hours of operation.

(4) DEVELOPMENTS WITH MULTIPLE USE TYPES OR LOTS

- (a) Development containing more than one principal use shall provide the minimum number of off-street parking spaces in an amount equal to the total required for all individual principal uses in the development.
- (b) Developments consisting of multiple lots that are planned and developed as a single, unified, or consolidated project may be configured to locate a portion of the required parking for one lot on another in the same development.

(5) USE OF REQUIRED OFF-STREET PARKING SPACES

- (a) Off-street parking areas used for any of the following vehicles are not credited towards the minimum number of required off-street parking spaces in the Minimum Off-Street Parking Requirements table, and such vehicles shall be located outside required off-street parking spaces and any street right-of-way:

1. Vehicles for sale or lease;
 2. Vehicles being stored, serviced, or repaired; or
 3. Vehicles belonging to the use, such as company vehicles.
- (b) Required off-street parking spaces shall not be used for any purpose other than the temporary parking of operable vehicles.
- (c) In no instance shall motor vehicle servicing or repair of a vehicle take place within a required off-street parking space except for washing and emergency service necessary to start the vehicle.

(6) DRIVEWAYS USED TO MEET PARKING REQUIREMENTS

- (a) Driveways and off-street parking areas shall be used to accommodate required off-street parking spaces for residential uses. On-street parking shall not be credited towards residential parking requirements.
- (b) Driveways shall be of sufficient size to accommodate all the off-street parking spaces required by the Minimum Off-Street Parking Requirements Table. In no instance shall accommodation of vehicle parking in accordance with this subsection result in parked vehicles protruding into or over street rights-of-way, sidewalks, required sight distance triangles, areas used for refuse collection, or required landscaping areas.

(7) MINIMUM OFF-STREET PARKING REQUIREMENTS

MINIMUM OFF-STREET PARKING REQUIREMENTS TABLE	
USE TYPE	MINIMUM NUMBER OF OFF-STREET PARKING SPACES TO BE PROVIDED
AGRICULTURAL USES	
Agriculture or Horticulture	1 per every 1,500 sf of principal building floor area
Farm Implement Sales	1 per every 800 sf
Livestock Sales	Greater of: 10 + 1 per employee on largest shift or 1 per every 500 sf of floor area
Stables, Commercial	1 + 1 per stall
Wholesale Nurseries and Greenhouses	1 per every 900 sf of use area open to the public
RESIDENTIAL USES	
Duplex	2 per every dwelling unit
Family Care Home	2 + 1 per bedroom
Group Home	2 + 1 per bedroom
Manufactured Home, Double-wide	2 per dwelling unit
Manufactured Home, Single-wide /1/	2 per dwelling unit
Manufactured Home Park	2 per dwelling unit + 0.25 per dwelling for guest parking
Mobile Home	2 per dwelling unit
Multi-Family Dwelling	2 per every dwelling unit + 0.25 guest spaces per unit
Seasonal Agricultural Housing	1 per every separate dwelling structure
Single-Family Dwelling	2 per dwelling unit
Townhouse Dwelling	2 per every dwelling unit + 0.25 guest spaces per unit
INSTITUTIONAL USES	

MINIMUM OFF-STREET PARKING REQUIREMENTS TABLE

USE TYPE	MINIMUM NUMBER OF OFF-STREET PARKING SPACES TO BE PROVIDED
Adult Day Care	1 + 1 per every employee on largest shift
Air Transportation	1 per every 200 sf used by public + 1 per every 600 sf not used by the public
Antenna Collocation, Major	None
Antenna Collocation, Minor	None
Assisted Living Facility	1 per employee on the largest shift + 0.25 per bed
Bus and Taxi Terminals	1 per every 200 sf [3]
Cemetery	1 per employee on the largest shift
Children's Day Care/Community Center	1 per every 300 sf
Church /2/	Greater of: 1 per every 6 seats or 1 per every 50 sf of floor area in main assembly room
Colleges, Universities, Professional Schools and Technical Institutions	5 per every classroom + 3 per every office
Electrical Sub-Station	None
Elementary and Secondary Schools	Elementary: 5 + 1 per employee Secondary: 5 per every classroom + 3 per every office
Fraternal and Social Organizations	1 per every 300 sf
Fire Station, Law Enforcement, and Emergency Services	1 per every 200 sf used by public + 1 per every 600 sf not used by the public
Government Offices and Buildings	1 per every 200 sf used by public + 1 per every 600 sf not used by the public
Hospital	1 per every 2 beds + 1 per every doctor and nurse + 1 per every 4 other employees
Library	1 per every 200 sf used by public + 1 per every 600 sf not used by the public
Jail	1 per employee on the largest shift + 10
Marina, Residential	1 per every 1,000 sf of activity area (including building sf)
Medical Transport/Ambulance Service	1 per employee on the largest shift
Museum	1 per every 200 sf used by public + 1 per every 600 sf not used by the public
Nursing and Personal Care Facilities	1 per every 200 sf
Outpatient Clinic	1 per every 200 sf
Parks and Recreation Areas	1 per employee on largest shift + 1 per acre
Post Office	1 per every 200 sf used by public + 1 per every 600 sf not used by the public
Private Club or Lodge	1 per every 300 sf
Railroad Transportation	1 per employee on largest shift + 1 per every 200 sf
Residential Support Center	1 per employee on largest shift + 1 per guest room
Small Wireless Facility	None
Solar Energy Conversion System, Major	One
Telecommunications Tower, Major	One
Telecommunications Tower, Minor or Concealed	None
Telephone and Telegraph Facilities	One

MINIMUM OFF-STREET PARKING REQUIREMENTS TABLE

USE TYPE	MINIMUM NUMBER OF OFF-STREET PARKING SPACES TO BE PROVIDED
Wastewater Treatment Facility	1 per employee on largest shift
Water Transportation Facility	1 per employee on largest shift
Water Treatment Plant	1 per employee on largest shift
Wind Energy Conversion System	One
COMMERCIAL USES	
Automobile/Boat Repair	2 + 1 per every service bay
Automobile Rental	1 per every 200 sf
Automobile /Boat Sales	1 per every 200 sf
Automobile Service Station	1 per every 200 sf
Banks, Credit Agencies, Savings and Loans	1 per every 200 sf used by public + 1 per every 600 sf not used by the public
Bars, Cabarets, and Discos	1 per 150 sf
Bed and Breakfast Inn	2 + 1 per every rental unit
Building Materials and Garden Supplies	1 per every 400 sf
Business Services Including Printing	1 per every 300 sf
Camping, Travel Trailer Parks	1 + 1 per every camping/trailer space
Commercial Recreation Establishment, Indoor and Outdoor	Indoor: 1 per every 200 sf Outdoor: 1 per every 1,000 sf of activity area
Contractor, Building, Mechanical, or Landscape	Greater of: 1 per every 300 sf or 1 per every 1,000 sf of outdoor area
Convenience Store	1 per every 200 sf
Dry Cleaning/Laundry	Greater of: 1 per employee on largest shift + 2 or 1 per every 200 sf
Event Venue	1 per every 150 sf
Funeral Home	Greater of: 1 per every 200 sf used by public, or 1 per every 4 seats in chapel
Golf Course	1 per every 4 persons of design capacity
Grocery Store	1 per every 250 sf
Hotel or Motel	5 + 1 per every rental unit
Landscaping Services	1 per every employee on the largest shift
Marina, Commercial	1 per every 1,000 sf of activity area (including building sf)
Office, Dentist	4 per every doctor/practitioner
Office, Doctor	4 per every doctor/practitioner
Office, Professional	1 per every 200 sf used by public + 1 per every 600 sf not used by the public
Outdoor Advertising	None
Outdoor Shooting Range, Public	1 per every 200 sf used by public + 1 per every 600 sf not used by the public
Outdoor Storage (as a principal use)	1 + 1 per employee on largest shift
Personal Service Use	1 per every 300 sf
Repair Shop, Small Item (clothing, jewelry, electronics)	1 per every 600 sf

MINIMUM OFF-STREET PARKING REQUIREMENTS TABLE

USE TYPE	MINIMUM NUMBER OF OFF-STREET PARKING SPACES TO BE PROVIDED
Retail, Large Goods	1 per every 200 sf of floor area open to the general public
Retail, Miscellaneous	1 per every 200 sf
Retail Nurseries	1 per every 5,000 sf of use area
Restaurant/Catering	Greater of: 1 per every 4 seats or 1 per every 150 sf
Sexually-Oriented Business	1 per every 200 sf
Shopping Center	1 per every 400 sf
Theatre, Indoor or Drive In	Indoor: Greater of: 1 per every 4 seats or 1 per every 40 sf of seating area with moveable seating Drive-in: 1 per employee on the largest shift
TV, Radio Broadcasting	1 per every 2 employees
Veterinaries/Pet Grooming/Kennels	1 per every 200 sf
INDUSTRIAL USES	
Asphalt Plant	1 + 1 per every employee on the largest shift
Bakery Products	3 + 1 per employee on the largest shift
Beverages (Bottling and Manufacture)	1 per every employee on the largest shift
Cabinet and Woodworking Shop	1 per every 400 sf
Chemicals and Related Products	1 per every employee on the largest shift
Concrete Plant	1 + 1 per every employee on the largest shift
Equipment Rental and Leasing	1 per every 600 sf
Junkyards, Scrap Processing	3+ 1 per employee on the largest shift
Manufacturing, Heavy	3 + 1 per employee on the largest shift + 1 per every 200 sf of floor area devoted to retail
Manufacturing, Light	5 + 1 per employee on the largest shift + 1 per every 200 sf of floor area devoted to retail
Mini-Warehouses/Recreational Vehicle/Boat Storage	1 per every 5,000 sf
Mining and Quarrying	1 + 1 per employee on largest shift
Motor Freight Transportation Warehousing	5 + 1 per employee on the largest shift
Recycling Collection Center	1 per every 1,000 sf (min. of 2 spaces)
Research and Design Facilities	1 per every 300 sf of office area + 1 per every 500 sf of other floor area
Sanitary Landfill	2+ 1 per employee on largest shift
Septage Disposal	1 per employee on the largest shift
Septic Tank Vacuum Service	1 per employee on largest shift
Slaughterhouse	1 + 1 per employee on largest shift
Sludge Disposal	1 per employee on largest shift
Warehousing	2+ 1 per employee on largest shift
Wholesaling	1 per every 900 sf

(E) PARKING SPACE COMPUTATION

(1) ROUNDING

When computation of the number of required parking spaces results in a fraction, the fraction shall be rounded downwards to the previous whole number.

(2) MULTIPLE AND MIXED-USES

Unless otherwise approved, development containing more than one principal use shall provide off-street parking in an amount equal to the total requirements of all individual uses, unless the Zoning Administrator determines that a lower standard would be adequate because of differences in peak operating hours.

(3) SEAT BASED STANDARDS

Where the minimum number of off-street parking spaces is based on the number of seats, all computations shall be based on the number of seats provided, including outdoor and waiting areas.

(4) EMPLOYEE BASED STANDARDS

When the minimum number of off-street parking spaces is based on the number of employees, the computations shall be based on the number of employees on the largest shift.

(5) FLOOR-AREA BASED STANDARDS

Where the minimum number of off-street parking spaces is based on square feet of floor area, all computations shall be based on gross floor area. For the purposes of this section, gross floor area shall also include outdoor use area

(F) PARKING LOT CONFIGURATION

Except for driveways credited towards these parking standards, all parking lots shall comply with the following standards:

(1) GENERAL

- (a) All required off-street parking spaces shall be located on the same lot as the principal use they serve.
- (b) Required off-street parking shall be maintained for the duration of the principal use and shall not be reduced unless the principal use ceases or changes.
- (c) Except where allowed by this Ordinance, off-street parking spaces shall not be located in any required landscaping or stormwater management area.
- (d) Off-street parking spaces shall not protrude into any street, fire lane, drive aisle, sidewalk, greenway, or pedestrian connection.

(2) DIMENSIONAL STANDARDS FOR PARKING SPACES AND AISLES

- (a) The minimum parking space dimension shall be ten feet by 20 feet.
- (b) One-way drive aisles shall be at least 12 feet wide.
- (c) Two-way drive aisles shall be at least 24 feet wide.

(3) PARKING SPACE ACCESS

- (a) All off-street parking spaces shall be accessed directly from drive aisles or private driveways and not directly from arterial or collector streets.
- (b) All off-street parking areas shall be designed with an appropriate means of vehicular access to a street or alley in a manner that allows for safe vehicular movements.

- (c) Unless topographic conditions make it impossible, off-street parking areas serving commercial, multi-family, and mixed-use development shall connect to adjacent lots also used by commercial, multi-family, or mixed-use development.

(4) VEHICLE BACKING

Vehicular use areas shall be designed so that a vehicle is not required to back onto a street to enter or exit the parking lot, a parking space, or a stacking space.

(5) SURFACE MATERIALS

(a) All off-street parking spaces, accessible parking spaces, drive aisles, and vehicular use areas shall be paved and maintained with concrete, asphalt, or similar material of sufficient thickness and consistency to support anticipated traffic volumes and weights.

(b) Configuration of parking lots in accordance with low impact development practices is encouraged.

(6) GRADING AND DRAINAGE

(a) The parking lot shall be graded, properly drained, stabilized, and maintained to minimize dust and erosion.

(b) Parking lots shall not impound stormwater unless surface impoundment is required as an approved stormwater control measure. However, in no instance shall surface impoundment result in a fewer number of parking spaces than required by the Minimum Off-Street Parking Requirements Table.

(c) Parking lots shall not drain onto or across public sidewalks, or into adjacent property except into a natural watercourse or a drainage easement unless alternative provisions for drainage are proposed and accepted by the Stormwater Administrator.

(7) MARKINGS

All parking spaces and lanes in parking lots shall be clearly delineated with paint lines, curbs, or other treatment.

(8) CURBS AND WHEEL STOPS

All off-street parking spaces provided in accordance with Minimum Off-Street Parking Requirements Table shall have curbs or wheel stops located so that no part of the parked vehicle extends onto or over a sidewalk, walkway of six feet in width or less, adjacent property, or landscape area, whether the vehicular use area is paved or unpaved.

(9) SEPARATION FROM FIRE PROTECTION FACILITIES

(a) No required off-street parking space shall be located within 15 feet of a fire hydrant or other fire protection facility.

(b) Parking shall not take place within designated fire lanes or other areas demarcated for fire protection.

(10) EXTERIOR LIGHTING

(a) Exterior lighting in parking lots shall be designed to provide illumination of parking lot areas for the purposes of safe vehicle and pedestrian circulation.

(b) Exterior lighting within a parking lot shall be configured to prevent glare or illumination exceeding maximum allowable levels on adjacent land.

(11) LANDSCAPING

Parking lot landscaping shall be provided in accordance with § 155.302.

(G) OFF-STREET LOADING AND UNLOADING SPACE

(1) LOADING FACILITIES REQUIRED

Every application for a non-residential use shall ensure that adequate off-street loading facilities are provided so that loading vehicles do not occupy required off-street parking spaces, block vehicular access, or prevent appropriate on-site maneuvering.

(2) MINIMUM OFF-STREET LOADING SPACE REQUIREMENTS

- (a)** Except for buildings of 20,000 square feet or more, a minimum number of off-street loading spaces is not established; however, if off-street loading spaces are provided, they shall be provided and maintained in sufficient numbers to adequately handle the needs of a non-residential use.
- (b)** One loading space shall be required for each 20,000 square feet of gross floor area of non-residential building.
- (c)** Failure to provide or maintain off-street loading spaces when they are necessary to serve the development is a violation of this Ordinance.
- (d)** In no instance shall an off-street loading space occupy a required off-street parking space or interrupt the safe operation of vehicles or circulation of pedestrian or bicycles on or off-site.
- (e)** Each off-street loading space shall be designed with an appropriate means of vehicular access to a street or alley in a manner that will least interfere with traffic circulation.

(3) LOCATION

- (a)** No off-street loading space shall be located within a required setback or within 30 feet of a street intersection.
- (b)** All loading areas and loading docks shall be located to the side or rear of a building.
- (c)** Loading docks shall not be visible from residentially zoned land.
- (d)** All loading areas and loading docks shall be set back at least 25 feet from lot lines shared with residential districts.

(4) DIMENSIONAL STANDARDS FOR LOADING SPACES

When off-street loading spaces are provided, they shall comply with the following minimum requirements:

- (a)** Except for loading spaces used by semi-tractor trailers, off-street loading spaces shall be at least 10 feet wide and at least 30 feet deep;
- (b)** Off-street loading spaces used by semi-tractor trailers shall be at least 70 feet deep;
- (c)** Overhead clearance for an off-street loading space shall be at least 15 feet; and
- (d)** Off-street loading spaces shall be designed so that no backing onto or from a public street is necessary.

§ 155.302 LANDSCAPING

(A) PURPOSE AND INTENT

The purpose of these provisions is to establish minimum requirements for the provision and maintenance of functionally adequate, attractive screening and buffering of buildings, site features, and off-street parking areas. These standards are intended to:

- (1) Promote and increase design compatibility between different land uses, while ensuring attractive views from streets and adjacent properties;
- (2) Assist in delineating separations of spaces, structures, uses, and activities on a site, or between adjacent sites;
- (3) Shield properties from potentially adverse external impacts of adjacent land uses and activities;
- (4) Abate glare and moderate temperatures of impervious areas;
- (5) Help filter air of fumes and dust;
- (6) Provide shade;
- (7) Reduce noise;
- (8) Reduce the visual impact of large expanses of pavement;
- (9) Promote energy conservation;
- (10) Reduce the amount and rate of stormwater runoff and erosion;
- (11) Improve stormwater runoff quality;
- (12) Increase in the capacity for groundwater recharge; and
- (13) Enhance the appearance and value of both residential and non-residential development.

(B) APPLICABILITY

The standards in this section apply to the following forms of development:

(1) NEW PRINCIPAL BUILDINGS OR USES

New principal buildings or open uses of land, including publicly owned buildings or sites and single-family detached dwellings, constructed, reconstructed, or established after June 16, 2021.

(2) IMPROVEMENTS AND EXPANSIONS

All improvements, including expansions of principal buildings, parking areas, or open uses of land lawfully established before June 16, 2021, shall comply with the standards in this section.

(3) MULTI-PHASE DEVELOPMENT

Development that is planned and developed in phases shall be required to install landscaping that is associated with the active phase or phases only, unless an alternative arrangement is otherwise agreed to by the Zoning Administrator and the developer. An active phase of a development is the one that is subject to permitted and on-going development activity.

(C) EXEMPTIONS

The following forms of development are exempted from these standards:

- (1) Routine maintenance of existing vegetation, such as watering and fertilizing;

- (2) The removal of dead trees and shrubs, or trees and shrubs that have been diagnosed and determined to be diseased beyond treatment, provided the screening function of the landscaping is maintained or re-established. Failure to maintain the screening function of a required landscaping area is a violation of this Chapter;
- (3) Pruning of vegetation, provided the screening function of the required landscaping is maintained. Severe pruning is a violation of this Chapter, and shall require replacement of required vegetation; and
- (4) Repaving or restriping of a parking lot, provided there is no increase in parking lot size or the number of parking spaces, which would impact landscaping requirements.

(D) LANDSCAPE PLAN REQUIRED

(1) GENERALLY

- (a) A landscape plan depicting how required landscaping will be planted in accordance with these standards shall be included with an application for site plan, preliminary plat, planned development master plan, special use permit, or zoning compliance permit, as appropriate, to ensure compliance with this section.
- (b) The landscape plan shall be approved prior to, or concurrent with, the approval of a site plan, preliminary plat, planned development master plan, special use permit, or zoning compliance permit.
- (c) A landscape plan shall contain, at a minimum, the following:
 1. Location of required planting material;
 2. Grouping or clusters of planting material, if proposed;
 3. Identification of required plants, including their scientific names;
 4. Minimum and maximum dimensions of all planting yard areas;
 5. Calculations determining the number of canopy trees, understory trees, and shrubs required;
 6. Locations, species, sizes, and methods of protection during construction for existing vegetation to be retained and counted towards minimum landscaping requirements; and
 7. Existing topography, or proposed topography where site grading is proposed to occur.

(2) PHASED DEVELOPMENT

Development subject to these standards that is planned in phases may submit a landscape plan for the entire development, or separate landscape plans for each phase, which shall be approved prior to approval of the final plat.

(E) PLANT MATERIAL SPECIFICATIONS

(1) CANOPY TREE SIZE

- (a) Canopy trees shall have a minimum height at maturity of 40 feet and a minimum crown width of 30 feet.
- (b) All canopy trees shall have a minimum height of eight feet, or more, and a minimum caliper size of three inches, or more, at planting.
- (c) Evergreen trees shall be a minimum of six feet in height at planting.

(2) UNDERSTORY TREE SIZE

- (a) Understory trees shall have a minimum height at maturity of 15 to 40 feet, except that trees to be placed below overhead utility lines may not exceed a mature height of 20 feet.
- (b) All understory trees shall have a minimum height of four feet, or more, and a minimum caliper size of one-and-one-half (1½) inches, or more, at planting.
- (c) Nothing shall limit the use of multi-stemmed understory trees provided that 25 percent or more of the leaders meet these requirements.

(3) SHRUB SIZE AND VARIETY

- (a) All shrubs shall be at least a three-gallon size and have a minimum height or spread of 18 inches at the time of planting.
- (b) Shrubs shall reach a minimum height of 36 inches and a spread of 30 inches within three years of planting.
- (c) Decorative grasses may be proposed as a substitute for shrubs, provided the grasses meet the screening objectives and are approved by the Zoning Administrator.
- (d) Shrubs or grasses used to screen off-street parking areas shall be evergreen or retain their leaves/blades throughout the year.

(4) STABILIZATION

- (a) Required landscaping areas shall be stabilized and maintained with vegetative cover, mulch, decorative gravel, cinders, or other approved materials to prevent soil erosion and allow rainwater infiltration.
- (b) Required landscaping areas with slopes of 15 percent or more shall be stabilized with vegetative cover (not mulch or gravel) designed to minimize erosion. Required vegetative cover shall be established and functional prior to issuance of a certificate of occupancy.
- (c) Use of landscape fabric on slopes of 15 percent or more is discouraged.

(F) LANDSCAPING PLACEMENT

(1) OUTSIDE PUBLIC STREET RIGHTS-OF-WAY

Except for street trees, required landscaping material shall not be located within a street right-of-way.

(2) UNIFIED MULTIPLE-LOT DEVELOPMENT

A unified multiple-lot development is not required to provide perimeter buffers along lot lines internal to the development, but the perimeter of the development shall be subject to the standards perimeter landscaping buffers.

(3) EASEMENTS

- (a) Trees and shrubs may be located within a required easement on a case-by-case basis with the permission of the easement holder.
- (b) When landscaping is within an easement, the landowner is responsible for replacement of any required vegetation if maintenance or other actions result in its removal.
- (c) When landscaping is planted in a drainage easement, it shall not impact the easement design or impede the flow of water through the easement.

- (d) Where an easement and a required landscape area coincide and there is a prohibition on planting within the easement, then the required landscaping area shall be located outside the easement.

(4) SETBACK SMALLER THAN REQUIRED LANDSCAPING AREA

In cases where a required setback is smaller or narrower than a required landscaping area, the landscaping area width or size shall not be reduced.

(5) FIRE PROTECTION SYSTEM

Minimum clear separation distances required by the current adopted version of the North Carolina Fire Code shall be maintained for landscaping near a fire protection system.

(6) PERMITTED ENCROACHMENTS

(a) The following features may be located entirely within required landscaping areas, provided the screening function of the landscaping is maintained:

1. Landscaping features such as, ornamental pools, planting boxes, sculpture, arbors, trellises, and birdbaths;
2. Pet shelters, well houses, and mechanical enclosures;
3. On-grade patios, steps, benches, outdoor fireplaces, playground equipment serving an individual dwelling unit, accessibility ramps, roof overhangs, and fire escapes;
4. Ornamental entry columns, gates, fences, walls, and retaining walls;
5. Flagpoles of 30 feet in height or less;
6. Lamp and address posts;
7. Utility cabinets of four feet in height or less;
8. Mailboxes; and
9. Signage.

(b) The following features may cross a required landscaping area in a manner that minimizes the impact to the required landscaping:

1. Driveways, sidewalks, pedestrian walkways, greenways, or multi-use trails;
2. Utilities; and
3. Stormwater control measures.

(7) PROHIBITED FEATURES

The following features shall not be located within a required landscaping area:

- (a) An accessory structure or open air use;
- (b) Off-street parking or loading areas; or
- (c) Outdoor storage or display of products for sale.

(8) FEATURES ALLOWED WITHIN REQUIRED LANDSCAPING AREAS

(a) BERMS

1. Berms may be used independently, or in conjunction with a wall or fencing, to meet the screening intent of a perimeter buffer or other required screening when configured in accordance with the following:
2. Berms shall have a minimum height of three feet, a minimum crown width of at least three feet, and a slope of no greater than 3:1;
3. Berms shall be no taller than twelve feet above the toe of the berm;

4. Berms shall be stabilized with vegetation and ground cover;
5. A berm may not damage the roots of existing healthy vegetation being preserved for credit towards the landscaping requirements in this Chapter. Suffocation of existing roots by deposition of fill in excess of 12 inches shall be considered damage to existing tree roots; and
6. A berm shall not interfere with a required sight distance triangle.

(b) FENCES AND WALLS

1. Opaque fences or walls, a minimum of four feet in height, constructed within required landscaping areas may reduce the minimum perimeter buffer width requirement.
2. If utilized, fences or walls shall be located within the required landscaping area and all required shrubs shall be planted between the fence or wall and the lot line.
3. Required trees may be planted either in front of or behind the fence or wall.

(G) PARKING LOT LANDSCAPING

All parking lots of five or more spaces shall comply with the following parking lot landscaping standards:

(1) SHADE TREES

All parking lots shall be served by shade trees to reduce the heat island effect and soften the appearance of the parking lot, in accordance with the following standards:

- (a) Parking lots subject to these standards shall include at least one canopy tree for every 10 off-street parking spaces provided;
- (b) Required canopy trees may be placed around, in, or near the parking lot provided that no parking space is more than 100 feet from the trunk of a canopy tree; and
- (c) Required canopy trees shall be distributed throughout parking areas and may be located in landscape islands, between rows of parking, in driveway medians, and within ten feet of the perimeter of the parking lot.

(2) INTERIOR PLANTINGS

(a) AREA TO BE LANDSCAPED

For the purposes of this section, the interior of a parking lot shall be all of the area within the outer boundary of the parking lot including interior and corner landscape islands intended to fulfill the interior parking lot landscaping requirements, but not including landscaping planted around the perimeter of the parking lot.

(b) LANDSCAPING ISLANDS AND STRIPS

A parking aisle with more than 12 vehicle spaces in a single row shall provide and maintain landscaping islands at each end, or provide landscaping strips along the full length of the row, in accordance with the following standards:

1. Islands shall have a minimum dimension of nine feet and a minimum area of 200 square feet, including the curb (if curbing is provided);
2. Landscape islands that do not contain canopy trees shall contain three or more shrubs and also may contain understory trees;
3. Landscaping islands intended for the placement of canopy or understory trees shall maintain a minimum width of nine feet;

4. Landscape strips between adjoining rows of parking spaces or serving as driveway medians shall have a minimum dimension of nine feet, including the curb (if provided). Landscape strips that do not have canopy trees shall include shrubs planted no more than five feet on-center; and
5. Landscaping strips running the full length of a row of parking spaces shall be provided so that no more than six rows of parking spaces are provided without a landscaping strip.

(c) SEPARATION OF LIGHT POLES AND TREES

In order to prevent the need to excessively trim required trees within landscape areas and to maintain the effectiveness of parking area exterior lighting, light poles shall be spaced at least ten linear feet from a canopy tree trunk, to the maximum extent practicable.

(d) PROTECTION OF LANDSCAPE ISLANDS

1. Landscape islands shall be protected from vehicle damage by the installation of curbing, wheel stops, or other comparable methods.
2. The placement of plant material within landscape islands shall allow for a two-and-one-half-foot vehicle overhang from the face of the curb or wheel stop.

(e) STORMWATER MANAGEMENT

A landscape island may be designed to function as a stormwater management control measure, provided its landscaping performance function is maintained.

(3) PERIMETER PLANTINGS

(a) INTENT

Parking lot perimeter landscaping shall be designed to soften the view of the parking lot from an abutting street or development and to filter spillover light from vehicle headlights. Required plant material shall be planted in such a way as to best achieve this intent.

(b) LOCATION

Required plant material shall be placed adjacent to the perimeter of the parking lot.

(c) PLANTING RATE

Parking lot perimeter landscaping shall consist of a single continuous row of evergreen shrubs planted no greater than three feet on-center and within five feet of the parking lot edge.

(d) SIZE OF PLANT MATERIAL

1. Shrubs used for parking lot perimeter landscaping shall be of a minimum size necessary to achieve a maximum height of 36 inches above grade within three years of planting.
2. In cases when vegetation provided as perimeter plantings around a parking lot grow to a height exceeding 48 inches above grade, they shall be trimmed or pruned as necessary to maintain a minimum height of at least 36 inches.
3. It shall be a violation of this Chapter to remove or severely prune shrubs required as parking lot perimeter vegetation to a height of less than 36 inches.

(e) CREDIT TOWARDS REQUIRED LANDSCAPING AREAS

Perimeter parking lot landscaping may be credited towards the perimeter buffer and requirements in this Chapter in cases where it meets the locational requirements of

this section and is also located within an adjacent perimeter buffer or streetscape buffer's designated area.

(f) ALTERNATIVES

Perimeter parking lot plantings may be supplemented or replaced through use of a vegetated berm, or an opaque fence or wall that meets the screening objective of this section.

(g) EXEMPTIONS

1. Where off-street parking lots are adjacent to one another, but on different lots, perimeter plantings or other forms of screening are not required along the common boundary between the two parking lots.
2. Developments consisting of multiple lots that are planned and developed as a single, unified, or consolidated project may be configured so that perimeter plantings are only located around the perimeter of the entire development instead of between parking lots and buildings located within the development.

(H) PERIMETER LANDSCAPING BUFFERS

(1) PURPOSE AND INTENT

These standards are proposed to eliminate or minimize potential nuisances, such as dirt, litter, noise, glare of lights, signs, and unsightly buildings or parking areas through physical and visual separation between land uses in separate zoning districts.

(2) APPLICABILITY

- (a) All development shall comply with the perimeter buffer standards in this section.
- (b) Development shall provide perimeter buffers along the side and rear lot lines in accordance with these standards.

(3) BUFFERS DISTINGUISHED

Perimeter landscaping buffers required by this section shall take either of the following two forms, based on the adjacent zoning district:

- (a) Type A, Semi-Opaque Buffer; or
- (b) Type B, Opaque Buffer.

(4) BUFFER DETERMINATION

- (a) The lot or site being developed is the one responsible for providing the required perimeter buffer, which shall be located solely upon the lot or site being developed.
- (b) Landscaping material located on an adjacent lot may not be credited towards these perimeter landscaping buffer requirements.
- (c) The type of perimeter buffer required is based upon the zoning district designation of the land being developed as well as the zoning district designation of the abutting lots.

(5) BUFFER LOCATION

- (a) Perimeter buffers required by this section shall be located along the outer perimeter of the lot and shall extend to the connecting lot lines.
- (b) In cases where the lot line is within a drainage swale, the perimeter buffer shall extend to the edge of the swale instead of the lot line.
- (c) A perimeter buffer may be located along shared access easements between parcels in non-residential developments.

(6) PERIMETER BUFFER CONFIGURATION

Perimeter landscaping buffers shall be configured in accordance with the following standards:

(a) TYPE A SEMI-OPAQUE BUFFER

1. OBJECTIVE

The Type A Semi-Opaque perimeter buffer functions as a partially opaque screen from the ground to a height of six feet. This type of buffer prevents visual contact between uses but not total obstruction from one use to another. The buffer creates a sense of visual separation but provides only minor acoustic separation.

2. MINIMUM BUFFER WIDTH

A Type A buffer shall be at least 30 feet wide.

