

PERSON COUNTY PLANNING ORDINANCE

PERSON COUNTY, NORTH CAROLINA

v. May 3, 2021

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

AMENDED:

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

AMENDED:

- (51) February 2014 (Definition of Professional Office)
- (52) July 2014 (Stormwater Amendment)
- (53) April 2015 (Remove Wireless Telecommunications Facilities)
- (54) September 6 2016 (Revise Table of Permitted Uses; Dimensional Requirements)
- (55) October 2, 2017 (Revise Table of Uses to add distillery, brewery and solar energy systems; add definitions for those uses)
- (56) September 9 2019 (Revise Table of Uses to add Event Center; Add definition for Event Center)
- (57) January 06, 2020 (Article VII, X, XIII, XIV, and Appendix B, including renumbering and definitions)
- (58) October 5, 2020 (Note 2 and 10; Remove solar energy system regulations)
- (59) November 16, 2020 (Amend Ind. requirements Section 70, Appendix B, Appendix C, Note 2)
- (60) November 16, 2020 (Accessory structure req. Section 60, Appendix B Definitions)
- (61) January 4, 2021 (Article VIII Section 81 Ingress and egress width)
- (62) May 3, 2021 (160D Legislative Changes: All Articles and renumbering)

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PERSON COUNTY DEPARTMENT OF PLANNING AND ZONING
Roxboro, NC 27573

ARTICLE I

SECTION 10 - AUTHORITY AND ENACTMENT CLAUSE

(Amended 5/3/21)

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

SECTION 11 - PURPOSE

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

ARTICLE II – TITLE

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

ARTICLE III

SECTION 30 - WATER SUPPLY WATERSHED PROTECTION REQUIREMENTS

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

30-1 INTENT

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

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

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

30-2 APPLICATION CRITERIA

The Watershed Protection Overlay Districts, as established in Section 30-4, overlay other zoning districts established in Article VII, Section 70 of this Ordinance. As of January 1, 1994, the new use of land, or new structure within any Watershed Protection Overlay District shall comply with the provisions of this Article as well as the use regulations applicable to the underlying zoning district. Whenever standards of the underlying district differ from the Watershed Protection Overlay District, the more restrictive provisions shall apply. (Amended 11/3/97)

30-3 EXEMPTIONS.

30-3(a) Single Family Lot. A deeded single family lot owned by an individual, established prior to January 1, 1994, regardless of whether a vested right has been established, shall not be subject to the restrictions of this Article. Nothing in this ordinance shall be construed to require the recombination of nonconforming lots of record.

30-3 EXEMPTIONS continued

30-3(b) Existing Development. Existing development is not subject to the requirements of this Article. Existing developments include projects (structures, roads, etc.) that are built or at a minimum have established a vested right under North Carolina Zoning Law as of December 31, 1993, based on at least one of the following criteria:

- (1) Substantial expenditures of resources (time, labor, money) based on a good faith reliance upon having received a local government approval to proceed; or
- (2) Having an outstanding valid building permit in compliance with 160D-102 and 100(d); or, (Rev. 5/3/21)
- (3) Meeting the court-created common law or constitutional standards of substantial expenditure of resources (time, labor, or money) based on a good faith reliance upon receiving valid approval from the Person County Board of Commissioners to proceed with the project.

30-3(c) Redevelopment of Project Sites. An existing development, as defined in Article III, Section 30-3(b), may be redeveloped after a natural disturbance or as part of the project redevelopment provided that the rebuilding activity does not have a net increase in the built-upon area.

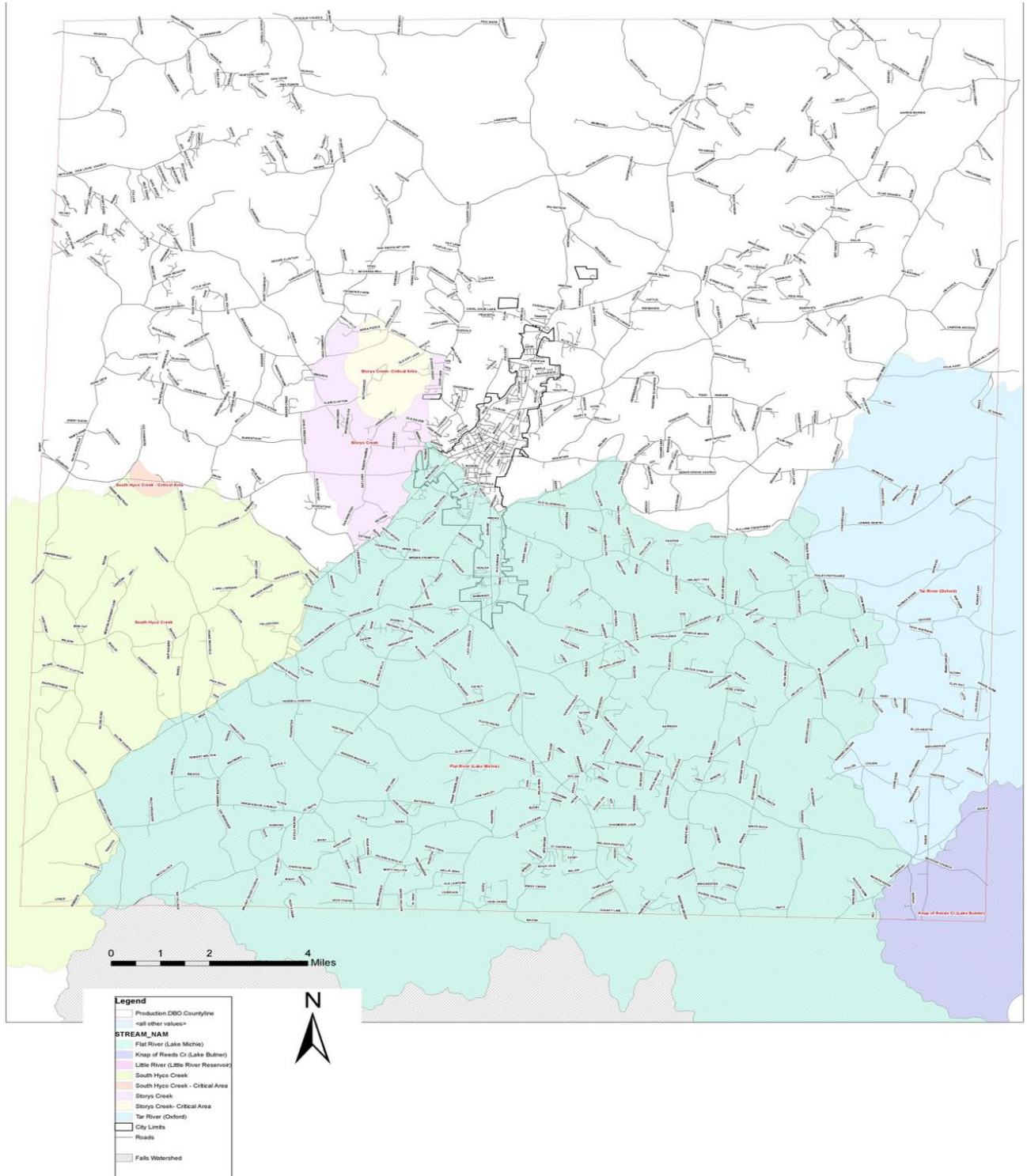
A single-family residence, established prior to January 1, 1994, may be redeveloped without any restrictions from Article III.

30-3(d) Expansions of Existing or New Development. Expansions to existing development or new development are permitted as follows:

- (1) Expansions to single-family residence built before January 1, 1994, are permitted without any restrictions from Article III; and
- (2) Expansions to all other structures classified as existing development must meet the requirement of Article III, except, the built-upon area of the existing development is not required to be included in the density calculations; and
- (3) Expansions to structures other than existing development must meet the density requirements for the entire project. For example, if the structure to be expanded is not grandfathered as "existing development" but was built after December 31, 1993, then the total project, including the existing built upon areas and expanded built upon areas, must meet the requirements of Article III.

30-4 ESTABLISHMENT OF WATERSHED OVERLAY DISTRICTS.

Eight (8) watershed protection overlay districts are hereby established, as listed in Table 30-4(a) land delineated on the "Official Person County Watershed Map", as adopted as referenced herein, for all lands within water supply watersheds of existing or potential drinking water supplies. All districts have been classified by the Environmental Management Commission as



a WSII, WSIII, or WSIV water supply watershed. (Amended 11/3/97)

TABLE 30-4(a): WATERSHED PROTECTION OVERLAY DISTRICTS				
District		Class	Acreage	General Location
Storys-Ca	Storys Creek Critical Area	WSII	1,837	One-half mile to the normal pool elevation lake or to the ridgeline which ever is less
Storys-Bw	Storys Creek Balance of Watershed	WSII	4,654	The drainage basin of Storys Creek which is located in Person County
Knap-Bw	Knap of Reeds Creek Balance of Watershed	WSII	2,619	The portion of the drainage basin of Knap Of Reeds Creek (Lake Butner) which is located in Person County
Little-Bw	Little River Balance of Watershed	WSII	74.00	The portion of the drainage basin of Little River Reservoir which is located in Person County
Hyco-Ca	South Hyco Creek Critical Area	WSII	246.00	One-half mile upstream from and draining to the intake located in South Hyco Creek
Hyco-Bw	South Hyco Creek Balance of Watershed	WSII	21646.00	The portion of the drainage basin, South Hyco Creek which is located in Person County
Flat-Bw	Flat River Balance of Watershed	WSIII	80074.00	The portion of the drainage basin of the Flat River which is located in Person County
Tar-Pa	Tar River Protected Area Watershed	WSIV	20117.00	The portion of the drainage basin of the Tar River which is located in Person County

30-5 LAND USE RESTRICTIONS

All uses allowed in the underlying zoning districts are permitted except as stated in Table 30-5(a).

TABLE 30-5 (a): LAND USE RESTRICTIONS	
District	Restriction
Hyco-Ca Storys-Ca	No New Landfills*
Hyco-Bw Knap-Bw Little-Bw Flat-Bw	No New Discharging Landfill*
Tar-Pa	
* In view of state regulations and in view of state requirements for a permit from the Division of Water Quality and the Division of Solid Waste, the Person County Sludge Ordinance, which restricted the application of residuals, was rescinded by the Person County Board of Health in September of 1997. (Amended 11/3/97)	

30-6 DENSITY AND BUILT UPON LIMITS**

All structures not exempted by Section 30-3, shall comply with density or built upon requirements listed in Table 30-6(a) or Table 30-6(b), as appropriate.

DISTRICT	TABLE 30-6(A) RESIDENTIAL DEVELOPMENT	TABLE 30-6(B) NONRESIDENTIAL DEVELOPMENT
Storys-Ca Hyco-Ca	1 du/2 ac or 6% built upon area.	Up to 6% built upon area.
Storys-Bw Hyco-Bw Knap-Bw Little-Bw	1 du/1 ac or 12% built upon area Up to 70% built upon area for all residential uses other than single family provided minimize built upon surface area, direct stormwater runoff away from surface waters and incorporate best management practices to minimize water quality impacts in 10% of the watershed. (amended 5/6/2002)	Up to 24% built upon area. Up to 70% built upon area provided minimize built upon surface area, direct stormwater runoff away from surface waters and incorporate best management practices to minimize water quality impacts in 10% of the watershed. (amended 5/6/2002)
Flat-Bw	1 du/.5 ac or 24% built upon area. Up to 70% built upon area for all residential uses other than single family provided minimize built upon surface area, direct stormwater runoff away from surface waters and incorporate best management practices to minimize water quality impacts in 10% of the watershed. (amended 5/6/2002)	Up to 24% built upon area. Up to 70% built upon area provided minimize built upon surface area, direct stormwater runoff away from surface waters and incorporate best management practices to minimize water quality impacts in 10% of the watershed. (amended 5/6/2002)
Tar-Pa	1 du/.5 ac or 24% built upon area.* 1 du/.33 ac or 36% built upon area allowed for projects without curb/ gutter*.	Up to 24% built upon area*. Up to 36% built upon area for project without curb & gutter.
* Only new development activities that require an erosion and sedimentation plan under state law are required to meet the provisions of this ordinance when located in wsiv watershed.		
** refer to article vii, table 75-table of dimensional requirements and article iii, section 30-9.		
(Amended 11/3/97; 5/6/2002)		

30-7 CLUSTER RESIDENTIAL DEVELOPMENTS (Amended 02/15/2010)

Cluster residential developments are permitted on a project by project basis in compliance with the Subdivision Regulations of Person County provided that:

30-7(a) Project Density.

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

30-7(b) Minimum Lot Requirement.

Lots meet minimum requirements stated in Article VII, Table 75 of the Planning Ordinance.

30-7(c) Open Space.

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

30-8 BUFFER AREAS

Buffers adjacent to perennial waters and public supply impoundments shall be provided as follows:

30-8(a) Perennial Waters.

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

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

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

30-8(b) Public Water Supply Impoundments.

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

30-8(c) Development within the Buffer area.

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

30-9 WASTE WATER AND SEWAGE DISPOSAL

All residential, commercial, and industrial waste water and sewage disposal shall be governed by applicable NC General Statutes.

30-10 ACTIVITIES WITHIN WATERSHED PROTECTION OVERLAY DISTRICTS.

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

30-11 WATERSHED PROTECTION OVERLAY DISTRICT BOUNDARY INTERPRETATION.

Where uncertainty exists as to the location of a Watershed Protection Overlay District Boundary, interpretations shall be made in accordance to Article V, Sections 50-2(a), (b), (c), and (d) of the Planning Ordinance. (Amended 11/3/97)

30-12 BEST MANAGEMENT PRACTICES (BMP) REQUIRED

DISTRICT	LAND USE
Storys-Ca Hyco-Ca	Agricultural ¹ , Forestry ² , Transportation ³
Storys-Bw Hyco-Bw Knap-Bw Little-Bw Flat-Bw Tar-Pa	Forestry ² , Transportation ³
<p>¹agricultural activities are subject to the provisions of the Food Security Act of 1985 and the Food, Agriculture, Conservation and Trade Act of 1990. In critical areas, agricultural activities must maintain a 10' vegetated buffer or equivalent control, and animal operations over 100 animal units must be bmp' s as determined by the Soil And Water Conservation Commission</p> <p>²silviculture activities are subject to the provisions of the forest practices guidelines regulated to water quality (15a ncac 1i.0101-.0209) as NC Division of Forest Resources and existing environmental management commission rules administered by the N.C. Division Of Water Quality. (amended 11/3/97)</p> <p>³the department of transportation must use bmp's as described in their document 'best management practices for the protection of surface waters' and in compliance with the Sedimentation Pollution Control Act of 1973.</p>	

30-13 ADMINISTRATION.

30-13(A) Appeals

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

30-13(B) Variances (Amended 11/3/97)

- (1) A request for a Minor Variance from the State Watershed Protection Rules shall be reviewed by the Person County Board of Adjustment in accordance with Article XIV of this Ordinance.
 - (a) In addition to the notification requirements stated in Article XIV, Section 143-2 of this Ordinance, the Zoning Administrator shall notify in writing each local government having jurisdiction in the watershed of the proposed minor variance. Said notice to include a description of the variance being requested.
 - (b) Local governments receiving notice of the variance request may submit comments to the Zoning Administrator prior to a decision by the Person County Board of Adjustment.
 - (c) Before the Board of Adjustment may grant a minor variance, it shall make the findings of fact required in Article XIV, Section 142-1 (b) or (c).
 - (d) In accordance with Article XIV, Section 142-1(d) of this Ordinance, the Board of Adjustment may prescribe appropriate conditions and safeguards to ensure that substantial justice has been done and that the public safety and welfare has been assured.
 - (e) Every decision of the Board of Adjustment shall be subject to review by the Superior Court of Person County as stated in Article XIV, Section 144 of this Ordinance.
 - (f) Records of minor variance shall be forwarded to the Division of Water Quality for each calendar year, on or before January 1st of the following year.

30-13(B) *VARIANCES continued*

- (2) A request for a Major Variance from the State Watershed Protection Rules shall be reviewed by the Board of Adjustment in the same manner as a minor variance; and the request shall be referred to the North Carolina Environmental Management Commission in accordance with the following procedures:
 - (a) If the Board of Adjustment decides in favor of granting the major variance, the secretary to the Board of Adjustment shall prepare a preliminary record of the hearing with all deliberate speed and send to the Environmental Management Commission. The preliminary record of the hearing shall include: the variance application; the hearing notices; the evidence presented, motions, offers of proof, objections to evidence, and rulings on them; proposed findings and exceptions; the proposed decision, including all proposed conditions.
 - (b) If the Environmental Management Commission approves the major variance as proposed, approves the major variance with additional conditions, or denies the major variance, the Commission shall prepare a decision and send it to the Board of Adjustment.
 - (c) The Board of Adjustment shall prepare a final decision in accordance with the Environmental Management Commission's decision.