3. REQUIRED CANOPY TREES PER EVERY 100 LINEAR FEET

A Type A buffer shall incorporate at least three canopy trees every 100 linear feet, with a maximum on-center spacing between the trees of 33 feet.

4. REQUIRED UNDERSTORY TREES PER EVERY 100 LINEAR FEET

A Type A buffer shall incorporate at least six understory trees every 100 linear feet, with a maximum on-center spacing between the trees of 16 feet.

5. REQUIRED SHRUBS PER EVERY 100 LINEAR FEET

A Type A buffer shall incorporate at least 25 shrubs every 100 linear feet, with a maximum on-center spacing between the shrubs of four feet. At least 75% of the shrubs shall be evergreen.

6. ALTERNATIVES

- a. Provision of a semi-opaque fence or wall allows the buffer width to be reduced by five feet.
- b. Provision of a fully opaque fence, wall, or berm allows the buffer width to be reduced by 10 feet.
- c. Grouping of trees or shrubs is permitted within 20 feet of the edge of a street right-of-way provided there is no un-vegetated portion of the buffer exceeding 10 feet in length.
- d. In the event a fence or wall is provided, shrubs shall be planted between the fence or wall and the lot line. Shrubs shall be no closer than three feet to the lot line.

(b) TYPE B OPAQUE BUFFER

1. OBJECTIVE

The Type C Opaque perimeter buffer functions as a fully opaque screen from the ground to a height of eight feet. This type of buffer provides a strong sense of visual and acoustic separation between uses.

2. MINIMUM BUFFER WIDTH

A Type B buffer shall be at least 40 feet wide.

3. REQUIRED CANOPY TREES PER EVERY 100 LINEAR FEET

A Type B buffer shall incorporate at least four canopy trees every 100 linear feet, with a maximum on-center spacing between the trees of 25 feet.

4. REQUIRED UNDERSTORY TREES PER EVERY 100 LINEAR FEET

A Type B buffer shall incorporate at least eight understory trees every 100 linear feet, with a maximum on-center spacing between the trees of 15 feet.

5. REQUIRED SHRUBS PER EVERY 100 LINEAR FEET

A Type B buffer shall incorporate at least 35 shrubs every 100 linear feet, with a maximum on-center spacing between the shrubs of three feet. All of the shrubs shall be evergreen.

6. ALTERNATIVES

- a. Provision of a semi-opaque fence or wall allows the buffer width to be reduced by five feet.
- b. Provision of a fully opaque fence, wall, or berm allows the buffer width to be reduced by 10 feet.
- c. In the event a fence or wall is provided, shrubs shall be planted between the fence or wall and the lot line. Shrubs shall be no closer than three feet to the lot line.

(7) BUFFER APPLICATION

The Buffer Application Table specifies the type of perimeter buffer that development shall provide between it and adjacent land, based on the zoning district of the development site and the zoning district designation of the adjacent land. The buffer type is indicated by a letter corresponding to one of the two buffer types described in this section.

PERIMETER LANDSCAPING BUFFER APPLICATION TABLE								
ZONING DISTRICT OF DEVELOPING LOT	ZONING DISTRICT OF LOT ADJACENT TO PROPOSED DEVELOPMENT /1/							
	A-1	R-1	RMH-1	RMF	O&I	C-1	I-1	PD
A-1	N/A	B	A	A	N/A	N/A	N/A	N/A
R-1	A	N/A	B	N/A	N/A	N/A	N/A	N/A
RMH-1	A	B	N/A	A	N/A	N/A	N/A	N/A
RMF	B	B	A	N/A	N/A	N/A	N/A	N/A
O&I	B	B	B	A	N/A	N/A	N/A	N/A
C-1	B	B	B	B	B	N/A	N/A	A
I-1	B	B	B	B	B	A	N/A	B
PD	A	B	B	B	B	A	A	B

NOTES:
/1/ "N/A" = No buffer required.

(8) EXEMPTIONS

Developments consisting of multiple lots that are planned and developed as a single, unified, or consolidated project may be configured so that perimeter buffers are only located around the perimeter of the entire development instead of between lots within the development.

(9) CREDIT TOWARDS REQUIRED LANDSCAPING AREAS

Perimeter buffer landscaping may be credited towards the perimeter parking lot landscaping in this Chapter in cases where it meets the locational requirements of this section and is also located within an adjacent perimeter parking lot landscaping.

§ 155.303 FENCES AND WALLS

(A) PURPOSE AND INTENT

These standards provide development standards for permanent fences and privacy walls on individual lots or development sites. These standards are proposed to protect the health and safety of the public while balancing the practical uses for fencing and walls like security and privacy with the need for aesthetic quality and a high-quality built environment. More specifically, these standards are intended to:

- (1) Provide for privacy and security on individual lots;
- (2) Ensure proper construction techniques are followed and that fences and walls are maintained in good repair;
- (3) Assist with the transition between public and private spaces; and
- (4) Ensure fencing and walls are consistent with the County's requirements.

(B) APPLICABILITY

(a) GENERALLY

The provisions of this section shall apply to all construction or replacement of all fences, screening walls, or retaining walls. A fence or wall may only be erected in accordance with the standards in this section and §155.515.

(b) PRE-EXISTING DEVELOPMENT

Lawfully established fences and walls established prior to June 16, 2021, that do not comply with these standards shall be subject to the applicable standards in Article 155.4 Nonconformities.

(C) EXEMPTIONS

The following are exempted from the standards in this section:

- (1) Bona fide farms and agricultural use types on lots subject to present-use value taxation;
- (2) Fences under two feet in height; and
- (3) Temporary fences for construction sites, including but not limited to, fencing necessary for soil erosion and sedimentation control and tree protection.

(D) LOCATIONAL STANDARDS

(1) GENERAL

No fence or wall shall:

- (a) Be located within the public right-of-way (except for public fences or walls, or as needed for retention of soil);
- (b) Impede visibility of the required property address number; or
- (c) Block pedestrian access from doors or windows.

(2) EASEMENTS

- (a) In cases where a fence or wall is proposed within an easement, the applicant shall provide evidence of the easement owner's consent regarding placement of the fence or wall.

(b) The landowner shall remain solely liable for any repair or replacement if any portion of the fence or wall located within a required easement is damaged during maintenance or construction activities within the easement by the easement owner or their agent.

(3) BLOCK DRAINAGE

Fences or walls shall not alter or impede the natural flow of water in any stream, creek, drainage swale, or ditch.

(4) OBSTRUCTIONS AT INTERSECTION

Except for necessary retaining walls, no fence or wall shall be located within a required sight distance triangle.

(5) REQUIRED SETBACKS

Fences or walls may be located within required setbacks but shall not encroach onto a separate lot.

(6) REQUIRED LANDSCAPING AREAS

Fences or walls may be located in required landscaping areas provided the screening function of the landscaping area is maintained.

(E) MAXIMUM HEIGHT

(1) RESIDENTIAL ZONING DISTRICTS

(a) Fences and walls not over four feet high may project into or may enclose any front yard.

(b) Side and rear yards may be enclosed by fences or walls up to six feet in height.

(2) NONRESIDENTIAL AND AGRICULTURAL DISTRICTS

A solid or open fence or wall may be erected to a maximum height of ten feet.

(F) WIND LOADING

All fencing and walls subject to the standards of this section shall be constructed in accordance with the North Carolina Building Code and shall be designed and constructed in order to meet the minimum applicable wind loading standards in the Gates County.

(G) MATERIALS

(1) Fences and walls shall be designed, constructed, and maintained to ensure a minimum useful life of at least ten years.

(2) The following materials shall be prohibited for use as a part of a fence or wall: wooden pallets, tires, debris, junk, rolled plastic, sheet metal, untreated or unpainted plywood, readily flammable material, or waste materials shall be prohibited, unless the materials have been recycled and reprocessed, for marketing to the general public as building materials designed to resemble new building materials (e.g., picket fencing made from recycled plastic and fiber).

(3) In no instance shall tarps or silt fencing remain on a lot or site after completion of construction.

(H) MAINTENANCE

(1) Any fence or wall which, through neglect, lack of repair, type or manner of construction, method of placement or otherwise, constitutes a hazard or endangers any person, animal, or property is in violation of this Chapter.

- (2) When a fence or wall is in violation of this Chapter, the Zoning Administrator shall require the owner or occupant of the property upon which the fence or wall is located to repair, replace, or demolish the fence or wall in accordance with all applicable standards in this Chapter.

§ 155.304 SIGNAGE

(A) PURPOSE AND INTENT

This section provides guidance and standards for signage across the County's planning jurisdiction. The erection and maintenance of signs is controlled and regulated in order to promote the health, safety, welfare, convenience, and enjoyment of travel on streets and sidewalks. These provisions are also intended to balance between the promotion of beneficial commerce, protection of free speech, and the protection of community character. More specifically, these standards are intended to:

- (1) Promote traffic safety;
- (2) Avoid interference with protected free speech;
- (3) Regulate the content of signs to the least extent possible and only when absolutely necessary to protect public health and safety;
- (4) Regulate off-premise signage in accordance with State law and federal jurisprudence;
- (5) Ensure that any content-based signage standards serve a compelling public purpose and are as narrowly-tailored as possible;
- (6) Promote economic development and beneficial commerce;
- (7) Ensure residents and visitors can locate desired goods, services, and destinations;
- (8) Avoid conflicts between advertising and public safety signage;
- (9) Reflect the aesthetic character and design quality anticipated in the County's adopted policy guidance; and
- (10) Minimize any detrimental effects of signage on adjacent properties.

(B) APPLICABILITY

Except for the sign types exempted from these standards identified § 155.304(C), all signs shall be constructed, erected, affixed, placed, posted, painted, repainted, hung, or otherwise established only in accordance with the standards in this section.

(C) EXCLUSIONS

The following forms of signage shall not be subject to these signage standards but may be subject to other applicable standards in this Ordinance, such as the requirement to obtain a building permit. Applicants shall be responsible for securing all required permits prior to erecting or modifying any of the following forms of excluded signage:

- (1) Fence-wrap signs affixed to fences surrounding a construction site in accordance with the standards in G.S. § 160D-908;
- (2) Legal notices required by governmental bodies, public utilities, or civic associations;
- (3) Governmental signage, including flags, street signs, traffic warning signs, and other signage provided solely by governmental agencies for public health and safety;
- (4) Building cornerstones, historical plaques, or grave markers;
- (5) Signage associated with public transit stops;
- (6) Holiday displays on lots within all zoning districts;
- (7) Historic markers;
- (8) Signage that is not visible from any off-site areas (e.g., entirely enclosed by opaque walls that prevent the visibility of signage from any off-site areas); and
- (9) Signage associated with off-street parking spaces or the prohibition of parking in certain locations like fire lanes, bus lanes, or loading zones.

(D) PROHIBITED SIGN TYPES

The following signs, sign construction, and displays are prohibited throughout the County's jurisdiction:

- (1) Moving signs, excluding flags, banners, and clocks;
- (2) Flashing, scrolling, twirling, or blinking signs;
- (3) Gas- or air-filled balloons, figures, and other inflatable signs;
- (4) Signs on the roof or above the parapet of a building;
- (5) Any sign which the Zoning Administrator determines obstructs the view of bicyclists, pedestrians, or motorists using any street, approach to any street intersection, sidewalk, public trail, or which interferes with the effectiveness of or obscures any traffic sign, device, or signal;
- (6) Signs, lights, rotating features, words, and other devices, which resemble or may be erroneously construed as traffic signals, traffic signs, or emergency vehicle lights;
- (7) Illuminated or highly reflective signs that law enforcement determines hampers the vision of motorists, pedestrians, or bicyclists;
- (8) Any sign which interferes with free passage from or obstructs any fire escape, downspout, door, stairway, ladder, or opening intended as a means of ingress or egress;
- (9) Any sign placed on a utility pole, street sign post, traffic signal support, hydrant, bridge, tree, aspect of public infrastructure, or street paving that is not installed or approved by an appropriate governmental agency; and
- (10) Signs with speakers intended for audio playback.

(E) GENERAL REQUIREMENTS FOR ALL SIGNAGE

(1) PERMIT REQUIRED

Unless prohibited or exempted from these standards, all signage shall obtain approval of a zoning compliance permit prior to establishment or modification.

(2) LOCATION AND PLACEMENT

All signs shall conform to these standards:

- (a) Permitted signs shall be located outside of the street right-of-way, behind sidewalk areas and outside of required sight distance triangles, except where encroachments are specifically permitted by the provisions of this Chapter.
- (b) All attached signs shall be mounted and attached to buildings in a secure manner and shall be maintained in good repair for safety and appearance.
- (c) No person other than persons authorized by the County shall damage, trim, destroy, or remove trees, shrubs, or other vegetation located within the public right-of-way of any street or road for the purpose of placing a sign or increasing or enhancing the visibility of a sign; nor shall such work be performed on property that is not under the ownership or control of the person performing or responsible for such work, unless done pursuant to the express authorization of the person owning the property where such trees or shrubs are located.

(3) MATERIAL AND STRUCTURAL REQUIREMENTS

All signs shall conform to these standards:

- (a) All signs, except those protected by glass or other transparent cover, shall be constructed of materials that are permanent in nature and that will not rapidly

deteriorate, fade, fall apart, or in any way become a hazard to the public health, safety, and general welfare.

- (b) All permanently installed signs shall be able to resist normal loads from positive and negative wind pressure, snow, and other conditions as required by the State Building Code.
- (c) The Zoning Administrator may require sign load calculations and attachment design from a professional engineer licensed by the State and require the same engineer to certify the sign's installation in accordance with all applicable specifications.

(4) SIGN ILLUMINATION

Signs may be externally or internally lit in full compliance with all applicable lighting standards in this Ordinance and the State building code. The following forms of illumination shall be prohibited:

- (a) Neon signage, excluding "Open" signs;
- (b) Flashing or intermittent illumination; and
- (c) No indirect or internally illuminated sign shall have only partial illumination for a period of more than 30 successive days.

(5) SIGN MAINTENANCE

- (a) All signs shall be kept free from defective or missing parts or peeling paint.
- (b) The Zoning Administrator may require the painting, repair, or alteration of a sign, at the owner's expense, if such sign constitutes a hazard to the public health, safety, or general welfare by reason of inadequate maintenance, dilapidation, or obsolescence.
- (c) Written notice of such repair shall be given to the owner in accordance with the procedures in Article 155.6 Enforcement.

(6) INSPECTIONS

- (a) All signs for which a permit is required shall be subject to inspection by the County.
- (b) The Zoning administrator or a designee shall be authorized to enter at all reasonable times upon any property or premises to ascertain whether the provisions of this Ordinance are being obeyed.

(7) DAMAGED SIGNS PROHIBITED

(a) SURFACE APPEARANCE

No sign shall have more than 20 percent of its surface area covered with disfigured, cracked, ripped, or peeling paint or poster paper for a period of more than 30 consecutive days.

(b) BROKEN DISPLAYS

No sign shall remain with a bent or broken display area, broken supports, loose appendages or struts or stand more than 15 degrees from the perpendicular for a period of more than 30 consecutive days.

(c) DESTROYED AND DAMAGED SIGNS

1. Signs established prior to June 16, 2021, that are either damaged beyond repair or destroyed shall be replaced within 60 days of being damaged or destroyed.
2. The replacement sign shall be built to the same or smaller size and specifications as the damaged or destroyed sign.

(8) SIGN REMOVAL

The following signs may be removed by the County:

(a) SIGNS ON PUBLIC PROPERTY

Any non-governmental sign installed or placed on public property or within a public right-of-way is subject to confiscation and disposal. The County shall have the right to recover the full costs of removal and disposal from the person placing such a sign.

(b) ILLEGAL TEMPORARY SIGNS

Any illegal temporary is subject to confiscation and disposal. The County shall have the right to recover the full costs of removal and disposal from the person placing such a temporary sign.

(F) SIGNAGE STANDARDS

Signs shall comply with the locational and dimensional requirements in the following Sign Standards Table:

SIGN STANDARDS TABLE				
TYPE OF SIGN	MAXIMUM FACE AREA	MAXIMUM HEIGHT	MAXIMUM NUMBER PER LOT	ADDITIONAL STANDARDS
Wall Sign on Front Façade	Greater of: 1 sf per linear foot of wall frontage, or 5% of wall area	Below the top of the roof, soffit, eave or parapet, whichever is highest	No limit	Wall signs shall not project more than 12 inches outwards from the wall
Wall Sign on Side or Rear Façade fronting a street	½ sf per linear foot of wall frontage			
Window Sign	50% of total window and glass door area	Top of ground floor window or door	No limit	May be substituted for some or all of allowable wall sign area
Awning Sign	In accordance with wall sign standards	Awnings on ground floor only	1	None
Pylon Sign 10' or more from ROW	64 sf total	15 feet above adjacent roadway grade	1	Pylon signs shall include a vertical skirt with a minimum width at least 25% of the width of the sign face width
Pylon Sign 10' or more from ROW serving a multi-building use	2-6 tenants: 88 sf; 7-14 tenants: 112 sf; 15+ tenants: 136 sf	20 feet above adjacent roadway grade	1 per street frontage	
Pylon Sign less than 10' from ROW	48 sf total	12 feet above adjacent roadway grade	1	

SIGN STANDARDS TABLE

TYPE OF SIGN	MAXIMUM FACE AREA	MAXIMUM HEIGHT	MAXIMUM NUMBER PER LOT	ADDITIONAL STANDARDS
Pylon Sign less than 10' from ROW serving a multi-building use	2-6 tenants: 68 sf; 7-14 tenants: 88 sf; 15+ tenants: 108 sf	15 feet above adjacent roadway grade	1 per street frontage	least 25% of the width of the sign face width
Monument Sign	50 sf per side	6 feet above grade	2	Signs shall be located at least five feet from a lot line and at least ten feet from the street right-of-way
Portable Sign	24 inches by 36 inches	4 feet above grade	2	Signs shall be located at least five feet from a lot line and at least ten feet from the street right-of-way

(G) TEMPORARY SIGNS

Temporary signage is permitted on a lot or site in accordance with the following standards:

- (1) Up to one temporary sign shall be permitted on a lot or development site.
- (2) A temporary sign may have a maximum sign face area of four square feet per side.
- (3) In no instance shall a temporary sign be located within a right-of-way of have a height exceeding four feet above the grade at the base of the sign.
- (4) Temporary signs shall not be located within required sight distance triangles, but are permitted within required landscaping areas, provided they do not impact the performance objectives of required landscaping.
- (5) Temporary signs shall not be internally or externally illuminated.
- (6) There shall be no maximum duration for the placement of a temporary sign, and nothing shall prohibit the replacement of one temporary sign with another temporary sign.

(H) POLITICAL SIGNS

Political signs shall comply with the following standards:

- (1) May not be illuminated;
- (2) Shall not be located on any trees, utility poles, publicly owned property, or within a public street right-of-way, except NCDOT right-of-way in accordance with G.S. § 136-32;
- (3) May not exceed four square feet in area and four feet in height, if freestanding; and
- (4) May be displayed during a period beginning with the established filing date for an election and concluding five days after the election. In the event of a runoff election, political signs for the candidates involved may remain on display until five days after the runoff election.

ARTICLE 155.4 NONCONFORMITIES

§ 155.401 NONCONFORMITIES GENERALLY

(A) PURPOSE AND INTENT

There are existing structures, uses of land, and lots of record that were lawfully established before the effective date of this Chapter or a subsequent amendment thereto, that now do not conform to standards and requirements of this Chapter. Such uses, structures, and lots, are collectively referred to as “nonconformities.” The purpose and intent of this Chapter is to allow nonconformities to continue to exist, but to regulate and limit their expansion so as to bring them into conformity with these standards to the extent that is reasonably practicable.

(B) DETERMINATION OF NONCONFORMITY STATUS

In all cases, the burden of establishing that a nonconformity lawfully exists shall be the responsibility of the landowner of the land on which the alleged nonconformity is located.

(C) CHANGE OF TENANCY OR OWNERSHIP

No change in tenancy or ownership of land shall limit the continuance of a lawfully established nonconformity.

§ 155.402 CONTINUATION OF NONCONFORMING SITUATIONS AND COMPLETION OF NONCONFORMING PROJECTS

(A) CONTINUATION

Nonconformities are allowed to continue in accordance with the requirements of this Chapter.

(B) COMPLETION

Nonconforming projects incomplete as of June 16, 2021, shall only be completed in accordance with this Article. Nothing in these standards shall require a change in approved plans or approved uses for development upon which construction was lawfully commenced prior to June 16, 2021. For the purposes of this section, commencement of construction shall mean excavation or demolition, permanent placement of construction materials on site, or the permanent fastening of building materials.

(C) MAINTENANCE ALLOWED

Nonconformities are allowed and encouraged to receive minor repairs and routine maintenance that are necessary to maintain the nonconformity and its surroundings in a safe condition and to protect against health hazards.

§ 155.403 NONCONFORMING USES

The lawful nonconforming use of a structure, land, or water existing as of June 16, 2021, may only be continued in accordance with the following standards:

(A) DECLARED INCOMPATIBLE

All nonconforming uses are hereby declared generally incompatible with the permitted uses in the district in which they are located and with the provisions of this Chapter.

(B) INCREASING ELEVATION AUTHORIZED

(1) Nothing in this section shall limit the increase in elevation of an existing or damaged building or structure in the special flood hazard area to a height above the regulatory flood elevation.

- (2) Minor increases in nonconformance to dimensional requirements of 10 percent or less are permissible as part of increasing the elevation of a nonconforming structure in the special flood hazard area.

(C) EXTENSION OR EXPANSION OF A NONCONFORMING USE

A nonconforming use shall not be extended or expanded to occupy more space or altered in any way that increases the degree of nonconformity, except in accordance with the following standards:

(1) SINGLE-FAMILY DETACHED DWELLINGS

Except for manufactured or mobile homes, a nonconforming residential use may not be extended, expanded, enlarged, or altered in any way that increases the degree of nonconformity.

(2) MANUFACTURED OR MOBILE HOMES

An existing nonconforming manufactured or mobile home may be replaced with another nonconforming manufactured home (but not a mobile home) of equal or larger size provided the replacement manufactured home:

- (a) Is sixteen 16 feet wide or wider;
- (b) In in place within 60 days of the removal of the prior nonconforming mobile or manufactured home;
- (c) Is connected to the public sewer system, or has all the necessary permits from the Gates County Health Department pertaining to wastewater treatment;
- (d) Does not create new nonconformities with respect to applicable dimensional requirements; and
- (e) Complies with the standards in § 155.204(A)(4).

(3) ALL OTHER USES

A nonconforming use may not be extended, expanded, enlarged, or altered in any way that increases the degree of nonconformity.

(4) OPEN AIR USES OF LAND

A nonconforming use of open land may not be extended to cover more land area than was occupied by the use when it became nonconforming.

(D) RENOVATION OF A NONCONFORMING USE

- (1) Except for manufactured or mobile homes, a nonconforming use may be renovated provided the renovation does not extend, expand, or enlarge the nonconformity or create a new nonconforming use.
- (2) Major renovations, or work estimated to cost more than 10 percent of the appraised value of the structure to be renovated and not required by the partial or total destruction of a structure, shall require approval of a special use permit in accordance with §155.512.
- (3) Nonconforming manufactured or mobile homes may only be renovated in accordance with §155.403(D)(2).
- (4) The renovation shall not enclose areas that were previously unenclosed, even if those areas were used in connection with the nonconforming activity. For the purposes of this section, an area is unenclosed unless at least 75% or more of the perimeter of the area is marked by a permanently constructed wall or fence.

(E) CHANGE IN ACTIVITY

The volume, intensity, or frequency of use of property where a nonconforming use exists may be increased and the equipment or processes used at a location where a nonconforming situation exists may be changed, if these or similar changes amount only to changes in the degree of activity rather than changes in kind of activity and no violations of other divisions of this Chapter occur.

(F) CONVERSION TO ANOTHER USE

A nonconforming use may be converted to a conforming use in accordance with the applicable procedure and standards in the Summary Use Table.

- (1) A nonconforming use may be converted to another nonconforming use subject to approval of a special use permit and provided the review authority finds that the newly proposed nonconforming use is more compatible with the surrounding neighborhood.
- (2) In the event a lot has a blend of conforming and nonconforming uses, any changes of use from one nonconforming use to another nonconforming use shall require approval of a special use permit.

(G) RESTORATION FOLLOWING CASUALTY DAMAGE

(1) SIGNIFICANT DAMAGE

- (a) Except for single-family dwellings, a nonconforming use that is damaged by fire, explosion, flood, or other calamity in an amount equal to 51 percent or more of the use's current assessed value or total square footage may not be restored or reconstructed, except as a conforming use.
- (b) Nonconforming single-family dwellings damaged by fire, explosion, flood, or other calamity in an amount equal to 51 percent or more of the use's current assessed value or total square footage may be restored or reconstructed to their pre-damage condition. In no instance shall the degree of nonconformity be extended, expanded, enlarged, or the use be altered in any way that increases the degree of nonconformity.
- (c) Replacement of a nonconforming manufactured or mobile home shall be in accordance with § 155.403(D)(2) except that the 60-day period is not applicable.

(2) INSIGNIFICANT DAMAGE

If a nonconforming use is damaged by fire, explosion, flood, or other calamity to an extent less than 51 percent of its current assessed value or square footage, it may be restored to its pre-damage condition, provided the degree of nonconformity is not extended, expanded, enlarged, or the use is altered in any way that increases the degree of nonconformity.

(3) ENCLOSURE OF PREVIOUSLY OPEN AREAS

The repair or replacement shall not enclose areas that were previously unenclosed, even if those areas were used in connection with the nonconforming activity. For the purposes of this section, an area is unenclosed unless at least 75 percent or more of the perimeter of the area is marked by a permanently constructed wall or fence.

(H) CESSATION

- (1) In the event a nonconforming use is discontinued or abandoned for a period of more than 120 consecutive days or discontinued for any period of time without intention to reinstate the use, the nonconforming use may only be replaced by a use permitted in the district where located.

- (2) For the purposes of this section, “without intention to reinstate” shall mean the voluntary interruption of public services such as water, electricity, and trash removal to the use.
- (3) Any time a nonconforming use is converted to a conforming use, the conforming use shall not revert to the former nonconforming use or any other nonconforming use.
- (4) A nonconforming use may be re-established following cessation only through approval of a special use permit where the review authority finds:
 - (a) The nonconforming situation cannot be corrected without undue hardship or expense;
 - (b) The nonconforming situation is of a minor nature that does not adversely affect the surrounding property or the general public to any significant extent; and
The nonconforming use application meets all other review criteria for the special use in §155.512.

§ 155.404 NONCONFORMING LOTS

(A) APPLICABILITY

- (1) Within the County there exist lots and that were lawful before this Chapter was adopted or amended but which do not meet the minimum dimensional requirements for the zoning district where located. It is the intent of this Chapter to permit those nonconforming situations to continue.
- (2) Lawfully established nonconforming lots of record may be developed in accordance with the standards in this section.

(B) NONCONFORMING LOT WIDTH OR AREA

(1) LOTS WITH CONTIGUOUS FRONTAGE IN ONE OWNERSHIP

When two or more adjoining lots with contiguous frontage are under common ownership and one or more of the lots are nonconforming in terms of width or area, such lots shall be combined prior to filing a development application to create one or more lots, each of which conforms to the applicable dimensional requirements of the district prior to the commencement of development.

(2) SINGLE LOT OF RECORD IN A RESIDENTIAL DISTRICT

When development is proposed on a lot in a residential zoning district that has an area or width which does not conform to the dimensional requirements of the district where it is located but was lawfully established on or before June 16, 2021, a single-family detached dwelling may be built on the lot, subject to compliance with applicable setbacks.

- (a) Approval of an administrative adjustment or a variance is required in cases when the proposed development cannot meet the setback requirements for the district where located.
- (b) Reductions of a minimum dimensional requirement through the administrative adjustment or variance procedure shall be limited to the smallest amount necessary to accommodate development of the lot.

(3) SINGLE LOT OF RECORD IN A NON-RESIDENTIAL DISTRICT

- (a) When development is proposed on a lot in a non-residential district that has an area or width which does not conform to the dimensional requirements of the district where it is located but was lawfully established on or before June 16, 2021, the development may be permitted, subject to an approved administrative adjustment or variance.

- (b) Reductions of a minimum dimensional requirement through the administrative adjustment or variance procedure shall be limited to the smallest amount necessary to accommodate development of the lot.

(4) ADDITION OF LAND ENCOURAGED

Landowners seeking to develop a nonconforming lot of record are strongly encouraged to investigate if adjacent landowners will consider transferring land to the nonconforming lot in order to reduce or remove the nonconforming situation.

(C) GOVERNMENTAL ACQUISITION OF LAND

Conforming lots subject to governmental acquisition of a portion of the lot for a public purpose that results in the lot becoming nonconforming because it no longer complies with lot area, width, or depth standards of the zoning district where located shall be deemed conforming, provided the development complies with the following:

- (1) The development proposed complies with the Summary Use Table; and
- (2) The applicable setback and yard requirements of the district where located.

§ 155.405 NONCONFORMING STRUCTURES

(A) APPLICABILITY

Nonconforming principal and accessory structures shall be subject to the standards in this section.

(B) CONTINUATION AND REPLACEMENT

(1) CONTINUATION

- (a) Use of a nonconforming structure may be continued.
- (b) The use of a nonconforming may be extended throughout any portion of a completed building that, when the structure was made nonconforming by this Chapter, was manifestly designed or arranged to accommodate such use. However, the structure may not be extended or expanded in any way that increases the degree of nonconformity.

(2) REPLACEMENT

- (a) Except in accordance with § 155.405(C), a nonconforming structure may be replaced provided the nonconformity is not extended, expanded, enlarged, or the use is altered in any way that increases the degree of nonconformity.
- (b) Nonconforming manufactured or mobile homes may only be replaced in accordance with the standards in § 155.403(C)(2).

(C) RELOCATION

A nonconforming structure shall not be moved, in whole or in part, to another location on the parcel of land on which it is located, unless the relocation removes or reduces the nonconformity.

(D) ALTERATION AND EXPANSION

- (1) No nonconforming structure may be altered in any way which increases the nonconformity; however, any nonconforming structure or portion thereof may be altered to decrease the degree of nonconformity.
- (2) Nothing shall limit the elevation of a structure as necessary to ensure habitable floor area is outside the regulatory flood elevation.

(E) RESTORATION

If a nonconforming structure other than a manufactured or mobile home is damaged or destroyed by any means to an extent of 75 percent or more of its replacement cost or size, it may only be reconstructed in accordance with the requirements of this Chapter.

ARTICLE 155.5 PROCEDURES

§ 155.501 SUMMARY PROCEDURES TABLE

The following table lists each of the specific development application review procedures under this Chapter and the review authority (ies) involved in the decision-making process. Review authorities are listed in columns across the top of the table and procedures are listed in rows down the side. Cells in the middle show actions taken by a particular review authority as part of the review process. Blank cells (“•”) indicate that a particular review authority has no role in the particular procedure.

SUMMARY PROCEDURES TABLE								
Pre-Application Conference: M = Mandatory; O = Optional								
Role of Review Authority: R = Recommendation; D = Decision; A = Appeal; • = No Responsibility in Review								
= Public Meeting; [] = Legislative Public Hearing; { } = Quasi-Judicial Public Hearing; /#/ = Table Note								
TYPE OF APPLICATION	PRE-APPLICATION CONFERENCE	REVIEW AUTHORITY						
		ZONING ADMINISTRATOR	BUILDING INSPECTOR	TECHNICAL REVIEW COMMITTEE	PLANNING BOARD	BOARD OF COUNTY COMMISSIONERS	BOARD OF ADJUSTMENT	SUPERIOR COURT
Administrative Adjustment	O	D	•	•	•	•	{A}	•
Appeal	N/A	•	•	•	•	•	{D}	A
Building Permit	N/A	•	D	•	•	•	/1/	•
Certificate of Occupancy	N/A	•	D	•	•	•	/1/	•
Determination	O	D	•	•	•	•	{A}	•
Performance Guarantee	O	R	•	•	•	D	•	A
Planned Development	M	•	•	/2/	R	[D]	•	A
Rezoning	/3/	•	•	•	R	[D]	•	A
Site Plan	M	•	•	D	•	•	{A}	•
Special Use Permit	M	•	•	•	•	•	{D}	A
Text Amendment	O	R	•	•	R	[D]	•	A
Variance	M	•	•	•	•	•	{D}	A
Zoning Compliance Permit /4/	O	D	•	•	•	•	{A}	•
NOTES: /1/ Appeals shall be made to the Commissioner of Insurance. /2/ The Technical Review Committee shall review and provide a recommendation on a planned development master plan prior to consideration by the Planning Board. /3/ Pre-application conferences are required when the application includes more than 10 acres or seeks to establish a more intense zoning district. /4/ Includes applications for new signage and for temporary uses or structures.								

§ 155.502 STANDARD REVIEW PROCEDURES

(A) OVERVIEW

This section describes the standard procedural steps and rules generally applicable to every development application reviewed under this Chapter, except where a different procedural step or rule is written in this Article.

(B) PURPOSE AND INTENT

This standard review procedures section establishes the procedures used by the County for the processing of applications for development permits or approvals. It is the intent of this section to establish a uniform set of processes to foster greater efficiency and predictability for applicants, County residents, County staff, and elected and appointed officials during the review of development applications.

(C) CONFLICT WITH SPECIFIC PROCEDURES

In instances where the standards in this section are in conflict with the standards for a specific application review procedure set out in § 155.503, the standards in § 155.503 shall control.

(D) PRE-APPLICATION CONFERENCE

(1) PURPOSE

The purpose of a pre-application conference is to provide an opportunity for the applicant to learn about the submittal requirements, procedures, and standards applicable to a particular development application. A pre-application conference is also an opportunity for County staff to become familiar with, and offer preliminary comments about the scope, features, and impacts of the proposed development, as it relates to the standards in this Chapter.

(2) APPLICABILITY

(a) PRE-APPLICATION CONFERENCE REQUIRED, OPTIONAL, OR NOT APPLICABLE

1. A pre-application conference between the applicant and County staff is required before submittal of some applications, in accordance with the Summary Procedures Table.
2. Pre-application conferences are optional for some applications, in accordance with the Summary Procedures Table.
3. Some applications do not have a pre-application conference option associated with them, though an applicant may contact County staff with questions about any development application procedure.
4. There are no limits on the number of pre-application conferences that may be conducted, though the County may charge a pre-application fee for the third or any subsequent pre-application conference on the same project or development site.

(b) DISCUSSIONS NON-BINDING

Discussions at a pre-application conference are not binding on the County and do not constitute filing or review of an application.

(3) SCHEDULING

Applicants shall contact the Zoning Administrator to schedule a pre-application conference.

(4) PROCEDURE

Following receipt of a request for a pre-application conference, the Zoning Administrator shall schedule the conference and notify the applicant of the time, location, and any suggested submittal requirements. During the conference, attendees will explain the application review process and any special issues or concerns regarding the subject proposal.

(5) SUBMITTAL REQUIREMENTS

- (a) Pre-application conferences for development applications that include a site plan, subdivision, or master plan shall require the applicant to provide a generalized site sketch or plot plan of the development as part of the request to schedule a pre-application conference.
- (b) For other types of development applications, the applicant may submit supplemental information regarding their application, as appropriate, with their request for a pre-application conference, though there is no requirement to submit any material in advance of the conference.
- (c) No material submitted during a pre-application conference shall be binding on the County or an applicant.

(6) EFFECT

- (a) When required, a completed pre-application conference entitles an applicant to take the next step in the application process. Applications subject to a mandatory pre-application conference will not be considered as complete applications until after the mandatory pre-application conference has been completed.
- (b) In cases where multi-part applications require more than one pre-application conference, an applicant may choose to conduct a single pre-application conference for all portions of a multi-part application.

(E) APPLICATION FILING AND ACCEPTANCE

(1) AUTHORITY TO FILE APPLICATIONS

- (a) Unless expressly stated otherwise in this Chapter, development applications associated with a particular lot or site reviewed under this Chapter shall be filed by the landowner, contract purchaser, or other person having a recognized property interest in the land on which development is proposed.
- (b) Applications for amendments to the text of this Ordinance may only be initiated by the Zoning Administrator, the Planning Board, the Board of County Commissioners, or by an applicant who has received a determination (see §155.507) related to the portion of the text they are seeking to amend.

(2) APPLICATION CONTENT

The Zoning Administrator shall establish development application content and forms, which shall be maintained and made available to applicants by the Zoning Administrator.

(3) APPLICATION FEES

- (a) The Board of County Commissioners shall establish application fees and may amend and update those fees as necessary. Fees shall cover the costs of review, including public notification, as required.

- (b) No action shall be taken on an application and no application approval shall be issued until all required application fees are paid in full.

(4) APPLICATION FILING

- (a) Applications shall be filed with the County in the form established by the County, along with the appropriate application fee.
- (b) An application shall not be considered to be submitted until determined to be complete in accordance with § 155.502(E)(6).
- (c) No application shall be reviewed or decided until after it is determined to be complete.

(5) BURDEN OF PRESENTING COMPLETE APPLICATION

The burden of presenting and maintaining a complete application shall be solely upon the applicant.

(6) DETERMINATION OF APPLICATION COMPLETENESS

Upon development application filing, the Zoning Administrator shall determine, within a reasonable period of time, whether the application is complete or incomplete. A complete application is one that:

- (a) Contains all information and materials identified in this Chapter and all supporting documentation, as required for submittal of the particular type of application;
- (b) Is in the form and number of copies required by the County;
- (c) Is legible and printed to scale, where appropriate;
- (d) Is signed by the person(s) with the authority to file the application;
- (e) Includes information in sufficient detail to evaluate whether or not the application complies with the applicable review standards in this Chapter;
- (f) Is accompanied by the fee established for the particular type of application;
- (g) Includes material associated with a pre-application conference, if one is required;
- (h) Includes the written summary of a neighborhood information meeting, if one was conducted prior to application submittal; and
- (i) Is not subject to the limitations described in § 155.502 (N).

(7) APPLICATION INCOMPLETE

If the application is incomplete, the Zoning Administrator shall notify the applicant of the deficiencies in writing. The applicant may correct the deficiencies and resubmit the application for completeness determination in accordance with this section.

(8) APPLICATION COMPLETE

- (a) On determining that the application is complete, it shall be considered as submitted, and the County shall notify the applicant and commence review in accordance with the procedures and standards of this Chapter.
- (b) Nothing shall preclude the Zoning Administrator or a review authority from re-evaluating an application for completeness in the event application inadequacies are revealed at a date subsequent to an application being declared complete.

(F) PERMIT CHOICE

- (1) In cases where the applicable provisions of this Ordinance are amended between the time that a development application is declared complete and the time written notification of

decision on the application is provided, the applicant may choose which version of this Ordinance shall apply to their application, in accordance with G.S. § 143-755.

- (2) The County shall notify applicants, in writing, when a choice under this section is available, and the applicant shall respond, in writing, with their choice of the applicable provisions. The applicant's decision shall be final, and review under a different set of requirements may only be accomplished through a withdrawal and re-submittal of the application.
- (3) In cases where an applicant has had an opportunity to exercise permit choice under this section, and subsequently places their application on hold, or fails to respond to requests for further information from the County for a period of six months or more, review of the application shall be discontinued, and the requirements in effect at the time application review recommences shall apply.

(G) STAFF REVIEW AND ACTION

(1) INITIAL STAFF REVIEW

- (a) Following application completeness determination, development application materials shall be distributed by the Zoning Administrator to all appropriate staff and review agencies for review and comment.
- (b) Applications shall be reviewed during the review cycle in place when the application is determined to be complete.
- (c) In considering the application, the Zoning Administrator or other County staff (as appropriate), shall review the application, relevant support material, and any comments or recommendations from other staff and review agencies to which the application was referred.
- (d) If deficiencies in complying with applicable standards of this Ordinance are identified, the Zoning Administrator shall notify the applicant of such deficiencies in writing and provide the applicant a reasonable opportunity to discuss them and revise the application accordingly.

(2) STAFF REPORT AND RECOMMENDATION

- (a) The Zoning Administrator shall prepare a written staff report on any application to be reviewed or decided by the Planning Board, Board of Adjustment, or the Board of County Commissioners.
- (b) The staff report shall conclude whether the application complies with all applicable review standards of this Chapter and recommend one of the decisions authorized for the particular type of application, based on the review standards applicable to the application type.
- (c) The staff report shall not include a recommendation from County staff on variance applications or appeals.
- (d) In cases where the staff finds an application does not comply with the provisions of this Chapter the staff report shall cite the specific code section(s) in question and the reasons why the application fails to comply.
- (e) The staff report may identify and recommend modifications to the development proposal that specify how compliance deficiencies might be corrected and how adverse effects of the development application (if any) might be mitigated.
- (f) A staff report is not required for applications decided by the Zoning Administrator or other County staff, though one may be prepared.

(3) DISTRIBUTION OF APPLICATION AND STAFF REPORT

In cases where a staff report is prepared, the Zoning Administrator shall take the following actions within a reasonable time period before the application is scheduled for review:

- (a) Schedule and ensure any required public notice of the application (if appropriate) is prepared in accordance with § 155.502(H);
- (b) Transmit the application, related materials, and staff report to the appropriate review authority (ies);
- (c) Transmit a copy of the staff report and any related materials to the applicant; and
- (d) Make the application, related materials, and staff report available for examination by the public.

(4) APPLICATIONS SUBJECT TO DECISION BY STAFF

(a) In cases where a development application is decided by the Zoning Administrator or other designated County staff member, the appropriate staff member shall make one of the following decisions, based on the review standards set forth for the type of application:

- 1. Approve the application;
- 2. Disapprove the application; or
- 3. Delay decision making for a specified time to allow the applicant to revise the application for compliance with the requirements in this Ordinance.

(b) In some instances, County staff may decide an application contingent upon further revision by the applicant in accordance with the direction provided in the decision.

(5) CONFLICT OF INTEREST

A County staff member shall not make a decision on an application where:

- (a) The outcome of the matter being considered is reasonably likely to have a direct, substantial, or readily identifiable financial impact on them or a member of their immediate family; or
- (b) In cases where there is a close familial, business, or other associational relationship with the landowner or applicant.

(H) PUBLIC NOTIFICATION

(1) PUBLIC MEETING DISTINGUISHED

Public meetings conducted in accordance with this Chapter are not public hearings, and do not require the provision of public notification in accordance with this section.

(2) PUBLIC HEARING SCHEDULING

When a development application is subject to a public hearing, the Zoning Administrator shall ensure that the public hearing is scheduled for a regular meeting or a meeting specially called for that purpose by the review authority.

(3) PUBLIC NOTIFICATION REQUIREMENTS

(a) All development applications subject to public notification shall comply with the appropriate standards in G.S. §§ 160D-406, 160D-601, 160D-602, 160D-1005, and other applicable sections, as appropriate.

(b) The Public Notification Requirements Table below, summarizes the provisions related to public notice. In computing the required time periods, the day the notice is

published, mailed, or posted shall not be included, but the day of the hearing shall be included.

PUBLIC NOTIFICATION REQUIREMENTS TABLE			
DEVELOPMENT APPLICATION TYPE	TYPE OF PUBLIC NOTIFICATION REQUIRED (R = REQUIRED)		
	PUBLISHED /1/	MAILED /2/	POSTED /3/
Appeal	R	R /4/	•
Development Agreement	R	R	R
Planned Development	R	R	R
Rezoning	R	R	R
Special Use Permit	R	R	R
Text Amendment	R	•	•
Variance	R	R	R
Vested Rights Certificate	R	R	•
<p>NOTES: /1/ Published notice shall be provided once a week for two successive calendar weeks, with the first notice published between 10 and 25 days before the public hearing. /2/ Mailed notice shall be provided to the applicant, affected landowners, and landowners of abutting land between 10 and 25 days before the public hearing. /3/ Posted notice shall be provided between 10 and 25 days before the public hearing. /4/ Mailed notice shall only be required in cases where an appeal pertains to a particular lot or site.</p>			

(4) PUBLISHED NOTICE REQUIREMENTS

When the North Carolina General Statutes require that public notice be published, the designated review authority shall publish a notice in a newspaper that is regularly published at least one time per week and that has general circulation in the County.

(5) MAILED NOTICE REQUIREMENTS

When the North Carolina General Statutes require that public notice be mailed, the designated review authority shall provide the required mailed public notice in accordance with the following:

(a) Mailed notice specified in Public Notification Requirements Table shall be mailed to:

1. The landowner;
2. The applicant, if different from the landowner;
3. Landowners of properties adjacent to the land that is the subject of the application, but located across a street, railroad, or other transportation corridor; and
4. Any others entitled to receive notice in accordance with G.S. § 160D-602.

- (b) Notice shall be deemed mailed by its deposit in the United States first class mail, properly addressed, postage paid. The content and form of the notice shall comply with § 155.502(H)(7).
- (c) A copy of the mailed notice shall be maintained in the offices of the designated review authority for public inspection during normal business hours.
- (d) Mailed notice shall not be required when a rezoning includes more than 50 lots or tracts owned by at least 50 different landowners, provided the County publishes a map (occupying at least ½ of a newspaper page) showing the boundaries of the affected area in a newspaper of general circulation once a week for two successive calendar weeks between 10 days and 25 days before the public hearing. Affected landowners residing outside the newspaper circulation area shall be notified via first class mail pursuant to this section.

(6) POSTED NOTICE REQUIREMENTS

When the North Carolina General Statutes require that public notice be posted, the Zoning Administrator shall provide the required posted public notice in accordance with the following:

- (a) A sign (or signs) shall be placed on the subject property in a conspicuous location so as to be clearly visible to the traveled portion(s) of the respective street(s). Where the land subject to the notice does not have frontage on a public street, the sign shall be erected on the nearest street right-of-way.
- (b) The content and form of the notice shall comply with § 155.502(H)(7).

(7) NOTICE CONTENT

Unless expressly indicated otherwise by the North Carolina General Statutes, all notices by mail or publication shall:

- (a) Identify the date, time, and place of the public hearing;
- (b) Describe the land involved by parcel identification number (PIN), street address, or by its relationship to a fronting street and the nearest cross street (if applicable);
- (c) Describe the nature and scope of the proposed development or action; and
- (d) Identify the means to contact a County official for further information.

(8) CONSTRUCTIVE NOTICE

- (a) Minor defects in any notice shall not impair the notice or invalidate proceedings if a bona fide attempt is made to comply with applicable notice requirements. Minor defects in notice may include, but are not limited to:
 1. Errors such as landowner name, title, or address existing in the County tax listing; or
 2. Typographical or grammatical errors that do not impede communication of the notice to affected parties.
- (b) Failure of a party to receive written notice shall not invalidate subsequent action. A posted notice that becomes no longer visible due to weather, theft, or other unintended circumstances shall not invalidate proceedings if a bona fide attempt is made to comply with applicable posted notice requirements. In all cases, however, the requirements for the timing of the notice and for specifying the time, date, and place of a public hearing and the location of the subject property shall be strictly adhered to.

(I) PUBLIC MEETINGS AND HEARINGS

(1) HEARINGS DISTINGUISHED

Public hearings identified in this Chapter shall be either legislative or quasi-judicial in nature.

(2) LEGISLATIVE PUBLIC HEARINGS

The Summary Procedures Table, identifies the kinds of development applications decided following completion of a legislative public hearing, which shall be conducted in accordance with the following requirements:

(a) PROCEDURE

1. Legislative public hearings shall not be conducted until after provision of required public notification in accordance with § 155.502(H).
2. The legislative public hearing shall be open to the public and shall be conducted in accordance with the review authority's adopted rules of procedure for public hearings.
3. Attendees shall be afforded the opportunity to comment during a public hearing, as authorized in the adopted rules of procedure.

(b) VOTING

1. The review authority shall consider the application, relevant support materials, staff report, any recommendations, and public comments. After the conclusion of the public hearing, it shall make one of the decisions authorized for the particular type of application based on the review standards applicable to the application type.
2. A review authority member shall not vote on an application where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member in accordance G.S. § 160D-109.
3. A review authority member shall not vote on an application where the landowner or applicant is a person with whom the member has a close, familial, business, or other associational relationship.
4. A decision of the review authority on an application considered during a legislative public hearing shall be decided by a simple majority of the review authority members, excluding any members who are recused from voting due to a conflict of interest.

(c) APPLICATION REVISION

1. An applicant may revise an application during a legislative public hearing in response to recommendations or suggestions of the review authority.
2. In cases where a substantial change to an application is proposed following review by a prior review authority, the review authority deciding the application shall not make a decision on the application until after it is remanded to the prior review authority (ies) for consideration of the substantial change.
3. The review authority deciding the application may approve an application modified during a legislative public hearing provided that all changes are properly identified in the motion of approval and that any conditions of approval are consented to, in writing, by the applicant.

4. In cases where an application has been modified during a legislative public hearing, the applicant shall submit any necessary site plans, plats, or other documents depicting the modification to the appropriate County staff for consideration and approval prior to issuance of any development permit approvals.

(d) REMAND

A review authority may remand the application to a prior review authority or County staff for further consideration of new information or specified issues or concerns, if appropriate.

(e) RECORD

1. A recording may be made of all public hearings and if made, the recordings shall be maintained in accordance with County policy.
2. Accurate minutes shall also be kept of all proceedings, but a transcript need not be made.

(3) QUASI-JUDICIAL PUBLIC HEARINGS

The Summary Procedures Table identifies the kinds of development applications decided following a quasi-judicial public hearing, which shall be conducted in accordance with State law, the review authority's rules of procedure, and the following requirements:

(a) NOTICE REQUIRED

Quasi-judicial public hearings shall not be conducted until after provision of required public notification in accordance with § 155.502(H).

(b) OPPORTUNITY TO PRESENT TESTIMONY AND EVIDENCE

The applicant, the County, and any party in with standing shall be afforded a reasonable opportunity to present testimony and evidence in support of or in opposition to the application, and to ask questions of or cross examine the applicant, the applicant's representatives, County staff, and the County staff's representatives.

(c) LIMITATION ON EVIDENCE

1. The Chair or other presiding officer may limit or exclude incompetent evidence, immaterial evidence, repetitive evidence, and personal attacks.
2. Decisions shall not be based upon hearsay evidence though such evidence may be entered into the record.
3. Only evidence presented during the public hearing may be relied upon in making a decision on the application.

(d) EX PARTE COMMUNICATION

Ex parte communications between an applicant or an affected party and a member of the review authority are prohibited. If it occurs, it shall be disclosed during the quasi-judicial public hearing.

(e) VOTING

1. GENERALLY

The review authority shall consider the application, relevant support materials, staff report, any recommendations, and public comments. After the conclusion of the public hearing, it shall make one of the decisions authorized for the particular type of application based on the review standards applicable to the application type.

2. CLEARLY STATE FACTORS FOR DECISION

Unless stated otherwise in this Chapter, the decision shall reflect the review authority's determination of any contested facts and their application to the applicable standards.

3. CONFLICTS OF INTEREST

- a. A review authority member shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker.
- b. Impermissible violations of due process include but are not limited to: a member having a fixed opinion prior to hearing the matter that is not susceptible to change; an undisclosed ex parte communication; a close familial, business, or other associational relationship with an affected person; or a direct, substantial, and readily identifiable financial impact on the member.
- c. If an objection is raised to a member's participation and that member does not recuse themselves, the remaining members shall, by majority vote, rule on the objection.

(f) APPLICATION REVISION

1. An applicant may revise an application during a quasi-judicial public hearing in response to recommendations or suggestions of the review authority.
2. The review authority may approve an application modified during a quasi-judicial public hearing provided all changes are properly identified in the motion of approval by the review authority and that any conditions of approval are consented to, in writing, by the applicant.
3. In cases where an application has been modified during a quasi-judicial public hearing, the applicant shall submit any necessary site plans, plats, or other documents depicting the modification to the appropriate County staff prior to issuance of any development permit approvals.

(g) DELAY OF DECISION

The review authority may delay a decision on the application if additional information is requested of the applicant.

(h) RECORD

1. A recording may be made of all public hearings and if made, the recordings shall be maintained in accordance with County policy.
2. Accurate minutes shall be kept of all proceedings, but a transcript need not be made.

(4) PUBLIC MEETINGS

The Summary Procedures Table, identifies the kinds of development applications subject to a required public meeting, which shall be conducted in accordance with the review authority's rules of procedure and the following requirements:

(a) PROCEDURE

1. Public meetings shall not require prior public notice, though it may be provided by the County on a case-by-case basis.

2. The public meeting shall be open to the public and shall be conducted in accordance with the review authority's adopted rules of procedure for public meetings.
3. There is no requirement to allow public comment or testimony during a public meeting, though it may be provided at the Chair or other presiding officer's discretion.

(b) VOTING

1. A decision of a review authority shall be decided by a simple majority of the members present and voting.
2. A review authority member shall recuse themselves from voting on an application where:
 - a. The outcome of the matter being considered is reasonably likely to have a direct, substantial, or readily identifiable financial impact on them or a member of their immediate family; or
 - b. In cases where there is a close familial, business, or other associational relationship with the landowner or applicant.

(J) CONDITIONS OF APPROVAL

- (1) Conditions shall be limited to those that address conformance of development and use of the site with County regulations and adopted plans and that address the impacts reasonably expected to be generated by the development or use of the site.
- (2) Conditions shall be in writing and may be supplemented with text or plans and maps.
- (3) No condition shall be made part of the application which:
 - (a) Specifies the ownership status, race, religion, or other characteristics of the occupants of housing units;
 - (b) Establishes a minimum size of a dwelling unit;
 - (c) Establishes a minimum value of buildings or improvements;
 - (d) Excludes residents based upon race, religion, or income; or
 - (e) Obligates the County to perform in any manner relative to the approval of the application or the development of the land.
- (4) All conditions of approval shall be consented to, in writing, by all owners of land or applicants subject to the conditions.

(K) COMPLIANCE WITH STATE GUIDELINES FOR AREAS OF ENVIRONMENTAL CONCERN

- (1) Prior to issuance of any initial zoning compliance or special use permit, the Zoning Administrator and local AEC Permit Officer in consultation with the State AEC Field Consultant, shall determine whether the proposed use or structure is located within an area of environmental concern. This determination shall result from an on-site investigation.
- (2) If the proposed use or structure is located in an area of environmental concern, the Zoning Administrator and local AEC Permit Officer shall certify that the proposed use or structure complies with development standards of the State guidelines for areas of environmental concern prior to issuing any zoning compliance or special use permit.

(L) SOIL CONDITION REVIEW REQUIRED

- (1) After June 16, 2021, no building or structure shall be constructed or placed for occupancy on any lot which has not been assessed by the County Soil Conservation Service to determine the composition of the soil on the site, the presence or absence of hydric soil, and to determine whether the property is located within a flood zone.
- (2) Identification of hydric soils requires further study by the U.S. Army Corps of Engineers and/or privately contracted environmental engineers. The landowner must arrange a field examination for potential delineation of federally protected wetlands, and if identified, such areas must be platted and recorded with the Register of Deeds before the proposed development project may move forward.
- (3) If the parcel to be developed lies within a designated flood zone (illustrated on FEMA's FIRM map), the developer must obtain an elevation certificate from a licensed surveyor.

(M) WRITTEN NOTICE OF DECISION

(1) CONTENT

The notification of a decision on a development application shall be issued in the name of the applicant or applicant's agent, as appropriate, directed to the address(es) identified in the application materials, and shall identify the following:

- (a) The land or matter subject to the application;
- (b) A reference to any approved plans, as appropriate;
- (c) The approved use(s), if any; and
- (d) Any conditions of approval or other applicable requirements.

(2) TIMING

Except where otherwise stated in this Chapter, the Zoning Administrator shall provide the applicant written notification of a decision or action within 10 business days after a final decision on a development application.

(3) COPY OF DECISION

- (a) In addition to providing the notification of a decision on an application to an applicant, the Zoning Administrator shall make a copy of the decision available to anyone who submits a written request prior to the issuance of the decision.
- (b) The Zoning Administrator shall also make a copy of the notice of decision available to the public in the offices of the Planning and Zoning Department during normal business hours.

(N) EFFECT OF DEVELOPMENT APPROVAL

Approval of a development application in accordance with this Chapter authorizes only the particular use, plan for development, or other specific activity approved.

(O) CONTINUANCE, OR WITHDRAWAL

An applicant may request that a review authority's consideration of a development application be continued or withdrawn by submitting a written request to the appropriate review authority.

(1) PROCEDURE FOR APPLICATIONS SUBJECT TO A PUBLIC HEARING

- (a) In cases where an applicant seeks a continuance of an application subject to a public hearing, but public notification of the hearing has not yet been provided, the Zoning Administrator shall consider and decide the request.

- (b) If public notification of the pending public hearing has been provided in accordance with this Ordinance, the request for continuance shall be placed on the public hearing agenda and be considered by the review authority. Additional public notification may be required for a continued application.
- (c) A request for continuance may be approved in cases where the applicant needs additional time to prepare evidence, secure approval from outside agencies, bring the application into closer alignment with the County's adopted policy guidance or the requirements of this Chapter, or for good cause, as determined by the review authority.

(2) WITHDRAWAL

- (a) An applicant may withdraw an application at any time.
- (b) If an applicant withdraws an application for the same land after public notification two times within a single calendar year, the same application may not be resubmitted for a period of one year from the date of the second withdrawal.
Application fees for withdrawn applications shall not be refunded.

(P) LIMITATION ON SUBSEQUENT APPLICATIONS

(1) APPLICATION DENIED

(a) LEGISLATIVE DECISIONS

If a development application requiring a legislative public hearing is denied, no application proposing the same or similar development on all or part of the same site shall be submitted within one year after the date of denial unless the review authority approves a reduction in this time limit in accordance with this section. For the purposes of this section, "the same or similar development" shall mean:

1. The same use type(s) in the same approximate location(s) as the denied application; or
2. The same use type(s) in the same approximate building configuration (e.g., building height, floor area, massing) as the denied application; or
3. The same or a very similar zoning district designation.

(b) QUASI-JUDICIAL DECISIONS

There is no time limit on resubmitting an application that is denied during a quasi-judicial public hearing provided that any subsequent application may not be similar or substantially similar to the application that was denied, in the sole discretion of the review authority responsible for the decision.

(2) REDUCTION IN TIME LIMIT

The owner of land subject to this subsection, or the owner's authorized agent, may submit a written request for reduction of the time limit, along with a fee to defray the cost of processing the request, to the Zoning Administrator, who shall transmit the request to the review authority. The review authority may grant the request only on a finding by two-thirds of its membership that the owner or agent has demonstrated that:

- (a) There is a substantial change in circumstances relevant to the issues or facts considered during review of the prior application that might reasonably affect the review authority's application of the relevant review standards to the development proposed in the new application; or

- (b) New or additional information is available that was not available at the time of review of the prior application and that might reasonably affect the review authority's application of the relevant review standards to the development proposed in the new application; or
- (c) The new application proposed to be submitted is materially different from the prior application; or
- (d) The final decision on the prior application was based on a material mistake of fact.

§ 155.503 ADMINISTRATIVE ADJUSTMENT

(A) PURPOSE AND INTENT

The purpose for this section is to establish a clear procedure and measurable review criteria for the administrative consideration of requests for minor deviations to certain numeric standards in this Ordinance (like zoning district or subdivision dimensional standards). The intent of the procedure is to provide relief from practical difficulties in complying with the standards of this Ordinance. Administrative adjustments should only be granted when the proposed development advances the purposes of this Ordinance, and the proposed development can maintain compatibility with its surroundings.

(B) APPLICABILITY

- (1) An administrative adjustment may be requested for a modification or deviation of up to 10 percent of any zoning district dimensional standard in Article 155.1, a numeric standard in Article 155.2, a numeric standard in Article 155.3, or a numeric requirement in Chapter 152, Subdivision Regulations.
- (2) In no instance shall an administrative adjustment application seek to change any of the following:
 - (a) The required minimum lot area;
 - (b) Increases in the maximum residential density on a lot;
 - (c) Reductions to the minimum required distance between two use types;
 - (d) Reductions to the standards pertaining to flood protection, stormwater management, or erosion control;
 - (e) Reductions to potable water or wastewater requirements; or
 - (f) Reductions to required sight distance triangle requirements.

(C) REVIEW CRITERIA

- (1) An administrative adjustment shall be approved by the Zoning Administrator if the applicant demonstrates all of the following:
 - (a) The administrative adjustment does not exceed the maximum allowable threshold;
 - (b) The administrative adjustment:
 - (c) Is required to compensate for some unusual aspect of the site or the proposed development that is not shared by landowners in general; or
 - (d) Is necessary to allow for proper functioning of on-site wastewater or stormwater management devices; or
 - (e) Saves healthy existing trees; or
 - (f) Helps limit the need for site grading or revision to existing drainage patterns; or
 - (g) The administrative adjustment will not pose a danger to the public health or safety;
 - (h) The administrative adjustment will not negatively impact the function or performance of on-site wastewater or stormwater management devices;
 - (i) The administrative adjustment will not create a safety hazard;
 - (j) Adverse impacts resulting from the administrative adjustment will be fully mitigated; and
 - (k) The development requirement being adjusted is not the subject of a previously approved administrative adjustment, condition of approval, or variance on the same site.

(D) SEQUENCE

- (1) An administrative adjustment may be requested either as a stand-alone application, or in combination with another application for development review.
- (2) In cases when submitted with another application, the administrative adjustment application shall be decided prior to the other associated applications.
- (3) Applications for planned developments, rezonings, or variances shall not include requests for administrative adjustments.

(E) EXPIRATION

- (1) If an administrative adjustment is submitted with another development application, the expiration of the administrative adjustment shall be the same as the associated development application.
- (2) In cases where an administrative adjustment is submitted as a stand-alone application, the approval shall become null and expire if the work associated with the administrative adjustment is not commenced within two years from the date of approval.

§ 155.504 APPEAL

(A) PURPOSE AND INTENT

This appeal procedure is proposed to establish a clear and predictable procedure for persons with standing to appeal a decision or determination by a review authority.

(B) APPLICABILITY

(1) DECISIONS BY COUNTY STAFF OR PLANNING BOARD SUBJECT TO THESE STANDARDS

Certain appeals of decisions or determinations by a County official or the Planning Board made pursuant to this Ordinance shall be reviewed and decided by the Board of Adjustment in accordance with this section.

(2) DECISIONS BY BOARD OF COUNTY COMMISSIONERS OR BOARD OF ADJUSTMENT NOT SUBJECT TO THESE STANDARDS

- (a) Appeals of quasi-judicial decisions made by the Board of County Commissioners or the Board of Adjustment shall be taken to the Superior Court for Gates County, in accordance with G.S. §§ 160D-1401 or 160D-1402.
- (b) Challenges to legislative decisions made by the Board of County Commissioners are made through requests for declaratory judgement by the Superior Court for Gates County, in accordance with G.S. §160D-1401.

(3) ORIGINAL CIVIL ACTIONS NOT SUBJECT TO THESE STANDARDS

- (a) Persons with standing, as defined in G.S. § 160D-1403.1 may bring an original civil action in Superior Court without first being heard by the Board of Adjustment for some administrative decisions, determinations of vested rights, and notices of violation in cases where the applicant claims the decision or a provision in this Chapter is:
 1. Unconstitutional;
 2. Beyond statutory authority;
 3. Pre-empted by State law; or
 4. A taking of all property value.

- (b) Direct appeals of determinations of the text in this Chapter or the Official Zoning Map by the Zoning Administrator to Superior Court are not permitted and must first be heard by the Board of Adjustment, in accordance with this section.

(C) INITIATION

- (1) A property owner or other person with standing shall initiate an appeal by filing a written notice of appeal with the County Clerk within 30 days of the date they receive the written notice of determination or decision being appealed.
- (2) Receipt of written notice provided via first class mail in accordance with G.S. § 160D-403(b) shall be deemed to be received on the third business day following deposit of the notice for mailing with the United States Postal Service.