30-14 DENSITY AVERAGING (added 8/4/03)

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

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

30-14 DENSITY AVERAGING

- c) Sufficient information shall be submitted so that it may be determined that overall density of the paired parcel averaged density development, calculated either by dwelling units per acre or built-upon area, shall not exceed the density that would be allowed if the parcels were developed separately. The parcel pair shall be preferably in the same drainage area of the watershed. Parcels to be used in pairs may be located in the Balance of Watershed, Protected or Critical Areas. However, if one of the parcels is located in the Balance of Watershed or Critical Area and one is located in the Protected area, the Critical Area parcel shall not be developed. Density Averaging is not allowed between two parcels when both are in the Critical Area.
- d) Buffers shall at a minimum meet the appropriate minimum statewide water supply watershed protection requirements on both parcels in the parcel pair according to the density of development occurring on each parcel.
- e) Sufficient information shall be submitted so that it may be demonstrated that the parcels are designed to:
 - 1) Minimize stormwater runoff impact to the receiving waters by minimizing concentrated stormwater flow;
 - 2) Maximize the use of sheet flow through vegetated areas;
 - 3) Minimize impervious surface areas;
 - 4) Locate development away from surface waters and drainage ways to the maximum extent practicable; and
 - 5) Convey stormwater from developed areas by vegetated swales to the maximum extent practical.
- f) The undeveloped parcel(s) or portion(s) thereof shall remain in a vegetated or natural condition and shall be placed in a permanent conservation easement granted under G.S. 121-35 to the County, a land conservation organization or other entity capable of providing for the ongoing maintenance of the undeveloped property.
- g) Applicants shall agree to bind themselves and their successors in title, individually and collectively, to maintain the pattern of development proposed for so long as the requirements of this section are applicable. Parties to enforcement of such agreement shall include Person County. No such agreement shall be accepted without approval of the County Attorney as to the legal sufficiency of the documents involved.

- h) Undeveloped land areas proposed for incorporation into the density or impervious coverage area calculations shall meet the following criteria:
 - 1) Projects in the Balance of Watershed or Protected Area may incorporate undeveloped land elsewhere in the Balance of Watershed, Protected Area or Critical Area. The amount of additional undeveloped acreage required shall be determined by dividing the appropriate density or impervious coverage area factor into the number of dwelling units or impervious coverage area in excess of the amount permitted on the project site by these regulations to determine the amount of other land to be reserved as undeveloped so that the overall density or intensity of the project shall not exceed the density or intensity that would be allowed if the parcels were developed separately.
 - 2) **(Deleted 08/04/2003)**
 - 3) Undeveloped land included to meet the requirements of one project shall not be included as meeting the requirement of any existing or proposed project nor shall any land included in a parcel pair for which a watershed variance has been granted or would be required.
 - 4) The preservation of undeveloped floodplain land, steep slopes, or other environmentally sensitive lands within the Critical Area for this purpose is encouraged. All such land shall be properly vegetated.
- i) The Planning Board sitting as the Watershed Review Board shall make written findings supported by appropriate calculations and documentation that the plan as a whole conforms to the intent and requirements of this section, and that the proposed agreement assures protection of the public interest and achievement of the objectives of this section.
- j) At the time of the issuance of the Zoning Permit, the Special Use Permit and conservation easement, shall be caused to be recorded by the Planning Director in the office of the Register of Deeds and filed with the offices of the Planning Director, Building Inspector and the City Clerk. Notations shall be made by the Planning Director on the official Zoning Map and the approved development plans and or plats for future guidance in administration and as a public record.
- k) The pattern of development and the agreement between the owners shall not be changed except by the issuance of a new or amended Special Use Permit in the manner herein established.

DEFINITIONS:

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

PAIRED PARCEL AVERAGED DENSITY DEVELOPMENT – A development proposal that includes a parcel pair meeting the development standards of this Section and that qualifies for local development approval under the density averaging provision of this ordinance.

UNDEVELOPED PARCEL – The parcel in a parcel pair that is not developed. (added 8/4/2003)

PERSON COUNTY FALLS WATERSHED STORMWATER ORDINANCE FOR NEW DEVELOPMENT

SECTION 31: GENERAL PROVISION

(ADDED JULY 15, 2012; Amended 5/3/21)

31-101 TITLE

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

31-102 AUTHORITY

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

31-103 FINDINGS

It is hereby determined that:

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

These changes in stormwater runoff contribute to increased quantities of water-borne pollutants and alterations in hydrology that are harmful to public health and safety as well as to the natural environment; and,

These effects can be managed and minimized by applying proper design and well-planned controls to manage stormwater runoff from *development* sites.

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

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

31-104 PURPOSE

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

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

1. Establishing decision-making processes for development that protects the integrity of watersheds and preserve the health of water resources;
2. Requiring that new development and redevelopment maintain the pre-development hydrologic response in their post-development state for the applicable design storm to reduce flooding, streambank erosion, nonpoint and point source pollution and increases in stream temperature, and to maintain the integrity of stream channels and aquatic habitats;
3. Establishing minimum post-development stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality;
4. Establishing design and review criteria for the construction, function, and use of *structural* stormwater BMPs that may be used to meet the minimum *post-development* stormwater management standards;
5. Encouraging the use of better management and site design practices, such as the use of vegetated conveyances for stormwater and the preservation of greenspace, riparian buffers and other conservation areas to the maximum extent practicable;
6. Establishing provisions for the long-term responsibility for and maintenance of structural and nonstructural stormwater BMPs to ensure that they continue to function as designed, are maintained appropriately, and pose no threat to public safety;
7. Establishing administrative procedures for the submission, review, approval and disapproval of stormwater management plans, for the inspection of approved projects, and to assure appropriate long-term maintenance.

(A) General

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

(B) Exemptions

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

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

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

(C) No Development or Redevelopment Until Compliance and Permit

No development or redevelopment shall occur except in compliance with the provisions of this ordinance or unless exempted. No development or redevelopment for which a permit is required pursuant to this ordinance shall occur except in compliance with the provisions, conditions, and limitations of the permit.

(D) Map

The provisions of this ordinance shall apply within the areas designated on the map titled "Falls Watershed Stormwater Map of **Person County**, North Carolina" ("the Stormwater Map"), which is adopted simultaneously herewith. The Stormwater Map and all explanatory matter contained thereon accompanies and is hereby made a part of this ordinance. ³

The Stormwater Map shall be kept on file by the Stormwater Administrator and shall be updated to take into account changes in the land area covered by this ordinance and the geographic location of all engineered stormwater

controls permitted under this ordinance. In the event of a dispute, the applicability of this ordinance to a particular area of land or BMP shall be determined by reference to the North Carolina Statutes, the North Carolina Administrative Code, and local zoning and jurisdictional boundary ordinances.

31-106 INTERPRETATION

(A) Meaning and Intent

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

(B) Text Controls in Event of Conflict

In the event of a conflict or inconsistency between the text of this ordinance and any heading, caption, figure, illustration, table, or map, the text shall control.

(C) Authority for Interpretation

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

(D) References to Statutes, Regulations, and Documents

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

(E) Computation of Time

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

(F) Delegation of Authority

Any act authorized by this Ordinance to be carried out by the Stormwater Administrator of **Person County** may be carried out by his or her designee.

31-106 INTERPRETATION continued

(G) Usage

(1) Mandatory and Discretionary Terms

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

(2) Conjunctions

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

(3) Tense, Plurals, and Gender

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

(H) Measurement and Computation

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

31-107

DESIGN MANUAL

(A) Reference to Design Manual

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

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

(B) Relationship of Design Manual to Other Laws and Regulations

If the specifications or guidelines of the *Design Manual* are more restrictive or apply a higher standard than other laws or regulations, that fact shall not prevent application of the specifications or guidelines in the Design Manual.

(C) Changes to Standards and Specifications

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

31-108 RELATIONSHIP TO OTHER LAWS, REGULATIONS AND PRIVATE AGREEMENTS

(A) Conflict of Laws

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

(B) Private Agreements

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

31-109 SEVERABILITY

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

(A) Effective Date

This Ordinance shall take effect on July 15, 2012.

(B) Final Approvals, Complete Applications

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

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

1. For the initial or first phase of *development* or *redevelopment*, the type and intensity of use for a specific parcel or parcels, including at a minimum, the boundaries of the project and a subdivision plan that has been approved.
2. For any subsequent phase of *development* or *redevelopment*, sufficient detail so that implementation of the requirements of this ordinance to that phase of *development* would require a material change in that phase of the plan.

(C) Violations Continue

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

SECTION 31-2: ADMINISTRATION AND PROCEDURES

31-201 REVIEW AND DECISION-MAKING ENTITIES

(A) Stormwater Administrator

(1) Designation

A Stormwater Administrator shall be designated by Person County Board of County Commissioners to administer and enforce this ordinance.

2) Powers and Duties

In addition to the powers and duties that may be conferred by other provisions of *Person County* and other laws, the Stormwater Administrator shall have the following powers and duties under this ordinance:

- a. To review and approve, approve with conditions, or disapprove applications for approval of plans pursuant to this ordinance.
- b. To make determinations and render interpretations of this ordinance.
- c. To establish application requirements and schedules for submittal and review of applications and appeals, to review and make recommendations to the Person County Board of County Commissioners on applications for *development* or *redevelopment* approvals.
- d. To enforce the provisions of this ordinance in accordance with its enforcement provisions.
- e. To maintain records, maps, forms and other official materials as relate to the adoption, amendment, enforcement, and administration of this ordinance.
- f. To provide expertise and technical assistance to the Person County Board of County Commissioners and the Person County Board of Adjustment upon request.
- g. To designate appropriate other *person(s)* who shall carry out the powers and duties of the Stormwater Administrator.
- h. To take any other action necessary to administer the provisions of this ordinance.

(A) Permit Required; Must Apply for Permit

A stormwater permit is required for all development and redevelopment unless exempt pursuant to this ordinance. A permit may only be issued subsequent to a properly submitted and reviewed permit application, pursuant to this section.

(B) Effect of Permit

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

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

(C) Authority to File Applications

All applications required pursuant to this Code shall be submitted to the Stormwater Administrator by the land *owner* or the land *owner's* duly authorized agent.

(D) Establishment of Application Requirements, Schedule, and Fees

(1) Application Contents and Form

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

(2) Submission Schedule

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

(3) Permit Review Fees

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

(4) Administrative Manual

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

(E) Submittal of Complete Application

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

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

(F) Review

The Stormwater Administrator shall review the application and determine whether the application complies with the standards of this ordinance.]

(1) Approval

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

(2) Fails to Comply

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

31-202(F)

(3) Revision and Subsequent Review

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

If a revised application is not re-submitted within thirty (30) calendar days from the date the applicant was notified, the application shall be considered withdrawn, and a new submittal for the same or substantially the same project shall be required along with the appropriate fee for a new submittal.

One re-submittal of a revised application may be submitted without payment of an additional permit review fee. Any re-submittal after the first re-submittal shall be accompanied by a permit review fee additional fee, as established pursuant to this ordinance.

31-203

APPLICATIONS FOR APPROVAL

(A) Concept Plan and Consultation Meeting

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

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

(1) Existing Conditions / Proposed Site Plans

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

(2) Natural Resources Inventory

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

(3) Stormwater Management System Concept Plan

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

(B) Stormwater Management Permit Application

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

The submittal shall include all of the information required in the submittal checklist established by the Stormwater Administrator. Incomplete submittals shall be treated pursuant to Section 31-202(D).

31-203 APPLICATIONS FOR APPROVAL *continued*

(C) As-Built Plans and Final Approval

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

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

(D) Other Permits

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

31-204 APPROVALS

(A) Effect of Approval

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

(B) Time Limit/Expiration

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

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

31-205 APPEALS

(A) Right of Appeal

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

SECTION 31-3: STANDARDS

31-301 GENERAL STANDARDS

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

31-302 NITROGEN AND PHOSPHORUS LOADING

- (a) Nitrogen and phosphorus loads contributed by the proposed new development shall not exceed the following unit-area mass loading rates: 2.2 and 0.33 pounds per acre per year for nitrogen and phosphorus, respectively.
- (b) Notwithstanding 15A NCAC 2B.104 (q), *redevelopment* subject to this ordinance that would replace or expand existing structures or improvements and would result in a net increase in *built-upon area* shall have the option of either meeting the loading standards identified in subsection (a) or meeting a loading rate that achieves the following nutrient loads compared to the *existing development*: 40 percent and 77 percent reduction for nitrogen and phosphorus, respectively.
- (c) The developer shall determine the need for engineered stormwater controls to meet these loading rate targets by using the *approved* accounting tool.

31-303 NITROGEN AND PHOSPHORUS STANDARD IS SUPPLEMENTAL

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

31-304

CONTROL AND TREATMENT OF RUNOFF VOLUME

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

31-305

PARTIAL OFFSET OF NUTRIENT CONTROL REQUIREMENTS

Development subject to this ordinance shall attain nitrogen and phosphorus loading rate reductions on-site that meet the following criteria prior to using an offsite offset measure:

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

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

31-306

EVALUATION OF STANDARDS FOR STORMWATER CONTROL MEASURES

(A) Evaluation According to Contents of Design Manual

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

(B) Determination of Adequacy; Presumptions and Alternatives

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

31-307

DEDICATION OF BMPS, FACILITIES & IMPROVEMENTS

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

31-308

VARIANCES

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

- (1) there are practical difficulties or unnecessary hardships that prevent compliance with the strict letter of the ordinance;
- (2) the variance is in harmony with the general purpose and intent of the local watershed protection ordinance and preserves its spirit; and
- (3) in granting the variance, the public safety and welfare have been assured and substantial justice has been done.

31-308 VARIANCES *continued*

- (B) In the case of a request for a *minor variance*, Person County Board of Adjustment may vary or modify any of the regulations or provisions of the ordinance so that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done may impose reasonable and appropriate conditions and safeguards upon any variance it grants.
- (C) The Person County Board of Adjustment may attach conditions to the *major* or *minor variance* approval that support the purpose of the local watershed protection ordinance. If the variance request qualifies as a *major variance*, and the Person County Board of Adjustment decides in favor of granting the *major variance*, the Board shall then prepare a preliminary record of the hearing and submit it to the *Commission* for review and approval. If the *Commission* approves the *major variance* or approves with conditions or stipulations added, then the *Commission* shall prepare a *Commission* decision which authorizes Person County to issue a final decision which would include any conditions or stipulations added by the *Commission*. If the *Commission* denies the major variance, then the *Commission* shall prepare a decision to be sent to Person County. Person County shall prepare a final decision denying the major variance.
- (D) Appeals from the local government decision on a *major* or *minor variance* request are made on certiorari to the local Superior Court. Appeals from the *Commission* decision on a *major variance* request are made on judicial review to Superior Court.
- (E) On request of the Stormwater Administrator, any *person* who petitions Person County for a variance under this ordinance shall provide notice to the affected local governments of the variance request as required under the Falls Rule, 15A NCAC 2B.0104(r). For purposes of this notice requirement, “affected local governments” means any local governments that withdraw water from Lake Falls or its tributaries downstream of the site of the proposed variance. If the proposed variance is in a Water Supply Watershed area classified as WS II, WS III or WS IV, “affected local governments” also includes any other local governments in the same water supply watershed as the proposed variance. The notice shall provide a reasonable period for comments and shall direct the comments to be sent to the Stormwater Administrator. The person petitioning for the variance shall supply proof of notification in accordance with this ordinance to the Stormwater Administrator.

SECTION 31-4: MAINTENANCE

31-401 GENERAL STANDARDS FOR MAINTENANCE

(A) Function of BMPs as Intended

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

(B) Annual Maintenance Inspection and Report

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

- (1) The name and address of the land *owner*;
- (2) The recorded book and page number of the lot of each *engineered stormwater control*;
- (3) A statement that an inspection was made of all *engineered stormwater controls*;
- (4) The date the inspection was made;
- (5) A statement that all inspected *engineered stormwater controls* are performing properly and are in compliance with the terms and conditions of the approved maintenance agreement required by this ordinance; and
- (6) The original signature and seal of the engineer, surveyor, or landscape architect.

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

(C) Unmanned Public Utilities

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

31-402 OPERATION AND MAINTENANCE AGREEMENT

(A) In General

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

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

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

(B) Special Requirement for Homeowners' and Other Associations

For all *engineered stormwater controls* required pursuant to this ordinance and that are to be or are owned and maintained by a homeowners' association, property owners' association, or similar entity, the required operation and maintenance agreement shall include all of the following provisions:

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

- (3) Both developer contribution and annual sinking funds shall fund the escrow account. Prior to plat recordation or issuance of construction permits, whichever shall first occur, the developer shall pay into the escrow account an amount equal to fifteen (15) percent of the initial construction cost of the *engineered stormwater controls*. Two-thirds (2/3) of the total amount of sinking fund budget shall be deposited into the escrow account within the first five (5) years and the full amount shall be deposited within ten (10) years following initial construction of the *engineered stormwater controls*. Funds shall be deposited each year into the escrow account. A portion of the annual assessments of the association shall include an allocation into the escrow account. Any funds drawn down from the escrow account shall be replaced in accordance with the schedule of anticipated work used to create the sinking fund budget.
- (4) The percent of developer contribution and lengths of time to fund the escrow account may be varied by Person County depending on the design and materials of the stormwater control and management facility.
- (5) Granting to Person County a right of entry to inspect, monitor, maintain, repair, and reconstruct *engineered stormwater controls*.
- (6) Allowing Person County to recover from the association and its member's any and all costs Person County expends to maintain or repair the *engineered stormwater controls* or to correct any operational deficiencies. Failure to pay Person County all of its expended costs, after forty-five days written notice, shall constitute a breach of the agreement. In case of a deficiency, Person County shall thereafter be entitled to bring an action against the association and its members to pay, or foreclose upon the lien hereby authorized by the agreement against the property, or both. Interest, collection costs, and attorney fees shall be added to the recovery.
- (7) A statement that this agreement shall not obligate Person County to maintain or repair any *engineered stormwater controls*, and Person County shall not be liable to any *person* for the condition or operation of *engineered stormwater controls*.
- (8) A statement that this agreement shall not in any way diminish, limit, or restrict the right of Person County to enforce any of its ordinances as authorized by law.
- (9) A provision indemnifying and holding harmless Person County for any costs and injuries arising from or related to the engineered stormwater control, unless Person County has agreed in writing to assume the maintenance responsibility for the BMP and has accepted dedication of any and all rights necessary to carry out that maintenance.

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

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

PERFORMANCE SECURITY FOR INSTALLATION AND MAINTENANCE

(A) May Be Required

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

- (1) Installed by the permit holder as required by the approved stormwater management plan, and/or
- (2) Maintained by the *owner* as required by the operation and maintenance agreement.

(B) Amount

(1) Installation

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

(2) Maintenance

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

(C) Uses of Performance Security

(1) Forfeiture Provisions

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

(2) Default

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

(3) Costs in Excess of Performance Security

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

(4) Refund

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

31-405 NOTICE TO OWNERS

(A) Deed Recordation and Indications on Plat

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

(B) Signage

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

31-406 RECORDS OF INSTALLATION AND MAINTENANCE ACTIVITIES

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

31-407 NUISANCE

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

31-408 MAINTENANCE EASEMENT

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

SECTION 31-5: ENFORCEMENT AND VIOLATIONS

31-501 GENERAL

(A) Authority to Enforce

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

(B) Violation Unlawful

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

(C) Each Day a Separate Offense

Each day that a violation continues shall constitute a separate and distinct violation or offense.

(D) Responsible *Persons*/Entities

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

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

(1) Person Maintaining Condition Resulting In or Constituting Violation

An architect, engineer, builder, contractor, developer, agency, or any other *person* who participates in, assists, directs, creates, causes, or maintains a condition that constitutes a violation of this ordinance, or fails to take appropriate action, so that a violation of this ordinance results or persists.

(2) Responsibility for Land or Use of Land

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

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

(A) Remedies

(1) Withholding of Certificate of Occupancy

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

(2) Disapproval of Subsequent Permits and Development Approvals

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

(3) Injunction, Abatements, etc.

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

(4) Correction as Public Health Nuisance, Costs as Lien, etc.

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

(5) Stop Work Order

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

31-502 REMEDIES AND PENALTIES *continued*

(B) Civil Penalties

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

(C) Criminal Penalties

Violation of this ordinance may be enforced as a criminal matter under North Carolina law.

31-503

PROCEDURES

(A) Initiation/Complaint

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

(B) Inspection

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

(C) Notice of Violation and Order to Correct

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

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

(D) Extension of Time

A *person* who receives a notice of violation and correction order, or the *owner* of the land on which the violation occurs, may submit to the Stormwater Administrator a written request for an extension of time for correction of the violation. On determining that the request includes enough information to show that the violation cannot be corrected within the specified time limit for reasons beyond the control of the *person* requesting the extension, the Stormwater Administrator may extend the time limit as is reasonably necessary to allow timely correction of the violation, up to, but not exceeding 60 days. The Stormwater Administrator may grant a 30-day extension in addition to the foregoing extension if the violation cannot be corrected within the permitted time due to circumstances beyond the control of the *person* violating this ordinance. The Stormwater Administrator may grant an extension only by written notice of extension. The notice of extension shall state the date prior to which correction must be made, after which the violator will be subject to the penalties described in the notice of violation and correction order.

(E) Enforcement after Time to Correct

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

(F) Emergency Enforcement

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

SECTION 31-6: DEFINITIONS

31-601 TERMS DEFINED

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

Approved accounting tool

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

Built-upon area (BUA)

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

Commission

The North Carolina Environmental Management Commission, in the Department.

Department

The North Carolina Department of Environment and Natural Resources.

Design Manual

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

Development

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

Division

The Division of Water Quality in the *Department*.

Existing Development

Development *not otherwise* exempted by this ordinance that meets one of the following criteria:

- (a) It either is built or has established a statutory or common-law vested right as of the effective date of this ordinance; or
- (b) It occurs after the effective date of this ordinance, but does not result in a net increase in *built-upon area* and does not decrease the infiltration of precipitation into the soil.

Engineered Stormwater Control

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

Land disturbing activity

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

Larger common plan of development or sale

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

Major variance

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

Minor variance

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

1-year, 24-hour storm

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

Outfall

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

Owner

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

Person

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

Redevelopment

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

Stormwater system

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

Substantial progress

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

ARTICLE IV

Bona Fide Farms

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

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

ARTICLE V

ESTABLISHMENT OF DISTRICTS

SECTION 50 - INTERPRETATION OF DISTRICT BOUNDARIES

- 50-1 The locations and boundaries of each of the planning districts shall be shown on the map accompanying this ordinance and made a part hereof, entitled, "Official Planning Map, Person County, North Carolina," and adopted by the Board of County Commissioners. The Planning Map and all the notations, references and amendments thereto, and other information shown are hereby made a part of this ordinance. The Planning Map shall be kept on file in the office of Planning and Zoning and shall be available for inspection by the public.
- 50-2 Where uncertainty exists with respect to the location of certain boundaries of districts as shown on the Official Planning Map, the following rules shall apply:
- 50-2(A) Boundaries indicated as approximately following the centerline of streets, highways, alleys, streams, rivers, lakes, or other bodies of water shall be construed to follow such centerlines.
- 50-2(B) Boundaries indicated as approximately following platted lot lines shall be construed to follow such lot lines.
- 50-2(C) Distances not specifically indicated on the Official Planning Map shall be determined by the scale of the map.
- 50-2(D) Where physical and cultural features existing on the ground are at variance with those shown on the Official Planning Map, or in other circumstances not covered by subsections 50-2(a) through 50-2 (c) above, the Board of Adjustment shall interpret the district boundaries.
- 50-2(E) Where a district boundary line divides a lot which was in single ownership at the time of passage of this ordinance, the Board of Adjustment may permit the extension of the regulations for either portion of the lot not to exceed two hundred and fifty (250) feet beyond the district line into the remaining portion of the lot.

ARTICLE VI

APPLICATION OF DISTRICT REGULATIONS

SECTION 60 - GENERAL REGULATIONS (Amended 11/17/2003; 08/2/2010; 5/3/21)

- 60-1 Except as hereinafter provided, the regulations set by this ordinance within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land.
- 60-2 Notwithstanding nonconforming uses as herein defined, no building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof, shall hereafter be erected, constructed, reconstructed, moved or structurally altered except in conformity with all the regulations as specified herein for the district in which it is located.
- 60-3 No part of a yard or other open space required about or in connection with any building for the purpose of complying with this ordinance shall be included as a part of a yard or other open space similarly required for any other building or use.
- 60-4 No yard setbacks or lot existing at the time of passage of this ordinance shall be reduced in dimension or area below the minimum requirements set forth herein.
- 60-5 Unless otherwise specified in this ordinance, accessory buildings may be allowed within five (5) feet of rear and side yard lot lines (Amended 6/3/2013)
- 60-6 *(Deleted 6/3/2013)*
- 60-6A Accessory structures may be placed in the front yard, if at least 25ft from the front property line. For lots located on NC and US highways, accessory structures may be placed in the front yard, if at least 40ft from the front property line. (Added 6/3/2013)
- 60-6B Accessory buildings shall be allowed on a lot upon which a primary dwelling, multifamily dwelling, business use or industrial use exists. (Added 6/3/2013) Accessory buildings shall also be allowed on lots adjacent to and under common ownership to the parcel where the principal structure is located or within 1,000 feet of the aforementioned parcel (as measured from property line to property line) to the extent that the principal use itself would be allowed. (Amended 11/16/20)
- 60-6C 60-6A and 60-6B shall not apply to any barns, hay sheds, or similar structures existing prior to the adoption of this amendment; however, this Ordinance shall apply to any new construction of these structures. (Added 6/3/2013)
- 60-7 Campers and Recreational Vehicles shall not be used for dwelling purposes on individual lots but can be stored provided they are registered to the owner of the lot and there is an existing dwelling. There shall only be one camper/recreational vehicle stored per lot. A Special Use Permit will be required for storage of more than one camper/recreational vehicle and property owner and camper/recreational vehicle owner must be the same. (Added 8/2/2010; amended 5/3/21)

- 60-8 Use of one camper/recreational vehicle shall be permitted as an accessory dwelling on an improved lot or on an unimproved lot or tract for a period not to exceed two continuous weeks. A four week interval shall be required between each allowed use. A tract of land owned by a single owner may not be subdivided into multiple lots for the purpose of evading this section. (Added 8/2/2010)
- 60-9 Nothing in this ordinance shall be construed to interfere with the operation of any valid covenant or condition which runs with the land or shall be construed to allow noncompliance with any building or environmental law, rule or ordinance. (Added 8/2/2010).

ARTICLE VII

SECTION 70 - DISTRICT REGULATIONS

DESCRIPTION OF GENERAL USE AND CONDITIONAL DISTRICTS

(Amended 8-17-92, 11/16/20; 5/3/21)

70-1 The following general use zoning districts are hereby established:

70-1(A) R Residential District: The purpose of this district is to provide for single family residential uses and compatible development.

70-1(B) B-2 Neighborhood Shopping: The purpose of this district shall be to provide for small clusters of retail service and other commercial development which would be compatible with nearby residential areas.

70-1(C) B-1 Highway Commercial Business District: The purpose of this district shall be to provide for commercial and light industrial development which operate in a relative quiet, clean and non-noxious manner.

70-1(D) GI General Industrial District: The purpose of this district shall be to provide suitable locations for wholesale, distribution, warehousing, fabrication and processing of both light and heavy industrial production natures. (Amended 11/16/20)

70-1(E) AP Airport District: The purpose of this district shall be to provide an overlay district which establishes land use regulations for areas adjacent to the Person County Executive Airport. Specific requirements for the Airport District are set forth in **ARTICLE IX, SECTION 91 and SECTION 92.**

70-1(F) R-C Rural Conservation District: The purpose of this district shall be to provide for only limited land use controls in areas with limited nonagricultural development.

70-2 The following **Conditional Districts** are hereby established.

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

SECTION 71 - TABLE OF PERMITTED USES (SEE APPENDIX C)

SECTION 72 - TABLE OF DIMENSIONAL REQUIREMENTS

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

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

* From right-of-way

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

LANDSCAPING AND BUFFERS

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

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

- For heavy industrial uses, the buffer shall be at least 150' wide
- For light Industrial Uses, the buffer shall be at least 50' wide

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

- Every 500 square feet of buffer shall include one evergreen or deciduous tree that shall have a height and spread of at least 30' within 10 years; and,
- 5 evergreen shrubs, or 3 evergreen and 2 deciduous shrubs, with a height and spread of at least 5' in 10 years.
- Existing vegetation may be counted toward the required plantings when identified on a landscape plan and certified by an arborist, landscape architect, landscape designer. Plants identified for the buffer must be protected from all land disturbing activities and construction at a distance equal to the drip line of the plant(s) to be used toward the buffer.

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

NOTES:

1. 8,000 square feet for the first two dwelling units and 2,500 sq. ft. for each additional dwelling unit.
2. Minimum setback for the first story and 10 additional feet for each additional unit.
3. Zero (0) yard requirement adjacent to the contour line of Hyco Lake, Lake Roxboro (located on the Person/Caswell County line) and Mayo Lake.
4. Measured from the closest point of the building to the property line or right-of-way.
5. No structure need be setback more than the average of the two (2) directly adjacent primary use structures on either side.
6. Uncovered stoops, decks and steps may extend into any required yard area no more than one half the required yard depth or width for lots without central water and sewer and with central water except no encroachment will be allowed adjacent to US or NC Highways. (Added 08/04/2008; 01/06/2020)
7. Unless otherwise specified in this ordinance, accessory buildings may be allowed within five (5) feet of rear and side yard lot lines. See Note 8 if property is located on an NC or US route. (Amended 6/3/2013)
8. Accessory structures may be placed in the front yard, if at least 25ft from the front property line. For lots located on NC and US highways, accessory structures may be placed in the front yard, if at least 40ft from the front property line. (Added 6/3/2013)

SECTION 73 - SETBACK REQUIREMENTS

(Amended 9/6/2016; 5/3/21)

73-1 Where a B-1, B-2, or GI District abuts the R district all business or industrial uses which abut said districts shall be set back a minimum of 50 feet from the abutting exterior property lines.

73-2 Setbacks shall be measured:

73-2.1 From the property line

73-2.2 From the road right of way

73-2.3 From the edge of the structure to the property line or other legal boundary

SECTION 74 CLUSTER DEVELOPMENT

(Added 8/1/2005; Amended: 12/07/09; 5/3/21)

74-1 PURPOSE

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

74-2 MINIMUM SUBDIVISION SITE SIZE

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

74-3 MINIMUM LOT SIZE

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

74-4 SETBACK REQUIREMENTS

A. The minimum building setbacks for single family detached dwellings are as follows:

- Front yard on Subdivision main artery; 25 feet
- Front yard on cul-de-sac or parking lots; 10 feet
- Rear yard; 15 feet
- Side yard; 8 feet

B. Minimum building setback for single family attached dwellings or multifamily structures are as follows:

- Front yard; 25 foot minimum for single family detached. Multi-family; 25 foot minimum for first story and 10 additional feet for each additional story.
- Rear yard; 10 feet
- Side yard; can be reduced to zero
- All setbacks shall be shown on the plat.

74-5 ACCESSORY STRUCTURES

- A. Accessory Structures are allowed only on lots of 20,000 square feet or more and only one structure per lot.
- B. All setbacks for accessory structures must be in compliance with Section 72.

74-6 MINIMUM ROAD DESIGN

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

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

74-7 OPEN SPACE

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

- A. The open space shall be subject to a Conservation Easement conveyed to Person County setting aside the said open space from future development and, in areas subject to Watershed Ordinances, the said conservation easement shall limit use as it relates to water quality regulations. The title to the open space shall be conveyed to a property owner's association, homeowners' association or other legal entity (public agency or nonprofit organization) that is capable of and willing to accept responsibility for managing open space for its intended purpose.
- B. Ownership of the Open Space is not restricted but any transfer of ownership of this property is subject to the conservation easement and any other conditions of the special use permit which created the Open Space.
- C. The design of the open space shall consider protecting water quality, conserving farm and forest land, providing wildlife habitat and preserving the natural aesthetics of the area.

ARTICLE VIII

SECTION 80 - PLANNED BUILDING GROUP REGULATIONS

Commercial and Residential

(Amended 5/6/2002)

80-1 A planned building group shall be a special use. The development shall be on a minimum of a 2-acre lot. It shall be exempt from the lot and yard dimensional requirements of this ordinance provided that the intensity of the development is no greater and the preservation of open spaces no less than allowed for other development in the same district. (Revised 1/11/96)

80-2 Proposals for planned building groups (exclusive of mobile home parks) shall be submitted to the Planning Department at least four (4) weeks prior to the regular monthly Board of Commissioners meeting at which it is to be reviewed. A planned building group shall be permitted only upon approval of the County Commissioners. (Amended 01/06/2020)

The following Planned Group Regulations shall be adhered to:

A. Site Plans are required and must show the following:

- 1) Proposed provisions for storm drainage and sanitary sewage as approved by the appropriate governmental agency.
- 2) Size and proposed location of any signs.
- 3) Proposed water system and firefighting facilities such as hydrants and sprinkler connections.
- 4) Proposed solid waste facilities.
- 5) The location, dimensions and type of surfacing for drives, sidewalks, malls, etc. All parking and travel ways to be paved. (Amended 5/6/2002)
- 6) The location and heights of all fences, walls and hedges.
- 7) Show proposed water and sewer lines and size. (Amended 5/6/2002)
- 8) Lighting plans inclusive of wattage and illumination.
- 9) Location of traffic control devices.
- 10) Location and amount of recreation areas.
- 11) Location and approximate size of existing and proposed structures within the site and all buildings and structures within 500 feet in addition to public or private easements or right-of-ways adjoining or intersecting such property.
- 12) Location and extent of proposed parking and loading areas.
- 13) Land contours at 10-foot intervals.
- 14) Proposed points of ingress and egress and proposed patterns of internal automobile and pedestrian circulation.

15) Proposed schedule of development.

Upon the recommendation of the Planning Department, the Board of County Commissioners may require submission of the following information as a condition to the granting of a Planned Building Group/Special Use Permit:

- 1) The slope, grade and cross-section of drives, sidewalks, malls, etc.
- 2) Profiles of publicly maintained water and sewer lines.
- 3) Profiles, cross-sections and slopes of on-site and off-site ditches carrying water run-off.
- 4) Erosion and Sediment Control Plans. (amended 5/6/2002)

B. Parking and loading

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

C. Screening and fencing

A screen not less than six feet high of dense plant material and/or fence may be required.

D. Recreation areas for planned residential groups

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

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

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

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

SECTION 81 – COMMERCIAL AND INDUSTRIAL SITE PLAN REQUIREMENTS

(Added 12/01/03; Amended 9/6/2016; 1/4/21)

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

81-1 The Planning Director may waive any requirement of this article provided it is not adverse to the purpose of this article and the applicant establishes that in his specific case an undue hardship would result from a strict enforcement of this article, or that the requirement is unreasonable. The Planning Director also may ask for additional information if deemed necessary by the Director to evaluate the site.