(D) DECISION

- (1) The Board of Adjustment, at the conclusion of a quasi-judicial public hearing, shall decide the application for the appeal.
- (2) The decision shall be based on the competent, material, and substantial evidence in the record of the appeal, as supplemented by arguments presented at the quasi-judicial hearing, and the review criteria in this section.
- (3) The decision shall be one of the following:
 - (a) Affirmation of the decision or determination (in whole or in part);
 - (b) Modification of the decision or determination (in whole or in part); or
 - (c) Reversal of the decision or determination (in whole or in part).
- (4) A vote to reverse or modify a decision or determination shall require approval of a majority of the members present and voting.
- (5) Each decision shall be made in writing and reflect the Board of Adjustment's determination of contested facts and their application to the standards in this Chapter.
- (6) The written decision shall be signed by the Chair or other duly authorized member of the Board of Adjustment.
- (7) The decision of the Board of Adjustment shall be effective upon the filing of the written decision in the offices of the Planning and Zoning Department.

(E) REVIEW CRITERIA

- (1) The Board of Adjustment is limited to the following decisions in considering the appeal:
 - (a) Whether the review authority erred in the determination of this Chapter; or
 - (b) Whether the review authority erred in determining whether a standard of this Chapter was met.
- (2) The BOA shall not hear any evidence or make any decision based on hardships or special conditions, except as part of an application for a variance.

(F) EFFECT

- (1) The filling of an appeal shall stay all of the following:
 - (a) Any further proceedings or actions conducted by the applicant except in such cases where such stoppage would cause imminent peril to life or property as determined by the Zoning Administrator;
 - (b) The application of any further remedies for violation of this Chapter by the County; and

(c) The accumulation of any further fees or fines associated with violation of this Ordinance.

(2) In the event enforcement proceedings are not stayed by an appeal, the appellant may file a request for an expedited hearing of the appeal in accordance with G.S. § 160D-405(f), and the Board of Adjustment shall conduct a meeting to hear the appeal within 15 days of the date the request for an expedited hearing is filed.

(3) Nothing shall prevent the Board of Adjustment from staying the issuance of any final approval of development applications, including building permits, affected by the issue being appealed in accordance with G.S. § 160D-405(f).

(G) EXPIRATION

A decision on an appeal shall not expire.

(H) APPEAL OF BOARD OF ADJUSTMENT DECISION

(1) A decision by the Board of Adjustment shall be subject to review by the Superior Court of Gates County by proceedings in the nature of certiorari and in accordance with G.S. § 160D-1402.

(2) The landowner or applicant shall file a petition for review with the Clerk of Court within 30 days of the date the decision is filed in the office of the appropriate review authority and delivered by personal delivery, electronic mail, or 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. Any other person with standing to appeal shall file a petition for review with the Clerk of Court within 30 days from receipt, by any source, actual or constructive notice of the decision being appealed. Receipt of written notice provided via first class mail in accordance with G.S. § 160D-403(b) shall be deemed to be received on the third business day following deposit of the notice for mailing with the United States Postal Service.

§ 155.505 BUILDING PERMIT

(A) PURPOSE AND INTENT

The purpose for the building permit procedure is to establish a consistent process for the review and approval of construction activities in accordance with G.S. § 160D-1110 for consistency with all applicable building codes to give reasonable assurance that new development is safe from structural failure, fire hazards, electrical shock, or any other applicable health risks, as well as to establish a permanent record of work performed and inspections conducted.

(B) APPLICABILITY

Unless exempted in accordance with this Chapter or the State Building Code(s), no construction, reconstruction, addition, alteration, repair, movement to another site, removal, demolition of any building or structure, or changes in use triggering the need for application of a different set of building code requirements shall occur until a building permit is approved in accordance with the procedures and standards of this section.

(C) EXEMPTIONS

The following forms of development are exempted from the requirement to obtain a building permit, but are subject to the requirement to obtain a zoning compliance permit:

(1) Uses associated with a bona fide farm, forestry management plan, or agricultural activity taking place on land taxed under the present use value standard;

- (2) Storage and accessory buildings that serve a residential principal use, are 12 linear feet in length or less on any dimension, and do not include electrical service or running water;
- (3) Patios and at-grade walkways;
- (4) Playground equipment and play structures provided as accessory uses to a single-family residential dwelling; or
- (5) Fences or privacy walls of six feet in height or less, except that all retaining walls shall require a building permit.

(D) REVIEW CRITERIA

A building permit shall be issued by the Building Inspector if the application complies with:

- (1) The applicable sections of the State Building Code(s);
- (2) The standards in G.S. § 160D-1110;
- (3) Any applicable requirements of the Gates County Health Department;
- (4) The site plan, if applicable;
- (5) The zoning compliance permit;
- (6) All other standards or conditions of any prior, applicable permits, and development approvals; and
- (7) All other applicable requirements of this Chapter, the County Code of Ordinances, State law, and federal law.

(E) EXPIRATION

- (1) A building permit shall expire and become null and void if the development it authorizes is not commenced within six months of the permit issuance.
- (2) If development authorized by a building permit commences but fails to achieve at least one passing inspection (foundation, footing, framing, mechanical, etc.) for a continuous period of 12 months, the permit shall expire and become null and void.
- (3) Continuance of development activities under an expired building permit is a violation of this Chapter.

(F) APPEAL

An appeal of a decision on a building permit may be filed with the North Carolina Commissioner of Insurance, in accordance with G.S. § 160D-1114 or G.S. § 160D-1127, as appropriate.

§ 155.506 CERTIFICATE OF OCCUPANCY

(A) PURPOSE AND INTENT

The purpose for the certificate of occupancy procedure is to establish a consistent and standardized method to document a development's compliance (or pending compliance) with all applicable building codes and County requirements prior to occupancy or initiation in accordance with the standards in Article 11 of Chapter 160D of the North Carolina General Statutes.

(B) APPLICABILITY

Except where exempted by this section, no land, newly erected building or structure, or existing building or structure that has been moved or enlarged or changed in use shall be occupied or used until a certificate of occupancy certifying that the land, building, or

structure, and its use complies with this Chapter and the applicable standards of the State Building Code(s) is issued in accordance with this section.

(C) EXEMPTIONS

Development exempted from the requirement to obtain a building permit shall also be exempted from this section.

(D) REVIEW CRITERIA

A certificate of occupancy shall be approved by the Building Inspector if the land, building, structure, or proposed use complies with:

- (1) All relevant standards of this Ordinance;
- (2) Any other applicable County requirements;
- (3) All applicable conditions of approval;
- (4) The building permit;
- (5) The applicable State Building Code(s) requirements;
- (6) G.S. § 160D-1116; and
- (7) All applicable State and federal requirements.

(E) PERFORMANCE GUARANTEE

The Zoning Administrator may require the applicant to submit a performance guarantee in an amount necessary to ensure that any work not completed as specified in the development permit or approval will be completed within the specified timeframe for a certificate of occupancy.

(F) TEMPORARY CERTIFICATE OF OCCUPANCY

- (1) In cases where it would be unreasonable to require the applicant to comply with all the requirements of this procedure prior to commencement of the proposed use, transfer of lots in a subdivision, or occupancy of any buildings (due to weather conditions or other issues beyond the applicant's control, but not including financial hardship), the Zoning Administrator may approve the issuance a temporary certificate of occupancy, provided:
 - (a) The commencement or occupancy will not violate any health or safety considerations of any applicable codes;
 - (b) A performance guarantee, submitted in accordance with the requirements in this Chapter is provided for any required infrastructure or other required site feature; and
 - (c) The duration of the temporary certificate of occupancy shall not exceed six months.
- (2) If all remaining work is not completed within the specified timeframe of the temporary certificate of occupancy, the Zoning Administrator shall take action in accordance with Article 155.6, Enforcement.

(G) EXPIRATION

A certificate of occupancy shall not expire.

(H) APPEAL

An appeal pertaining to a State Building Code(s) issue shall be filed with to the North Carolina Commissioner of Insurance in accordance with G.S. § 160D-1127.

§ 155.507 DETERMINATION

(A) PURPOSE AND INTENT

The purpose for this determination procedure is to provide a process where an applicant may request documentation from the Zoning Administrator regarding the meaning of language in this Chapter, boundaries on the Official Zoning Map, or aspects related to prior development application approvals.

(B) APPLICABILITY

- (1) The Zoning Administrator is responsible for written determinations of the following:
 - (a) The meaning of the text in this Chapter;
 - (b) The location and extent of zoning district boundaries on the Official Zoning Map, and other maps incorporated by reference into this Ordinance;
 - (c) Whether an unlisted use is comparable to a use listed in the Summary Use Table;
 - (d) Definitions of undefined terms;
 - (e) The meaning of conditions of approval;
 - (f) The vesting status of a prior development application approval; and
 - (g) Other aspects of this Chapter, as appropriate.
- (2) Any written or oral determinations that do not meet the strict requirements of this section are advisory opinions. Advisory opinions have no binding effect and are not considered determinations subject to appeal.

(C) REVIEW CRITERIA

(1) OFFICIAL ZONING MAP BOUNDARIES

Determination of district boundaries on the Official Zoning Map shall be in accordance with the standards in § 155.101, and consistent with the County's adopted policy guidance.

(2) UNLISTED USES

Determination of whether an unlisted use is similar to a use identified in Summary Use Table, shall be based on consistency with the County's adopted policy guidance and the following standards:

- (a) The function, product, or physical characteristics of the use;
- (b) The impact on adjacent lands created by the use;
- (c) The type, size, and nature of buildings and structures associated with the use;
- (d) The type of sales (retail, wholesale), and the size and type of items sold and displayed on the premises;
- (e) The types of items stored (such as vehicles, inventory, merchandise, chemicals, construction materials, scrap and junk, and raw materials including liquids and powders);
- (f) The volume and type of vehicle traffic generated by the use, and the parking demands of the use;
- (g) Any processing associated with the use, including assembly, manufacturing, warehousing, shipping, distribution, and whether it occurs inside or outside a building;
- (h) Any dangerous, hazardous, toxic, or explosive materials associated with the use;
- (i) The amount and nature of any nuisances generated on the premises, including noise, smoke, odor, glare, vibration, radiation, and fumes; and

- (j) Any prior applicable determinations made by the Zoning Administrator or decisions made by the Board of Adjustment.

(3) UNDEFINED TERMS

If a term in this Ordinance is undefined or the meaning is unclear, the Zoning Administrator may determine the term’s meaning based upon appropriate definitions in any of the following sources:

- (a) The North Carolina General Statutes;
- (b) The North Carolina Administrative Code;
- (c) The State Building Code(s);
- (d) Planning-related definitions in publications prepared or offered by the American Planning Association or the Urban Land Institute;
- (e) The Oxford Dictionary of Construction, Surveying, and Civil Engineering;
- (f) Black’s Law Dictionary; or
- (g) Other professionally accepted source.

(4) TEXT PROVISIONS AND PRIOR APPROVALS

Determinations regarding this text and approved applications shall be based on the standards in §155.801, and the following considerations:

- (a) The legislative intent of the provision, as indicated by purpose statements, its context and consistency with surrounding and related provisions, and any legislative history related to its adoption;
- (b) When the legislative intent of a provision is unclear, the Zoning Administrator shall consider the clear and plain meaning of the provision’s wording, as defined by the meaning and significance given specific terms used in the provision, and by the common and accepted usage of the term;
- (c) The general purposes served by this Ordinance, as set forth in §155.703; and
- (d) Consistency with the County’s adopted policy guidance.

(5) DETERMINATION OF VESTED RIGHTS

The determination of whether or not certain development activity or a development application approval is vested from changes in this Ordinance and the duration of the vesting shall be based on the following:

- (a) The standards in G.S. § 160D-108; and
- (b) Prior judicial determination from comparable cases, as determined in the sole discretion of the Zoning Administrator.

(D) EFFECT

A written determination shall be binding on subsequent decisions by the Zoning Administrator or other administrative officials in applying the same provision of this Chapter or the Official Zoning Map in the same circumstance, unless the determination is modified in accordance with this section, the determination is later determined to have been made in error, or the text of this Chapter is amended.

(E) RECORD

The Zoning Manager shall maintain a record of written determinations that shall be available in the offices of the Planning and Zoning Department for public inspection, on reasonable request, during normal business hours.

§ 155.508 PERFORMANCE GUARANTEE

(A) PURPOSE AND INTENT

- (1) These standards create the additional flexibility necessary for issuance of a building permit to commence with development prior to completion of all required infrastructure or site improvements, subject to prior approval, and provided funds have been reserved for completion of these features.
- (2) These provisions ensure that funds are available for the Town's use to complete required public infrastructure or private site features in the event an applicant is unable to do so.
- (3) These standards are applied to the development of a use of land. Improvement guarantees associated with a subdivision of land are subject to § 152.214.

(B) APPLICABILITY

- (1) Performance guarantees shall be configured and managed in accordance with the standards in this section. The County is under no obligation to allow a performance guarantee for any feature or under any circumstance.
- (2) The following facilities and site features may be eligible for performance guarantees at the discretion of the County:
 - (a) Sidewalks, multi-use paths, and greenways;
 - (b) The final lift of asphalt on a street;
 - (c) Private stormwater control measures and erosion control facilities;
 - (d) Street lights; and
 - (e) Placement of vegetation, except when required as part of erosion control measures.
- (3) All other public infrastructure or required site features shall be subject to § 152.214 or completed prior to issuance of a certificate of occupancy for the development.

(C) INELIGIBLE FACILITIES

The following infrastructure facilities are not eligible for performance guarantees, and shall be completed and dedicated to the County where appropriate, prior to issuance of a building permit:

- (1) Potable water;
- (2) Sanitary sewer;
- (3) Functional fire protection infrastructure;
- (4) The base and initial courses of asphalt on a street;
- (5) Stormwater drainage facilities associated with a street right-of-way;
- (6) Curb and gutter; and
- (7) Street signs and traffic control signals.

(D) FORM

- (1) The form of a performance guarantee shall take one of the following forms, at the sole discretion of the applicant:
 - (a) A surety bond issued by a firm licensed to operate in the State of North Carolina;
 - (b) A letter of credit issued by a financial institution licensed to operate in the State of North Carolina; or
 - (c) Cash or certified check; or

- (d) Other form of guarantee that provides equivalent security to the forms listed above, as determined by the County.
- (2) In cases where more than one facility or site feature is requested to be subject to a performance guarantee, the applicant may provide a single, consolidated performance guarantee for all facilities or site features. In no instance shall performance guarantees associated with private stormwater control mechanisms or sedimentation control be consolidated with any other performance guarantee.
- (3) If cash or other instrument is deposited in escrow with a financial institution, an agreement between the financial institution and the developer shall be filed with the County guaranteeing the following:
 - (a) That the escrow account shall be held in trust until released by the County and may not be used or pledged by the developer for any other matter during the term of the escrow; and
 - (b) That in case of a failure on the part of the developer to complete or repair the improvements, the financial institution shall, upon notification by the County, immediately pay the funds deemed necessary by the County to complete or repair the improvements up to the full balance of the escrow account, or deliver to the County any other instruments fully endorsed or otherwise made payable in full to the County; and
 - (c) The financial institution holding the cash or other instrument shall indicate to the County its notification requirements for release or payment of funds.

(E) DECISION

After the conclusion of a public meeting, the Board of County Commissioners shall decide applications for performance guarantees, which shall take one of the following forms:

- (1) Approval of the performance guarantee;
- (2) Denial of the performance guarantee; or
- (3) Remand of the application to County staff for further consideration.

(F) REVIEW CRITERIA

- (1) An application for a performance guarantee shall be approved if the application complies with the following:
 - (a) The request is for an eligible facility or site feature;
 - (b) The request is in the form and the amount required;
 - (c) The term of the guarantee is for the minimum period of time necessary; and
 - (d) The Board of County Commissioners finds that approval of the performance guarantee is in alignment with the purpose and intent of this Chapter and the County's adopted policy guidance.
- (2) The performance guarantee shall be conditioned on the performance of all work necessary to complete the installation of the required improvements within the term of the guarantee.

(G) AMOUNT

(1) GENERALLY

Performance guarantees shall be in an amount equal to 125 percent of the estimated cost of completing the installation of the required improvements, including the costs of materials, labor, and project management.

(2) ESTIMATED COSTS

Estimated costs of completing installation of required public improvements, vegetation, or stormwater measures shall be itemized by improvement type and certified by the developer's licensed professional and is subject to approval by the Zoning Administrator.

(3) RENEWAL

If a performance guarantee is renewed, the Zoning Administrator may require the amount of the performance guarantee be updated to reflect changes in cost over time.

(H) SEQUENCE

- (1) Performance guarantee applications may be filed along with any application for a, site plan, special use permit, building permit, or zoning compliance permit, as appropriate.
- (2) Development subject to a performance guarantee shall not receive a certificate of occupancy or final development approval until all infrastructure or site features subject to a performance guarantee have been installed and accepted by the County.

(I) AS-BUILT PLANS REQUIRED

(1) PUBLIC IMPROVEMENTS

Upon completion of a public improvements, an architect or professional engineer licensed by the State of North Carolina and retained by the developer shall certify, in writing, that the completed public improvements have been constructed in accordance with the approved plans and shall submit actual "as-built" plans for all public improvements after final construction is completed.

(2) STORMWATER CONTROL MEASURES

Upon completion of a private stormwater control mechanism, the developer shall certify to the Zoning Administrator that the completed project is in accordance with all applicable requirements in this Chapter, the County Code of Ordinances, and State law.

(3) INSPECTION REQUIRED

A final inspection and approval by the Zoning Administrator shall occur before the release of the performance guarantee.

(J) MAINTENANCE WARRANTY FOR STORMWATER CONTROL MEASURES

- (1) Upon completion of construction of public or private stormwater control measures, the developer shall request a warranty inspection. Once all the improvements are deemed acceptable by the Zoning Administrator and pass the warranty inspection, the developer shall submit the following to the County:
 - (2) A set of acceptable as-built drawings;
 - (3) A written warranty against defects which shall guarantee the material and workmanship of required improvements for a period of not less than one year from the date of such acceptance.
 - (4) A maintenance warranty payable to the County equal to at least 25 percent of the cost of the installation of such improvements. Where the Zoning Administrator finds that repairs to any required improvement are needed, these funds shall be used.

(K) MAXIMUM TERM

Performance guarantees shall have a maximum term of one year, unless the developer determines a longer term is necessary to complete the public facilities or private site features. Acceptance of the proposed guarantee remains at the discretion of the County.

(L) EXPIRATION

- (1) The applicant shall demonstrate good faith towards the completion of public infrastructure or private site features subject to a performance guarantee. In the event the features subject to a guarantee are not completed prior to the expiration of the guarantee, the applicant shall request a renewal of the performance guarantee in accordance with these standards.
- (2) In the event an application for renewal of a performance guarantee has been filed with the County prior to expiration of an existing guarantee, the County shall delay the provision of notice of failure to install or complete improvements in accordance with this section.

(M) FORFEITURE

(1) NOTICE OF FAILURE TO INSTALL OR COMPLETE IMPROVEMENTS

If the owner or developer fails to complete installation of the guaranteed improvements within the term of the performance guarantee (as may be extended), the Zoning Administrator shall give the owner or developer 30 day's written notice of the scope and degree of the default, by certified mail.

(2) COUNTY COMPLETION OF IMPROVEMENTS

After the 30-day notice period expires, the County may draw on the guarantee and use the funds to perform the work necessary to complete installation of the guaranteed improvements. After completing such work, the County shall provide a complete accounting of the expenditures to the owner or developer. In the event of a default triggering the use of the performance guarantee, the County shall return any of the unused deposited cash funds or other security.

(N) RELEASE OR REDUCTION

(1) RELEASE REQUESTED

The County shall release or reduce a performance guarantee only after:

- (a) The owner or developer has submitted to the County a written request for a release or reduction of the performance guarantee that includes certification by the owner's or developer's engineer or contractor, whichever is appropriate, that installation of the guaranteed improvements has been completed in accordance with approved plans and specifications, and as-builts (if applicable);
- (b) County staff has performed an inspection of the improvements and certified in writing that installation of the guaranteed improvements is completed in accordance with approved plans and specifications; and
- (c) No release or reduction in performance guarantee amounts will be considered until more than 25 percent of the work is in place and approved.

(2) ACCEPTANCE SHALL BE DOCUMENTED

The Zoning Administrator shall provide written notice of the County's final acceptance of the improvements subject to performance guarantees.

(3) IMPROPER RELEASE OF FINANCIAL GUARANTEES

If the County releases a performance guarantee through error, the error shall not release the developer from responsibility for the completion of all improvements in accordance with this Chapter.

§ 155.509 PLANNED DEVELOPMENT

(A) PURPOSE AND INTENT

The purpose for this planned development procedure is to provide a uniform means for amending the Official Zoning Map to establish a Planned Development (PD) zoning district. The planned development district creates opportunities for master planned development that is developed under unified control in accordance with more flexible standards and procedures that are conducive to creating high quality development that makes efficient use of land while protecting natural resources. It is the intent of these standards to allow an applicant to propose a wide variety of allowable uses and the flexible application of some of the development standards in Article 155.3, in return for a higher quality of development with more amenities than might otherwise result from a strict application of the standards in this Chapter.

(B) APPLICABILITY

- (1) The standards in this section may be applied to any land in the County's planning jurisdiction.
- (2) In no instance shall the PD designation be applied to land that is less than one acre in buildable area.

(C) APPLICATION

- (1) Applications for a planned development may only be initiated by all the owner(s) of land subject to the application, or their authorized agents.
- (2) The application shall include a master plan depicting the general configuration and relationship of the principal elements of the proposed development, including:
 - (a) Approximate building sizes and placement;
 - (b) Proposed density/intensity;
 - (c) Environmental resource protection features;
 - (d) Anticipated pedestrian and vehicular circulation;
 - (e) Open space resource location and configuration;
 - (f) Public facility configuration; and
 - (g) Phasing, as appropriate.
- (3) The application shall also include a terms and conditions document that identifies:
 - (a) How the proposed development will meet or exceed the standards in this Ordinance;
 - (b) Lists the range of allowable principal and accessory use types;
 - (c) Describes how any required environmental mitigation will take place; and
 - (d) Outlines how public facilities will be provided to serve the planned development.
- (4) To ensure unified control, the application shall also include a copy of the title to all land that is part of the proposed planned development zoning district classification.
- (5) The Technical Review Committee shall review and comment on the master plan prior to consideration of the application by the Planning Board.

(D) RECOMMENDATION BY THE PLANNING BOARD

- (1) After conclusion of a public meeting, the Planning Board shall make a recommendation on the application in accordance with the review criteria in this section.
- (2) In making its recommendation, the Planning Board shall prepare a written statement regarding the application's consistency with the County's adopted policy guidance.
- (3) During its review, the Planning Board may suggest revisions to the master plan or terms and conditions statement. Only those revisions agreed to in writing by the applicant shall be incorporated into the application.

(E) DECISION

- (1) After the conclusion of a legislative public hearing, the Board of County Commissioners shall decide the application in accordance with the review standards in this section.
- (2) The decision shall be one of the following:
 - (a) Approval of the application;
 - (b) Denial of the application;
 - (c) Approval of a revised application; or
 - (d) Remand of the application to County staff for further consideration.
- (3) In making its decision, the Board of County Commissioners shall adopt a written statement of reasonableness and consistency with the County's adopted policy guidance in accordance with G.S. § 160D-605.

(F) CHANGES TO APPLICATION

The applicant may make changes, including changes recommended by the Planning Board or the Board of County Commissioners, to the application for a planned development district at any time prior to the Board of Commissioner's decision. The applicant may only propose changes in accordance with the following:

- (1) Changes shall be made in writing to the Zoning Administrator; and
- (2) Changes shall be signed by all landowners or their agents.

(G) REVIEW CRITERIA

The advisability of amending the Official Zoning Map to establish a planned development district is a matter committed to the legislative discretion of the Board of County Commissioners and is not controlled by any one factor. In determining whether to adopt or deny a planned development application, the Board of County Commissioners may consider the standards in §155.112.

(H) CONDITIONS

- (1) Only conditions mutually agreed to in writing by the owner(s) of the property that is the subject of a planned development application may be approved as part of an application establishing a planned development district.
- (2) Conditions shall be in accordance with § 155.502(J).
- (3) Conditions shall be in writing and may be supplemented with text or plans and maps.
- (4) All conditions of approval shall be consented to, in writing, by all owners of land subject to the conditions.

(I) SEQUENCE

- (1) Applications for subdivisions, site plans, and zoning compliance permits may be submitted with a planned development application, but the planned development application establishing the PD district shall be decided prior to any other applications.

- (2) Any permits or approvals shall comply with the approved master plan and the terms and conditions document.

(J) DESIGNATION ON OFFICIAL ZONING MAP AND FUTURE LAND USE MAP

- (1) Designation of a PD zoning district on the Official Zoning Map shall note the ordinance number approving the PD zoning classification.
- (2) In cases where the Board of County Commissioners approves a planned development application they deem to be inconsistent with adopted policy guidance, the future land use map shall be amended with a note referencing the planned development application approval and no additional request or application for a comprehensive plan amendment shall be required.

(K) EFFECT

- (1) The master plan and terms and conditions approved as part of the application establishing the PD district are binding on the land as an amendment to the Official Zoning Map.
- (2) Development depicted in a planned development master plan shall require approval of a site plan, subdivision, and building permit, as appropriate.
- (3) Only those portions of the development subject to an approved master plan and statement of terms and conditions shall be included in development activities.

(L) AMENDMENT

Amendments to a planned development application approval shall be considered as minor modifications or major modifications, and must be considered in accordance with the following:

(1) MINOR MODIFICATIONS

- (2) Subsequent plans and permits for development within a planned development district may include minor modifications to the approved master plan map or statement of terms and conditions, provided the development continues to meet the minimum requirements of this Chapter. Minor modifications are limited to changes that have no material effect on the character of the planned development or changes that address technical considerations that could not reasonably be anticipated at the time of the planned development approval.
- (3) The following minor modifications may be approved by the Zoning Administrator, in consultation with other appropriate County staff:
 - (a) Changes to the location of entrances or driveways, the rearrangement of internal streets, turn lanes, drives, or access restrictions;
 - (b) Changes to the configuration of parking areas, but not the number of parking spaces;
 - (c) Changes to the configuration or location of open space or placement of required amenities, provided the amount of open space (whether passive or active) is unchanged;
 - (d) Changes to the configuration of landscape yards, including types of materials, provided minimum width and planting requirements are met;
 - (e) Changes to the proposed building elevation or facade, including materials, provided that the change retains the same general architectural character and remains consistent with the design parameters established in the PD approval; and
 - (f) Changes to the arrangement or location of buildings provided there is no increase in the number of buildings, size, or amount of impervious surface.

- (4) In no instance shall a minor modification include any changes to the range of permitted uses or the overall density of the development.
- (5) MAJOR MODIFICATIONS**
- (a) Changes that materially affect the basic concept configuration of the planned development master plan map or basic parameters establishing the terms and conditions or that exceed the scope of a minor change modification are considered major modifications.
- (b) Major modifications include, but are not limited to:
1. Increases in building height;
 2. Changes in use designations;
 3. Changes in density/ or intensity;
 4. Decreases in open space;
 5. Substantial changes in the location of streets (particularly if streets are to be deleted or access points to the development moved so traffic flows both inside and outside the development are affected); and
 6. Change in the location of any public easement.
- (c) Major modifications must be reviewed and considered only in accordance with the procedures and standards established for the original approval of a planned development application.

§ 155.510 REZONING

(A) PURPOSE AND INTENT

This section provides a uniform means for reviewing and deciding proposed amendments to the Official Zoning Map whenever the public necessity, general welfare, the County's adopted policy guidance, or appropriate land use practices justify or require doing so.

(B) APPLICABILITY

This procedure sets out the requirements for amendments to the zoning district designation of land within the County's planning jurisdiction in accordance with G.S. § 160D-703.

(C) APPLICATION INITIATION

- (1) Applications may be initiated by the Board of Commissioners, the Planning Board, the Zoning Administrator, landowner(s), or contract purchasers of the land in the proposed application.
- (2) In no instance shall the County accept third-party rezoning applications submitted by persons who are not owners of the land subject to the application.

(D) RECOMMENDATION BY PLANNING BOARD

- (1) After conclusion of a public meeting, the Planning Board shall make a recommendation on the application in accordance with the review criteria in this section.
- (2) In making its recommendation, the Planning Board shall prepare a written statement regarding the application's consistency with the County's adopted policy guidance.

(E) DECISION

- (1) After the conclusion of a legislative public hearing, the Board of County Commissioners shall decide the rezoning application in accordance with the review criteria in this section.

- (2) The decision shall be one of the following:
 - (a) Approval of the application;
 - (b) Denial of the application;
 - (c) Approval of a revised application; or
 - (d) Remand of the application to County staff for further consideration.
- (3) The decision shall be based on the legislative discretion of the Board of County Commissioners, taking into consideration the recommendation of the Planning Board and the review criteria in this section.
- (4) In making its decision, the Board of County Commissioners shall adopt a written statement of reasonableness and consistency with the County's adopted policy guidance in accordance with G.S. § 160D-605.

(F) CHANGES TO APPLICATION

- (1) The applicant may make changes, including changes recommended by the Planning Board or the Board of County Commissioners, to the application for a rezoning at any time prior to the Board of County Commissioner's decision. The applicant may only propose changes in accordance with the following:
 - (2) Changes shall be made in writing to the Zoning Administrator; and
 - (3) Changes shall be signed by all landowners or their agents.

(G) REVIEW CRITERIA

The advisability of approval of a rezoning application is a matter committed to the legislative discretion of the Board of County Commissioners and is not controlled by any one factor. In determining whether to adopt or deny a rezoning application, the Board of Commissioners may weigh the relevance of and consider the following:

- (1) Whether the proposed rezoning advances the public health, safety, or welfare;
- (2) Whether and the extent to which the proposed rezoning is appropriate for its proposed location, and is consistent with the purposes, goals, objectives, and policies of the County's adopted policy guidance;
- (3) Whether an approval of the rezoning is reasonable and in the public interest; and
- (4) Other factors as the Board of Commissioners may determine to be relevant.

(H) DESIGNATION ON FUTURE LAND USE MAP

In cases where the Board of County Commissioners approves a rezoning application, they deem to be inconsistent with adopted policy guidance, the future land use map shall be amended with a note referencing the rezoning application approval and no additional request or application for a comprehensive plan amendment shall be required.

(I) EFFECT

Lands subject to an approved rezoning application shall be subject to all the applicable standards in this Chapter, which shall be binding and shall run with the land.

§ 155.511 SITE PLAN

(A) PURPOSE AND INTENT

The purpose for the site plan procedure is to establish a consistent and predictable process for the review of proposed development, through a graphical representation of the proposed development. Site plan review is an analysis to ensure that allowable development is

configured in accordance with the standards in this Chapter and all other applicable regulations, not a consideration of whether or not a proposed development is allowed.

(B) APPLICABILITY

Except for development exempted from site plan review in this section, all forms of development that involve construction, moving, or significant alteration of a building or habitable structure, that result in the increase in the amount of impervious surface on a lot, or that involve the provision of landscaping, off-street parking, stormwater control mechanisms, or similar site features shall be subject to site plan review in accordance with this section.

(C) EXEMPTIONS

- (1) The following forms of development are exempted from site plan review, but may require a plot plan and shall be subject to the standards for a zoning compliance permit and building permit:
- (2) Construction of a single-family detached dwelling on its own individual lawfully established lot;
- (3) Establishment of an accessory use or structure on a single-family residential lot with a lawfully established principal use; and
- (4) Interior up-fits or changes to a lawfully established non-residential structure or use type that do not result in the need for additional off-street parking spaces, additional screening or landscaping, differing stormwater practices, or any changes to the amount of impervious surface cover.

(D) REVIEW CRITERIA

A site plan shall be approved by the Technical Review Committee, provided the application complies with:

- (1) All standards or conditions of any prior permits or development approvals;
- (2) The applicable street addressing policies of the County, and that the street address of all lots is clearly identified on the site plan;
- (3) Any applicable concept plans, master plans, or terms and conditions;
- (4) All applicable requirements of this Chapter, including zoning district requirements, use provisions, and development standards; and
- (5) All applicable County, State, and federal requirements.

(E) EFFECT

(1) CONSTRUCTION PLANS

- (a) Construction plans for all public improvements included with or filed subsequent to the site plan shall be approved prior to street and utility construction in accordance with the applicable County standards.
- (b) In the case of a multi-phase site plan, any street and utility construction plans shall include all improvements within a phase and all public improvements outside the phase but necessary to serve development within that phase.

(2) FEE-IN-LIEU OR PERFORMANCE GUARANTEES

All public improvements and private site features shall be installed, inspected, and accepted by the County or shall be the subject of an approved fee-in-lieu or performance guarantee, prior to the issuance of a certificate of occupancy.

(F) EXPIRATION

If the work authorized by a site plan approval is not commenced within one year from the date of issuance, the approval shall become null and void.

§ 155.512 SPECIAL USE PERMIT

(A) PURPOSE AND INTENT

This section sets out the procedure for consideration of an application for a special use permit. A special use is a use that may be appropriate in a zoning district, but because of its nature, extent, and external effects, requires special consideration of its location, design, and methods of operation before it can be deemed appropriate in the district and compatible with its surroundings.

(B) APPLICABILITY

Applications for uses identified as requiring a special use in Summary Use Table shall be reviewed in accordance with the procedures and standards of this section.

(C) DECISION

Following the conclusion of a quasi-judicial public hearing, the Board of Adjustment shall review and decide the application in accordance with the criteria in this section. The decision shall be the one of the following:

- (1) Approval of the special use as proposed;
- (2) Approval of a revised special use;
- (3) Denial of the special use; or
- (4) Remand of the special use application for further consideration by County staff.

(D) REVIEW CRITERIA

A special use shall be approved by the Board of Adjustment upon a determination that the special use:

- (1) Will not materially endanger the public health or safety if located where proposed;
- (2) Complies with all required standards, conditions, and specifications of this Chapter;
- (3) Will not substantially injure the value of the abutting land, or the special use is a public necessity;
- (4) Will be in harmony with the area in which it is to be located;
- (5) Is in general conformity with the County's adopted policy guidance; and
- (6) Is subject to a concept plan that accurately depicts the proposed use's configuration.

(E) CONDITIONS

- (1) The Board of Commissioners may apply conditions of approval that are reasonable and appropriate in accordance with G.S. § 160D-705(c), and § 155.502(J).
- (2) Conditions may be proposed to:
 - (a) Assure that the use will be harmonious with the area where proposed;
 - (b) Ensure the use is consistent with the purpose and intent of this Chapter;
 - (c) Limit the special use permit to a specified duration;
 - (d) Place limits on the availability of proposed residential dwelling units to coincide with the provision or maintenance of adequate public facilities; or
 - (e) Address other considerations necessary, in the sole discretion of the Board of County Commissioners.

- (3) All conditions shall be identified in the approval, the notice of decision, and the subsequent site plan.
- (4) All conditions of approval shall be consented to, in writing, by all owners of land subject to the conditions.

(F) EFFECT

- (1) A special use approval is perpetually binding and run with the land, unless amended or limited in duration by the Board of County Commissioners.
- (2) Development subject to an approved special use permit shall also undergo site plan review.
- (3) An action invalidating a special use condition of approval (such as an intensity or hours of operation limitation) shall render the special use permit and associated site plan null and void.
- (4) Special uses shall meet all applicable State and federal requirements for location and operation. Failure to maintain compliance with those requirements may result in the revocation of the special use permit and associated site plan.

(G) AMENDMENT

Amendments to a special use permit application approval shall be considered as minor modifications or major modifications, in accordance with the following.

(1) MINOR MODIFICATIONS

- (a) Subsequent plans and permits for development subject to a special use permit may include minor modifications to the approval, provided the development continues to meet the minimum requirements of this Chapter. Minor modifications are limited to changes that have no material effect on the character of the development or changes that address technical considerations that could not reasonably be anticipated at the time of the development approval.
- (b) The following minor modifications may be approved by the Zoning Administrator, in consultation with other appropriate County staff:
 1. Changes to the location of entrances or driveways, the rearrangement of internal streets, turn lanes, drives, or access restrictions;
 2. Changes to the configuration of parking areas, but not the number of parking spaces;
 3. Changes to the configuration or location of open space or placement of required amenities, provided the amount of open space is unchanged;
 4. Changes to the configuration of landscape yards, including types of materials, provided minimum width and planting requirements are met;
 5. Changes to the proposed building elevation or facade, including materials, provided that the change retains the same general architectural character and remains consistent with the design parameters established in the approval; and
 6. Changes to the arrangement or location of buildings provided there is no increase in the number of buildings, size, or amount of impervious surface.
- (c) In no instance shall a minor modification include any changes to the range of permitted uses or the overall density of the development.

(2) MAJOR MODIFICATIONS

- (a) Changes that materially affect the basic configuration of the development, basic parameters of conditions of approval, or that exceed the scope of a minor modification are considered major modifications.
- (b) Major modifications include, but are not limited to:
 - 1. Increases in building height;
 - 2. Changes in use designations;
 - 3. Changes in density or intensity;
 - 4. Decreases in open space;
 - 5. Substantial changes in the location of streets (particularly if streets are to be deleted or access points to the development moved so traffic flows both inside and outside the development are affected); and
 - 6. Change in the location of any public easement.
- (c) Major modifications shall be treated as an amendments that must be reviewed and considered in accordance with the procedures and standards established for the original approval of a special use permit application.

(H) REPLACEMENT

If a special use is replaced by a use otherwise permitted by right in the zoning district, the special use permit approval is deemed abandoned and the special use permit approval is null and void.

(I) EXPIRATION

Unless otherwise stated in the special use permit approval, a special use permit shall expire and become null and void two years after the date of issuance if:

- (1) The authorized use has not commenced;
- (2) No substantial construction activity has taken place; or
- (3) Construction activities have started, but the value of all construction activity is less than five percent of the estimated total cost of construction.

§ 155.513 TEXT AMENDMENT

(A) PURPOSE AND INTENT

This section provides a uniform means for amending the text of this Chapter whenever public necessity, changed conditions, convenience, general welfare, or appropriate land use practices justify or require doing so.

(B) APPLICABILITY

- (1) The standards and requirements of this section shall apply to applications to revise the text of this Chapter.
- (2) Applications may be filed by the Zoning Administrator, the Planning Board, the Board of County Commissioners, or by another applicant following receipt of a notice of decision on a determination.

(C) REVIEW BY PLANNING BOARD

- (1) After conclusion of a public meeting, the Planning Board shall make a recommendation on the application in accordance with the review criteria in this section.
- (2) In making its recommendation, the Planning Board shall prepare a written statement regarding the application's consistency with the County's adopted policy guidance.

(D) DECISION

- (1) After the conclusion of a legislative public hearing, the Board of County Commissioners shall decide the application in accordance with the criteria in this section.
- (2) The decision shall be one of the following:
 - (a) Approval of the application;
 - (b) Denial of the application;
 - (c) Approval of a revised application; or
 - (d) Remand of the application to County staff for further consideration.
- (3) The decision shall be based on the legislative discretion of the Board of County Commissioners, taking into consideration the recommendation of the Planning Board and the review criteria in this section.
- (4) In making its decision, the Board of Commissioners shall adopt a written statement of reasonableness and consistency with the County's adopted policy guidance in accordance with G.S. § 160D-605.

(E) REVIEW CRITERIA

The advisability of amending the text of this Chapter is a matter committed to the legislative discretion of the Board of Commissioners and is not controlled by any one factor. In determining whether to adopt or deny the proposed text amendment, the Board of Commissioners may, but is not required to, consider whether and the extent to which the proposed text amendment:

- (1) Enhances the public's health, safety, and welfare;
- (2) Is consistent with the County's adopted policy guidance;
- (3) Is required by changed conditions;
- (4) Addresses a demonstrated community need;
- (5) Addresses an unforeseen matter not present when the Chapter was adopted;
- (6) Addresses other factors determined to be relevant by the Board of County Commissioners; and
- (7) Would not result in significantly adverse impacts on the natural environment, including water, air, noise, stormwater management, wildlife, vegetation, and the natural functioning of the environment.

§ 155.514 VARIANCE

(A) PURPOSE AND INTENT

The purpose of this section is to allow deviations from certain standards of this Chapter when the landowner demonstrates that, owing to special circumstances or conditions beyond the landowner's control (such as topographical conditions, narrowness, shallowness, or shape of a specific parcel of land), a literal application of the standards would result in undue and unique hardship to the landowner and the deviation would not be contrary to the public interest. This section also includes variance provisions for reasonable accommodation of persons with physical disabilities.

(B) APPLICABILITY

- (1) Development that would otherwise be subject to undue and unique hardship from the applications of the standards in this Chapter may seek relief from the standards in accordance with this section.

- (2) No variance may be sought that increases development density (e.g., units per acre) beyond that allowed in a base zoning district, or that would permit a use not allowed in a zoning district.
- (3) Applications seeking variance from the flood damage prevention standards shall comply with the applicable requirements in Chapter 150.

(C) DECISION

- (1) The Board of Adjustment, after the conclusion of a quasi-judicial public hearing, shall decide the application for a variance.
- (2) The decision shall be based on the competent, material, and substantial evidence in the record, as supplemented by the arguments presented at the quasi-judicial hearing, and the applicable review criteria in this section.
- (3) The decision shall be one of the following:
 - (a) Approval of the variance as proposed;
 - (b) Approval of the variance with revisions; or
 - (c) Denial of the variance.
- (4) The concurring vote of four-fifths of the Board of Adjustment's quorum shall be necessary to grant a variance.
- (5) Each decision shall be made in writing and reflect the Board of Adjustment's determination of facts and their application to the standards in this Chapter.
- (6) The written decision shall be signed by the Chair or other duly authorized member of the Board of Adjustment.
- (7) The decision of the Board of Adjustment shall be effective upon the filing of the written decision.

(D) REVIEW CRITERIA

The standards in this section are organized into the standards applicable to variances from the zoning-related provisions, reasonable accommodations, and stormwater standards.

(1) ZONING-RELATED VARIANCE STANDARDS

(a) REQUIRED FINDINGS OF FACT

A zoning-related variance shall be approved on a finding the applicant demonstrates all of the following:

1. Unnecessary hardship would result from the strict application of the Chapter. 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 the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of the variance shall not be regarded as a self-created hardship.
4. The variance approval is the minimum necessary to make possible the reasonable use of the land, building, or structure.

5. The requested variance is consistent with the spirit, purpose, and intent of the Chapter, such that public safety is secured, and substantial justice is achieved.

(b) OTHER CONSIDERATIONS

In addition to the making the required findings in subsection (a) above, the Board of Adjustment may also consider the following:

1. The variance approval is the minimum necessary to make possible the reasonable use of the land, building, or structure.
2. Whether all property taxes on the land subject to the variance application have been paid in full.

(c) FACTORS THAT MAY NOT BE CONSIDERED

None of the following may be used as the basis for approving a zoning-related variance:

1. Personal circumstances;
2. A request for a particular use that is expressly, or by inference, prohibited in the zoning district;
3. Hardships resulting from factors other than application of the relevant standards of this Chapter;
4. The fact that land or a structure may be utilized more profitably or be more marketable with a variance;
5. The citing of other conforming or nonconforming uses of land or structures in the same or other zoning districts; or
6. Financial hardship.

(2) REASONABLE ACCOMMODATION

(a) A variance for reasonable accommodation shall be approved upon a finding the proposed accommodation:

1. Will be used by an individual or individuals with a disability or handicap protected under federal law;
2. Is the minimum needed to provide accommodation; and
3. Is reasonable and necessary.

(b) For the purposes of this section, an accommodation is reasonable if it would not undermine the legitimate purposes of this Chapter, it does not constitute a substantial alteration of this Ordinance or other County standard, and it will not impose significant financial and administrative burden upon the County.

(c) For the purposes of this section, an accommodation is necessary if it would provide direct or meaningful improvement of the effects of the particular disability or handicap and would afford handicapped or disabled persons equal opportunity to use housing in the County.

(3) STORMWATER

A variance pertaining to the stormwater standards shall be approved on a finding the applicant demonstrates all of the following standards are met:

(a) The applicant can secure no reasonable use of or return from their property if the provisions of the Ordinance are strictly adhered to;

- (b) The hardship results from application of this Ordinance to the property rather than from other factors such as deed restrictions or other hardship;
- (c) The hardship is due to the physical nature of the applicant's property, such as its location, size, shape, or topography, and compliance with provisions of this Ordinance would not allow reasonable use of the property;
- (d) The applicant did not cause the hardship by knowingly or unknowingly violating this Ordinance;
- (e) The variance is consistent with the general spirit, purpose, and intent of the State law and this Ordinance; and
- (f) In granting the water-related variance, the public safety and welfare have been assured, water quality has been protected, and substantial justice has been done.

(E) CONDITIONS

- (1) In granting a variance, the Board of Adjustment may prescribe conditions of approval to ensure compliance with the standards of this section, and to assure that the use of the land to which the variance applies will be compatible with surrounding lands and will not alter the essential character of the neighborhood. Conditions shall be in accordance with § 155.502(J), and the following
- (2) Conditions must be reasonably related to the variance application.
- (3) A variance granted subject to a condition of approval shall be permitted as long as there is compliance with the condition.
- (4) Violation of a condition of approval shall be deemed a violation of this Chapter.
- (5) If a violation or invalidation of a condition of approval occurs, the Zoning Administrator may initiate proceedings to revoke the authorization for the development subject to the variance.
- (6) All conditions of approval shall be consented to, in writing, by the applicant.

(F) EFFECT

Approval of a variance authorizes only the particular regulatory relief approved by the Board of Adjustment. It does not exempt the applicant from the responsibility to obtain all other permits or development approvals required by this Chapter or any other applicable laws, and does not indicate that the development for which the variance is granted should receive other permits or development approvals under this Chapter unless the relevant and applicable portions of this Chapter are met.

(G) EXPIRATION

- (1) If the Board of Adjustment does not include a time period by which development subject to variance expires, development shall commence within 12 months of the date of issuance of the variance or the variance shall expire and become null and void.
- (2) A variance shall expire and become invalid if the property owner changes development on the site such that the extraordinary and exceptional conditions that warranted the hardship and variance no longer do so.

§ 155.515 ZONING COMPLIANCE PERMIT

(A) PURPOSE AND INTENT

The purpose of a zoning compliance permit is to ensure no development occurs until there is assurance the development complies with the requirements of this Chapter and all other applicable requirements.

(B) APPLICABILITY

- (1) A zoning compliance permit shall be required for prior to any of the following:
 - (a) Issuance of a building permit;
 - (b) Erection or modification of a fence or privacy wall over 24 inches in height;
 - (c) Erection or modification of signage;
 - (d) Establishment of a temporary use or structure;
 - (e) Any change in use within an existing non-residential, multi-family, or mixed-use structure;
 - (f) Commencement of activity or development identified on a site plan or a subdivision plat; or
 - (g) Commencement of activity that does not require issuance of a building permit.
- (2) Nothing shall prevent a zoning compliance permit from being issued concurrently with a building permit.

(C) IDENTIFICATION OF SITE FEATURES

- (1) Applications for a zoning compliance permit shall include a site sketch or plot plan that identifies the lot lines and the outer extents of all of the following features (if present):
 - (a) Principal structure(s);
 - (b) Accessory structures;
 - (c) Open-air uses of land;
 - (d) Required setbacks and allowable encroachments, if applicable;
 - (e) Existing potable water wells, septic tanks, drain fields, and reserve or back-up drain field locations;
 - (f) Required stormwater control measures; and
 - (g) Any other features identified by the Zoning Administrator as necessary for determining compliance with the requirements of this Chapter.
- (2) Site sketches or plot plans are not required to be professionally prepared, or be to scale, but should include verified dimensional distance if not drawn to scale.

(D) REVIEW CRITERIA

A zoning compliance permit shall be approved by the Zoning Manager on a decision the application complies with:

- (1) All standards or conditions of any prior applicable permits and developments approvals;
- (2) Any applicable requirements of the Gates County Health Department; and
- (3) All applicable requirements of this Chapter and in the County Code of Ordinances.

(E) EFFECT

- (1) Approval of a zoning compliance permit authorizes an applicant to apply for a building permit, commence construction, or proceed with the approved development in cases where a building permit is not required.

- (2) If the zoning compliance permit application is filed concurrently with a building permit application, approval of the zoning compliance permit authorizes the County to complete its review of the building permit application.

(F) EXPIRATION

A zoning compliance permit shall expire and become null and void one year after the date of issuance if the authorized use has not commenced.

ARTICLE 155.6 ENFORCEMENT

§ 155.601 PURPOSE

This section establishes procedures through which the County ensures compliance with the provisions of this Chapter and obtains corrections for Chapter violations. It also sets forth the remedies and penalties that apply to violations of this Chapter. The provisions of this section are intended to encourage the voluntary correction of violations, where possible.

§ 155.602 COMPLIANCE REQUIRED

Compliance with all the procedures, standards, and other provisions of this Chapter is required by all persons owning, developing, managing, using, or occupying land or structures in the County.

§ 155.603 STATUTE OF LIMITATIONS

Enforcement of violations of this Chapter shall be in accordance with G.S. §§ 1-49(3) and Section 1-51(5).

§ 155.604 VIOLATIONS

Any of the following shall be a violation of this Chapter and shall be subject to the remedies and penalties provided by this Chapter and by State law:

(A) DEVELOPMENT WITHOUT AUTHORIZATION

Engaging in any development, use, construction, land disturbance, or other activity of any nature upon land or improvements thereon subject to the jurisdiction of this Chapter without all required plans, permits, certificates, or other forms of authorization as set forth in this Chapter;

(B) DEVELOPMENT INCONSISTENT WITH AUTHORIZATION

Engaging in any development, use, construction, land disturbance, or related activity of any nature in any way inconsistent with any approved plan, permit, certificate, or other form of authorization granted for such activity;

(C) VIOLATION BY ACT OR OMISSION

Violating, by act or omission, any term, variance, modification, adjustment, condition, requirement, or qualification placed upon any required plan, permit, certificate, or other form of authorization for the development, use, construction, land disturbance, or other activity upon land or improvements thereon;

(D) USE IN VIOLATION

Erecting, constructing, altering, repairing, maintaining, or using any building or structure, or use of any land in violation of this Chapter or any regulation made under the authority conferred thereby;

§ 155.605 RESPONSIBLE PERSONS

(A) GENERAL

The landowner, tenant, or other occupant of any land or structure and an architect, engineer, builder, contractor, agent, or any other person who participates in, assists, directs, creates, or maintains a situation that constitutes a violation of this Chapter may be held responsible for the violation and is subject to the remedies and penalties set forth in this Chapter.

(B) FAILURE BY COUNTY DOES NOT RELIEVE INDIVIDUAL

Failure of a County official charged with enforcement responsibility to observe or recognize conditions which violate the intent and purpose of this Chapter, or to deny the issuance of a development permit, shall not relieve the applicant or landowner from responsibility for the condition or damages that may result and shall not result in the County, its officers, or agents being responsible for conditions or damages.

§ 155.606 ENFORCEMENT RESPONSIBILITIES

The Zoning Administrator, or a designee, shall have responsibility for enforcement of this Chapter in accordance with the following:

(A) INVESTIGATIONS

The Zoning Administrator, or a designee shall have the power to conduct any lawful investigation as may be deemed necessary to carry out their duties as prescribed in this Chapter.

(B) INSPECTIONS

- (1) The Zoning Administrator, or a designee shall have the right, upon receipt of permission from a responsible person, to enter on any premises within the County's planning jurisdiction at any reasonable hour for the purpose of inspecting locations subject to any complaints or alleged violations, or determination of compliance or other enforcement action of this Chapter.
- (2) If any person charged with enforcing this Chapter cannot obtain permission to enter from a responsible person, the County shall obtain an administrative search warrant prior to entering the property.

(C) SUPPORTING DOCUMENTATION

The Zoning Administrator, or a designee shall have the power to compel a person responsible for an alleged violation to provide written statements, certificates, certifications, evidence, or reports relating to complaints or alleged violations of this Chapter.

§ 155.607 ENFORCEMENT PROCEDURE

(A) WRITTEN NOTICE

When the Zoning Administrator, or a designee finds a violation of this Chapter, they shall notify the responsible person(s) of the violation in accordance with the following:

- (1) A written notice of violation shall be prepared and shall include all of following:
- (2) That the land, building, structure, sign, use, or activity is in violation of this Chapter;
- (3) The nature of the violation, and citation of the section(s) of this Chapter violated;
- (4) The measures necessary to remedy the violation;
- (5) The time period in which the violation must be corrected;
- (6) That penalties or remedies may be assessed; and
- (7) That the party cited has the right to appeal the notice in accordance with § 155.504.

(B) DELIVERY OF WRITTEN NOTICE

- (1) 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.

- (2) The notice of violation may be posted on the property.
- (3) The County official providing the notice of violation shall certify that the notice was provided, and the certificate shall be deemed conclusive in the absence of fraud.

(C) REMEDY UPON NOTICE

Upon delivery of a written notice of a violation, the landowner or any other responsible person shall remedy the violation within the allowable time period.

(D) FAILURE TO COMPLY WITH ORDER

If the landowner, occupant, or any other responsible person fails to comply with a notice of violation from which no appeal has been taken, or a final decision by the Board of Adjustment following an appeal, the landowner or occupant shall be subject to such remedies and penalties as may be provided for by State law or this section.

(E) EACH DAY A SEPARATE VIOLATION

Each day a violation continues following notice or failure to comply is considered a separate and distinct offense.

§ 155.608 REMEDIES

(A) CIVIL PENALTIES

Any responsible person who violates any provision of this Ordinance shall be subject to the assessment of a civil penalty of \$75.00 per day under the procedures provided in § 155.609.

(B) DENIAL OF PERMIT OR CERTIFICATE

The Zoning Administrator may withhold or deny a permit, certificate, or other authorization for the same land, subdivision, building, structure, sign, use, or development activity in which there is an uncorrected violation of a provision of this Chapter, or of a condition or qualification of a permit, certificate, or other authorization previously granted.

(C) CONDITIONED PERMIT OR CERTIFICATE

- (1) A review authority may condition the authorization of any permit, certificate, or other approval for land, building, structure, sign, use, or development activity with a violation or outstanding, but still authorized enforcement action, upon the correction of the violation, payment of civil penalties within a specified time, or the posting of a compliance guarantee approved by the appropriate governmental authority.
- (2) In no instance shall the authorization of any permit, certificate, or approval for one property with a violation or outstanding enforcement action be conditioned with the correction of a violation, payment of civil penalties within a specified time, or the posting of a compliance guarantee for a different property.

(D) STOP WORK ORDERS

(1) GENERAL

Whenever the Zoning Administrator or a designee determines that a person is engaged in doing work that constitutes, creates, or results in a violation of this Chapter and that irreparable injury will occur if the violation is not terminated immediately, that official may order the specific part of the work that constitutes, creates, or results in a violation of this Chapter to be immediately stopped.

(2) ORDER IN WRITING

- (a) The stop work order shall be in writing and directed to the landowner, and the occupant or person doing the work.
- (b) The stop work order shall state the specific work to be stopped, the specific reasons for the stoppage, and the conditions under which the work may be resumed.
- (c) A copy of the order shall be delivered to the holder of the development approval and to the owner of the property involved (if that person is not the holder of the development approval) by personal delivery, electronic delivery, or first-class mail.
- (d) The County official delivering the notice shall certify that the order was delivered and that certificate shall be deemed conclusive in the absence of fraud.

(3) APPEAL

Any person aggrieved by the issuance of a stop work order may appeal the issuance of the order to the Board of Adjustment in accordance with § 155.504. No further work or activity shall take place in violation of a stop work order pending a ruling on the appeal.

(4) COMPLIANCE REQUIRED

Neither the responsible person nor a landowner upon whom a stop work order is served shall continue with work in violation of the stop work order while it remains in effect, unless the order is stayed in accordance with this subsection.

(E) REVOCATION OF PERMITS

- (1) The Zoning Administrator may revoke and require the return of a permit by notifying the permit holder in writing, stating the reason for the revocation.
- (2) Building permits may be revoked, in accordance with G.S. § 160D-1115, for any of the following:
 - (a) Any substantial departure from the approved application, plans, or specifications;
 - (b) Refusal or failure to comply with the requirements of State or local laws; or
 - (c) For making false statements or misrepresentations in securing the permit, certificate, or approval.
- (3) Any permit or certificate mistakenly issued in violation of an applicable State or County law may also be revoked.
- (4) Revocation of a permit or approval shall be processed in the same manner as the permit or approval was granted.

(F) CRIMINAL PENALTIES

(1) VIOLATION OF EROSION AND SEDIMENTATION CONTROL

Any person who knowingly or willfully violates any soil erosion and sedimentation control provision of this Ordinance, or rule or order adopted or issued pursuant to the soil erosion and sedimentation control provisions, or who knowingly or willfully initiates or continues a land-disturbing activity for which a soil erosion and sedimentation control plan is required, except in accordance with the terms, conditions, and provisions of an approved plan, shall be guilty of a Class 2 misdemeanor that may include a fine not to exceed five thousand dollars (\$5,000).

(G) INJUNCTIVE RELIEF

(1) ACTION BY BOARD OF COUNTY COMMISSIONERS

Whenever the Board of County Commissioners has reasonable cause to believe that any person is violating or threatening to violate this Chapter, or any rule or order adopted or issued pursuant to this Chapter, or any term, condition, or provision of an approved development plan, or soil erosion and sedimentation control plan, it may, either before or after the institution of any other action or proceeding authorized by this Chapter, institute a civil action in the name of the County, for injunctive relief to restrain, correct, abate, mandate, or enjoin the violation or threatened violation.

(2) SUPERIOR COURT

The action shall be brought in the Superior Court of Gates County. Upon determination by a court that an alleged violation is occurring or is threatened, it shall enter such orders or judgments as are necessary to abate the violation or to prevent the threatened violation.

(3) NO RELIEF FROM CRIMINAL PENALTIES

The institution of an action for injunctive relief under this section shall not relieve any party to such proceedings from any civil or criminal penalty prescribed for violations of this Chapter.

(H) ORDER OF ABATEMENT

In addition to an injunction, the County may apply for and the court may enter an Order of Abatement as part of the judgment in the case. An Order of Abatement may direct any of the following actions:

- (1) That buildings or other structures on the property be closed, demolished, or removed;
- (2) That fixtures, furniture, or other moveable property be moved or removed entirely;
- (3) That improvements, alterations, modifications, or repairs be made; or
- (4) That any other action be taken as necessary to bring the property into compliance with this Chapter.

(I) EQUITABLE REMEDY

The County may apply to a court of law for any appropriate equitable remedy to enforce the provisions of this Chapter. The fact that other remedies are provided under general law or this Chapter shall not be used by a violator as a defense to the County's application for equitable relief.

(J) STATE AND COMMON LAW REMEDIES

In addition to other enforcement provisions contained in this section, the Board of County Commissioners may exercise any and all enforcement powers granted to it by State law or common law.

(K) PREVIOUS ENFORCEMENT

Nothing in this Chapter shall prohibit the continuation of previous enforcement actions.

(L) REMEDIES; CUMULATIVE AND CONTINUOUS

All such remedies provided herein shall be cumulative. To the extent that North Carolina law may limit the availability of a particular remedy set forth herein for a certain violation or a part thereof, such remedy shall remain available for other violations or other parts of the same violation.

§ 155.609 ASSESSMENT OF CIVIL PENALTIES

(A) RESPONSIBLE PARTIES

Any person who violates any provision of this Chapter, including the owner or occupant of any land, building, structure, sign, use of land, or part thereof, may be held responsible for the violation and subject to the penalties and remedies provided in this Chapter.

(B) NOTICE

(1) NOTIFICATION REQUIRED

Civil penalties may not be assessed until the responsible person in violation has been notified in accordance with § 155.607.

(2) CIVIL PENALTY IMPOSED

If after receiving a written notice of violation under § 155.607, the person fails to take corrective action or file an appeal, a civil penalty may be imposed in accordance with this section.

(3) NOTICE OF PENALTY ASSESSMENT

Notice of the civil penalty assessment shall be served in the same manner as a notice of violation.

(4) ASSESSMENT CONTENTS

The assessment notice shall state the nature of the violation, the civil penalty to be imposed upon the violator, and shall direct the violator to pay the civil penalty within 30 days of the date of the notice.

(5) SEPARATE NOTICES

Separate notices must be provided for the first or second violations. The County may, in its discretion, treat the first notice for a violation as the final notice for chronic violators.

(6) ASSESSMENT UNTIL COMPLIANCE

Civil penalties may be assessed until compliance is achieved.

(C) CONTINUING VIOLATION

For each day the violation is not corrected, the violator will be guilty of an additional and separate offense and subject to additional civil penalty.

(D) DEMAND FOR PAYMENT

If compliance is not achieved, then the County shall make written demand for payment of penalties that have accrued while the property has been in violation. The demand for payment shall be sent to the responsible person in violation and must include a description of the violation for which the civil penalties have been imposed.

(E) NONPAYMENT

If payment is not received or equitable settlement reached within 30 days after demand for payment is made, the County may recover any unpaid civil penalty by filing a civil action in the nature of debt.

(F) PENALTIES

Any person who violates any provision of this Chapter shall be subject to assessment of a civil penalty for each succeeding violation over the course of a calendar year.

ARTICLE 155.7 ADMINISTRATION

§ 155.701 TITLE

- (A) This Chapter shall be known as the “Zoning Ordinance of Gates County, North Carolina” and may be referred to “this Chapter.”
- (B) The zoning map herein referred to, identified by the title “Official Zoning Map of Gates County, North Carolina,” shall be known as the “Official Zoning Map.”

§ 155.702 EFFECTIVE DATE

This Chapter shall be in full force and effect on June 16, 2021, and repeals and replaces the Zoning Ordinance of the Gates County, North Carolina, as originally adopted on March 5, 2007, and most recently amended on July 15, 2020.

§ 155.703 PURPOSE

The purpose of this Chapter is to protect the public health, safety, morals, and general welfare of the citizens and landowners of Gates County, and to implement the policies and objectives identified in the County’s adopted policy guidance. More specifically, the intent of this Chapter is to:

- (A) Foster convenient, compatible, and efficient relationships among land uses;
- (B) Better manage or lessen congestion in the streets;
- (C) Ensure the provision of adequate open space between uses for light, air, and fire safety;
- (D) Balance the protection of private property rights against protection of the public interest;
- (E) Promote the aesthetic quality of development;
- (F) Prevent the overcrowding of land and avoid undue concentrations of population;
- (G) Promote a diverse and balanced economy that provides jobs, goods, and services;
- (H) Protect property from blighted conditions and depreciation in value;
- (I) Coordinate the transportation system with land use patterns;
- (J) Preserve and protect environmentally sensitive lands, natural resources, and land with productive soil;
- (K) Provide adequate infrastructure and community facilities (including transportation, water, sewage, schools, parks, drainage, and other public requirements) in a fiscally responsible manner;
- (L) Protect development and residents from fire, flooding, and other natural hazards; and
- (M) Foster stable neighborhoods and sustainable development practices.

§ 155.704 AUTHORITY

This Chapter is adopted in accordance with:

- (A) The North Carolina General Statutes, including, but not limited to:
- (1) Chapter 153A, Article 6 (Delegation and Exercise of the General Police Power);
 - (2) Chapter 160D (Local Planning and Development Regulation);
 - (3) Chapter 130A, Article 10 (Drinking Water);
 - (4) Chapter 130A, Article 11, Wastewater;
 - (5) Chapter 143, Article 21 (Water and Air Resources);
 - (6) Chapter 113a, Article 4 (Sediment and Pollution Control);

(B) The Code of Ordinances of the Gates County, North Carolina; and

(C) Other relevant laws, including but not limited to:

(1) All other relevant laws of the State of North Carolina; and

(2) Any special legislation pertaining to Gates County enacted by the General Assembly.