81-2.1 Site Plan Specifications:

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

1. Shall be prepared by a North Carolina registered land surveyor, engineer, architect or landscape architect.
2. The proposed title of the project and the name of the engineer, architect, surveyor and/or developer, the developer, and a signature panel for the Planning Director's approval.
3. The north point, scale, date, and vicinity map. Tax Map and Parcel Number and Township.
4. Existing zoning and zoning district boundaries on the property in question and on immediately surrounding properties.
5. The present use of all contiguous or abutting properties.
6. The boundaries of the property involved by bearings and distances.
7. All existing property lines, existing streets, buildings, watercourses, waterways or lakes and other existing physical features in or adjoining the project.
8. Topography of the project area with contour intervals of ten feet or less.
9. The location and sizes of sanitary and storm sewers, gas lines, water mains, culverts, and other underground structures, and easements for these facilities. Location of proposed or existing fire hydrants.
10. The location, dimensions and character of construction of proposed streets, alleys, driveways and the location, type and size of ingress and egress to the site.
11. The location of all existing and proposed off-street parking and parking bays, loading spaces and walkways, indicating types of surfacing, size, angle of stalls, width of aisles, and a specific schedule showing the number of parking spaces. All parking and travel ways shall be paved. Vehicular travel lanes or driveways shall not be less than twenty feet in width for two-way traffic and twelve feet for one-way traffic. Non-residential structures without permanent on-site employees may be permitted to have a twelve-foot wide paved or gravel vehicular travel lane or driveway. (Amended 1/4/21)

12. The location, height, type and materials of all existing and proposed fences, walls, screen planting and landscaping details of all buildings and grounds, and the location, height and character of all outdoor lighting systems, inclusive of wattage and illumination.
13. The location of all proposed buildings and structures, accessory and main; number of stories and height, proposed general use for each building; and the number, size and type of dwelling units where applicable.
14. Proposed finished grading by contour supplemented where necessary by spot elevations.
15. One hundred year floodplain areas per ***Federal Emergency Management Agency (FEMA)***
16. The location, character, size, height and orientation of proposed signs.
17. The location and dimensions of proposed recreation, open space, and required amenities and improvements.
18. Location of proposed solid waste facilities.
19. Proposed schedule of development.
20. Show total impervious surface. Show Best Management Practices where applicable.
21. Parking and Loading (see Section 110) for specific requirements.
22. Screening and Fencing. A screen not less than six feet high of dense plant material and/or fence may be required (see Section 75 for additional guidance).
23. Where the length of a dead-end street exceeds two hundred (200) feet and where there exists six (6) or more dwelling units, an area must be provided for the turnaround of fire fighting vehicles on a stabilized surface. This area shall not be used for parking.
24. Locations of fire hydrants must be shown within 1000 feet, as measured along the access drive from every dwelling unit in a residential building group. All hydrants must be served by a water main of sufficient size. In no case shall the minimum size main be less than six (6) inches in diameter.
25. When building heights exceed 50' certified approval from the fire inspector is required stating that the structure can be served by the local fire department.
26. The Planning Director may request the following information:
 - a. Slope. Grade and cross-section of drives, sidewalks, malls, etc.
 - b. Profiles of publicly maintained water and sewer lines.
 - c. Profiles: Cross-sections and slopes of on-site and off-site ditches carrying water run-off.
 - d. Erosion and Sediment Control Plans.
 - e. Lighting plan for Light or Heavy Industrial (LI or HI uses).

ARTICLE IX

SECTION 90 - AIRPORT OVERLAY DISTRICT REQUIREMENTS TO LIMIT HEIGHT OF OBJECTS AROUND PERSON COUNTY AIRPORT (Amended 5/3/21)

It is hereby found that an obstruction has the potential for endangering the lives and property of users of Person County Airport, and property or occupants of land in its vicinity; that an obstruction may affect existing and future instrument approach minimums of Person County Airport; and that an obstruction may reduce the size of areas available for the landing, takeoff, and maneuvering of aircraft, thus tending to destroy or impair the utility of Person County Executive Airport and the public investment therein. Accordingly, it is declared:

- (1) that the creation or establishment of an obstruction has the potential of being a public nuisance and may injure the region served by Person County Executive Airport;
- (2) that it is necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of obstructions that are a hazard to air navigation be prevented; and,
- (3) that the prevention of these obstructions should be accomplished, to the extent legally possible, by the exercise of statutory authority without compensation.

90-1: RESERVED

90-2: AIRPORT ZONES

In order to carry out the provisions of this Section, there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to Person County Executive Airport. Such zones are shown on the Person County Airport Zoning Map dated May, 1988. This map, along with a full description of each zone and the height limitations associated with each zone, is hereby made part of this ordinance and is located in the Person County Planning Office. An area located in more than one of the zones is considered to be only in the zone with the more restrictive height limitation.

90-3: AIRPORT ZONE HEIGHT LIMITATIONS

Except as otherwise provided in this Ordinance, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow or property use permitted in any zone created by this Ordinance to a height which exceeds the height limitations established by the surfaces of these zones. These height restrictions supersede any other height restrictions in this ordinance.

90-4: USE RESTRICTION

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

90-5: NONCONFORMING USES

1. Regulations Not Retroactive - The regulations prescribed in this Section shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of the predecessor of this section adopted January 16, 1989, or otherwise interfere with the continuance of a nonconforming use.
2. Marking and Lighting - The owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the County Planner to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated, and maintained at the expense of the County of Person.

90-6: PERMITS

1. Existing Uses - No permit shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use, structure, or tree to become a greater hazard to air navigation, than it was on the effective date of this Ordinance or any amendments thereto or than it is when the application for a permit is made.
2. Nonconforming Uses Abandoned or Destroyed - Whenever the County Planner determines that a nonconforming tree or structure has been abandoned or more than 80 percent (80%) torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations.
3. Variances - Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property, not in accordance with the regulations prescribed in this Ordinance, may apply to the Board of Adjustment for a variance from such regulations. The application for variance shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and relief granted, will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of this Ordinance. Additionally, no application for variance to the requirements of this Ordinance may be considered by the Board of Adjustment unless a copy of the application has been furnished to the Airport Manager for advice as to the aeronautical effects of the variance. If the Airport Manager does not respond to the application within fifteen (15) days after receipt, the Board of Adjustment may act on its own to grant or deny said application.
4. Obstruction Marking and Lighting - Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this Ordinance and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to install, operate, and maintain, at the owner's expense, such markings and lights as may be necessary. If deemed proper by the Board of Adjustment, this condition may be modified to require the owner to permit the County of Person, at its own expense, to install, operate, and maintain the necessary markings and lights.

SECTION 91 - AIRPORT OVERLAY NOISE EXPOSURE DISTRICT

- 91-1 The Airport Overlay Noise Exposure District regulates land uses in the vicinity of the Person County Airport by determining the yearly day-night average sound levels and identifying land uses that are normally compatible with various levels of noise exposure. The Overlay District Area shall be zoned General Industrial (GI) which will allow for compatible uses around the Airport.
- 91-2 The AP Overlay District regulates the area surrounding the Airport that has noise levels that may exceed 65 Ldn, as shown on the Official Zoning Map.
- 91-3 Where such permitted uses are located within the seventy (70) Ldn or above contour noise boundary, measures to achieve Noise Level Reduction (NLR) of at least 25 dB and 30 dB shall be incorporated into the design and construction of portions of these buildings where the public is received, office areas, noise sensitive areas or where the normal noise level is low.
- 91-4 The following uses shall not be permitted in the AP Overlay District:
- Churches, Temples, Synagogues
 - Day Care Center
 - Dwelling, Single-Family
 - Manufactured Homes
 - Modular Homes
 - Funeral Homes
 - Assemblies

ARTICLE X

NONCONFORMING USES

SECTION 100 - INTENT

Within the districts established by this ordinance, there may exist land uses which were lawful before this ordinance or its predecessor ordinances were passed but which would be prohibited or restricted under the terms of this ordinance. It is the intent of this ordinance to permit those nonconforming uses to continue until they are removed, but not to encourage their continuation. Any land use which was a violation of predecessor Person County Planning Ordinances shall continue to be a violation of this ordinance and shall not be considered as a nonconforming use.

SECTION 101 - CONTINUATION OF NONCONFORMING USES

(Amended 11-17-92, Amended 5-7-01; Amended 11/17/03; Amended 2/03/03; 5/3/21)

- 101-1 Nonconforming uses may not be changed to another nonconforming use unless the Board of Adjustment determines that such change shall be no more detrimental to the neighborhood than the existing use; however, no change of title or possession, or right to possession of property shall be construed to prevent the continuance of a nonconforming use.
- 101-2 Any structure existing at the time of adoption of this Ordinance which does not comply with setback or yard requirements, or which exceeds height requirements, may be continued in use but shall not be enlarged or extended unless such extensions or enlargement comply with all the provisions of this ordinance. No uncovered portion of a building may be covered if the setback or height requirements are not met. (Amended 6/3/2013; 01/06/2020)
- *101-3 Nothing in this ordinance shall be construed to prevent the reconstruction of any building, conforming or nonconforming, damaged by any means. However, any nonconforming building which is damaged may only be replaced by a structure of equal or smaller size and square footage as that of the previous structure. No reconstruction or new construction shall be allowed which creates any new or additional nonconformity than that which existed at the time of damage. *(Amended 11/17/92)
- 101-4 If a nonconforming use is discontinued for a period of 180 consecutive days or for more than eighteen months in any three-year period, the future use of the building or land must be a conforming use.
- 101-5 A nonconforming use may be changed to a use of a higher classification and whenever the use is changed to a higher or conforming classification then it shall not be allowed to change to the original use or to a lower use. For the purposes of this section, the order of classification of use, from the highest to the lowest shall be as follows: R, B-1, B-2, GI, and R-C.

- 101-6 If a nonconforming structure or a conforming structure devoted to a nonconforming activity is destroyed or damaged in any manner, to the extent that the cost of restoration to its condition before the occurrence shall not exceed 60 percent of the cost of reconstructing the entire structure based on the assessed structure value, as recorded by the County Tax Assessor, it may be repaired or restored, provided such repair or restoration is started within six (6) months of the damage and completed within twelve (12) months. However, any nonconforming building which is damaged may only be replaced by a structure of equal or smaller size and square footage as that of the previous structure. Relief to the time limits may be granted by the Board of Adjustment.
(added 11/17/2003)
- 101-7 A nonconforming structure or a conforming structure devoted to a nonconforming activity that is damaged by any casualty to an extent more than 60 percent of its assessed value, based on County Tax Assessor records, shall not be restored except as follows:
- A. As a conforming use.
 - B. If the use is a one-family dwelling, restoration shall be permitted.
 - C. For structures except a one family dwelling, restoration of a nonconforming structure shall require approval by the Board of Commissioners. A site plan according to Section 81 will be required. In approving such permit, the Board will consider the stated purpose for establishing the zoning district in which the structure in question, particularly the other nonconforming uses, and the hardship which would result from a denial of the Special Use Permit. The permit shall include conditions as to time for repair to be completed and any other conditions deemed necessary to carry out the intent of this section of the ordinance. (Amended 6/3/2013; 5/3/21)
- 101-8 **(Deleted 6/3/2013)**
- 101-9 Nonconforming lots of record: Permitted Structures may be erected upon any single lot of record at the time of adoption of this Ordinance, provided the minimum yard requirements are met. A variance to the Planning Ordinance is required if the yard width or setback requirements cannot be met. (Added 6/3/2013)
- 101-10 The creation of a lot with a width or area smaller than allowed by existing zoning requirements is prohibited, except by governmental action, such as road widening. Any lot, which, by reason of realignment of a public street or highway or by reason of condemnation proceedings, has been reduced in size to an area less than required by law, shall be considered a nonconforming lot of record subject to the provisions t forth in this section; and any lawful use or structure existing at the time of such highway realignment or condemnation proceedings which would thereafter no longer be permitted under the terms of this ordinance shall be considered a nonconforming use or structure as that term is used in this ordinance. (Added 6/3/2013)
- 101-11 When any nonconforming use is superseded by a permitted use, the use shall thereafter conform to the regulations for this district, and no nonconforming use shall thereafter be resumed. (Added 6/3/2013)

SECTION 102 - REPAIRS AND MAINTENANCE

- 102-1 Nothing in this ordinance shall prevent the restoring or strengthening of a nonconforming structure to a safe condition, provided that the square feet of the structure shall not be increased.
- 102-2 Should any nonconforming structure be moved for any reason within the Zoning Jurisdiction of Person County, it shall conform to the regulations for the district in which it is to be located.

SECTION 103 - NONCONFORMING LOTS OF RECORD

(Amended 2/1/93)

- 103-1 **(Deleted 6/3/2013)**

ARTICLE XI

SECTION 110 - OFF-STREET PARKING AND LOADING

(Amended 3/8/99; 9/2/2008; Added 8/4/2008; Amended 9/6/2016)

110-1 Required off-street parking shall be provided on every lot or within a distance of 500 feet from the lot if such parking space cannot be reasonably provided on that lot. Each application for a Certificate of Occupancy/Compliance shall include information as to:

- Location and dimensions of off-street parking and loading space;
- Distance between that parking/loading space and street or alley;
- Ingress and egress of the property.

110-2 An off-street parking space shall not be less than 9' x 18' per space. Twenty percent of required parking spaces to be for compact cars with a minimum size of 7.5' x 15'. (Added 8/4/2008, Amended 9/2/2008)

110-3 The following off-street parking space shall be provided: (Added 8/4/2008)

USE	REQUIRED OFF-STREET PARKING
Residence-Single Family	2 spaces
Residence, Duplex	4 spaces
Residence, Multi-Family / Residential Group	2 ½ Spaces for each dwelling unit
Offices	1 space for every 250 sq. ft. of gross floor area
Retail Business (<i>Amended 11-18-91</i>)	.7 of a space for every 200 sq. ft. of gross floor area
Churches	1 space for every 5 seating spaces in principal sanctuary
Auditoriums, Stadiums and Theaters	1 space for every 5 seats
Motels, Tourist Homes and Boarding Houses	1 space for every rental room
Hospitals and Nursing Homes	1 space for every bed space
Medical Clinics	4 spaces for each doctor plus 1 space for each employee
Wholesale Establishment, Warehouse and other businesses not catering to retail or package trade	1 space for every 3 employees during maximum employment and 1 space for every truck to be stored or stopped simultaneously
Light or Heavy Industrial (LI/HI)	1 space for every 1.5 employees during maximum employment and 1 space for every truck to be stored or stopped simultaneously
Institutions and Clubs	1 space for every 5 seats in principal assembly room
Community or Private Swimming Clubs	1 space for every 5 memberships
Day Care Center	1 space for each adult attendant and 1 space for every six children or fraction thereof
Restaurants	1 space for each 5 seats
Assisted Living/Home for the Aged (<i>amended 3/8/99</i>)	1 space for every 2 bed spaces
Independent Living Facility (age restricted) (<i>added 8/4/2008</i>)	1 space per unit and 1 space per employee during maximum employment

ARTICLE XII

SIGNS

(Amended 3/17/97, 7/7/97, 7/2/2001)

SECTION 120 -- PURPOSE AND SCOPE

This article is intended to address the placement of signs within the county's jurisdiction for the following purposes: to promote traffic safety; to prevent business and advertising signs from conflicting with public safety signs; to ensure that permitted signs do not become a hazard or nuisance; to prevent the overcrowding of land; to facilitate fire and police protection; to protect and enhance the value of properties; to provide a pleasing overall environmental setting and good community appearance which is deemed vital to the continued economic attractiveness of the county; and to promote the public safety and welfare of the county.

SECTION 121 -- SIGN COMPLIANCE

No sign shall be constructed, erected, modified, placed, maintained, or moved, except as authorized by this Ordinance. Unless otherwise exempted, a zoning permit must be obtained before a sign is erected, modified, or moved on a zoning lot. No sign shall be placed within a public right-of-way or within the sight triangle of a roadway intersection as would be determined by N.C. Department of Transportation. Any sign authorized in this article is allowed to contain non-commercial copy in lieu of any other copy. (Amended 7/7/97)

SECTION 122 -- SIGNS EXEMPTED

The following signs shall be exempt from regulations under this article, regardless of whether they may be considered "signs":

1. Commemorative tablets or signs, historical or memorial markers or monuments, erected by or with the permission of the Person County Board of Commissioners, Roxboro City Council or the N.C. Department of Transportation.
2. Any official traffic control or other public sign;
3. Lights and decorations with no commercial message temporarily displayed on traditionally adopted civic, patriotic or religious holidays;
4. Signs carried by people;
5. Signs located on the interior of buildings, courts, lobbies, stadiums or other structures which are not intended to be seen from the exterior of such structures; and,
6. Signs not visible from a public or private street.

SECTION 123 - TEMPORARY SIGNS

The following temporary signs do not require a zoning permit; however, these signs shall conform to the standards and provisions of this section and other applicable parts of this ordinance. Unless otherwise stated herein, temporary signs shall not exceed forty (40) square feet in area per sign face, or have more than one sign face per direction of travel or exceed six (6) feet in height.

1. Real estate signs.
2. Construction site identification signs.
3. Seasonal Agricultural Signs. Such signs may be erected for the purpose of advertising and directing potential patrons to the seasonal sale of agricultural products produced and offered for sale at bona fide farming operation. Seasonal agricultural signs may be erected not sooner than 30 days before the normal sales or harvest season and must be removed within 30 days after the normal sales or harvest season.
4. Signs erected in connection with elections or political campaigns. Political signs shall not be erected before the established filing date for an election nor allowed to remain longer thirty (30) days after the election.
5. Signs indicating that a special event such as a grand opening, fair, carnival, circus, festival, air show, fundraiser, or similar event is to take place. Such signs may be erected not sooner than 30 days before the event and must be removed not later than 30 days after the event.
6. Yard sale sign. A sign not exceed 6 square feet may be erected not sooner than two weeks before the event and must be removed not later than three days after the event.
7. Signs affixed to windows of vehicles displaying information on the terms of sale for said vehicles.