§ 155.705 APPLICABILITY

(A) WHERE APPLICABLE

The standards in this Chapter shall govern all development and use of land lying within the unincorporated portions of Gates County except:

(1) Land within the planning and development jurisdiction of any municipality within Gates County, unless the municipality shall have, by resolution, formally requested the County to enforce this Chapter within its jurisdiction; and

(2) Development and activities identified in § 155.706.

(B) ANNEXATION

The standards in this Chapter shall remain in effect on any lands subject to annexation, incorporation, or extension of extra-territorial jurisdiction (ETJ) by a municipality, until:

(1) The municipality adopts development regulations for the affected area; or

(2) Up to 60 days following the approval of an annexation, incorporation, or ETJ extension by a municipality if no development regulations for the affected area are adopted by the municipality as part of an annexation, incorporation, or ETJ extension.

(C) EXTRA TERRITORIAL JURISDICTION

(1) A municipality that desires to extend its extraterritorial powers into the County's planning jurisdiction may do so only when the municipality and the County have agreed upon the area.

(2) When a municipality desires to relinquish jurisdiction over an area within its planning jurisdiction, the municipal regulations and powers of enforcement shall remain in effect until the sooner of the following takes place:

(a) Gates County has adopted regulations for the relinquished jurisdiction; or

(b) A period of 60 days following the action by which the municipality relinquished jurisdiction. During this period, the County may hold hearings and take other measures that may be required in order to adopt regulations for the relinquished area.

(3) When a municipality is granted extra territorial jurisdictional powers by Gates County in accordance with G.S. § 160D-202, such approval shall be evidenced by a formally adopted resolution of the Board of County Commissioners. Approval of extra territorial jurisdiction can be rescinded upon two year's written notice to the municipality by repealing the resolution.

(D) APPLICATION TO GOVERNMENTAL UNITS

Except when stated elsewhere in applicable law, this Chapter applies to the following:

(1) COUNTY AND STATE GOVERNMENT

Development of buildings by State or County agencies or departments, public colleges or universities, or other political subdivisions of the State, in accordance with the standards in G.S. § 160D-913.

(2) THE FEDERAL GOVERNMENT

Development owned or held in tenancy by the government of the United States, its agencies, departments, or corporate services, to the full extent permitted by federal law. For those activities of the federal government exempted from these regulations, compliance is strongly encouraged.

(E) DEVELOPMENT SUBJECT TO THIS ORDINANCE

On lands subject to this Chapter, no structure or use of land shall hereafter be established, located, subdivided, extended, converted, altered, developed, or disturbed in any way without full compliance with the terms of this Chapter and other applicable law. In the addition, the following standards shall apply:

(1) NO LAND DEVELOPED

Unless exempted, no land shall be developed without compliance with this Chapter and all other applicable County, State, and federal regulations.

(2) NO GRADING OR EXCAVATION

Unless exempted, no land shall be subjected to clearing, grading, filling, or excavated without compliance with this Chapter and all other applicable County, State, and federal regulations.

(3) NO USE OR OCCUPANCY

No person shall use, occupy, or divide any land or a building or authorize or permit the use, occupancy, or division of land or a building under their control, except in accordance with this Chapter and all other applicable County, State, and federal regulations.

(4) NO BUILDING CONSTRUCTED

No building or structure, or portion thereof, shall be erected, used, occupied, maintained, moved, or altered except in conformity with the applicable regulations in this Chapter and all other applicable County, State, and federal regulations.

(5) NO SALE OR TRANSFER

No lots in a subdivision may be sold or titles to land transferred until all the requirements of this Ordinance have been met, except as authorized by G.S. § 160D-807.

(6) NO DOUBLE COUNTING OF REQUIRED AREAS

No land area or other required space counted as part of a required yard, setback, lot area, parking area, or similar feature of one lot may be counted towards the requirements of another lot.

(F) ACTIVITIES EXEMPTED FROM THIS ORDINANCE

The following forms of development and activities are exempted from the requirements of this Chapter:

- (1)** Agricultural and agri-tourism related activities taking place on a bona fide farm in accordance with G.S § 160D-903 (such activities are subject to the provisions in Chapters 150 and 152 of this Ordinance);
- (2)** Forestry activities completed on a bona fide farm or as subject to a forestry management plan approved in accordance with G.S. § 160D-921;
- (3)** The division of land into parcels as part of a probated will or in accordance with the intestate succession provisions of Chapter 29 of the North Carolina General Statutes.

(G) MINIMUM REQUIREMENTS

In the application of this Chapter, all provisions shall be considered as minimum requirements and shall not be deemed to limit or repeal any other powers or authority granted under the North Carolina General Statutes.

§ 155.706 ABROGATION

Nothing contained in this Chapter shall require any change in the plans, construction, size, or designated use of any building, structure, or part of one for which a building permit has been granted by the County prior to the time of passage of this Chapter. However, where construction is not begun under any outstanding permit within a period of 180 days subsequent to the passage of this Chapter, or where it has not been prosecuted to completion within 18 months subsequent to passage of this Chapter, the permit shall expire and any further construction of use shall be in conformity with the provisions of this Chapter.

§ 155.707 CONSISTENCY WITH ADOPTED POLICY GUIDANCE

(A) ADOPTED POLICY GUIDANCE

The administration, enforcement, and amendment of this Chapter shall be accomplished in accordance with the County's adopted planning policy framework. This includes the most recently adopted Comprehensive Plan and all other applicable County-adopted policy guidance.

(B) CONFORMANCE

(1) ADVISORY

Adopted policy guidance is advisory in nature and does not carry the effect of law. Consistency with adopted policy guidance is not a requirement for the continuing validity of any provision of this Chapter, except as provided in G.S. §§ 160D-604 and 160D-605.

(2) CONSISTENCY

This Chapter is intended to ensure that all development within the County is consistent with the goals, objectives, policies, strategies, and actions contained in the County's adopted policy guidance.

(3) AMENDMENT UPON INCONSISTENCY

- (a)** To the extent this Chapter or the Official Zoning Map is or becomes inconsistent with the County's adopted policy guidance, it should be amended to remain consistent.
- (b)** Consistency with adopted policy guidance is not a prerequisite for approval of a rezoning or planned development application, and the future land use map portion of the Comprehensive Plan shall be deemed amended when the Board of County Commissioners approves a rezoning or planned development application that is inconsistent with the future land use map in accordance with G.S. § 160D-605.

§ 155.708 RELATIONSHIP TO OTHER LAWS

(A) PRIVATE AGREEMENTS, EASEMENTS, OR COVENANTS

- (1)** Except as hereinafter provided, this Chapter shall not be deemed to interfere with, abrogate, annul, or otherwise affect in any manner whatsoever any easement, covenants, or other private agreements between parties.
- (2)** Unless deed restrictions, covenants, or other contracts directly involve the Gates County as a party in interest, the County shall have no administrative responsibility for enforcing such deed restrictions or covenants.

(B) VESTED RIGHTS

Nothing in this Chapter is intended to repeal, supersede, annul, impair, or interfere with any existing vested rights, provided that vested rights were lawfully established and remain in effect.

§ 155.709 CONFLICT WITH OTHER LAWS

(A) CONFLICTS WITH STATE OR FEDERAL LAW

If a provision of this Chapter is inconsistent with State or federal law, the more restrictive provision controls, to the extent permitted by law.

(B) CONFLICTS WITH OTHER COUNTY CODES OR LAWS

If a provision of this Chapter is inconsistent with another provision found in other adopted ordinances of the County, the more restrictive provision shall govern, unless the terms of the more restrictive provision specify otherwise.

(C) CONFLICTS BETWEEN STANDARDS IN THIS CHAPTER

(1) GENERALLY

In cases where two or more standards in this Ordinance conflict with one another, the more restrictive standard shall control.

(2) AUTHORIZED DEVIATIONS OR INCENTIVES

Development configured in accordance with an allowable deviation, such as an approved administrative adjustment or variance, that is authorized by and established in accordance with this Chapter shall control and not be considered to conflict with other standards in this Chapter.

(D) CONFLICTS WITH PRIVATE AGREEMENTS

In cases where the standards in this Chapter conflict with private agreements, covenants, or deed restrictions and the standards in this Chapter are more restrictive, the standards in this Chapter shall control.

(E) DETERMINATION OF THE MORE-RESTRICTIVE STANDARD

The more restrictive provision is the one that imposes greater restrictions, burdens, or more stringent controls.

§ 155.710 VESTED RIGHTS

Vested rights shield prior-approved development from the requirement to comply with changes in this Chapter or other County requirements except those directly related to the protection of public safety. Vested rights are applied in accordance with G.S. § 160D-108(d), and the following:

(A) PRIOR VESTING

Amendments, supplements, repeals, or other changes in zoning regulations and zoning boundaries shall not be applicable or enforceable without the consent of the landowner with regard to lots for which building permits, multi-phased development approvals, or vested rights have been established (pursuant to State law) prior to the enactment of the ordinance making the change(s), so long as the vested rights remain valid and unexpired.

(B) DEVELOPMENT APPROVALS

Except for building permits, site-specific vesting plans, development agreements, and multi-phase developments, any development approval under this Chapter shall be vested from

changes in this Chapter for a period of one year from the date of approval, provided the development subject to the approval complies with all applicable terms and conditions.

(C) BUILDING PERMIT

The issuance of a building permit establishes a vested right to development for a period of six months, as long as the building permit complies with the terms and conditions of approval of that building permit.

(D) SITE-SPECIFIC VESTING PLAN

- (1) Development approvals identified by this Chapter as site-specific vesting plans shall be granted a vested right to develop for a maximum period of two years from the date of the approval, provided the development subject to the approval complies with all applicable terms and conditions.
- (2) The following types of development approvals shall be considered site-specific vesting plans:
 - (a) Final plats;
 - (b) Planned development master plans;
 - (c) Preliminary plats;
 - (d) Site plans; and
 - (e) Special use permits.
- (3) Site-specific vesting plans meeting the definition of a multi-phase development shall be vested in accordance with rules for multi-phase development.

(E) MULTI-PHASE DEVELOPMENTS

- (1) A multi-phase development plan that occupies at least 25 acres of land area, is subject to a master plan that depicts the types and intensities of all uses as part of the approval and includes more than one phase shall be considered as a multi-phase development plan that is granted a vested right to develop for a period of seven years from the date of approval of the first site plan associated with the development.
- (2) Vesting shall commence upon approval of the site plan for the first phase of the development.
- (3) The vested right shall remain in affect provided the development does not expire and provided it complies with all the applicable terms and conditions of the approval.

(F) COMMON LAW VESTING

A common law vested right is established only when the following can be demonstrated by the landowner:

- (1) There is an affirmative governmental act by the County in the form of an approval of a permit or development approval under this Chapter; and
- (2) The landowner relies on this affirmative governmental act in good faith and makes substantial expenditures to develop the land; and
- (3) It would be inequitable to prevent the landowner from proceeding to develop the land consistent with the terms and conditions of the permit or development approval relied upon.

§ 155.711 REVIEW AUTHORITIES

(A) GENERAL REQUIREMENTS FOR ALL REVIEW AUTHORITIES

(1) ALL MEETINGS SHALL BE OPEN

All meetings of elected or appointed bodies under this Chapter shall be open to the public in accordance with G.S. § 143-318 (Meetings of Public Bodies) and shall be conducted in accordance with the procedures set forth in these regulations, the County Code of Ordinances, County adopted policy guidance, and rules of procedure adopted by the respective review authorities.

(2) RULES OF PROCEDURE

All review authorities shall adopt formal rules of procedure consistent with the level of decision-making delegated to that authority. Adopted rules of procedure shall be kept on file, made available on the County’s webpage, are available for public inspection, and shall be maintained by the designated staff to the review authority.

(3) OATH OF OFFICE

All review authority members (including County staff) who review and decide applications under this Chapter shall be administered the oath of office prior to commencing their duties in accordance with Article 6, Section 7 of the North Carolina Constitution by a person authorized to administer the oath. The County Clerk shall maintain a record of the oath’s administration.

(4) CONFLICT OF INTEREST

(a) FOR LEGISLATIVE MATTERS

1. A review authority member shall not vote on an application where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member in accordance G.S. § 160D-109.
2. A review authority member shall not vote on an application where the landowner or applicant is a person with whom the member has a close, familial, business, or other associational relationship.
3. If an objection is raised to a member’s participation and that member does not recuse himself or herself, then the remaining members shall, by majority vote, rule on the objection.

(b) FOR QUASI-JUDICIAL MATTERS

1. A review authority member shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker.
2. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change; an undisclosed ex parte communication; a close familial, business, or other associational relationship with an affected person; or a direct, substantial, and readily identifiable financial impact on the member.
3. If an objection is raised to a member’s participation and that member does not recuse himself or herself, then the remaining members shall, by majority vote, rule on the objection.

(5) MINUTES AND RECORDS

- (a)** Accurate minutes of each meeting shall be maintained by each review authority showing the vote of each member on each question, or if absent or failing to vote, indicating such fact.

- (b) Each review authority shall keep records of its examinations and official actions.
- (c) All minutes and records shall be filed in the office of the County Clerk for the public record.

(6) REGULAR MEETINGS

- (a) All review authorities shall meet at regularly scheduled times and at such other times as determined by the Chairperson as provided for in the rules of procedure.
- (b) Special meetings may be called at any time by the Chairperson or by request of a majority of members of the review authority.

(B) TECHNICAL REVIEW COMMITTEE

- (1) A Technical Review Committee (TRC) shall be established to assist the staff, Planning Board, and the Board of County Commissioners in the review of site development plans. The purpose of the TRC is to review, comment, and make recommendations regarding the technical aspects of all major site plans and subdivision plats.
- (2) Membership of the TRC shall be composed of, but not limited to, representatives from the Planning and Development Services, Water Department, Fire Marshal's office, CAMA, NC-DOT, the County School System, Sheriff's Department, Environmental Health Department, Emergency Medical Services, Soil and Water Conservation, and area utility providers.
- (3) The Zoning Administrator, or his or her designated representative, shall serve as Chair of the TRC. The Chair shall be responsible for all proceedings and decisions made by the TRC.
- (4) The TRC shall establish a regular meeting schedule and shall meet frequently enough so that it can take action in conforming with the review procedures delineated in this chapter.

(C) BOARD OF ADJUSTMENT

(1) CREATING THE BOARD OF ADJUSTMENT

- (a) The County Board of Commissioners shall provide for the appointment of the County Board of Adjustment. The Board of Adjustment shall consist of five active members and two alternate members. An alternate member or members will be called upon to hear appeals in cases where the issue to be decided upon involves a personal conflict of interest with one or more regular Board of Adjustment members. The members shall be appointed by the County Board of Commissioners. All five members of the Board of Adjustment shall have the same and equal powers and duties. In the event that less than the entire county is zoned, at least one resident of each area which is zoned shall be appointed to the Board. Insofar as possible, initial appointment to the Board shall be as follows:
 - 1. Two-fifths for a term of three years;
 - 2. Two-fifths for a term of two years; and
 - 3. One-fifth for a term of one year.
- (b) The two alternate members may be appointed for a term of three years to serve in the absence of regular members. The successor to the regular and the alternate members shall be appointed for three-year terms. Vacancies shall be filled for the unexpired term only. Members of the Board of Adjustment may be removed for cause by the Board of Commissioners upon written charges and after public hearing.

(2) AUTHORITY

The Board of Adjustment is hereby established pursuant to G.S. § 160D-302.

(3) MEMBERSHIP

(a) NUMBER OF MEMBERS

The Board of Adjustment shall consist of five active members and two alternate members.

(b) COUNTY RESIDENT

For the purposes of this Chapter, a county resident is defined as an individual:

1. Who is a legal US citizen;
2. Who owns real property in the unincorporated areas of Gates County;
3. Who has been a resident of Gates County for six months or longer; and
4. Who does not have any current tax delinquencies.

(4) APPOINTMENT AND TERMS

(a) Board of Adjustment active members and alternates shall be appointed to three-year terms by the Board of County Commissioners. An active member shall be limited to serve two consecutive terms on the Board before becoming ineligible to serve. A former member may be eligible for reappointment after not serving on the Board of Adjustment for a one-year period.

(b) When an active member or alternate vacates an appointment prior to the completion of the term, a successor shall be appointed by the Board of County Commissioners to complete the remainder of the term. After completing the term, the successor will be eligible for appointment to the Board for a regular term. He/she will be eligible to two full term reappointments to the Board.

(5) REMOVAL OF MEMBER(S)

(a) A member of the Board of Adjustment may be removed for cause by the Board of County Commissioners upon written charges and after a public hearing.

(b) Absences from three consecutive regularly scheduled meetings or more than 50% during one calendar year shall be considered cause for a recommendation of dismissal from the Board of Adjustment. Upon approval of a majority of Board of Adjustment members, a recommendation can be submitted to the Board of County Commissioners calling for the dismissal of the member.

(6) RULES OF PROCEEDINGS

(a) GENERALLY

1. The Board shall elect a Chairman and Vice-Chairman annually at the June meeting.
2. The County Planning Director or his/her designee shall serve as the Secretary to the Board. The Secretary shall keep minutes of the proceedings. The minutes shall contain relevant facts and testimony of each petition, the vote of each member on each petition, abstention from voting, and attendance.
3. The Secretary to the Board or the Chairman of the Board or any member temporarily acting as Chairman, shall administer oaths to witnesses on any matter coming before the Board. Any person swearing falsely and giving false testimony under oath is guilty of a Class 1 Misdemeanor.

4. The Board shall not be required to hear an appeal to an administrative decision if it finds that there has been no substantial change in conditions or circumstances bearing on the appeal.
5. The Board shall not be required to hear an application submitted for a parcel of land that was previously denied if it finds there has been no substantial change in conditions, circumstances, or in the request presented.
6. An application and applicable fee shall be required for any request filed for Board of Adjustment consideration.

(b) MEETING

1. REGULAR MEETINGS

Regular meetings of the Board of Adjustment shall be held on the third Tuesday of each month. Unless special notice is given, meetings will begin at 1:00 p.m. in the County Courthouse.

2. SPECIAL MEETINGS

Special meetings of the Board of Adjustment may be called at any time by the Board of County Commissioners or by the Administrator of this chapter if special circumstances present. Members of the Board of Adjustment and the general public will be provided with a one-week notice.

3. CONDUCT OF MEETINGS

All meetings shall be open to the public. The order of business at regular meetings shall be set by agenda by the Secretary to the Board. Only items properly filed with the Secretary to the Board will be placed on the agenda. The public and specific interests may appear for comment or input on any matter not on the agenda at any meeting, regular or special, but no formal action will be taken on non-agenda items.

(7) POWERS AND DUTIES

(a) POWERS

All five members of the Board of Adjustment shall have the same and equal powers and duties. An alternate member(s) will be called upon to hear and vote on cases where the issue to be decided upon involves a personal or business conflict of interest with one or more regular Board of Adjustment member(s). An alternate may also be called upon to hear and vote on cases when there is less than a quorum of regular active members in attendance. When called upon, the alternate member shall have all the same and equal powers and duties as a regular active member.

(b) DUTIES

The Board of Adjustment shall review and decide applications in accordance with the Summary Procedures Table.

(8) VOTING

(a) A 4/5 vote of voting members shall be required for the Board to grant a variance from the provisions of this Chapter.

(b) A simple majority of voting members shall be required to:

1. Affirm or reverse any order, wholly or partly; modify a requirement, decision, determination or interpretation of an administrative officer charged with enforcing this Chapter;

2. Decide a special use permit.
- (c) The Board Chairman shall vote as any other Board member.
- (d) The Board may, in its discretion, direct that its decision be delayed to a date or time subsequent to the Board's vote on a petition.

(9) DECISION

- (a) A decision rendered by the Board of Adjustment becomes effective upon the filing of the written decision with the Secretary to the Board.
- (b) Decisions shall be signed by the Chair to the Board or any other duly authorized member of the Board.
- (c) The decision shall be delivered by personal delivery, email, or first-class mail prior to the date the decision becomes effective. The decision shall be delivered to the applicant, property owner, and any other person who has submitted a written request for a copy.

(10) RECOMMENDATIONS TO PLANNING BOARD AND BOARD OF COMMISSIONERS

The Board of Adjustment shall make recommendations to the Planning Board and Board of County Commissioners for any changes in this Chapter that are in the best interest of the county and the general public.

(11) RECORDS

(a) PUBLIC RECORDS

All records of the Board of Adjustment shall be made available to the public in accordance with State statutes.

(b) RETENTION

The Secretary to the Board of Adjustment shall be charged with the maintenance of Board of Adjustment records including reports, recommendations, minutes, and correspondences of the Board of Adjustment. The file shall be maintained in the Planning and Zoning Department. Requests for copies shall be forwarded to or addressed to the Secretary to the Board of Adjustment.

(D) PLANNING BOARD

(1) PLANNING BOARD AUTHORITY

A Planning Board hereby established pursuant to G.S. §§ 160A-361 or 153A-344.

(2) MEMBERSHIP

(a) NUMBER OF MEMBERS

The Planning Board shall consist of seven active members.

(b) COUNTY RESIDENT

For the purposes of this chapter, a county resident is defined as an individual:

1. Who is a legal US citizen;
2. Who owns real property in the unincorporated areas of Gates County;
3. Who has been a resident of Gates County for six months or longer; and
4. Who does not have any current tax delinquencies.

(3) APPOINTMENT AND TERMS

- (a) The Planning Board active members shall be appointed to three-year terms by the Board of County Commissioners. An active member shall be limited to serve two consecutive terms on the Board before becoming ineligible to serve. A former member may be eligible for reappointment after not serving on the Planning Board for a one-year period.
- (b) When an active member vacates an appointment prior to the completion of the term, a successor shall be appointed by the Board of County Commissioners to complete the remainder of the term. After completing the term, the successor will be eligible for appointment to the Board for a regular term. He or she will be eligible to two full term reappointments to the Board.

(4) REMOVAL OF MEMBER(S)

- (a) A member of the Planning Board may be removed for cause by the Board of Commissioners upon written charges as described below.
- (b) Absence from three consecutive regularly scheduled meetings or more than 50% of scheduled meetings during any one calendar year shall be considered cause for a recommendation of dismissal from the Board. Upon approval of a majority of members, a recommendation can be submitted to the Board of County Commissioners calling for the dismissal of the member.

(5) RULES OF PROCEEDINGS FOR PLANNING BOARD

(a) GENERALLY

1. The Board shall elect a Chairman and Vice-Chairman annually at the June meeting.
2. The Planning Director or his or her designee shall serve as the Secretary to the Board. The Secretary shall keep minutes of the proceedings. The minutes shall contain relevant facts and testimony of each petition, the vote of each member on each petition, abstention from voting and attendance.
3. The Board shall not be required to hear an application previously denied if it finds that there has been no substantial change in conditions or circumstances bearing on the appeal or application.

(b) MEETING

1. REGULAR MEETINGS

Regular meetings of the Planning Board shall be held on the third Tuesday of each month. Unless special notice is given, meetings will begin at 3:00 p.m. in the County Courthouse.

2. SPECIAL MEETINGS

Special meetings of the Planning Board may be called at any time by the Board of County Commissioners or by the Administrator of this chapter if special circumstances present. Members of the Planning Board and the general public will be provided with a one-week notice.

3. CONDUCT OF MEETINGS

All meetings shall be open to the public. The order of business at regular meetings shall be set by agenda by the Secretary to the Board. Only items properly filed with the Secretary to the Board will be placed on the agenda. The public and specific interests may appear for comment or input on any matter not on the

agenda at any meeting, regular or special, but no formal action will be taken on non-agenda items.

(6) POWERS AND DUTIES

(a) POWERS

All seven members of the Planning Board shall have the same and equal powers and duties.

(b) DUTIES

The Planning Board shall review and decide application in accordance with the Summary Procedures Table.

(7) VOTING

(a) A quorum shall consist of four members. When there are unfilled Planning Board vacancies a quorum shall consist of 50% of the remaining membership of the Planning Board plus one member.

(b) The Planning Board shall render a decision on any properly filed application within 30 days after its initial reading. The Board shall transmit its recommendation to the County Commissioners and send a copy of the recommendation to the applicant and/or the property owner, if different. An application may be continued until the next meeting if the Board finds that additional information is needed in order to render a recommendation.

(c) A simple majority of voting members shall be required to send a favorable or negative recommendation to the Board of County Commissioners.

(d) The Board Chairman shall vote as any other Board member.

(e) No Board member shall participate in the decision of, or vote upon, any case in which there is a personal and/or financial interest, directly or indirectly.

(8) RECORDS

(a) PUBLIC RECORDS

All records of the Planning Board shall be made available to the public in accordance with state statutes.

(b) RETENTION

The Secretary to the Planning Board shall be charged with the maintenance of Planning Board records including reports, recommendations, minutes, and correspondences of the Planning Board. The file shall be maintained in the Planning and Zoning Department. Requests for copies shall be forwarded to or addressed to the Secretary to the Planning Board.

(9) RECOMMENDATIONS TO BOARD OF COUNTY COMMISSIONERS

(a) All recommendations made by the Planning Board shall be forwarded to the Board of County Commissioners for final disposition.

(b) If the Planning Board is unable to render a decision by first meeting after the meeting with the initial reading of an item, the item shall be forwarded to the Board of County Commissioners without a recommendation.

(c) The Planning Board may petition the Board of County Commissioners for an extension to make a recommendation. The extension time limit to be granted at the discretion of the Board of County Commissioners.

ARTICLE 155.8 DEFINITIONS

§ 155.801 RULES OF LANGUAGE CONSTRUCTION

- (A) For the purpose of interpreting this Chapter, certain words and terms used are defined in this section. Except as defined in this section, all other words used in this Chapter shall have their standard dictionary definition.
- (B) For general interpretation, the following shall apply in all uses and cases in this Chapter.
- (1) The present tense includes the future tense and the future tense includes the present tense.
 - (2) The singular number includes the plural number and the plural number includes the singular number.
 - (3) The word “may” is permissive, and the word “shall” is mandatory.
 - (4) The word “person” includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.
 - (5) The words “used” or “occupied” include the words “intended, designed, or arranged to be used or occupied.”
 - (6) The word “lot” includes the words “plot”, “parcel”, or “tract.”
 - (7) The word “building” includes the word “structure.”

§ 155.802 DEFINITIONS

For the purpose of this Chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

TERM	DEFINITION
	A
ABANDONMENT	The relinquishment of property or a cessation of the use of the property for a continuous period.
ABROGATE	To abolish or annul.
ACCESSIBLE PARKING SPACE	An off-street parking space provided for the exclusive use of vehicles serving disabled persons.
ACCESSORY BUILDING OR STRUCTURE	A use or structure that is clearly incidental to and customarily found in connection with a principal building or use, is located on the same parcel and serves a principal building or use, and is subordinate in area, extent and purpose to the principal building or principal use served.
ACCESSORY DWELLING UNIT, DETACHED	A secondary dwelling unit established in conjunction with and clearly subordinate to a principal dwelling unit but located in a detached structure on the same lot.
ACCESSORY DWELLING UNIT, INTERNAL	A secondary dwelling unit established in conjunction with and clearly subordinate to a principal dwelling unit but located within the same structure as the principal dwelling unit.
ADMINISTRATIVE ADJUSTMENT	A request by an applicant to deviate from a specified numerical standard of this Chapter by a specified percentage, subject to consistency with applicable review criteria.
ADOPTED POLICY GUIDANCE	The combined future land-use policy guidance provided by the adopted comprehensive plan, area plans prepared for specific parts of the County, and system plans related to the County’s infrastructure systems.

TERM	DEFINITION
ADULT DAY CARE FACILITY	A center or place operated by a person, corporation, organization, or association which receives a payment, fee, or grant for the care of more than five, but not more than 50, adults 18 years of age or more for more than four hours per day, but not to exceed 24 hours at one time. Services must be provided in a home or facility certified to meet state standards and shall be provided for the following individuals: (1) Adults who do not need nursing care but who require complete, full-time daytime supervision; (2) Adults who need assistance with activities of daily living in order to maintain themselves in their own homes; and (3) Adults who need intervention in the form of enrichment and opportunities for social activities in order to prevent deterioration that would lead to institutionalization.
ADVISORY OPINION	An oral or written interpretation of a provision in this Chapter, a boundary on the Official Zoning Map, or a prior development approval that is not binding on the County or the County official making the interpretation.
AFFECTED PARTY	Owners of land adjoining the land subject to an application and any other person who could suffer an adverse effect to a property interest from a proposed development.
AGGRIEVED (AFFECTED) PARTY	A person, with a legally recognized interest (i.e., fee simple ownership) and standing to appeal, that is injuriously affected by a decision from any decision-making body of the County, including any officer or agent of the County.
AIRPORT	A tract of land or water with facilities for aircraft landing, take-off, shelter, supply, and repair. Often used for receiving and discharging passengers and cargo
ALLEY	A roadway easement which affords only a secondary means of access to abutting property and is not intended for general traffic circulation.
ALTER	To make any structural changes in the supporting or load bearing members of a building, such as walls, columns, beams, girders, or floor joints.
AMATEUR COMMUNICATIONS EQUIPMENT	Antennas or other devices used by a non-professional person located on the exterior of a building or structure devoted to the transmission or receipt of radio or other digital communication signals.
AMENDMENT	A significant change, revision, addition, or deletion to a legal statutory document such as a development approval, the text of this Chapter, or the Official Zoning Map. Amendment to a development approval is also referred to as a “major modification”.
ANTENNA	Any structure or device used to collect or radiate electromagnetic waves, including both directional antennas, such as panels, microwave dishes, and satellite dishes, and omni-directional antennas, such as whips, but not including satellite earth stations.
ANTENNA COLLOCATION, MAJOR	Uses involving the placement of antennas on building’s roof or wall, placement of antennas on a vertical projection not constructed for communications purposes, or placement of antennas on a communications structure that requires “substantial modifications” as defined in Section 160D-931 of the North Carolina General Statutes.
ANTENNA COLLOCATION, MINOR	Uses involving the placement of antennas on a vertical projection (including a structure built for communications) that does not require substantial modifications and meets the definition of an “eligible facility” in Section 160D-931 of the North Carolina General Statutes.