SECTION 124 -- ON-PREMISE SIGNS

(Added 7/2/2001)

An on-premise sign shall be an accessory use incidental to the principal land use; an on-premise sign shall specifically comply with the following:

1. **Area.** The maximum area of all free standing on-premises signs shall be 300 square feet. The area shall mean the surface area of a sign as computed in accordance with Section 131 herein.
2. **Height.** The maximum height of a free standing on-premise sign shall be 30'. The height shall mean the height of a sign as determined in accordance with Section 131 herein.
3. **Setback.** An on-premises sign shall meet the minimum setback requirement of fifteen (15) feet. (Amended 11/17/2003)
4. **Number Permitted.** One free standing on-premises sign shall be permitted per street frontage of a zoning lot.
5. For permitted commercial/industrial uses, total sign area for building-mounted signs on building housing only one (1) tenant shall not exceed in the aggregate two (2) square feet of sign area for each lineal foot of building frontage. No such sign shall be required to be less than four (4) square feet, nor shall it exceed two hundred (200) square feet. Where frontage is on more than one street, each frontage shall be considered a separate frontage for the purpose of this section. (added 7/2/2001)

SECTION 124 -- ON-PREMISE SIGNS continued

6. On lots containing buildings housing more than one tenant, sign area for building-mounted signs for each tenant shall not exceed two (2) square feet for each lineal foot of building frontage occupied by the tenant, with a maximum sign area for that respective tenant of two hundred (200) square feet. (Added 7/2/2001)
7. For Planned Building Groups, building-mounted signs are allowed for each tenant and shall not exceed two (2) square feet for each lineal foot of building. Signage to be approved in the Special Use Permit process (Article VIII, Section 80). (Added 7/2/2001)0
8. Awning signs are permitted provided that such sign shall be limited to the drop leaf portion and the maximum sign area is forty (40) square feet per sign. The area of all permitted awning signs shall be included in the area allowed for building-mounted signage. (Added 7/2/2001)
9. Marquee signs are permitted and may extend the full length of the marquee on theaters, auditoriums and assembly halls. Height of the message area may not exceed eight (8) feet and sign area may not exceed 200 square feet. Only one marquee sign per each establishment. (Added 7/2/2001)
10. Fuel canopy signage is permitted provided the signage is limited to logo signs and shall not exceed twelve (12) square feet per canopy side. Signage is not allowed to exceed beyond the vertical edge of the canopy. (Added 7/2/2001)
11. This section shall be deemed complied with if such on-premise signs are specifically included as part of sign plan approved as condition of, or pursuant to a special use permit.

SECTION 125 -- HOME OCCUPATION SIGNS

A home occupation shall be permitted one sign professional or announcement sign per dwelling unit not exceeding six (6) square feet in area.

SECTION 126 -- SUBDIVISION AND MULTI-FAMILY DEVELOPMENT ENTRANCE SIGNS

At any entrance to a residential subdivision or multi-family development, there may be not more than two ground signs to identify or identifying such subdivision or development. A single face of any such sign may not exceed 16 square feet, nor may the total surface area of all such signs located at a single entrance exceed 32 square feet.

SECTION 127 -- INDUSTRIAL PARK ENTRANCE SIGNS

At any entrance to an industrial park, there may not be more than two ground signs identifying the park. A single face of any such sign may not exceed 100 sq. ft., nor may the total surface area of all such signs located at a single entrance exceed 150 square feet.

SECTION 128 -- OFF-PREMISE ADVERTISING SIGNS

Off-premise advertising signs are permitted in accordance with the following provisions:

1. Area. The maximum area of an off-premise advertising sign shall 378 square feet per sign face, one sign face per directional flow of traffic. Signs may be back to back or "V- type" construction.

The area of the sign shall be computed by means of the smallest square, circle, rectangle, triangle or combination thereof which will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing, ornamental base or trim.

2. Height. The maximum height of an off-premise advertising sign shall be 30'. Said 30' shall be measured from: (i) the higher of the unaltered grade of the terrain of the sign location or (ii) the elevation of the grade of the road shoulder perpendicular to the sign, whichever is higher, to the uppermost part of the sign or sign structure, whichever is higher.
3. Setback. An off-premise advertising sign shall comply with the following minimum setbacks requirements:
 - a. In General Industrial (GI), Highway Business (B-1), and Neighborhood Business (B-2) an off-premise advertising sign shall be set back a minimum of 15' from the road right-of-way and 15' from the side property lines; and
 - b. In a Rural Conservation (RC) Zoning District an off-premise advertising sign shall be set back a minimum of 15' from the road right-of-way, and 50' from the side property lines.
4. Spacing from Other Off-Premise Advertising Signs No off-premise advertising sign shall be located closer than 1400' from any other off-premise advertising. A sign on the opposite side of the road or highway shall not be located closer than 400 feet to an off-premise sign already erected. These distances are to be measured along the edge of the pavement between the closest points of the sign from a line drawn perpendicular to the edge of the pavement to the edge of the sign.
5. Spacing from Other Structures or Land Uses. No off-premise advertising sign shall be placed within 300' of any zoning lot used for a school or public park.
6. Allowed Use. Notwithstanding other provisions of this ordinance, off-premise advertising signs shall be allowed as a principal or accessory use incidental to the principal land use when erected in a Highway Business (B-1), Neighborhood Business (B-2), Rural Conservation (RC), or General Industrial (GI) Zoning District.
7. Most restrictive provisions apply. When or if any portion of this ordinance is in conflict with any applicable state or federal regulations or statutes, the more restrictive provisions shall apply.
8. A property owner may not create a lot after March 17, 1997, that does not meet minimum lot size requirements for the purpose of placing an off-premise advertising sign on it.

SECTION 128 -- OFF-PREMISE ADVERTISING SIGNS continued

9. Zoning Permit Required: A zoning permit shall be obtained from the Zoning Administrator prior to the placement of an off-premises advertising sign. Each request for a zoning permit shall be accompanied by a:
- a. Recorded survey plat or a survey prepared by a registered land surveyor, if available, showing accurate dimensions of the lot to be built upon and the proposed sign location.
 - b. In the absence of the above, the proposed sign location may be hand drawn on the applicable lot depicted on a copy of an official Person County tax map.
 - c. Tax map reference number and parcel number of the lot to be built upon;
 - d. To scale drawing of the proposed sign and sign structure; (Note: More detailed structural information may be required when applying for applicable permits (i.e., building, electrical) from the Person County Inspection Department. Pursuant to the N.C. State Building Code, the erector of the sign shall submit to the building official a design and stress diagram or plan, containing the necessary information to enable the building official to determine that such sign complies with all the regulations of the code.)
 - e. Zoning Permit Fee.

SECTION 129 -- OFF-PREMISE DIRECTIONAL SIGNS

Off-premise directional signs do not require a zoning permit; however, these signs shall conform to the standards of this article and other applicable parts of this ordinance. An off-premise directional sign which does not meet such provisions of this article shall be considered in violation of the ordinance.

An off-premise directional sign shall not exceed thirty-two (32) square feet in area per sign face, or have more than one sign face per directional flow of traffic, or no more than two (2) sign faces per sign structure, or exceed six (6) feet in height.

Not more than three (3) off-premise directional signs shall contain directions to the same business or activity.

SECTION 130 -- SIGN ILLUMINATION

Signs must be effectively shielded to prevent beams or rays of light from being directed toward any portion of a traveled road, and must not be of such intensity or brilliance or glare or impair the vision of the driver of any motor vehicle or otherwise interferes with any driver's operation of a motor vehicle. No sign shall be so illuminated that it interferes with the effectiveness of or obscures an official traffic sign, device or signal. All illuminated signs or structures shall be placed so as to prevent the light rays or illumination from being cast directly on any residence.

SECTION 131 -- COMPUTATIONS

The area and height of a sign shall be computed as follows:

1. **Area of Individual Signs.** The area of a sign shall be computed by means of the smallest square, circle, rectangle, triangle or combination thereof which will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing, ornamental base or trim.

If the sign consists of more than one section or module, all of the area, including that between sections or modules, shall be included in the computation of the sign area.

2. **Multi-Faced Signs - Computation of Area.** For multi-faced signs, the sign area shall include all sign faces visible from any one (1) point. When two (2) identical sign faces are placed back to back so that both faces cannot be viewed from any point at the same time, and when the backs for such sign faces are part of the same sign structure and are not more than forty-two (42) inches apart, the sign area shall be computed by the measurement of one (1) of the larger faces.
3. **Height.** Height shall be measured from: (i) the higher of the unaltered grade of the terrain of the sign location or (ii) the elevation of the grade of the road shoulder perpendicular to the sign, whichever is higher, to the uppermost part of the sign or sign structure, whichever is higher.

SECTION 132 -- PROHIBITED SIGNS

(Revised 11/5/01)

The following signs are prohibited:

1. Any non-governmental sign which resembles a public safety warning or traffic sign;
2. Signs with animated, blinking, chasing, flashing or moving effects except as used to display time, temperature and messages on an electronic message board, no signs shall contain flashing lights. (Revised 11/5/01)
3. Animated, rotating, or other moving or apparently moving signs. (Revised 11/5/01)

SECTION 133 - SIGN MAINTENANCE

All signs supports, braces, poles, wires and other appurtenances of the sign or sign structure shall be kept in good repair, maintained in a safe condition, and shall conform to the standards in this section and the North Carolina State Building Codes.

Maintenance of sign supports, braces, poles, wires and other appurtenances of the sign or sign structure and not the result of damage or destruction shall not require a zoning permit, provided the sign is not enlarged, moved, or altered in any manner which would create or increase a nonconforming condition.

A sign face shall be in a state of disrepair when more than twenty (20%) of its' total surface is disfigured, cracked, ripped or peeling paint or poster paper, or any combination of these conditions.

No sign shall be allowed to stand with bent or broken sign facing, broken supports, loose appendages or struts.

No sign or sign structure shall be allowed to have weeds, vines or other vegetation growing on it and obscuring it from the road or highway from which it is intended to be viewed.

No illuminated sign shall be allowed to operate with partial illumination.

SECTION 134 -- NONCONFORMING SIGNS

All signs made nonconforming by this article, but which were lawfully established may continue provided that no such sign shall be: changed or replaced with another nonconforming sign except that copy may be changed on an existing sign; expanded; relocated except in conformance with the requirements of this ordinance; reestablished after damage or destruction in excess of sixty percent (60) percent of the fair market value immediately prior to the time of the damage or destruction; modified in any way which increases the sign's degree of nonconformity; or reestablished after the sign structure has been removed.

As soon as reasonably possible after the effective date of this amendment, the zoning administrator shall make every reasonable effort to identify all the nonconforming signs with the county's planning jurisdiction.

ARTICLE XIII

ADMINISTRATIVE POWERS AND DUTIES (Amended 5/3/21)

SECTION 140 - ADMINISTRATION

140-1 DUTIES - Duties assigned to staff may include, but are not limited to, drafting and implementing plans and development regulations to be adopted pursuant to this Ordinance; determining whether applications for development approvals are complete; receipt and processing applications for development approvals; providing notices of applications and hearings; making decisions and determinations regarding development regulation implementation; determining whether applications for development approvals meet applicable standards as established by law and local ordinance; conducting inspections; issuing or denying certificates of compliance or occupancy; enforcing development regulations, including issuing notices of violation, orders to correct violations, and recommending bringing judicial actions against actual or threatened violations; keeping adequate records; and any other actions that may be required in order adequately to enforce the laws and development regulations under their jurisdiction. A development regulation may require that designated staff members take an oath of office. The local government shall have the authority to enact ordinances, procedures, and fee schedules relating to the administration and the enforcement of this Ordinance. The administrative and enforcement provisions related to building permits set forth in N.C.G.S. Article 11 shall be followed for those permits (N.C.G.S. 160D-402).

140-2 - CONFLICT OF INTEREST - No staff member shall make a final decision on an administrative decision required in this Ordinance if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship. If a staff member has a conflict of interest under this section, the decision shall be assigned to the supervisor of the staff person or such other staff person as may be designated by the development regulation or other ordinance. No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under this Ordinance unless the staff member is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with a local government to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the local government, as determined by the local government (N.C.G.S. 160D-109)

140-3 - The Zoning Enforcement Officer who shall be appointed by the Person County Board of Commissioners is duly charged with the enforcement of the provisions of this ordinance. If the Zoning Enforcement Officer finds that any of the provisions of this ordinance are being violated, he shall notify in writing the person(s) responsible for such violations, indicating the nature of the violation and ordering the action(s) necessary to correct it. He shall also take any other action authorized by this ordinance to ensure compliance with or to prevent violation of its provisions.

SECTION 141 APPROVALS AND COMPLIANCE

141-1 ZONING PERMIT (Amended 11/18/91; 3/17/97; 5/3/21)

- a) Unless otherwise stated in this ordinance, no building, structure (a sign is considered a structure) or any part thereof designed or intended to be used for other than farm or agricultural purposes, shall be erected or altered until Zoning permit has been issued by the Zoning Administrator or authorized representative. (Amended 3/17/97)
- b) Each application for a Zoning Permit shall be accompanied by a plat, drawn to scale, showing accurate dimensions of the lot to be built upon, accurate dimensions of the building to be erected, its location on the lot, and such other information as may be necessary to provide for the enforcement of this ordinance. An accurate record of such applications and plats, together with a record of the action taken thereon shall be kept in the office of the Person County Planning Department. The Zoning Enforcement Officer may waive any of these application requirements.
- c) Zoning Permit Application Issuance. Any zoning permit shall become invalid unless the work authorized by it shall have been commenced within six (6) months of the date of issue, or if the work authorized by it is suspended or abandoned for a period of one (1) year. The zoning permit shall become invalid if the work authorized by it is not completed within one (1) year of the date of issuance of the zoning permit. Application may be made to the Zoning Administrator for a new zoning permit to replace any permit which becomes invalid under this section. In the event a new permit is denied by the Zoning Administrator, an appeal may be made to the Board of Adjustment.

141-2 PERMIT OF OCCUPANCY/ COMPLIANCE

- a) No land shall be used or occupied, except for farm purposes, and no building or structure erected or altered shall be used or changed in use for other than farm purposes until a Permit of Occupancy/Compliance has been issued by the Zoning Enforcement Officer stating that the building and/or the proposed use complies with the provisions of this ordinance. A permit of the same shall be required for the purpose of changing any existing use as well as for maintaining, reviewing, changing or extending any nonconforming use. The aforementioned Permit shall be applied for coincidentally with the application for a Zoning Permit and shall be issued within ten (10) working days after notification to the Zoning Enforcement Officer of completion of the erection or alterations of such building or part in conformity with the provisions of this ordinance. A record of all such certificates shall be kept on file in the office of the Zoning Enforcement Officer(s), and copies shall be furnished, upon request, to any person having a proprietary or tenancy interest in the building or land.
- b) No gas, electric, or water company or municipal departments shall provide utility services or install a meter at a construction site unless a Zoning Permit has been issued for a building or use at that location. No gas, electric, or water company or municipal department shall provide utility service or install a meter in any building or premise or part thereof hereafter, created, erected, changed, converted, altered or enlarged, wholly or part in its use or structure unless a Certificate of Compliance shall have been issued thereof.
- c) PERFORMANCE GUARANTEES
 - 1. In the event that the required improvements or construction has not been completed prior to the final zoning inspection, the developer shall guarantee the completion of the required

improvements in a development by means of a bond with surety or other guarantees satisfactory to the County Manager or his/her designee in an equal amount to one-hundred ten percent (125%) of the estimated cost of the required improvements whereby improvements may be made and utilities installed. The reasonably estimated cost of completion shall include one hundred percent (100%) of the costs for labor and materials necessary for completion of the required improvements. Where applicable, the costs shall be based on unit pricing. The additional ten percent (25%) allowed under this section includes inflation and all costs of administration regardless of how such fees or charges are denominated. One of the following methods shall be pursued by the developer to ensure the installation of said improvements:

- a) Filing a performance or surety bond with the developer/property owner as principal and a surety approved by the County Manager or his/her designee upon recommendation of the County Engineer; and in an amount approved by the County Manager or his/her designee upon recommendation of the County Engineer, or,
 - b) Depositing or placing in escrow a certified check or cash in an amount to be determined by the County Manager or his/her designee upon recommendation of the County Engineer. Portions of the security deposit may be released as the work progresses, or,
 - c) Filing an irrevocable letter of credit guaranteeing payment to Person County in the event of default in an amount to be determined by the County Manager or his/her designee upon recommendation of the County Engineer, or,
 - d) Other form of guarantee that provides equivalent security to a surety bond or letter of credit. (SL 2019-79 SB 313)
2. The duration of the performance guarantee shall initially be one year, unless the developer determines that the scope of work for the required improvements necessitates a longer duration. In the case of a bonded obligation, the completion date shall be set one year from the date the bond is issued, unless the developer determines that the scope of work for the required improvements necessitates a longer duration. (SL 2019-79 SB 313)
3. The developer shall have the option to post one type of a performance guarantee as provided for in this subsection, in lieu of multiple bonds, letters of credit, or other equivalent security, for all development matters related to the same project requiring performance guarantees. Performance guarantees associated with erosion control and stormwater control measures are not subject to the provisions of this section. (SL 2019-79 SB 313)
4. A developer shall demonstrate reasonable, good-faith progress toward completion of the required improvements that are secured by the performance guarantee or any extension. If the improvements are not completed to the specifications of the Person County, and the current performance guarantee is likely to expire prior to completion of the required improvements, the performance guarantee shall be extended, or a new performance guarantee issued, for an additional period; provided, however, that the extension shall only be for a duration necessary to complete the required improvements. If a new performance guarantee is issued, the amount shall be determined by the procedure provided in this subsection and shall include the total cost of all incomplete improvements. (SL 2019-79 SB 313)
5. A performance bond or other guaranty as allowed in this subsection may be reduced proportionally upon the satisfactory completion of some of the required improvements. Any reduction shall be limited only to that percentage of completion as determined and certified by the Zoning Administrator. The reduction shall not exceed 75% of the said original bond or guaranty.

6. When the required improvements have been completed the developer shall notify the Planning and Zoning Administrator. The Planning and Zoning Administrator shall request comments relative to those improvements from the North Carolina Department of Transportation, the Soil Conservation Service and the Person County Health Department, who will notify the Planning and Zoning Administrator that the improvements have been installed to their satisfaction. The Planning and Zoning Administrator shall request in writing to the County Manager to release the bond, letter of credit or funds from escrow. When required improvements that are secured by a bond are completed to the specifications of Person County, or are accepted by Person County, if subject to county acceptance, upon request by the developer, Person County shall timely provide written acknowledgement that the required improvements have been completed. In the event of default by the developer, the County Manager is authorized to call for payment of the bond or letter of credit or to release security from escrow and to utilize such funds for the completion of improvements in a manner as determined by the Board of Commissioners. SL 2019-79 SB 313)

SECTION 142 ENFORCEMENT AND PENALTIES

142-1 INSPECTIONS - Local Administrative staff may inspect work undertaken pursuant to a development approval to assure that the work is being done in accordance with applicable State and local laws and of the terms of the approval. In exercising this power, staff are authorized to enter any premises within the jurisdiction of the local government at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials, provided the appropriate consent has been given for inspection of areas not open to the public or that an appropriate inspection warrant has been secured (N.C.G.S. 403(e)).

142-2 NOTICE OF VIOLATION - When staff determines work or activity has been undertaken in violation of a development regulation adopted pursuant to this Ordinance or other local development regulation or any State law delegated to the local government for enforcement purposes in lieu of the State or in violation of the terms of a development approval, a written notice of violation may be issued. The notice of violation shall be delivered to the holder of the development approval and to the landowner of the property involved, if the landowner is not the holder of the development approval, by personal delivery, electronic delivery, or first class mail and may be provided by similar means to the occupant of the property or the person undertaking the work or activity. The notice of violation may be posted on the property. The person providing the notice of violation shall certify to the local government that the notice was provided and the certificate shall be deemed conclusive in the absence of fraud. Except as provided by N.C.G.S. 160D-11-23, 160D-12-6, or otherwise provided by law, a notice of violation may be appealed to the Board of Adjustment pursuant to N.C.G.S. 160D-4-5.2 (N.C.G.S. 404-(a)).

142-3 REVOCATION OF DEVELOPMENT APPROVAL - Development approvals may be revoked by the local government issuing the development approval by notifying the holder in writing stating the reason for the revocation. The local government shall follow the same development review and approval process required for issuance of the development approval, including any required notice or hearing, in the review and approval of any revocation of that approval. Development approvals shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of any applicable local development regulation or any State law delegated to the local government for enforcement purposes in lieu of the State; or for false statements or misrepresentations made in securing the approval. Any development approval

mistakenly issued in violation of an applicable State or local law may also be revoked. The revocation of a development approval by a staff member may be appealed to the Board of Adjustment pursuant to N.C.G.S. 160D-405. If an appeal is filed regarding a development regulation adopted by a local government pursuant to this Chapter, the provisions of N.C.G.S. 160D-405(e) regarding stays shall be applicable (N.C.G.S. 160D-403(f)).

142-4 PENALTIES

- a) Subject to the provisions of the development regulation, any development regulation adopted pursuant to authority conferred by N.C.G.S Article 4 may be enforced by any of the following remedies:
 - 1. Any person, firm or corporation who violates any provision of this ordinance shall be guilty of a Class 3 misdemeanor and shall be fined not more than five hundred dollars (\$500).
 - 2. Each day a violation exists shall be a separate violation hereunder. (Amended 11/17/2003)
- b) This Ordinance may be enforced by an appropriate equitable remedy, including temporary restraining order, preliminary injunction and permanent injunction as issued by a court of competent jurisdiction. (Amended 11/17/03) (N.C.G.S. 160D-404(c)).

ARTICLE XIV

DEVELOPMENT APPLICATION REVIEW PROCEDURES AND ADMINISTRATION (Amended 5/3/21)

SECTION 150 GENERAL

- a) This article establishes the procedures for all approvals, administrative reviews and administrative relief required by this Ordinance. This article provides the user with a guide to the procedures to be followed and the criteria for making decisions on each of the applications. It also provides for appeals from decisions taken to the courts.
- b) Development approvals shall be in writing and may contain a provision that the development shall comply with all applicable State and local laws. Person County may issue development approvals in print or electronic form. Development approvals issued exclusively in electronic form shall be protected from further editing once issued (N.C.G.S. 160D-403).
- c) All rights, privileges, benefits, burdens, and obligations created by development approvals made pursuant to this Article and the North Carolina General Statute attach to and run with the land (N.C.G.S. 160D-104).
- d) Applications for development approvals may be made by the landowner, a lessee or person holding an option or contract to purchase or lease land, or an authorized agent of the landowner. An easement holder may also apply for development approval for such development as is authorized by the easement (N.C.G.S. 160D-403).

150-1 DURATION OF APPROVAL

- a) Development approvals are valid for the following time periods:
 - 1. Development approvals (Zoning permits, Stormwater permits and Floodplain permits) 1 Year
 - 2. Site-specific vesting plans (Special Use Permits, PUDs, subdivision plats, site plans, preliminary or general development plans, CD-rezonings, and formerly site specific and phased development plans) 2-5 Years
 - 3. Multi-phased development plans Up to 7 Years
- b) After a development approval has been issued, no deviations from the terms of the application or the development approval shall be made until written approval of proposed changes or deviations has been obtained. This section defines major modifications to development approvals that cannot be exempted or administratively approved. Person County shall follow the same development review and approval process required for issuance of the development approval in the review and approval of any major modification of that approval (N.C.G.S. 160D-403).
- c) Development approvals shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of any applicable local development regulation or any State law delegated to the local government for enforcement purposes in lieu of the State; or for false statements or misrepresentations made in securing the approval. Any development approval mistakenly issued in violation of an applicable State or local law may also be revoked. Development approvals may be revoked by

notifying the holder in writing stating the reason for the revocation. Person County shall follow the same development review and approval process required for issuance of the development approval, including any required notice or hearing, in the review and approval of any revocation of that approval. The revocation of a development approval by a staff member may be appealed to the Board of Adjustment (N.C.G.S. 160D-403).

150-2 Whenever the Board of Commissioners or Board of Adjustment disapproves a petition from a member of the public (i.e., appeal, request for a special use permit, variance, request for an interpretation, request for text or official Planning Map Amendment, vested rights, etc.) on any basis other than the failure of the applicant to submit a complete application, such action may not be considered until a period of twelve months' elapses, unless applicant clearly demonstrates that:

1. Circumstances affecting the property that is the subject of the application have substantially changed; or,
2. New information is available that could not with reasonable diligence have been presented at a previous hearing. A request to be heard on this basis must be filed with the Zoning Administrator within the time period for an appeal to superior court. However, such a request does not extend the period with which an appeal must be taken.

Notwithstanding items (1) and (2) listed above, the applicable Board, may at any time consider a new application affecting the same property as an application previously denied. A new application is one that differs in some substantial way from the one previously considered. This determination shall be rendered by the Zoning Administrator within 30 days from the date of submittal. (Amended 8/5/96)

150-3 Appeals may be made to the Board of Adjustment for any administrative determination under a development regulation, except for Special Use Permits. The owner or other party shall have 30 days from receipt of the written notice of the determination within which to file an appeal. Any other person with standing to appeal shall have 30 days from receipt from any source of actual or constructive notice of the determination within which to file an appeal. In the absence of evidence to the contrary, given by first class mail shall be deemed received on the third business day following deposit of the notice for mailing with the United States Postal Service (N.C.G.S. 160D-405).

SECTION 151 - CONDITIONAL USE PERMITS AND SPECIAL USE DISTRICTS ISSUED PRIOR TO 5/3/2021

151-1 Any special use district or conditional use district zoning district that is valid and in effect as of January 1, 2021 shall be deemed a conditional zoning district consistent with the terms of the North Carolina General Statute 160D and the special or conditional use permits issued concurrently with establishment of those districts shall be valid as specified in North Carolina State Law 2019-111 Section 8.1. Any valid "conditional use permit" issued prior to January 1, 2021 shall be deemed a "special use permit" consistent with the provisions of the North Carolina General Statute 160D.

SECTION 152 - ZONING PERMITS

152-1 Each application for a Zoning Permit shall be accompanied by a plat, drawn to scale, showing accurate dimensions of the lot to be built upon, accurate dimensions of the building to be erected, its location on the lot, and such other information as may be necessary to provide for the enforcement of this ordinance. An accurate record of such applications and plats, together with a record of the action taken thereon shall be kept in the office of the Planning and Zoning Department. The Zoning Enforcement Officer may waive any of these application requirements.

SECTION 153 – AMENDMENTS TO THE ZONING MAP OR ORDINANCE

(Amended 8/5/96; Amended 11/5/01; 7/22/02; Amended 3/13/2006; 9/2/2008; 5/3/21; Added: 3/13/2006)

153-1 Zoning district boundaries adopted pursuant to this Ordinance shall be drawn on a map that is adopted or incorporated within a duly adopted development regulation. Zoning district maps that are so adopted shall be maintained for public inspection in the office of the local government clerk or such other office as specified in the development regulation. The maps may be in paper or a digital format approved by the local government (N.C.G.S. 160D-105). Staff will maintain up to date maps following case approval (N.C.G.S. 160D-105).

153-2 *INITIATION OF AMENDMENT* - The Board of Commissioners may, at any time, amend, supplement, change, modify or repeal the boundaries or regulations in this Ordinance, or subsequently amended. Proposed changes or amendments may be initiated by the Board of Commissioners, Planning Board, Board of Adjustment, or by one or more owners, optionees or lessees of property within the area proposed to be changed or affected. This may be done in accordance with the provisions of this section.

153-3 *SUBMISSION OF PETITIONS* - Petitions to amend this Ordinance or the zoning map shall be submitted to the Planning and Zoning Department for review according to the adopted Planning Board and Board of Commissioners yearly schedule. The petition shall include the following:

1. A completed Application for Map Amendment or Application for Text Amendment.
2. For Amendments to the Official Planning Map, a map drawn to scale showing the exterior boundaries of the lot(s) which will be covered by the proposed map amendment;
3. For amendments to the Planning Ordinance text, a copy of the existing text provisions which the applicant proposes for amendment, and a written statement which describes in detail changes the applicant proposes to make to the text of the Ordinance.
4. The alleged error in the Official Planning Map and/or Planning Ordinance Text which will be corrected by the proposed amendment with a detailed explanation of such and detailed reasons how the proposed amendment will correct the same;
5. The changed or changing conditions, if any, in the area or in the County generally, which makes the proposed Official Planning Map and/or Planning Ordinance text amendment reasonable necessary to the promotion of the public health, safety and general welfare;
6. The manner in which the proposed Official Planning Map and/or Planning Ordinance text amendment will carry out the intent and purpose of the Comprehensive Plan or part thereof; and,
7. All other circumstances, factors and reasons which the applicant offers in support of the proposed Official Planning Map and/or Planning Ordinance text amendment. (Amended 8/5/96)

Each petition, unless initiated by the Board of Commissioners, Planning Board, Board of Adjustment, or staff, shall be accompanied by a fee to defray the cost of advertising and other administrative costs involved.

153-4 *PLANNING BOARD REVIEW AND RECOMMENDATION* - After submission of a completed application, the Zoning Administrator will schedule a public hearing for the Planning Board in accordance with the published Planning Board meeting schedule on file in the Planning and Zoning Department. A notice of such public hearing shall be published once a week for two (2) consecutive weeks in a newspaper of general circulation in Person County. Said notice shall be published the first time not less than ten (10) days and not more than twenty-five (25) days prior to the date established

for such public hearing. (Amended 11/5/01; 7/22/02; 3/13/2006). For map amendments, the Zoning Administrator will be responsible for mailing written notices to all property owners within 500' of the property including the applicant and properties separated from the subject property by street, railroad, and other transportation corridor (N.C.G.S. 160D-602). The Zoning Administrator shall require that notice be posted on the land subject to the application within the same time period specified for mailed notices of the hearing (N.C.G.S. 160D-602). The applicant shall post the notice on weatherproof signs supplied by the Planning and Zoning Department, one sign per each road frontage and no more than 25' from the street right-of-way. Signs must be clearly visible from the street and designate "Zoning Proposal Pending" with the phone number of the Planning and Zoning Department. When multiple parcels are included, a posting on each individual parcel is not required, but there should be reasonable notice provided to interested persons.

- a) When conducting a review of proposed zoning text or map amendments pursuant to this section, the Planning Board shall advise and comment on whether the proposed action is consistent with the County's comprehensive plan that has been adopted. The Planning Board shall provide a written recommendation to the Board of Commissioners that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the Board of Commissioners (N.C.G.S. 160D-604 (d)).
- b) When reviewing any zoning text or map amendment, the Planning Board shall approve a brief statement describing whether its action is consistent or inconsistent with the adopted comprehensive plan and a brief statement of reasonableness. The statement of reasonableness and plan consistency required in this section may be approved as a single statement. Board members may adopt this statement when acting upon the zoning text or map amendment or as a separate motion (N.C.G.S. 160D-605).

153-5 *BOARD OF COMMISSIONERS PUBLIC HEARING*

- a) The Zoning Administrator will schedule a public hearing for the Board of Commissioners in accordance with that year's adopted schedule. A notice of such public hearing shall be published once a week for two (2) consecutive weeks in a newspaper of general circulation in Person County. Said notice shall be published the first time not less than ten (10) days and not more than twenty-five (25) days prior to the date established for such public hearing. (Amended 7/22/02).
- b) The Planning Board shall provide a written recommendation to the Board of Commissioners that addresses whether the proposed amendment is consistent with the comprehensive plan, but a comment by the Planning Board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the Board of Commissioners. Prior to adopting or rejecting any zoning amendment, the Board of Commissioners shall adopt a statement describing whether its action is consistent with an adopted comprehensive plan and why such action is reasonable and in the public interest. (Added 3/13/2006)
- c) The Planning Board shall have 30 days within which to submit its recommendation to the Board of Commissioners. If no written report is received from the Planning Board within thirty days, the Board of Commissioners may proceed in its consideration of the amendment without the Planning Board report. The Board of Commissioners is not bound by the recommendation, if any, of the Planning Board. (Amended 7/22/02; 3/13/2006)

- d) When adopting or rejecting any zoning text or map amendment, the Board of Commissioners shall approve a brief statement describing whether its action is consistent or inconsistent with the adopted comprehensive plan and a brief statement of reasonableness. The statement of reasonableness and plan consistency required in this section may be approved as a single statement. Board members may adopt this statement when acting upon the zoning text or map amendment or as a separate motion (N.C.G.S. 160D-605).
- e) A simple majority vote of the Board of Commissioners shall be the required minimum to amend this ordinance when recommendation from the Planning Board is received.

153-6 *OTHER DEVELOPMENT REGULATION AMENDMENTS* - All other development regulations governed by Person County and enforced by the Planning and Zoning Department shall be subject to the above procedure when amended by the public, Board of Commissioners, Board of Adjustment, Planning Board, or staff.

153-7 *THIRD-PARTY DOWNZONING* - Third-party downzoning submitted after July 11, 2019, unless initiated by a Person County Board or staff member, are prohibited unless written consent is obtained from the property owner(s) (N.C.S.L 2019-111, Part 1).

SECTION 154 – CONDITIONAL DISTRICT (CD) REZONINGS (Added: 5/3/21)

154-1 Conditional zoning districts provide for those situations where a particular use, properly planned, may be appropriate for a particular site, but where the general district has insufficient standards to mitigate the site-specific impact on surrounding areas. Uses which may be considered for a conditional zoning district are restricted to those uses permitted in the corresponding general zoning district. Conditional Zoning Districts are established on an individualized basis, only in response to a petition by the owners of all the property to be included. Zoning of a conditional zoning district is not intended for securing early or speculative reclassification of property.

154-2 *SUBMISSION OF PETITIONS* - Petitions shall be submitted to the Planning and Zoning Department for review according to the adopted Planning Board and Board of Commissioners yearly schedule. The petition shall include the following:

1. A completed Application for CD-Rezoning Map Amendment accompanied by a site plan, prepared by a North Carolina registered land surveyor, engineer, or architect. The site plan, drawn to scale, shall depict the following:
 - a. The boundary of the lot(s) to be developed labeled with bearings and distances, total gross land area, location of easement(s), utilities, adjacent road name(s) and number(s);
 - b. Name of project, property owner and applicant, vicinity map, north arrow, scale, date of plan preparation and subsequent revisions dates;
 - c. Topography of site, at contour interval no greater than ten (10) feet, location of perennial and intermittent waters, 100 year flood plains;
 - d. Location and approximate size of all existing and proposed buildings and structures within the site and existing buildings and structures within five hundred feet adjacent thereto;
 - e. Proposed points of ingress and egress together with the proposed pattern of internal circulation;
 - f. Existing and proposed parking spaces;
 - g. Proposed provisions for water supply and sewage disposal;

- h. If the site is located in a designated drinking water supply watershed, the plan shall also:
 - i. Depict the location of existing (labeled according to the date of establishment) and proposed impervious surfaces and respective totals in square feet;
 - ii. The total land area of the lot(s) outside of the road right-of-way(s) in square feet. The property owner and/or applicant shall have the burden of proving that the proposed special use will not materially injure the value of adjoining or abutting property.