TERM	DEFINITION
ANTENNA SUPPORT STRUCTURE	The frame, bracket, or other mechanical device, including mounting hardware such as bolts, screws, or other fasteners used to affix an antenna to a wireless telecommunications tower, building, utility pole, or other vertical projection.
APARTMENT	A room or suite of one or more rooms, each of which have kitchen facilities, and are designed or intended to be used as an independent unit on a rental basis.
APPEAL	A request for review of an administrative official's or review authority's determination or decision made under this Chapter.
APPLICANT	A person who has submitted a development application for review under applicable provisions of this Ordinance.
AREAS OF ENVIRON-MENTAL CONCERN (AEC)	<p>Areas specifically defined in Subchapter 7-H of Chapter 15 of the State's Administrative Code. These defined areas which may be located within the jurisdiction of Gates County include coastal wetlands; estuarine waters; estuarine shorelines, and public trust areas. If an AEC is involved in any permitted activity covered by this chapter, then additional permits may be required by the state the four major AEC are further briefly defined as follows:</p> <ol style="list-style-type: none"> (1) Coastal wetlands. Any salt marsh or other marsh subject to regular or occasional flooding by tides; (2) Estuarine waters. All waters of the Atlantic Ocean, and associated bays, sounds, rivers, and tributaries, within the boundaries of the State; (3) Estuarine shoreline. Non-ocean shorelines especially vulnerable to erosion, flooding, or other adverse effects of wind or water, and which are connected to the estuary; and (4) Public trust areas. All public navigable waters, and lands thereunder subject to measurable lunar tides.
ASSEMBLY	A joining together of completely fabricated parts to create a finished product.
ASSISTED LIVING FACILITY	A facility licensed pursuant to G.S. Chapter 131D and as defined by the North Carolina General Assembly to mean any group housing and services program for two or more unrelated adults, by whatever name it is called, that makes available, at a minimum, one meal a day and housekeeping services and provides personal care services directly or through a formal written agreement with one or more licensed home care or hospice agencies. The Department of Human Resources may allow nursing services exceptions on a case-by-case basis. Settings in which services are delivered may include self-contained apartment units or single or shared room units with private or area baths. The state recognizes three types of ASSISTED LIVING RESIDENCES: adult care homes; group homes for developmentally disabled adults; and multi-unit assisted housing with services.
AUTOMATED TELLER MACHINE	An automated mechanized consumer banking device operated by a financial institution for the convenience of its customers, whether inside or outside of a financial institution, or located in a structure unrelated to the financial institution operating it. Such uses may not serve as the principal use of a parcel of land or site.
	B

TERM	DEFINITION
BED AND BREAKFAST INN	A form of guest lodging in which bedrooms are rented and breakfast is served, where such accommodations are provided only in buildings used principally as private residences or in accessory structures.
BERM	An elongated earthen mound typically designed or constructed on a site to separate, screen, or buffer adjacent uses or site features.
BOARD OF ADJUSTMENT	A quasi-judicial body composed of representatives from the zoning jurisdiction area which are given certain powers under and relative to this Chapter.
BONA FIDE FARM	<p>Any tract or tracts of land used for farm purposes as defined in G.S. § 160D-930, including the production and activities relating or incidental to the production of crops, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture as defined in G.S. § 106-581.1. In addition, the production of a nonfarm product that the Department of Agriculture and Consumer Services recognizes as a "Goodness Grows in North Carolina" product that is produced on a farm subject to a conservation agreement under G.S. § 106-743.2 is a bona fide farm purpose. Any of the following shall constitute sufficient evidence that the property is being used for bona fide farm purposes:</p> <ol style="list-style-type: none"> 1. A farm sales tax exemption certificate issued by the Department of Revenue; 2. A copy of the property tax listing showing that the property is eligible for participation in the present use value program pursuant to G.S. § 105-277.3; 3. A copy of the farm owner's or operator's Schedule F from the owner's or operator's most recent federal income tax return; and 4. A forest management plan.
BUFFER	A combination of physical space and vertical elements, such as plantings or fencing, used to separate and screen incompatible land uses from each other.
BUFFER, PERIMETER	Vegetative material and structures (i.e., walls, fences) that are used to separate uses from each other as required by this Ordinance, including the Type A Semi-Opaque, and Type B, Opaque buffers.
BUILDING	A structure having a roof supported by column or walls for the shelter, housing, or enclosure of persons, animals, or goods.
BUILDING FLOOR AREA	The gross floor area of an individual structure built for support, shelter or enclosure for any occupancy or storage.
BUILDING PERMIT	Authorization granted by the County for an applicant to begin construction of a building or structure.
BUILDING, COMMERCIAL	Any building used for business purposes.
BUILDING, DETACHED	A building having no party or common wall with another building except an accessory building
BUILDING, HEIGHT OF	The vertical distance from the average sidewalk or street grade, or finished grade of the building line, whichever is the highest, to the highest point of the building.
BUILDING, PRINCIPAL	A building in which the principal use of the lot on which the building is situated is conducted
	C

TERM	DEFINITION
CALIPER	Measurement for determining the size of trees at time of planting. Caliper is the quantity in inches of the diameter of trees measured at six inches or 12 inches above the ground, depending upon the size of the tree.
CANOPY, ATTACHED	A permanent structure other than an awning made of cloth, metal, or other material attached to a building but also including at least one vertical post or support extending upward from the grade for the purpose of providing shelter to patrons or automobiles, or as a decorative feature. A canopy is not a completely enclosed structure.
CARPORT (ATTACHED OR DETACHED)	A permanent structure comprised of a roof and vertical supports typically used to house an automobile or other vehicle. A carport is open or lacks structural walls on two or more sides.
CARRIER OR WIRELESS CARRIER	An entity licensed by the FCC to provide radio frequency communications services to individuals.
CASUALTY DAMAGE	The damage to or loss of a structure or use that is sudden, unexpected, and unusual. Typically associated with fire, severe weather, or Act of God. Special rules apply to replacement of nonconformities after casualty damage.
CERTIFICATE OF OCCUPANCY	A statement signed by an administrative officer authorized by the Board of County Commissioners, setting forth that the building, structure, or use complies with this Chapter, and that the same may be used for the purpose stated herein.
CERTIORARI	A situation where an appellant may file an appeal of a decision directly to a higher court of law.
CHANGE OF USE	The change in the use of a building, structure, or land. "Change of use" includes a change from one use type to another use type as identified in the Summary Use Table.
CHILD DAY CARE CENTER	A place operated by a person, corporation, organization, or association which receives a payment, fee, or grant for the care of children; inclusive of kindergarten, a facility for the care and/or education of pre-school children.
CHILDCARE, INCIDENTAL	A program or arrangement, licensed by the State and located in the provider's residence where, at any one time, three or more children under the age of 13, receive childcare on a regular basis of at least once per week for at least four (but less than 24) hours per day from persons other than their guardians, full-time custodians, or persons related to them by blood, marriage, or adoption. This definition does not include child day care centers, cooperative arrangements among parents, or other activities not defined as childcare by G.S. § 110-86. Provision of day care services for more than six children in a residential dwelling is subject to the standards for a child day care center.
CIVIL ACTION	A legal action at law brought between a private party(ies) and the County to protect a civil right or to compel a civil remedy (as opposed to criminal prosecution).
CIVIL PENALTY	A fine or other financial penalty imposed by a court, the County, or another governmental entity as restitution for violation of this Chapter or other wrongdoing.
CLUB OR LODGE, PRIVATE	An establishment operated by a corporation or association of persons for recreational or charitable purposes, but which is not operated for profit or to render a service which is customarily conducted as a business.

TERM	DEFINITION
CLUSTER MAILBOX UNIT	A centralized grouping of individually locked and keyed mailboxes meeting the specifications of the United States Postal Service.
COLLOCATION	The placement, installation, modification, or replacement of antenna and related wireless telecommunications equipment on, under, or within an existing or replacement telecommunications tower, utility pole, building, or other vertical projection.
COMMON AREA	Land within a subdivision or development that is owned in common by two or more residents or property owners. Common area may or may not be open to use by members of the general public.
COMMON LAW VESTED RIGHT	Legal doctrine that recognizes where property owners have reasonably made a substantial expenditure of money, time, labor or energy in a good faith reliance on a permit from the government, that they acquire “vested rights” or a protected right to complete the development of their land as originally begun despite any changes in the zoning on the property.
COMMUNITY WATER SUPPLY	A public water supply approved by the state’s Board of Health and the County Health Director that serves a community that is not an incorporated municipality. This includes unincorporated communities and/or manufactured home parks having ten or more connections.
COMPLETE APPLICATION	<p>An application filed for development approval under this Ordinance that meets all the requirements for Determination of Application Completeness, including:</p> <ol style="list-style-type: none"> 1. Contains all information and materials established by the Zoning Administrator as required for submittal of the particular type of application; 2. Is in the form established by the Zoning Administrator as required for submittal of the particular type of application; 3. Includes information in sufficient detail to evaluate the application to determine whether it complies with the appropriate review standards of this Chapter; and 4. Is accompanied by the fee established for the particular type of application. <p>An application will not be accepted for review until it is complete.</p>
COMPLETENESS DETERMINATION	The process of determining if an application for a development approval is or is not complete. An application for development is not considered as “submitted” until it is determined to be complete.
CONDITION OF APPROVAL	A limitation or stipulation on the range of allowable uses, density, intensity, configuration, or operational parameters of new development or redevelopment. A condition may be proposed by an applicant, a staff member, or a review authority that must be accepted by an applicant in writing and the County to become binding.
CONDOMINIUM	A development containing individually owned dwelling units and jointly owned and shared areas and facilities that is subject to the North Carolina Unit Ownership Act (North Carolina General Statutes Section Ch. 47A) and/or the North Carolina Condominium Act (North Carolina General Statutes Section Ch. 47C).
CONSTRUCTION	The erection of any building, structure, on-site improvement, or any preparations (including land disturbing activities) for the same, regardless of whether the site is presently improved, unimproved or hereafter becomes unimproved by “demolition,” destruction of the improvements located thereon by fire, windstorm or other casualty.

TERM	DEFINITION
CONSTRUCTION PERMIT	A permit issued by the Zoning Administrator authorizing the manufactured home park developer to construct a manufactured home park in accordance with a park plan approved by the County Planning Board and the County Health Department.
CONTIGUOUS	Abutting directly or immediately adjacent to a boundary or separated only by a street, railroad or public utility right-of-way.
CONTINUANCE	The adjournment or postponement of review or decision on an application to specified future date.
CONTRACTOR, GENERAL	One who is engaged in all or most aspects of building construction and/or land development through a legally binding agreement.
CONTRACTOR, TRADES	One who accomplishes work or provides facilities under contract with another specifically engages in a special trade such as plumbing, heating, wiring, sheet metal, roofing work, and the like.
COVENANT	A binding written agreement between two or more private parties regarding the use, occupancy, or configuration of development that runs with the land.
CRIMINAL PENALTY	A fine, fee, imprisonment, or other activity ordered by a court or governmental agency as restitution for a violation of this Chapter or other applicable law.
D	
DAS OR DISTRIBUTIVE ACCESS SYSTEM	A technology using antenna combining technology allowing for multiple carriers or wireless service providers to use the same set of antennas, cabling or fiber optics.
DECK (COVERED OR UNCOVERED)	An accessory structure, typically constructed of wood, that is attached or detached from the principal structure that provides ingress and egress to the structure, a gathering location, storage, dining, or other activity to users of the principal structure. A deck may be covered with a roof or uncovered but shall not be enclosed by permanent walls. A deck is typically elevated above the grade.
DEDICATION	A gift, by the owner, or a right to use land for a specified purpose or purposes. Because a transfer of property rights is entailed, dedication must be made by written instrument, and is completed with an acceptance.
DEED RESTRICTION	A written private agreement that restricts the use, occupancy, or configuration placed upon the title of real estate often by the developer.
DETERMINATION	A written interpretation prepared by the Zoning Administrator or a designee that explains the meaning or intent of standard in this Chapter, the location of a boundary on the Official Zoning Map, or the requirements of a development approval.
DEVELOPER	A person engaging in land, site, or building development.
DEVELOPMENT	Development means any of the following: <ul style="list-style-type: none"> • The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure; • Excavation, grading, filling, clearing, or alteration of land; • The subdivision of land, as defined in G.S. § 160D-802; or • The initiation or substantial change in the use of land or the intensity of the use of land.
DEVELOPMENT, MIXED-USE	A tract of land or structure developed for two or more different uses, such as, but not limited to, residential, office, retail, institutional, public, or

TERM	DEFINITION
	entertainment. Such uses are functionally integrated and share vehicular use areas, ingress/egress, and pedestrian access.
DEVELOPMENT, MULTI-BUILDING	Development that includes two or more principal buildings or structures.
DEVELOPMENT, MULTI-PHASE	Development that is constructed in two or more distinct phases.
DEVELOPMENT, MULTIPLE-LOT	Development that includes two or more lots of record under common or separate ownership.
DEVELOPMENT, NEW	Development that is proposed or constructed after the effective date of this Chapter.
DEVELOPMENT, PLANNED	Development subject to a County-approved master plan and terms and conditions document configured in accordance with the Planned Development District requirements.
DIAMETER AT BREAST HEIGHT (DBH)	Measurement for determining the size of existing trees to be credited towards landscaping requirements or for violations of this Chapter. DBH is the measurement of the diameter of an existing tree trunk taken at a height of 4 ½ feet above the ground.
DIMENSIONAL NONCONFORMITY	A nonconforming situation that occurs when the height, size, or minimum floor space of a structure or the relationship between an existing building or buildings and other buildings or lot lines does not conform to the regulations applicable to the district in which the property is located.
DISH ANTENNA	A directional antenna consisting of a parabolic reflector used to send and receive microwave or radio frequency communication signals.
DRIVE AISLE	A vehicular accessway within a surface parking lot or a parking structure.
DRIVE-IN (EATING OR DRINKING FACILITY)	An establishment that provides employee curbside service or accommodations through special equipment or facilities for the ordering of food or beverage from a vehicle.
DRY STACK BOAT STORAGE	A dry stack boat storage facility associated with commercial marinas.
DUPLEX (TWO-FAMILY DWELLING)	A building on one lot arranged and designed to be occupied by two families living independently of each other.
DWELLING UNITS	A resident structure, or that portion of a residential structure, used or designed as a residence for one family.
DWELLING, MULTIPLE	A building used for or designed as a residence for more than two families living independently of each other.
DWELLING, SINGLE-FAMILY	A detached residential dwelling unit, other than a manufactured or mobile home, designed for and occupied by one family only.
DWELLING, SINGLE-FAMILY (ATTACHED)	An addition to a single-family dwelling for the housing and caring for an immediate family member (mother, father, son, daughter, brother, sister, grandparent, grandchild, nephew, or niece) is allowable so long as the same is in compliance with the County Health Department regulations. The addition shall be attached to the principal building and include a doorway which provides access to the addition from within the principal building.

TERM	DEFINITION
	The addition shall not consist of a manufactured home, manufactured home Class A, or mobile home as defined within this chapter.
EASEMENT	The right to use or occupy the real property of another owner for a specifically identified purpose. An easement is a recognized interest in real property, but legal title to the underlying land is retained by the owner granting the easement.
ELECTRICAL VEHICLE CHARGING STATION	An off-street parking space that is served by an electrical component assembly or cluster of component assemblies (battery charging station) designed and intended to transfer electric energy, by conductive or inductive means, from the electric grid or other off-board electrical source to a battery or other energy storage device within an electric vehicle.
ELIGIBLE FACILITY REQUEST	An application for the installation of new or replacement antennas and related wireless telecommunications equipment on an existing telecommunications tower. An eligible facilities request may include increasing the height and/or replacement of an existing telecommunications tower but shall not include any activities that constitute a “substantial modification” as defined in this Chapter and G.S.§ 160D-931. Eligible facility requests are reviewed and decided in accordance with the procedures for a minor collocation.
ENCROACHMENT	The location of a building, structure, or portion of a building or structure in an open space, setback, yard, required landscape area, buffer, or other area typically required to remain free of buildings or structures.
ENLARGEMENT	Increasing the floorplate, footprint, or square footage of a building, structure, outdoor use area, or activity.
ENVIRONMENTAL ASSESSMENT	A detailed examination of the applicant's proposal and its local environmental context with an emphasis on avoiding, minimizing, and mitigating adverse impacts.
EQUIPMENT FACILITY	Any structure used to contain ancillary equipment for a wireless communication facility, which includes cabinets, shelters, a build out of an existing structure, pedestals, and other similar structures.
EQUITABLE REMEDY	A court-ordered non-monetary remedy that directs a party to take a particular action for violation of this Chapter or other applicable law.
ERECT	Build, construct, rebuild, or reconstruct as the same are commonly defined.
EROSION	The wearing away of land surface by the action of wind, water, gravity, or any combination thereof.
EROSION CONTROL MEASURE	A device which controls the soil material within the land area under responsible control of the person conducting a land-disturbing activity.
EVENT VENUE	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.
EX PARTE COMMUNICATION	Any communication between a member of a review authority and a person involved in a development application that is made without the presence or knowledge of the other members of the same review authority.
EXPENDITURE	A sum of money paid out in return for some benefit or to fulfill some obligation. Whenever the term is used hereafter, it also includes binding,

TERM	DEFINITION
	contractual commitments to make further expenditures, as well as any other substantial changes in position.
	F
FAA	Federal Aviation Administration.
FABRICATION	Manufacturing, excluding the refining or other initial processing of basic raw materials such as metal ores, lumber, or rubber. FABRICATION relates to stamping, cutting, or otherwise shaping the processed materials into useful objects.
FACILITY OPERATOR	The entity responsible for the day-to-day operation and maintenance of the wind energy facility.
FACILITY OWNER	The entity or entities having controlling or majority equity interest in the wind energy facility, including their respective successors and assigns.
FAMILY	One or more persons related by blood, adoption, or marriage, or a group of not more than five persons not related by blood, adoption, or marriage living together as a single housekeeping group in a dwelling unit.
FAMILY CARE HOME	A home with support and supervisory personnel that provides room and board, personal care, and habilitation services in a family environment for not more than six resident persons with disabilities. A disabled person is a person with a temporary or permanent physical, emotional, or mental disability including but not limited to an intellectual disability, cerebral palsy, epilepsy, autism, hearing and sight impairments, emotional disturbances and orthopedic impairments but not including mentally ill persons who are dangerous to others as defined in G.S. § 122C-3(11)b.
FAMILY HEALTH CARE STRUCTURE	A transportable residential structure that is primarily assembled at a location other than its site of installation and provides an environment facilitating a caregiver's provision of care for a mentally or physically impaired person.
FARM	See "Bona Fide Farm."
FCC	Federal Communications Commission.
FEE	An amount charged in accordance with the regularly adopted fee schedule of the County.
FENCE OR WALL	A physical barrier or enclosure consisting of wood, stone, brick, block, wire, metal, or similar material used as a boundary or means of protection, retention, or confinement, but not including a hedge or vegetation.
FIELD OFFICE/STORAGE UNIT, TEMPORARY	A building or portion of a building used for the coordination and/or storage for a construction project by the general contractor or subcontractor. Such a TEMPORARY FIELD OFFICE/STORAGE UNIT shall be located within the confines of a project site on which the construction is taking place.
FILED APPLICATION	An application for development approval under this Chapter that has not been delivered to the County but not yet determined to be complete.
FINAL PLAT	A plan or drawing recorded in the office of the register of deeds that identifies the metes and bounds as well as all applicable conditions applied to a lot or group of lots that have been subdivided.
FINE	A sum of money imposed on a violator as punishment for violation of law.
FINISHED GRADE	The grade after construction, exclusive of any filling, berming, mounting, or excavating.
FIRE ESCAPE	A structural mechanism affixed to the exterior of a building that allows occupants to gain egress from each floor of the building without use of the primary entrance in the event of fire or other dangerous situation.

TERM	DEFINITION
FIREPLACE	A structure, located within or outside a building, used for the sole purpose of combustion of wood or gas for recreational, food preparation, or climate control purposes.
FLORIDA ROOM	One prefabricated room designed and manufactured specifically for manufactured homes. Double-wide manufactured homes are not included in this definition.
FRONTAGE	All property abutting on one side of a street measured along the street line.
FTA	Federal Telecommunications Act of 1996.
FUTURE LAND USE MAP	A portion of the County's adopted policy guidance that identifies the desired long term uses of all land within the County's planning area. The future land use map is typically a part of the comprehensive plan.
G	
GARAGE (ATTACHED OR DETACHED)	An accessory structure either integral, attached, or detached to the principal structure it serves used primarily for the storage of vehicles, equipment, or personal property.
GATHERING AREA	A formal or informal area intended for or used by the general public to gather or congregate together for interaction or recreation.
GENERAL STATUTES	A statute is a written law passed the General Assembly that sets forth general propositions of law that courts apply to specific situations.
GOOD CAUSE	Legally adequate or substantial grounds or reason to take a certain action based upon the circumstances of each individual case.
GOOD FAITH	A sincere belief or motive without any malice or the desire to defraud others or conceal the truth.
GROUND BASED MECHANICAL EQUIPMENT	Utility or other equipment of a mechanical nature that is mounted on or below grade on the site it serves.
GROUND COVER	Any natural vegetative growth or other material that renders the soil surface stable against accelerated erosion.
GROUP HOME	A residential facility (such as an orphanage, shelter, crisis center) with support and supervisory personnel that provides temporary room and board, housekeeping, personal care, or rehabilitation services for more than six persons needing emergency or post-incarceration services (but not including those with mental illness who are dangerous to themselves or others).
GUYED TOWER	A communication tower that is supported, in whole or in part, by guy wires and ground anchors.
H	
HABITABLE SPACE	A space in a building for living, sleeping, eating, or cooking, or used as a home occupation.
HARDSHIP	Special or specified circumstances that place an unreasonable or disproportionate burden on one applicant or landowner over another.
HEIGHT	When referring to a wireless communication facility, HEIGHT shall mean the vertical distance measured from the base of the tower to the highest point on the wireless communication facility, including the antenna array and other attachments.
HOME CARE UNIT	A facility meeting all the requirements of the state for boarding and care of not more than five persons who are not critically ill and do not need professional medical attention, to include homes for the aged.

TERM	DEFINITION
HOME OCCUPATION	Any activity carried out for gain by a resident and conducted within the resident's dwelling unit or an allowable accessory structure.
	I
IMPROVEMENTS	The construction of buildings and the establishment of basic services and amenities associated with development, including, but not limited to streets and sidewalks, parking areas, water and sewer systems, drainage system, property markers and monuments, recreation facilities (i.e., lakes, swimming pools, tennis courts, golf courses, club houses, cabanas, marinas, docks and the like) and other similar construction or establishment.
INJUNCTIVE RELIEF	A court-order act or inhibition of an act by a violator granted to the County or other governmental agency for a violation of this Chapter or other applicable law.
IN-LIEU FEE	Monetary compensation offered by a landowner or applicant as an alternative to provision of some other required site or development feature.
ITINERANT MERCHANT SALES	An individual or business offering goods or services for sale at retail to members of the general public either in their homes, their place of business, or from a vehicle on a lot with an established use or a vacant lot.
	J
JUNK	Pre-used or unusable metallic parts or other non-metallic manufactured products that are worn, deteriorated, or obsolete making them unusable in their existing condition, but are subject to be dismantled and salvaged.
JUNKED OR WRECKED MOTOR VEHICLES	Motor vehicles which do not display a current license plate or a current registration sticker and which do not display a current inspection sticker issued by or in the same state as the license plate or registration sticker and which either: (1) Are partially dismantled or wrecked; (2) Are more than five years old and have a value less than \$100; or (3) Cannot be self-propelled or moved in the manner in which originally intended.
JUNKYARD	A place where junk, waste, discarded, or salvaged materials are bought, sold, exchanged, stored, baled, packed, disassembled, or handled, including automobile wrecking yards, house wrecking, structural steel materials and equipment, but not including the purchase or storage of used furniture, used cars in operable condition, or used or salvaged materials as part of manufacturing operations.
	K
KENNEL	A place or facility prepared to house, board (for a long- or short-term period), breed, handle, train, or otherwise keep or care for dogs and cats of customers, patrons, or others, including lost or strayed animals for compensation or as a humanitarian gesture. Facilities which solely provide dental, medical, or surgical care are exempt from this definition.
KENNEL RUN, OUTSIDE	A fenced area outdoors for individual animals to get exercise.
	L
LANDOWNER	As applied to the standards related to vested rights, an owner of a legal or equitable interest in real property, including the heirs, devisees, successors, assigns, and personal representative of the owner.

TERM	DEFINITION
LANDSCAPE FABRIC	A textile material applied to disturbed or denuded land to promote or discourage the growth of vegetation.
LANDSCAPE ISLAND	A structure within a parking lot or other vehicular use area provided to control traffic flow, provide a stormwater management function, provide a location for required vegetation, or for required utilities.
LANDSCAPE STRIP	Linear landscape islands located between two parallel rows of off-street parking spaces.
LATTICE TOWER	A guyed or self-supporting, open, steel frame structure, with three or more sides, that is used to support telecommunications equipment.
LEGISLATIVE PUBLIC HEARING	A hearing held for the purpose of soliciting public comments on a proposed change in the zoning text or zoning map. Reasonable time limits on speakers may be imposed and responsible decorum maintained. However, unlike quasi-judicial hearings, there is no requirement for oaths, no limits on expression of personal opinions, and no limit on discussing the matter outside the context of the hearing.
LOT	A portion of a subdivision, or any other parcel of land, intended as a unit for transfer of ownership or for development and which is recorded as such in the County Register of Deeds Office.
LOT AREA	A lot which is part of a subdivision recorded in the Office of the Gates County Register of Deeds, or a lot or parcel described by metes and bounds, the description of which has been so recorded.
LOT DEPTH	The depth of a lot, for the purpose of this chapter, is the distance measured in the mean direction of the sidelines of the lot from the mid-point of the front line to the midpoint of the opposite lot line.
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. If a lot abuts more than one street right-of-way line, the FRONT LOT LINE shall be determined at final subdivision plat approval or by the placement of the structure provided appropriate setback requirements are met.
LOT LINE, REAR	The lot line opposite the front lot line.
LOT LINE, SIDE	Any lot line which is not a front or rear lot line.
LOT OF RECORD	A lot, plat, or a map which has been recorded in the Office of the County Register of Deeds, or a lot described by metes and bounds, the description of which has been recorded in the County Register of Deeds Office.
LOT WIDTH	The distance between the side lot lines as measured along the front building lines as specified by the applicable front yard setback in this chapter.
LOT, AREA OF	The parcel of land enclosed within the boundaries formed by the property lines.
LOT, CORNER	A lot abutting upon two streets or roads (including platted but unopened streets or roads) thus having two front lines.
M	
MAINTENANCE, ROUTINE	Simple, small-scale activities (usually requiring only minimal skills or training) associated with regular (daily, weekly, monthly, etc.), recurring, and preventative upkeep of a building, equipment, or machine against normal wear and tear.
MAJOR COLLECTORS	Any manufactured home park street or road intersecting or providing direct access to a State Highway Commission maintained road, or a street that regularly serves 40% of the residents of the park.

TERM	DEFINITION
MANUFACTURED COMMERCIAL UNIT	A manufactured building designed to be used as a commercial structure which has been constructed and labeled indicating compliance with the State’s Building Code.
MANUFACTURED HOME	A factory-built structure, transportable in one or more sections, that is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein. This includes any structure with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. § 5401 et seq.), as amended. This does not include recreation vehicles.
MANUFACTURED HOME PARK	Any plot of ground upon which two or more manufactured homes, occupied for dwelling or sleeping purposes, are located.
MANUFACTURED HOME PARK PLAN	A plan of a proposed manufactured home park and presented to the County for approval.
MANUFACTURED HOME SPACE	Any parcel of ground within a manufactured home park, designated for the exclusive use of one manufactured home.
MANUFACTURED HOME, CLASS A	A single-family manufactured home consisting of multiple sections (double-wide) fabricated in an off-site manufacturing facility for installing and assembling on the building site bearing a seal certifying that it was built in compliance with the Federal Manufactured Housing and Construction Safety Standards.
MARINA, COMMERCIAL	Any dock or basin and associated structures providing permanent or temporary commercial harboring more than ten commercial and/or pleasure boats and providing services related to the facility including, but not limited to, fuel sales, retail and food sales, dry stack boat storage, and other related services. Pump out facilities are required at COMMERCIAL MARINAS.
MARINA, RESIDENTIAL	A private, non-profit boating facility including permanent or temporary docks, piers, and/or launching ramp planned for the harboring or storing of ten or fewer boats on property having water frontage, the use of which is intended to serve the residents within an approved subdivision or planned unit development. The right to use such facility shall be conferred by an easement appurtenant to the residential lots it is intended to serve. No commercial activities of any kind shall be allowed within the confines of the facility, including, but not limited to, dry stack boat storage, fuel sales, slip rentals, and the like. Pump out facilities shall be required.
MAXIMUM EXTENT PRACTICABLE	No feasible or practical alternative exists, as determined by the County, and all possible efforts to comply with the standards or regulation to minimize potential harmful or adverse impacts have been undertaken by an applicant. Economic considerations may be taken into account but shall not be the overriding factor determining “maximum extent practicable.”
MINOR COLLECTOR	Any manufactured home park street or road serving only to provide access to the individual spaces.
MOBILE HOME	A detached residential dwelling unit constructed prior to July 15, 1976, that does not bear a certification of compliance with National Manufactured Housing Construction and Safety Standards Act of 1974. A mobile home is designed for transportation after fabrication on streets or highways on its

TERM	DEFINITION
	own wheels or a flatbed or other trailer and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy except for minor and incidental unpacking and assembly operations, location on jacks or other temporary or permanent foundations, connections to utilities, and similar features. Mobile homes are typically 16-feet-wide or less.
MODIFICATION, MINOR	A change, revision, addition, or deletion to a development approval of a de minimum or small nature that does not impact the basic configuration or operation of development.
MODULAR HOME	A residential dwelling unit constructed in accordance with the standards set forth in the state’s Building Code and composed of components (or modules) substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation. Among other possibilities, a MODULAR HOME may consist of two sections transported to the site in a manner similar to a mobile or manufactured home (except that the MODULAR HOME meets the state’s Building Code), or a series of panels or room sections transported on a truck and erected or joined together on the site.
MONOPOLE TOWER	A communication tower consisting of a single pole, constructed without guy wires and ground anchors.
MULTI-FAMILY DWELLING	Two or more single living units under the same roof structure and connected by one or more common walls. This includes, but is not limited to, apartments, duplexes, condominiums, triplexes, quadruplexes, or other similar building, which are for sale or rent and intended for human habitation.
N	
NONCONFORMING LOT	A lot existing at the effective date of this Chapter or any amendment to it (and not created for the purpose of evading the restrictions of this chapter) that cannot meet the minimum area or lot width requirements of the district in which the lot is located.
NONCONFORMING PROJECT	Any structure, development, or undertaking that is incomplete at the effective date of this chapter and would be inconsistent with any regulation applicable to the district in which it is located if completed as proposed or planned.
NONCONFORMING SITUATION	A situation that occurs when, on the effective date of this chapter or any amendment to it, an existing lot or structure or use of an existing lot or structure does not conform to one or more of the regulations applicable to the district in which the lot or structure is located. Among other possibilities, a NONCONFORMING SITUATION may arise because a lot does not meet minimum acreage requirements, because structures do not satisfy maximum height or minimum floor-space limitations, because the relationship between existing buildings and the land (in such matters as density and setback requirements) is not in conformity with this chapter, or because land or buildings are used for purposes made unlawful by this chapter.
NONCONFORMING STRUCTURE	A structure that was lawful on the date on which it was established, but does not conform to current dimensional, elevation, location, or other requirements of this Chapter.
NONCONFORMING USE	A nonconforming situation that occurs when property is used for a purpose or in a manner made unlawful by the use regulations applicable to the district in which the property is located. (For example, a commercial office

TERM	DEFINITION
	building in a residential district may be a NONCONFORMING USE.) The term also refers to the activity that constitutes the use made of the property. (For example, all the activity associated with running a bakery in a residentially zoned area is a NONCONFORMING USE.)
NON-PARTICIPATING LANDOWNER	Any landowner not under agreement with the facility owner or operator.
NORTH CAROLINA ADMINISTRATIVE CODE	A set of written rules prepared by the North Carolina Department of Health and Human Services that are used to help affected parties interpret the North Carolina General Statutes.
NOTICE OF PUBLIC HEARING	The formal legal notification of a public hearing on a proposed development application. A "published notice" is one required to be printed in a newspaper of general circulation. A "mailed notice" is one delivered to specified individuals by US Mail. A "posted notice" is a sign posted on or near the property subject to the application.
NOTICE OF VIOLATION	A notice indicating a violation of this Chapter.
NURSING AND PERSONAL CARE FACILITY	A facility licensed by the appropriate state agency, as a facility for unrelated individuals, excluding supervisory personnel, who are handicapped, aged, or disabled and are undergoing rehabilitation, or extended care, and are provided services to meet their specific needs. This category includes group homes for all ages, halfway houses, and foster and boarding homes.
NURSING HOME	A convalescent facility having over five beds meeting all of the requirements of the state for the boarding and care of persons who cannot care for themselves.
O	
OATH	The term "oath" shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in like cases the terms "swear" and "sworn" shall be equivalent to the terms "affirm" and "affirmed."
OCCUPANCY CLASSIFICATION	The occupancy classifications of the state's Building Code, Vol. 1, Chapter 4 are hereby adopted by reference as if fully set out herein. A copy of the state's Building Code is available for inspection in the Office of the County Building Inspector.
OCCUPIED BUILDING	A residence, school, hospital, church, public library or other building used for public gathering that is occupied or in use when the permit application is submitted.
OFFICIAL ZONING MAP	The Official Zoning Map upon which the boundaries of various zoning districts are drawn, and which is an integral part of this Chapter.
OFF-STREET LOADING SPACE	An area provided for the purpose of loading and unloading goods or materials for use.
OFF-STREET PARKING SPACE	An area designated for the temporary storage of one vehicle.
ON-CENTER SPACING	Placement of landscape material in a regularly spaced pattern of equal distance between plants.
OPAQUE	A building, structure, building material, vegetation, or other site feature that forms a solid visual barrier.