Each petition shall be accompanied by a fee to defray the cost of advertising and other administrative costs involved.

154-3 PLANNING BOARD REVIEW AND RECOMMENDATION - After submission of a completed application, the Zoning Administrator will schedule a public hearing for the Planning Board in accordance with the published Planning Board meeting schedule on file in the Planning and Zoning Department. A notice of such public hearing shall be published once a week for two (2) consecutive weeks in a newspaper of general circulation in Person County. Said notice shall be published the first time not less than ten (10) days and not more than twenty-five (25) days prior to the date established for such public hearing. The Zoning Administrator will be responsible for mailing written notices to all property owners within 500' of the property including the applicant and properties separated from the subject property by street, railroad, and other transportation corridor (N.C.G.S. 160D-602). The Zoning Administrator shall require that notice be posted on the land subject to the application within the same time period specified for mailed notices of the hearing (N.C.G.S. 160D-602). The applicant shall post the notice on weatherproof signs supplied by the Planning and Zoning Department, one sign per each road frontage and no more than 25' from the street right-of-way. Signs must be clearly visible from the street and designate "Zoning Proposal Pending" with the phone number of the Planning and Zoning Department. When multiple parcels are included, a posting on each individual parcel is not required, but there should be reasonable notice provided to interested persons.

- a) When conducting a review of proposed map amendments pursuant to this section, the Planning Board shall advise and comment on whether the proposed action is consistent with the County's comprehensive plan that has been adopted. The Planning Board shall provide a written recommendation to the Board of Commissioners that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the Board of Commissioners (N.C.G.S. 160D-604 (d)).
- b) When reviewing any map amendment, the Planning Board shall approve a brief statement describing whether its action is consistent or inconsistent with the adopted comprehensive plan and a brief statement of reasonableness. The statement of reasonableness and plan consistency required in this section may be approved as a single statement. Board members may adopt this statement when acting upon the zoning text or map amendment or as a separate motion (N.C.G.S. 160D-605).

154-4 BOARD OF COMMISSIONERS PUBLIC HEARING

- a) The Zoning Administrator will schedule a public hearing for the Board of Commissioners in accordance with that year's adopted schedule. A notice of such public hearing shall be published once a week for two (2) consecutive weeks in a newspaper of general circulation in Person

County. Said notice shall be published the first time not less than ten (10) days and not more than twenty-five (25) days prior to the date established for such public hearing. (Amended 7/22/02)

- b) The Planning Board shall provide a written recommendation to the Board of Commissioners that addresses whether the proposed amendment is consistent with the comprehensive plan, but a comment by the Planning Board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the Board of Commissioners. Prior to adopting or rejecting any zoning amendment, the Board of Commissioners shall adopt a statement describing whether its action is consistent with an adopted comprehensive plan and why such action is reasonable and in the public interest. (Added 3/13/2006)
- c) The Planning Board shall have 30 days within which to submit its recommendation to the Board of Commissioners. If no written report is received from the Planning Board within thirty days, the Board of Commissioners may proceed in its consideration of the amendment without the Planning Board report. The Board of Commissioners is not bound by the recommendation, if any, of the Planning Board. (Amended 7/22/02; 3/13/2006).
- d) When adopting or rejecting any map amendment, the Board of Commissioners shall approve a brief statement describing whether its action is consistent or inconsistent with the adopted comprehensive plan and a brief statement of reasonableness. The statement of reasonableness and plan consistency required in this section may be approved as a single statement. Board members may adopt this statement when acting upon the zoning text or map amendment or as a separate motion (N.C.G.S. 160D-605).
- e) A CD-Rezoning must be adopted by ordinance per N.C.G.S 160D-601(c).
- f) Conditions and site-specific standards imposed in a conditional district shall be limited to those that address the conformance of the development and use of the site to local government ordinances, and plans adopted pursuant to N.C.G.S. 160D-5-1, or and those that address the impacts reasonably expected to be generated by the development or use of the site (N.C.G.S. 160D-703). However, the Board may impose conditional-zoning conditions that go beyond basic zoning authority to address additional fees, design requirements, and other development considerations with the applicant's/landowner's written consent (N.C. S.L. 2019-111).
- g) Following approval from the Board of Commissioners, the Zoning Administrator shall obtain the applicant/landowner's written consent to conditions related to a conditional-zoning approval to ensure enforceability (N.C. S.L. 2019-111).

154-5 MODIFICATIONS OF CD-REZONINGS - The Zoning Administrator may approve minor changes to final plans approved by the Board of Commissioners if with such minor changes the development remains substantially consistent with the Board's approval and with all other provisions of this Ordinance and applicable rules and regulations. The Zoning Administrator may not approve changes that would constitute a major change of or modification to a CD-Rezoning. By way of example, but not of limitation, any of the following shall constitute a major modification requiring an application to be resubmitted in accordance with applicable ordinance provisions:

1. A change from the use approved;

2. Structural alterations significantly affecting the basic size, form, style, ornamentation, and appearance of principal and/or accessory structures as shown the plan;
- If multiple parcels of land are subject to a conditional zoning, the owners of individual parcels may apply for modification of the conditions so long as the modification would not result in other properties failing to meet the terms of the conditions. Any modifications approved shall only be applicable to those properties whose owners petition for the modification (N.C.G.S 160D-703).

SECTION 155 - SPECIAL USE PERMITS (Amended 5/3/21)

155-1 Special uses are land uses which in some circumstances may be compatible with and desirable in the districts in which they are designed as special uses, but they may also have characteristics which could have detrimental effects on adjacent properties if not properly designed and controlled. Special uses add flexibility to the Planning Ordinance. By means of controls exercised through the Special Use Permit procedures, property uses which would otherwise be undesirable in certain districts can be developed to minimize any bad effects they might have on surrounding properties.

155-2 *SUBMISSION OF PETITIONS* - Petitions for special use permits shall be submitted to the Planning and Zoning Department for review according to the published Board of Commissioners yearly meeting schedule on file in the Planning and Zoning Department. The petition shall include the following:

1. A complete Application for a Special Use Permit accompanied by a site plan, prepared by a North Carolina registered land surveyor, engineer, or architect. The site plan, drawn to scale, shall depict the following: (amended 9/2/2008)
 1. The boundary of the lot(s) to be developed labeled with bearings and distances, total gross land area, location of easement(s), utilities, adjacent road name(s) and number(s);
 2. Name of project, property owner and applicant, vicinity map, north arrow, scale, date of plan preparation and subsequent revisions dates;
 3. Topography of site, at contour interval no greater than ten (10) feet, location of perennial and intermittent waters, 100 year flood plains;
 4. Location and approximate size of all existing and proposed buildings and structures within the site and existing buildings and structures within five hundred feet adjacent thereto;
 5. Proposed points of ingress and egress together with the proposed pattern of internal circulation;
 6. Existing and proposed parking spaces;
 7. Proposed provisions for water supply and sewage disposal;
 8. If the site is located in a designated drinking water supply watershed, the plan shall also:
 - a. Depict the location of existing (labeled according to the date of establishment) and proposed impervious surfaces and respective totals in square feet;
 - b. The total land area of the lot(s) outside of the road right-of-way(s) in square feet. The property owner and/or applicant shall have the burden of proving that the proposed special use will not materially injure the value of adjoining or abutting property.
9. In addition to requirements listed above, a Special Use Permit site plan for a radio, telephone or television tower must show compliance with Note 9 of this ordinance. (Amended 7/1/2002)

10. In addition to requirements listed above and those listed in Section 81 of this Ordinance, a Special Use Permit site plan for a camper/recreational vehicle park must show compliance with the following:

- a) A minimum lot size of two acres is required.
- b) Density to be 2500 square feet for each tent or trailer space.
- c) A minimum undisturbed fifty foot buffer from all property lines.
- d) Each campsite shall contain a stabilized parking pad of either pavement or gravel and one off-street parking space.
- e) A sanitary source of drinking water shall be not more than 200 feet, toilet facilities not more than 400 feet and wash houses not more than 1500 feet from any tent or trailer space. This provision shall not apply where community water and sewer connections are provided to trailers having self-contained kitchens and bathroom facilities. (Added 8/2/2010)

Each petition shall be accompanied by a fee to defray the cost of advertising and other administrative costs involved.

155-3 *BOARD OF COMMISSIONERS PUBLIC HEARING*

- a) After submission of a completed application, the Zoning Administrator will schedule a public hearing for the Board of Commissioners in accordance with that year's adopted schedule. A notice of such public hearing shall be published once a week for two (2) consecutive weeks in a newspaper of general circulation in Person County. Said notice shall be published the first time not less than ten (10) days and not more than twenty-five (25) days prior to the date established for such public hearing. The Zoning Administrator will be responsible for mailing written notices to all property owners within 500' of the property including the applicant. The Zoning Administrator shall require that notice be posted on the land subject to the application. The applicant shall post the notice on weatherproof signs supplied by the Planning and Zoning Department, one sign per each road frontage and no more than 25' from the street right-of-way. Signs must be clearly visible from the street and designate "Zoning Proposal Pending" with the phone number of the Planning and Zoning Department.
- b) The Board of Commissioners shall consider the application at a public hearing at which all interested persons shall be permitted to testify. This hearing shall be used to gather competent, material, and substantial evidence to establish the facts of the case. Testimony heard shall be under oath. The Special Use Permit, if granted, shall include such approved plans as may be required. In granting the permit, the Commissioners shall find the following:
 - 1. That the use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved.
 - 2. That the use meets all required conditions and specifications.
 - 3. That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity, and
 - 4. That the location and character of the use if developed according to the plan as submitted and approved will be in harmony with the area in which it is to be located and in general conformity with comprehensive plan.
- c) In granting the permit, the Commissioners may designate such conditions, in addition and in connection therewith, as well, in its opinion, assure that the use in its proposed location will be harmonious with the area in which it is proposed to be located and with the spirit of this ordinance. All such additional conditions shall be entered in the minutes of the meeting at which the permit is granted and also on the certificate of the Special Use Permit or on the plans

submitted therewith. All specific conditions shall run with the land and shall be binding on the original applicants for the Special Use Permits, their heirs, successors and assigns.

- d) In addition to the specific conditions imposed by the regulations in this Article and whatever additional conditions the Commissioners deem reasonable and appropriate, special uses shall comply with the height, yard, area and parking regulations for the use district in which they are permitted unless otherwise specified.
- e) The findings of fact and conclusions of law shall be established in writing upon the Board's determination. This document shall be approved by the Board and signed by the chair or other duly authorized member of the Board. A quasi-judicial decision is effective upon filing the written decision with the clerk to the Board or such other office or official. The decision of the Board shall be delivered within a reasonable time by personal delivery, electronic mail, or by first-class mail to the applicant, landowner, and to any person who has submitted a written request for a copy prior to the date the decision becomes effective (N.C.G.S. 160D-406). The Zoning Administrator shall obtain the applicant/landowner's written consent to conditions related to a special use permit approval to ensure enforceability (N.C. S.L. 2019-111).
- f) No appeal may be taken to the Board of Adjustment from the action of the Commissioners in granting or denying a Special Use Permit. Any such action by the Commissioners shall be considered as the equivalent of action on a proposed zoning amendment and shall be reviewable only in the same manner as action on a proposed amendment.
- g) In the event of failure to comply with the plans approved by the Commissioners or with any other conditions imposed upon the Special Use Permit within a reasonable time in the opinion of the Zoning Administrator, the permit shall thereupon become void and of no effect. No building permits for further construction or certificates of occupancy under this Special Use shall be issued.

155-4 MODIFICATIONS OF SPECIAL USE PERMITS - The Zoning Administrator may approve minor changes to final plans approved by the Board of Commissioners if with such minor changes the development remains substantially consistent with the Board's approval and with all other provisions of this Ordinance and applicable rules and regulations. The Zoning Administrator may not approve changes that would constitute a major change of or modification to a Special Use Permit. Any change which would require findings of fact or evidence in addition to those in the record of the public hearing for the original Special Use Permit, or subsequent modifications, if any, shall be deemed a major modification of the Special Use Permit. By way of example, but not of limitation, any of the following shall constitute a major modification requiring an application to be resubmitted in accordance with applicable ordinance provisions:

1. Significant changes in the zoning lot's boundaries, unless the purposes of this ordinance or of the County's plan for the comprehensive development of the area within which the lot is located are satisfied to an equivalent or greater degree. Substantial change in the boundaries of the site if public purposes are not satisfied to an equivalent or greater degree;
2. A change from the use approved;
3. Significant changes in the location of principal and/or accessory structures and/or uses;
4. Structural alterations significantly affecting the basic size, form, style, ornamentation, and appearance of principal and/or accessory structures as shown the plan;
5. Significant changes in pedestrian or vehicular access or circulation;

6. Significant change in the amount or location of required landscape screening if an alternate proposal does not provide the same or greater degree.

155-5 *SPECIAL USE PERMITS AND VESTED RIGHTS* - At the applicant's discretion, he or she may also submit a site specific vesting plan and make application to the Commissioners for a vested right status for the proposed use or development project. Vested right status may be applied for jointly with the special use permit application or may be requested at a later date.

SECTION 156 - DEVELOPMENT AGREEMENTS (Added: 5/3/21)

156-1 Development projects often occur in multiple phases over several years, requiring a long term commitment of both public and private resources. Such developments often create community impacts and opportunities that are difficult to accommodate within traditional zoning processes. Development agreements are used to better structure and manage development approvals for such developments and ensure their proper integration into local capital facilities programs.

156-2 Person County may enter into development agreements with developers subject to the procedures of this ordinance and the North Carolina General Statute (N.C.G.S. 160D-1001).

156-3 *SUBMISSION OF PETITIONS* - Petitions for development agreements shall be submitted to the Planning and Zoning Department for review according to the adopted Board of Commissioners and Planning Board yearly schedule. The submission shall include the following:

1. Application for Development Agreement
2. A site plan prepared by a North Carolina licensed surveyor, engineer, or landscape architect depicting the items listed in the Person County Planning Ordinance Commercial and Industrial Site Plan Requirements.
3. Proposed Development Agreement containing the following information at a minimum (N.C.G.S. 160D-1006):
 - a. A description of the property subject to the agreement and the names of its legal and equitable property owners.
 - b. The duration of the agreement.
 - c. The development uses permitted on the property, including population densities and building types, intensities, placement on the site, and design.
 - d. Development schedule including commencement dates and interim completion dates at no greater than five-year intervals.
 - e. If applicable, the following:
 - i. A description of public facilities that will serve the development, including who provides the facilities, the date any new public facilities, if needed, will be constructed, and a schedule to assure public facilities are available concurrent with the impacts of the development. In the event that the development agreement provides that the local government shall provide certain public facilities, the development agreement shall provide that the delivery date of such public facilities will be tied to successful performance by the developer in implementing the proposed development (such as meeting defined completion percentages or other performance standards). The developer and local government may, through negotiation, agree to the provision of and cost-sharing for public facilities and other amenities related to development provided that any impact mitigation measures offered by the developer beyond those that could be required by the local government pursuant to N.C.G.S. 160D-804 shall be expressly enumerated within the

agreement, and provided the agreement may not include a tax or impact fee not otherwise authorized by law.

- ii. A description of any reservation or dedication of land for public purposes and any provisions agreed to by the developer that exceed existing laws related to protection of environmentally sensitive property.
- iii. A description of any conditions, terms, restrictions, or other requirements for the protection of public health, safety, or welfare of its citizens
- iv. A description, where appropriate, of any provisions for the preservation and restoration of historic structures.
- v. If more than one local government is involved in the development agreement, the agreement must specify which government is responsible for overall administration of the agreement.

156-4 PLANNING BOARD REVIEW AND RECOMMENDATION After submission of a completed application, the Zoning Administrator will schedule a public hearing for the Planning Board in accordance with the published Planning Board meeting schedule on file in the Planning and Zoning Department. A notice of such public hearing shall be published once a week for two (2) consecutive weeks in a newspaper of general circulation in Person County. Said notice shall be published the first time not less than ten (10) days and not more than twenty-five (25) days prior to the date established for such public hearing. The Zoning Administrator will be responsible for mailing written notices to all property owners within 500' of the property including the applicant and properties separated from the subject property by street, railroad, and other transportation corridor (N.C.G.S. 160D-602). The Zoning Administrator shall require that notice be posted on the land subject to the application within the same time period specified for mailed notices of the hearing (N.C.G.S. 160D-602). The applicant shall post the notice on weatherproof signs supplied by the Planning and Zoning Department, one sign per each road frontage and no more than 25' from the street right-of-way. Signs must be clearly visible from the street and designate "Zoning Proposal Pending" with the phone number of the Planning and Zoning Department. When multiple parcels are included, a posting on each individual parcel is not required, but there should be reasonable notice provided to interested persons.