TERM	DEFINITION
OPERATING PERMIT	A license issued by the Zoning Administrator to a manufactured home park owner or operator upon the completion of a manufactured home park which conforms to the requirements of this chapter.
ORDINANCE	The ordinance codified in this Chapter, including any amendments. Whenever the effective date of this ORDINANCE is referred to, the reference includes the effective date of any amendment to it.
ORGANIZATIONS, FRATERNAL OR SOCIAL	An establishment operated by a corporation or association of persons for social, fraternal, or charitable purposes, but which is not operated for profit or to render a service which is customarily conducted as a business.
OUTDOOR ADVERTISING	Billboards or other forms of signage as defined in G.S. § 160D-912.
OUTDOOR DINING OR SEATING	Outdoor areas used for gathering, seating, dining, or entertainment.
OUTDOOR DISPLAY OR SALES	The keeping of any goods, merchandise, or vehicles, in an unroofed area for marketing or sales purposes.
OUTDOOR EQUIPMENT	Mechanical equipment serving a building or structure that is located outside the building or structure. Outdoor equipment may or may not be in an area with a roof or other covering.
OUTDOOR SEATING AREA	An outdoor area used primarily for gathering that includes chairs or other forms of seating. The area may also be used for the consumption of food and beverages or for recreation or entertainment.
OUTDOOR STORAGE (PRINCIPAL USE)	<p>The keeping, in an unroofed area, of any goods or materials, particularly goods and materials that have a large size, mass, or volume and are either not easily moved or carried or require a mechanical lifting device (e.g., non-bagged mulch and lumber). This use does not include a junkyard or recycling facility, vehicle fleet storage, or the display and storage of vehicles as part of an automobile sales or rental use.</p> <p>Outdoor storage may be conducted as a principal or accessory use</p>
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.
OWNERS' ASSOCIATION	An organization of homeowners or property owners of lots or land in a particular subdivision, condominium, or planned development. The owners' association is responsible for maintaining and enhancing the shared private infrastructure (e.g., stormwater, streets, and sidewalks) and common elements such as recreation areas.
P	
PARKING LOT LANDSCAPING	Required landscaping material located within and surrounding a surface off-street parking area.

TERM	DEFINITION
PARTICIPATING LANDOWNER	A landowner under lease or other property agreements with the facility owner or operator pertaining to the wind energy facility.
PATIO (COVERED OR UNCOVERED)	A paved outdoor area used for the purposes of gathering, seating, dining, or recreation. A patio may be covered or uncovered but does not include permanent walls.
PENALTY	Punishment for violation of a law or rule.
PERMANENT RESIDENCE	An address where a person or persons resides for a period exceeding 180 days, not necessarily consecutive, out of any one calendar year.
PERMIT	The approval document allowing land disturbing activities to be initiated. A project may be developed in phases with separate permits for each phase.
PERMITTED STRUCTURE	A structure meeting all the requirements of this Chapter for the zoning district in which it is located.
PERMITTED USE	A use meeting all the requirements of this chapter for the zoning district in which it is located.
PERSON	Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body, or other legal entity.
PERVIOUS SURFACE	Any land surface not effectively covered by impervious surface, in which rainfall and stormwater runoff can naturally infiltrate.
PHASE	The discrete portion of a proposed development.
PLAN, AS-BUILT	A set of engineering or site drawings that delineate the specific permitted development like forms of public infrastructure, as actually constructed.
PLAN, CONCEPT	A generalized or conceptual plan for development intended solely for illustrative purposes to assist a review authority in its consideration of a proposed development. A concept plan may, but does not necessarily need to include, the detailed elements typically found in a site plan (for example, detailed locations of buildings, location of off-street parking, location of landscaping, etc.).
PLAN, CONSTRUCTION	Drawing and specifications prepared by a qualified person showing buildings, structures, utilities, infrastructures, and site configuration aspects associated with development. Construction plans are most commonly associated with infrastructure such as streets, water, sewer, stormwater management, or drainage facilities.
PLAN, LANDSCAPE	A plan illustrating the design and specifications for the preservation of existing vegetation; the placement of any live plant materials such as trees, shrubs, grasses, ground covers, etc.; and the location and design of built features such as berms, fencing, walls, etc.
PLAN, MASTER	A conceptual plan associated with an application to establish a planned development district that sets out the general location, type, and configuration of proposed development within the district.
PLAN, PARKING	A plan or diagram prepared by an applicant for development that depicts the required and provided number of parking spaces (if different from the required number of parking spaces). The plan also shows points of vehicular ingress and egress, drive aisles, the locations of parking lot landscaping islands, pedestrian circulation features, and off-street loading facilities.
PLAN, PLOT	A simple plan or sketch that may or may not be prepared by a professional that denotes the proposed development of a site. A plot plan is prepared to scale.

TERM	DEFINITION
PLAN, SITE	A scaled drawing and supporting text showing the relationship between lot lines and the existing or proposed uses, buildings, or structures on the lot. The site plan may include, but is not limited to, site-specific details such as building areas, building height and floor area, setbacks from lot lines and street rights-of-way, intensities, densities, utility lines and locations, parking, access points, roads, and stormwater control facilities, that are depicted to show compliance with all legally required development regulations that are applicable to the project and the site plan review.
PLAN, SITE-SPECIFIC VESTING	A plan of development used for the establishment of a vesting term.
PLANNING JURISDICTION	The land area subject to this Chapter in the unincorporated portion of Gates County.
PLANTING STRIP	A linear area of pervious surface used for the planting of street trees. Planting strips are typically located within a street right-of-way.
PRE-APPLICATION CONFERENCE	A meeting or conference conducted by a potential applicant for a permit or development approval and County staff for the purposes of discussing a potential application or County rules regarding development.
PROCESSING	Any operation changing the nature of material or material's chemical composition or physical properties. Does not include operations described as fabrication.
PROFESSIONAL ENGINEER	An expert knowledgeable in civil engineering, architecture, traffic management, stormwater management, or construction licensed by the State of North Carolina to provide design and construction services for development.
PROFESSIONAL LAND SURVEYOR	An expert knowledgeable in the delineation and demarcation of lot lines, land ownership, grading, and similar aspects licensed by the State of North Carolina to provide design and construction services for development.
PROFESSIONAL LANDSCAPE ARCHITECT	An expert knowledgeable in plants, planting techniques stormwater management, outdoor structural design, and similar aspects licensed by the State of North Carolina to provide design and construction services for development.
PUBLIC HEARING	A hearing conducted by a review authority for the purpose of allowing interested members of the public to provide testimony or evidence for the review authority to consider in deciding an application under this Chapter. A public hearing is required to be publicly noticed prior to conducting the hearing.
PUBLIC INFRASTRUCTURE	Infrastructure (such as potable water lines, sanitary sewer lines, streets, storm drainage, sidewalks, trails, etc.) and related facilities or appurtenances that are owned by the public and intended for use by the public.
PUBLIC MEETING	A meeting conducted by a review authority for the consideration of a development application submitted under this Chapter that is open to any member of the public to attend. A public meeting is not subject to public notification requirements.
PUBLIC ROAD	A full passage right-of-way.
PUBLIC SEWER SYSTEM	Any sewerage system approved by the State's Board of Health and the County Health Director serving ten or more customers.
PUBLIC WATER SUPPLY	Any water supply approved by the State's Board of Health and the County Health Director furnishing potable water to ten or more residences or businesses or connection of residences or businesses.

TERM	DEFINITION
	Q
QUASI-JUDICIAL DECISION	A decision by an elected or appointed body that applies previously established policies. Examples include decisions on appeals and variances.
QUASI-JUDICIAL PUBLIC HEARING	A formal public hearing involving the legal rights of specific parties conducted by the Board of County Commissioners or the Board of Adjustment based on evidence and sworn testimony presented during the public hearing. Decisions made during such hearings are based upon and supported by the record developed at the hearing, and typically involve findings of fact made by review authority.
QUORUM	The minimum number of council, board, or commission members that must be present in order to conduct official business or take official action.
	R
REASONABLE ACCOMMODATION	Any change or adjustment to a provision of this Ordinance or condition of approval that would allow an individual with a disability to enjoy equal access to a dwelling, structure or site that is available to other individuals.
RECOMBINATION	The consolidation or shifting of lot lines between two or more parcels.
RECORDATION	Filing a plat or paperwork associated with a subdivision or other form of development at the Gates County Register of Deeds to ensure the documents are available for public inspection in perpetuity.
REMEDY	The manner in which a right or law is enforced or satisfied when a violation of this Chapter or related law has occurred.
REMEDY A VIOLATION	An act to bring the structure or other development into compliance with State or community floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impact may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of this subchapter or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.
RENTAL MANUFACTURED HOMES	Manufactured homes that are available on a rental or lease basis.
REQUIRED LANDSCAPING AREA	The portion of a lot or site that must include new or existing vegetation as required by this Chapter.
REQUIRED YARD	The land area located between a lot line and the boundary of a required setback.
RESIDENTIAL CARE FACILITY	A home with support and supervisory personnel that provides room and board, personal care, and rehabilitation services in a family environment for not more than six resident handicapped persons.
RESIDENTIAL SUPPORT CENTER	A facility owned or operated by a nonprofit organization intended to be used solely for temporary occupancy by outpatients being treated at a local hospital and family members of patients being treated at a local hospital, with occupancy not to exceed 20 families per acre.
RETAIL	Sale of a commodity to the ultimate consumer and not customarily subject to sale again.
	S

TERM	DEFINITION
SALES OFFICE, TEMPORARY	A building constructed on-site in accordance with the state’s Building Code or a manufactured commercial unit (see definition for “manufactured commercial unit”) and used for the purpose of a TEMPORARY SALES OFFICE solely in connection with the development where such development is located.
SALVAGE OPERATION	The reclamation, dismantling, or storage of pre-used commodities, junk, and similar material for the purpose of resale, processing and distribution, or deposition.
SEPTAGE	A waste that is a fluid mixture of partially treated sewage solids, liquids, and sludge of human or domestic waste origin, pumped from septic tanks, residential grease traps, or privies. SEPTAGE shall be considered that waste which has not been treated by a process to significantly reduce pathogens.
SERVICE ROAD	A road providing service to manufactured home spaces except that a SERVICE ROAD shall not be any street or road that provides vehicular access to a manufactured home space, unless said space has direct access to a minor collector street or road.
SERVICE STATION	A building or lot where gasoline, oil, grease, and automotive accessories are supplied and dispensed to the motor vehicle trade.
SETBACK	The required distance from the property line of the parcel on which the wireless communication facility is located to the base of the support structure and equipment shelter or cabinet and guy anchors.
SETBACK LINE	A line located a minimum horizontal distance from the right-of-way line of any street or road, parallel thereto, between which and the right-of-way line no structure (to include steps, eaves, gutters, and similar fixtures) shall be erected, altered, or maintained except as otherwise provided herein. SETBACK LINES are also located a minimum horizontal distance from lot boundary lines parallel thereto, between which and the lot boundary line no structure (to include steps, eaves, gutters, and similar fixtures) shall be erected, altered, or maintained except as otherwise provided herein.
SEVERE PRUNING	The pruning, cutting, or otherwise damaging of the natural form of a tree or shrub, whether existing or planted, such that a significant or noticeable portion of the crown system is removed (e.g., 25 percent of the crown removed from a tree, or the continued cutting/trimming of trees previously pruned illegally, or pruning of trees that must grow naturally to meet the landscaping requirements), and/or if more than 1/3 of the overall circumference of a tree is exposed by pruning cuts.
SEWER RISER PIPE	The portion of the sewer lateral which extends vertically to the ground elevation and terminates at each manufactured home lot.
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 G.S. § 14-202.10(2) and, in addition, without limitation: an adult arcade; adult bookstore or video store; adult cabaret; adult massage parlor; adult motion picture theater; adult theater; nude model studio; sexual encounter studio; or any combination of the foregoing. Any business that is not explicitly listed and defined below is not to be considered for a special use permit by the Board of Adjustment. As used in this chapter, the following definitions shall apply. (1) ADULT ARCADE or PEEPSHOW. Any place to which the public is permitted or invited, wherein coin-operated or token-operated or

TERM	DEFINITION
	<p>electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to persons in booths or viewing rooms where the images so displayed depict or describe specified sexual activities and/or specified anatomical areas. Booths or viewing rooms shall not be completely enclosed to prevent management from viewing clientele.</p> <p>(2) ADULT BOOKSTORE or ADULT VIDEO STORE. A commercial establishment which receives the majority of its gross income during any calendar month from the sale or rental of any one or more of the following or has a preponderance of its inventory consisting of:</p> <p>(a) Books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations that depict or describe specified sexual activities and/or specified anatomical areas;</p> <p>(b) Video games or computer programs that depict any sexual activity in a digital or other similar imaging media format; or</p> <p>(c) Instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities.</p> <p>(3) ADULT CABARET. A nightclub, bar, restaurant, or other commercial establishment that regularly features, exhibits, or displays as one of its business purposes:</p> <p>(a) Persons who appear nude or semi-nude;</p> <p>(b) Live performances which are characterized by the exposure of specified anatomical areas and/or specified sexual activities;</p> <p>(c) Films, motion pictures, video cassettes, slides, or other photographic reproductions which depict or describe specified sexual activities and/or specified anatomical areas; or</p> <p>(d) 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.</p> <p>(4) ADULT MASSAGE PARLOR. A commercial establishment where, for any form of consideration, massage, alcohol rub, fomentation, electrical or magnetic treatment, or similar treatment or manipulation of the human body is administered. This definition does not include the practice of a North Carolina licensed professional nor an athletic club, physical fitness center, school, gymnasium, reducing salon, or similar establishment where massage or similar manipulation of the human body is offered as an incidental or accessory service.</p> <p>(5) ADULT MOTION PICTURE THEATER. Commercial establishments where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions that depict or describe specified sexual activities or specified anatomical areas are regularly shown as one of its principal business purposes.</p> <p>(6) ADULT THEATER. A theater, concert hall, auditorium, or similar commercial establishment which regularly features exhibits or displays as one of its principal business purposes, persons who appear in a state of nudity or semi-nude, or live performances that expose or depict specified anatomical areas and/or specified sexual activities.</p> <p>(7) NUDE or STATE OF NUDITY. The showing of human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, the showing of the female breast with less than a fully</p>

TERM	DEFINITION
	<p>opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state.</p> <p>(8) NUDE MODEL STUDIO. Any place that allows, permits, or makes available a person who appears nude, semi-nude, or who displays specified anatomical areas for the purpose of being observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any other form of consideration. NUDE MODEL STUDIO shall not include a proprietary school licensed by the State of North Carolina or a college, junior college, or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or in a structure:</p> <p>(a) That has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing;</p> <p>(b) Where in order to participate in a class a student must enroll at least three days in advance of the class; and</p> <p>(c) Where no more than one nude or semi-nude model is on the premises at any one time.</p> <p>(9) SEMI-NUDE. The showing of the female breast below a horizontal line across the top of the areola at its highest point or the showing of the male or female buttocks. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, skirt, leotard, bathing suit, or other wearing apparel, provided the areola is not exposed in whole or in part.</p> <p>(10) SEXUAL ENCOUNTER CENTER. A business or commercial enterprise that, as one of its business purposes, offers for any form of consideration, physical contact in the form of wrestling or tumbling between persons of the opposite sex, or activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.</p> <p>(11) SPECIFIED ANATOMICAL AREAS. Includes any of the following:</p> <p>(a) Less than completely and opaquely covered:</p> <ol style="list-style-type: none"> 1. Human genitals, pubic region; 2. Buttock; or 3. Female breast below a point immediately above the top of the areola. <p>(b) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.</p> <p>(12) SPECIFIED SEXUAL ACTIVITIES. Includes any of the following:</p> <p>(a) Human genitals in a state of sexual stimulation, arousal, or tumescence;</p> <p>(b) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;</p> <p>(c) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;</p> <p>(d) Masturbation, actual or simulated;</p> <p>(e) Masochism, erotic or sexually-oriented torture, beating, or the infliction of pain;</p>

TERM	DEFINITION
	(f) Erotic or lewd touching, fondling, or other contact with an animal by a human being; or (g) Human excretion, urination, menstruation, or vaginal or anal irrigation.
SHADOW FLICKER	The visible flicker effect when rotating turbine blades cast shadows on the ground and nearby structures causing the repeating pattern of light and shadow.
SHOPPING CENTER	A development with more than one tenant on one or more lots where the majority of uses are engaged in the provision of retail sales or personal services.
SHRUB	A woody plant, smaller than a tree, consisting of several small stems emerging from the ground, or small branches near the ground. Shrubs may be deciduous or evergreen.
SHRUB, EVERGREEN	A shrub that retains the majority of its leaves or needles throughout the year.
SIDEWALK	A paved area public right-of-way running parallel to the street for the purposes of pedestrian travel and to facilitate pedestrian access to adjacent streets and land.
SIGHT DISTANCE TRIANGLE	The triangular area formed by a diagonal line connecting two points located at designated locations on intersecting right-of-way lines or a right-of-way line and the curb or a driveway.
SIGN	Any words, lettering, parts of letters, pictures, figures, numerals, phrases, sentences, emblems, devices, design trade names, or trademarks, by which anything is known such as the designation of an individual, firm, association, profession, business commodity, or product which are visible from any public way and used to attract attention.
SIGN HEIGHT	The height to the tallest point of a sign structure.
SIGN, ELECTRONIC DISPLAY	A sign, or portion thereof that displays electronic, non-pictorial, or text information that may or may not change. Sign content is displayed by light emitting diodes (LED's), fiber optics, light bulbs, or other illumination devices arranged in a matrix within the display area.
SIGN, FACE AREA OF	The portion of sign that contains the message being conveyed.
SIGN, FENCE WRAP	A temporary sign affixed to fencing surrounding an active construction site.
SIGN, FREESTANDING	Any sign that is attached directly to the ground by means of a supporting system comprised of a solid pedestal, pole, or other bracing system where there is open space between the bottom of the sign face area and the ground.
SIGN, GOVERNMENTAL	Any temporary or permanent sign erected and maintained for any government purposes.
SIGN, GROUND / FREESTANDING	A sign that extends upward out of the ground, independent of a building, with an integral support structure.
SIGN, INCIDENTAL	Any small or nondescript sign that only provides directional information or safety information for the public. Examples of incidental signs include signs addressing on-site traffic circulation (such as "entrance" or "exit" signs), public safety (such as "high voltage" or "beware of dog" signs), or address signs.
SIGN, MONUMENT	Any sign that is attached directly to the ground by means of a supporting system comprised of a solid pedestal, or other bracing system where there is no open space between the bottom of the sign face area and the ground.

TERM	DEFINITION
	Monument signs are configured so that the base of the sign support structure is at least as wide as the sign face area. Any sign with an opening between the bottom of the sign's face area and ground or where the sign face area is wider than the sign support structure shall be considered as a freestanding sign.
SIGN, MOVING	A sign that moves or has moving parts, including but not limited to the sign face area, the sign support structure, or some other element of the sign.
SIGN, OUTDOOR ADVERTISING	See "Outdoor Advertising."
SIGN, PARAPET	A building-mounted sign erected upon and completely over any portion of the roof of a building.
SIGN, POLITICAL	Any sign that advocates for a particular political candidate, party, position, or political action that is made available for view by the public before and during the portion of a calendar year when elections are underway as described in G.S. § 136-32.
SIGN, PROJECTING/SUSPENDED	Pedestrian-scaled signs on the first floor of a building mounted to the side of the building or underside of a balcony or arcade which can be read from both sides.
SIGN, PYLON	Signs are freestanding structures that can be single sided or double sided and are usually supported by one or two poles or similar vertical projections.
SIGN, ROOF	A sign on the roof or above the parapet of a building.
SIGN, STREET	A sign displaying the official name of a street.
SIGN, TEMPORARY	A sign that is not bolted to or otherwise affixed to the ground or a permanent structure in some other substantially permanent way and is not built to state building codes and has not been erected pursuant to a valid building permit.
SIGN, TRAFFIC	An official sign that conveys information or instructions to persons operating motor vehicles, bicycles, or walking.
SIGN, WALL	Flat signs, channel lettering, box signs, or three-dimensional signs which are etched, painted, or attached (parallel) to the wall of a building or structure.
SIGN, WINDOW SIGN (DOOR)	A sign affixed to or visible through the surface of a window or glass door that is intended to be visible to the public from outside the building. Signs painted on glass and etched or frosted glass that includes text or symbols shall be considered as a window sign.
SITE NUMBER	The number attached or painted in four-inch-high permanent lettering to the manufactured home electrical service.
SLUDGE	Any solid, semi-solid, or liquid waste generated from a residential, commercial, municipal, or industrial wastewater treatment plant or water supply treatment plants not considered to be hazardous by U.S. Environmental Protection Agency (EPA) or the state's Department of Environment and Natural Resources, Solid and Hazardous Waste Branch. SLUDGE shall be considered that waste which has been treated by a process to significantly reduce pathogens.
SOLAR COLLECTOR	Any component, device, structure or any portions thereof for which the primary purpose is the transformation of solar radiant energy into thermal, mechanical, chemical or electrical energy.

TERM	DEFINITION
SOLAR ENERGY CONVERSION SYSTEM	Any use of land where a series of one or more solar energy systems or solar collectors are placed in an area on a parcel of land for the purpose of generating photovoltaic power, and collectively has a generation capacity of at least 15 kilowatts (kW) direct current (DC) or more when operating at maximum efficiency.
SOLAR ENERGY SYSTEM (SMALL-SCALE)	A system consisting of solar panels, modules, and related equipment (e.g., heat exchanger, pipes, inverter, wiring, storage) that collects solar radiation and transfers it as heat to a carrier fluid for use in hot water heating or space heating and cooling, and/or that collects solar energy and converts it into electricity. As an accessory use, a solar energy system is designed to primarily meet on-site demands (but may include transfer of excess electricity to an electric utility grid) and components are typically mounted on the roof(s) of principal or accessory structures, but may be mounted on other parts of structures, or on the ground.
SPECIAL USE PERMIT	A permit issued to authorize development or land uses in a particular zoning district upon presentation of competent, material, and substantial evidence establishing compliance with one or more general standards requiring that judgment and discretion be exercised as well as compliance with any applicable specific standards.
STABILIZATION	The process of restoring a site with ground cover or armor to resist soil erosion from the forces of air, wind, or water.
STABLES, COMMERCIAL	Any structure used for commercial purposes relating to the raising, breeding, or boarding of horses or livestock.
STATE BUILDING CODE	A series of ordinances enacted by North Carolina that establish the minimum requirements that must be met in the construction and maintenance of buildings for the purpose of safety and sanitation.
STEALTH TECHNOLOGY	Minimize adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such wireless communication facility by using the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances.
STOP WORK ORDER	An order issued by the County to a landowner or developer to cease and desist all land-disturbing or development activity on a site pending resolution of a problem or conflict.
STORAGE	A depository for commodities or items for the purposes of future use or safekeeping. When such a depository is not a building or structure, the items or commodities shall be considered outside STORAGE.
STREET	A public thoroughfare which affords access to abutting property and is recorded as such in the Office of County Register of Deeds. (1) STREET, FRONTAGE ROAD. A street that is parallel to a fully or partially access-controlled street which functions to provide controlled access to adjacent land. (2) STREET, MINOR. A street whose primary function is to provide access to abutting properties and is designed to discouraged use by through traffic.
STREET JOGS	Two “T” intersections with a street or road (on opposite sides of the road) where intersecting streets have centerlines closer than 125 feet.

TERM	DEFINITION
STRUCTURE	Anything constructed or erected, including, but not limited to buildings, which requires location on, above, or below the surface of the land or attachment to something having permanent location on the land.
SUBDIVISION	<p>All divisions of a tract or parcel of land (in addition to the undivided remaining portion of the original undivided tract) into two or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future), and includes all division of land involving the dedication of a new street or a change in existing streets; however, the following is not included within this definition and is not subject to any regulations enacted pursuant to this part:</p> <ol style="list-style-type: none"> (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 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 if the resultant lots are equal to or exceed the standards of the county as shown by its subdivision regulations; (5) The division of property belonging to the heirs of a single individual when such property is divided only for the settlement of the estate and not for sale as building sites; (6) Cemeteries; and (7) The division of a single tract in single ownership that is for the sole purpose of a bona fide farm or agricultural use may be exempt from the subdivision review process if the resultant lots are equal to or exceed the standards of the county as required by this chapter. Plats for these divisions shall be labeled "For Agricultural Use Only".
SUBDIVISION, MAJOR	Any subdivision other than that which meets the definition of minor subdivision (i.e., subdivisions with three or more lots).
SUBDIVISION, MINOR	<p>A subdivision of land that:</p> <ol style="list-style-type: none"> (1) Involves no more than two lots, each of which front on an existing road; (2) Includes contiguous land under single ownership; (3) Does not involve any new streets or alteration of an existing street, or interfere with prospective access to interior property; (4) Does not require the extension of public sewage or water lines; (5) Does not require the creation of new drainage easements through lots in order to serve other property; (6) Creates no new or residual parcels that do not conform to the requirements of the Subdivision Ordinance; and (7) Does not constitute an enlargement or extension of a previously approved MINOR SUBDIVISION above two lots maximum. The third lot would constitute a major subdivision.
SUPPORT STRUCTURE	A structure designed and constructed specifically to support an antenna array, and may include a monopole, self-supporting (lattice) tower, guy-wire-support tower, and other similar structures. Any device (attachment

TERM	DEFINITION
	device) which is used to attach an attached wireless communication facility to an existing building or structure (attachment structure) shall be excluded from the definition of and regulations applicable to SUPPORT STRUCTURE.
	T
TERMS AND CONDITIONS DOCUMENT	A document or statement provided by an applicant for the establishment of a planned development district that identifies a proposed conditions of approval, range of allowable uses, and the justification for any deviations or departures from codified standards in this Chapter.
THOROUGHFARE, MAJOR	The rights-of-way of highways 13, 158, 37, 32, and 137.
TRAILER, OVERNIGHT CAMPING	<p>(1) For purposes of this Chapter, the following shall be considered an OVERNIGHT CAMPING TRAILER.</p> <p>(a) CAMPING TRAILER. A canvas, temporary, folding structure, mounted on wheels and designed for travel, recreation, and vacation use.</p> <p>(b) MOTOR HOME. A portable, temporary dwelling to be used for travel, recreation, and vacation, constructed as an integral part of a self-propelled vehicle.</p> <p>(c) PICK-UP COACH. A structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation, and vacation.</p> <p>(d) TRAVEL TRAILER. A vehicular, portable structure built on a chassis (other than a mobile home), designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.</p> <p>(2) Such structures shall be considered travel trailers regardless of other titles that may also be applicable such as camper, mini, mobile homes, and the like.</p>
TREE TOPPING	The removal of the central leader and primary upper branches of a tree.
TREE, CANOPY	A species of tree which normally grows to a mature height of 40 feet or more with a minimum mature crown width of 30 feet.
TREE, EVERGREEN	A woody plant with one or more stems that does not lose the majority of its leaves during winter or dormancy.
TREE, MATURE	A tree that has reached more than one-third of its expected maximum size.
TREE, SHADE	A tree with a crown that provides shade to the surface area within a parking lot and associated parking spaces.
TREE, STREET	A canopy or understory tree planted or existing within or along either side of a street right-of-way. Understory trees are typically used in locations where there are overhead utilities, sidewalks, or underground utilities proximate to the tree planting area.
TREE, UNDERSTORY	A species of tree which normally grows to a mature height of 15 to 35 feet.
	U
USE	The purpose for which land or structures thereon are designed, arranged, or intended to be occupied or used; or for which it is occupied, maintained, rented, or leased.
USE BY RIGHT	A use which is listed as an unconditionally permitted activity in this Chapter.

TERM	DEFINITION
USE SITUATION, NONCONFORMING	A use of building or land that does not conform with the regulation of the district in which the building or land is situated.
USE, ACCESSORY	A use incidental to, and customarily associated with, the use by right and located on the same lot with the use by right and operated and maintained under the same ownership with the operation of the use by right.
USE, NON-FARM	Any use of property which is not encompassed by the definition of a farm as so defined in this section.
USE, SPECIAL	A use permitted in a zone only after specific findings by the Planning Board or County Board of Commissioners.
USE-SPECIFIC STANDARD	The requirements in this Chapter applied to a particular use type regardless of the zoning district where it is located.
V	
VARIANCE	A modification or alteration of any of the requirements of this Chapter
VESTED RIGHT	A right pursuant to North Carolina General Statutes Section 160D-102 to undertake and complete the development and use of property under the terms and conditions of an approved site-specific development plan.
VETERINARY CLINIC	A place or facility which provides dental, medical, or surgical care for dogs, cats, and other domesticated animals. Kennels are not included within this definition.
VIOLATION	A breach, infringement, or transgression of a law or requirement in this Chapter or a permit or development approval.
W	
WALL, RETAINING	A structure, either masonry, metal, or treated wood, designed to prevent the lateral displacement of soil, rock, fill, or other similar material.
WAREHOUSE	A building or compartment in a building used and appropriated by the occupant for the deposit and safekeeping or selling of his or her own goods at wholesale, and/or for the purpose of storing the goods of others placed there in the regular course of commercial dealing and trade to be again removed or re-shipped.
WHOLESALE	Sale of a commodity for resale to the public for direct consumption.
WIND ENERGY FACILITY	An electric generating facility, whose main purpose is to supply electricity, consisting of one or more wind turbines and other accessory structures and buildings, including substations, meteorological towers, electrical infrastructure, transmission lines and other appurtenant structures and facilities. For the purpose of this division, the term does not apply to roof-mounted or building integrated roof mounting systems.
WIND ENERGY FACILITY, LARGE	A wind energy conversion system consisting of one or more wind turbine(s), a tower(s), and associated control or conversion electronics, which has a total rated capacity of more than 100 kW.
WIND ENERGY FACILITY, MEDIUM	A wind energy conversion system consisting of one or more wind turbine(s), a tower(s), and associated control or conversion electronics, which has a total rated capacity of more than 20 kW but not greater than 100 kW.
WIND ENERGY FACILITY, SMALL	A single system designed to supplement other electricity sources as an accessory use to existing buildings or facilities, wherein the power generated is used primarily for on-site consumption. A small wind energy conversion system consists of a single wind turbine, a tower, and associated

TERM	DEFINITION
	control or conversion electronics, which has a total rated capacity of 20 kW or less.
WIND POWER	The conversion of wind energy into another form of energy.
WIND TURBINE HEIGHT	The distance measured from grade at the center of the tower to the highest point of the turbine rotor or tip of the turbine blade when it reaches its highest elevation.
WIND TURBINE OR WINDMILL	A wind energy conversion system that converts wind energy into electricity through the use of a wind turbine generator, and may include a nacelle, rotor, tower, guy wires and pad transformer.
Y	
YARD	Any open space on the same lot with the building and unoccupied from the ground upward except by trees, shrubbery, or fences.
YARD, FRONT	A yard across the full width of the lot, extending from the front line of the building to the front lot line.
YARD, REAR	A yard located behind the rear line of the main building, if extended, to the perimeter of the lot.
YARD, SIDE	A yard between the building and side lot line, extending from the front building line to the rear building line.
Z	
ZONING COMPLIANCE CERTIFICATE	A certificate by the County Board of Commissioners or its 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 jurisdictional area of the zoning ordinance fully meets the requirements of this chapter.
ZONING DISTRICT, CONVENTIONAL	A designation or classification applied to certain lots or tracts as shown on the Official Zoning Map. Conventional zoning districts specify the broad range of allowable land use types permitted on lots or tracts within the particular district. The conventional zoning district standards also specify the applicable dimensional requirements for lots and buildings as well as any unique provisions that apply to solely lands in the particular district.