- a) When conducting a review of proposed map amendments pursuant to this section, the Planning Board shall advise and comment on whether the proposed action is consistent with the County's comprehensive plan that has been adopted. The Planning Board shall provide a written recommendation to the Board of Commissioners that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the Board of Commissioners (N.C.G.S. 160D-604 (d)).
- b) When reviewing any map amendment, the Planning Board shall approve a brief statement describing whether its action is consistent or inconsistent with the adopted comprehensive plan and a brief statement of reasonableness. The statement of reasonableness and plan consistency required in this section may be approved as a single statement. Board members may adopt this statement when acting upon the zoning text or map amendment or as a separate motion (N.C.G.S. 160D-605).

156-5 BOARD OF COMMISSIONERS PUBLIC HEARING

- a) The Zoning Administrator will schedule a public hearing for the Board of Commissioners in accordance with that year's adopted schedule. A notice of such public hearing shall be published

once a week for two (2) consecutive weeks in a newspaper of general circulation in Person County. Said notice shall be published the first time not less than ten (10) days and not more than twenty-five (25) days prior to the date established for such public hearing. (Amended 7/22/02)

- b) The Planning Board shall provide a written recommendation to the Board of Commissioners that addresses whether the proposed amendment is consistent with the comprehensive plan, but a comment by the Planning Board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the Board of Commissioners. Prior to adopting or rejecting any zoning amendment, the Board of Commissioners shall adopt a statement describing whether its action is consistent with an adopted comprehensive plan and why such action is reasonable and in the public interest. (Added 3/13/2006)
- c) The Planning Board shall have 30 days within which to submit its recommendation to the Board of Commissioners. If no written report is received from the Planning Board within thirty days, the Board of Commissioners may proceed in its consideration of the amendment without the Planning Board report. The Board of Commissioners is not bound by the recommendation, if any, of the Planning Board. (Amended 7/22/02; 3/13/2006).
- d) When adopting or rejecting any map amendment, the Board of Commissioners shall approve a brief statement describing whether its action is consistent or inconsistent with the adopted comprehensive plan and a brief statement of reasonableness. The statement of reasonableness and plan consistency required in this section may be approved as a single statement. Board members may adopt this statement when acting upon the zoning text or map amendment or as a separate motion (N.C.G.S. 160D-605).
- e) Following approval from the Board of Commissioners, the development agreement must be recorded with the Register of Deeds by the developer within 14 days after Person County and the developer execute an approved development agreement (N.C.G.S. 160D-1011). No development approvals may be issued until the development agreement has been recorded. The agreement is binding on all successors in interest to the parties of the agreement, including subsequent purchasers of the land.

156-6 *PERIODIC REVIEW* - Planning and Zoning staff must undertake periodic review of the project to verify compliance with the recorded agreement (N.C.G.S. 160D-1008).

156-7 *AMENDMENTS TO DEVELOPMENT AGREEMENTS* - Parties can modify or cancel the agreement at any time by mutual consent (N.C.G.S. 160D-1010). Any major modification to a development agreement requires the same notice and hearing as required for initial approval (N.C.G.S. 160D-1006). Local ordinances in effect at the time of the agreement are to remain in effect for the life of the agreement unless subsequent enacted local ordinances and ordinance amendments can be applied for on the same grounds applicable to permissible mandated amendments of site specific vesting plan. The following are changes that may be the basis of such modification:

1. Changes that have either landowner approval in writing or that make the landowner financially whole (compensated for the full cost of the change).
2. When there have been either inaccurate or material misrepresentations in the application of there are emergent serious threats to public health, safety, or welfare. If the agreement is to be amended or revoked, this must be established by notice or hearing.

3. Enactment of general regulations not aimed specifically at the property that impose additional requirements, but do not affect the type or intensity or the use at the site.

156-8 *BREACH OF DEVELOPMENT AGREEMENTS* - If a developer has breached the recorded development agreement, the Planning and Zoning Department must notify the developer in writing within a reasonable time the notice of the breach, evidence supporting the finding and determination, and provide reasonable time to correct the breach (N.C.G.S. 160D-1008). If the breach is not remedied, Person County may terminate or modify the agreement. Appeals may be filed with the Board of Adjustment in accordance with the process for hearing and submitting appeals. Failure to meet a commencement or completion date set forth in the development agreement shall not, in and of itself, constitute a material breach of the development agreement, but must be judged based upon the totality of the circumstances.

156-9 *SUBSEQUENT DEVELOPMENT AGREEMENTS* - Parties are not precluded from entering into subsequent development agreements that may extend the original duration period (N.C.G.S. 160D-1006).

156-10 *DEVELOPMENT AGREEMENTS AND OTHER REGULATION APPROVALS* - Development agreements may be considered concurrently with a zoning map or text amendment affecting the property and development subject to the development agreement. If incorporated into a CD-District, the provisions of the development agreement shall be treated as a development regulation in the event of the developer's bankruptcy. A development agreement may be concurrently considered with and incorporate by reference a sketch plan or preliminary plat required under a subdivision regulation or a site plan or other development approval required under a zoning regulation (N.C.G.S. 160D-1003).

SECTION 157 - ZONING VARIANCES (Amended 5/3/21)

157-1 When unnecessary hardships would result from carrying out the strict letter of the Planning Ordinance, the Board of Adjustment shall vary any of the provisions of the ordinance upon a showing that all of the standards set out in this section have been met. No change in permitted uses may be authorized by variance. Appropriate conditions may be imposed on any variance, provided the conditions are reasonably related to the variance. Any other ordinance that regulates land use or development may provide for variances consistent with the provisions of this subsection.

157-2 *SUBMISSION OF PETITIONS*- Petitions for zoning variances shall be submitted to the Planning and Zoning Department for review according to the adopted Board of Adjustment yearly schedule. The petition shall include the following:

1. A completed Variance Application demonstrating the following:
 - a. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved, and which are not applicable to other lands, structures or building in the same district;
 - b. That literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other property owners in the same district under the terms of this ordinance;
 - c. That the hardship is not the result of the applicant's own action;
 - d. That granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures, or building in the same district;

- e. That if the applicant complies with the provisions of the ordinance, he can secure no reasonable use of his property;
 - f. That granting of the variance will be in harmony with the general purpose and intent of this ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
2. A site plan, prepared by a North Carolina registered land surveyor, engineer, or architect. The site plan, drawn to scale, shall depict the following:
- a. The boundary of the lot(s) to be developed labeled with bearings and distances, total gross land area, location of easement(s), utilities, adjacent road name(s) and number(s);
 - b. Name of project, property owner and applicant, vicinity map, north arrow, scale, date of plan preparation and subsequent revisions dates;
 - c. Location and approximate size of all existing and proposed buildings and structures within the site;
 - d. Clear depiction of the variance requested.
- Each petition shall be accompanied by a fee to defray the cost of advertising and other administrative costs involved.

157-3 *BOARD OF ADJUSTMENT PUBLIC HEARING*

- a) After submission of a completed application, the Zoning Administrator will schedule a public hearing for the Board of Adjustment in accordance with the Board of Adjustment published meeting schedule on file in the Planning and Zoning Department. The Zoning Administrator shall give notice of a public hearing on the application. A notice of such public hearing shall be published once in a newspaper of general circulation in Person County. Said notice shall be published not less than ten (10) days and not more than twenty-five (25) days prior to the date established for such public hearing. The Zoning Administrator will be responsible for mailing written notices to all property owners within 500' of the property including the applicant. The Zoning Administrator shall require that notice be posted on the land subject to the application. The applicant shall post the notice on weatherproof signs supplied by the Planning and Zoning Department, one sign per each road frontage and no more than 25' from the street right-of-way. Signs must be clearly visible from the street and designate "Zoning Proposal Pending" with the phone number of the Planning and Zoning Department.
- b) The Board of Adjustment shall consider the application at a quasi-judicial hearing. This hearing shall be used to gather competent, material, and substantial evidence to establish the facts of the case. Testimony heard shall be under oath. In granting the variance, the Board of Adjustment shall find the following:
 - 1. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved, and which are not applicable to other lands, structures or building in the same district;
 - 2. That literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other property owners in the same district under the terms of this ordinance;
 - 3. That the hardship is not the result of the applicant's own action;
 - 4. That granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures, or building in the same district;
 - 5. That if the applicant complies with the provisions of the ordinance, he can secure no reasonable use of his property;

6. That granting of the variance will be in harmony with the general purpose and intent of this ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
- c) In addition to the above grounds for granting variances, the Board of Adjustment may grant a variance when it finds that the grant of the requested variance will cause no significant hazard, annoyance or inconvenience to the owners or occupants of nearby property, will not significantly change the character of the neighborhood or reduce the value of nearby property, will not impose any significant cost burden upon the county and will not create any significant obstacle to implementation of the zoning plan evidenced by this ordinance or the adopted development plan of Person County.
- d) In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards to ensure that substantial justice has been done and that the public safety and welfare has been assured. Such conditions may be imposed by the Board regarding the location, character, and other features of the proposed building, structure, or use as may be deemed by the Board to protect property values and general welfare of the neighborhood. Nonconformance with such conditions and safeguards, when under part of the terms under which the variance is granted, shall be deemed a violation of this ordinance.
- e) The Board of Adjustment, by a vote of four-fifths of its members, may approve variances. The findings of fact and conclusions of law shall be established in writing upon the Board's determination. This document shall be approved by the Board and signed by the chair or other duly authorized member of the Board. A quasi-judicial decision is effective upon filing the written decision with the clerk to the Board or such other office or official. The decision of the Board shall be delivered within a reasonable time by personal delivery, electronic mail, or by first-class mail to the applicant, landowner, and to any person who has submitted a written request for a copy prior to the date the decision becomes effective (N.C.G.S. 160D-406).

SECTION 158 - VESTED RIGHTS (Amended 5/3/21)

158-1 As authorized under G.S. 160-108, an applicant may obtain the right to undertake and complete the development and use of property under the terms and conditions of an approved site specific vesting plan. Only approved special uses, permitted uses and approved phased developments may be granted a vested right under this section. Vested right status shall guarantee the right to develop according to the provisions of the approved site specific vesting plan for no less than two (2) years and no more than five (5) years (N.C.G.S. 160D-108(d)). Site specific vesting plans can take the form of a planned unit development plan, a subdivision plat, a site plan, a preliminary or general development plan, a special use permit, a conditional zoning, or any other development approval.

158-2 *SUBMISSION OF PETITIONS* - Petitions for vested rights shall be submitted to the Planning and Zoning Department for review according to the adopted Planning Board and Board of Commissioners yearly schedule. The petition shall include the following:

- a) A Vested Rights Application and any supplemental materials needed to substantiate the claim for a vested right.
- b) A site-specific vesting plan prepared by a licensed North Carolina surveyor. Site-specific vesting plans shall include at a minimum the following:
 - a. The approximate boundaries of the site;
 - b. Significant topographical and other natural feature affecting development of the site;

- c. The approximate location on the site of the proposed buildings, structures, and other improvements;
 - d. The approximate dimensions, including height, of the proposed buildings and other structures;
 - e. The approximate location of all existing and proposed infrastructure on the site, including water, sewer, roads, and pedestrian walkways.
- Each petition shall be accompanied by a fee to defray the cost of advertising and other administrative costs involved.

158-3 PLANNING BOARD REVIEW AND RECOMMENDATION - After submission of a completed application, the Zoning Administrator will schedule a public hearing for the Planning Board in accordance with the published Planning Board meeting schedule that is on file in the Planning and Zoning Department. A notice of such public hearing shall be published once a week for two (2) consecutive weeks in a newspaper of general circulation in Person County. Said notice shall be published the first time not less than ten (10) days and not more than twenty-five (25) days prior to the date established for such public hearing. The Zoning Administrator will be responsible for mailing written notices to all property owners within 500' of the property including the applicant and properties separated from the subject property by street, railroad, and other transportation corridor (N.C.G.S. 160D-602). The Zoning Administrator shall require that notice be posted on the land subject to the application within the same time period specified for mailed notices of the hearing (N.C.G.S. 160D-602). The applicant shall post the notice on weatherproof signs supplied by the Planning and Zoning Department, one sign per each road frontage and no more than 25' from the street right-of-way. Signs must be clearly visible from the street and designate "Zoning Proposal Pending" with the phone number of the Planning and Zoning Department. When multiple parcels are included, a posting on each individual parcel is not required, but there should be reasonable notice provided to interested persons.

- a) EXCEPTION: Applications for vested rights related to Special Use Permits do not require Planning Board Review and Recommendation.

158-4 BOARD OF COMMISSIONERS PUBLIC HEARING

- a) The Zoning Administrator will schedule a meeting for the Board of Commissioners in accordance with that year's adopted schedule. A notice of such public hearing shall be published once a week for two (2) consecutive weeks in a newspaper of general circulation in Person County. Said notice shall be published the first time not less than ten (10) days and not more than twenty-five (25) days prior to the date established for such public hearing. The Zoning Administrator will be responsible for mailing written notices to all property owners within 500' of the property including the applicant and properties separated from the subject property by street, railroad, and other transportation corridor (N.C.G.S. 160D-602). The Zoning Administrator shall require that notice be posted on the land subject to the application within the same time period specified for mailed notices of the hearing (N.C.G.S. 160D-602). The applicant shall post the notice on weatherproof signs supplied by the Planning and Zoning Department, one sign per each road frontage and no more than 25' from the street right-of-way. Signs must be clearly visible from the street and designate "Zoning Proposal Pending" with the phone number of the Planning and Zoning Department. When multiple parcels are included, a posting on each individual parcel is not required, but there should be reasonable notice provided to interested persons.
- b) The Planning Board shall provide a written recommendation to the Board of Commissioners that addresses whether the proposed amendment is consistent with the comprehensive plan, but

a comment by the Planning Board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the Board of Commissioners. Prior to adopting or rejecting any zoning amendment, the Board of Commissioners shall adopt a statement describing whether its action is consistent with an adopted comprehensive plan and why such action is reasonable and in the public interest. (Added 3/13/2006)

- c) The Planning Board shall have 30 days within which to submit its recommendation to the Board of Commissioners. If no written report is received from the Planning Board within thirty days, the Board of Commissioners may proceed in its consideration of the amendment without the Planning Board report. The Board of Commissioners is not bound by the recommendation, if any, of the Planning Board. (Amended 7/22/02; 3/13/2006).
- d) The Board of Commissioners shall consider the application at a public hearing at which all interested persons shall be permitted to testify. The Board may approve a site specific vesting plan upon such terms and conditions as may reasonably be necessary to protect the public health, safety, and welfare. The Board shall not require a landowner to waive his vested rights as a condition of developmental approval. Approval of a site specific vesting plan and the granting of vested right status shall not occur under circumstances where a variance from the provisions of this ordinance is necessary except in cases where such variance has been previously applied for and granted.
- e) A vested right obtained under this section is not a personal right, but shall attach to and run with the applicable property. Approval from the Board of Commissioners shall result in a vested right, although failure to abide by such terms and conditions, in addition to applicable local development regulations, will result in a forfeiture of vested rights.
- f) The establishment of a vested right under an approved site specific vesting plan shall not preclude the application of ordinances or regulations that are general in nature, are applicable to all property in the county subject to land use regulation, and have no effect on the allowable type or intensity of use for the subject property. Otherwise applicable new or amended regulations shall become effective for the subject property upon the expiration or termination of the vested right.

158-5 *CONTINUING REVIEW* - Following approval or conditional approval of a vested right, Person County may make subsequent reviews and require approvals by the county to ensure compliance with the terms and conditions of the original approval, provided that such reviews are not inconsistent with the original approval.

158-6 *MODIFICATIONS OF VESTED RIGHTS APPROVAL* - The Zoning Administrator may approve minor changes to site-specific vesting plans approved by the Board of Commissioners if with such minor changes the development remains substantially consistent with the Board's approval and with all other provisions of this Ordinance and applicable rules and regulations. The Zoning Administrator may not approve changes that would constitute a major change of or modification to an approved site-specific vesting plan. By way of example, but not of limitation, any of the following shall constitute a major modification requiring an application to be resubmitted in accordance with applicable ordinance provisions:

1. Significant changes in the zoning lot's boundaries, unless the purposes of this ordinance or of the County's plan for the comprehensive development of the area within which the lot is

- located are satisfied to an equivalent or greater degree. Substantial change in the boundaries of the site if public purposes are not satisfied to an equivalent or greater degree;
- 2. A change from the use approved;
- 3. Significant changes in the location of principal and/or accessory structures and/or uses;
- 4. Structural alterations significantly affecting the basic size, form, style, ornamentation, and appearance of principal and/or accessory structures as shown the plan;
- 5. Significant changes in pedestrian or vehicular access or circulation;
- 6. Significant change in the amount or location of required landscape screening if an alternate proposal does not provide the same or greater degree.

158-7 TERMINATION OF VESTED RIGHT - A vested right established by an approved site specific vesting plan shall terminate:

- 1. At the end of the applicable vesting period in respect to buildings and uses for which no valid building permit application has been filed;
- 2. With the written consent of the applicant and/or landowner;
- 3. Upon findings by the Commissioners, after a public hearing in which reasonable notice and advertisement are given, that natural or man-made hazards at or near the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety, and welfare if the project were to proceed as originally approved in the site specific vesting plan;
- 4. Upon payment to the affected applicant and/or landowner of compensation for all costs, expenses and other losses incurred by the same including all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and other consultant's fees incurred after approval by the Board. Compensation shall not include any diminution in the value of the subject property; or,
- 5. Upon findings by the Commissioners, after a public hearing in which reasonable notice and advertisement are given, that the landowner, his successors, or any representatives intentionally supplied inaccurate information or made material misrepresentations which after the original approval of the Commissioners of the site specific vesting plan;
- 6. Upon changes in state or federal law or regulation that preclude the proposed use or development project as originally approved in the site specific vesting plan. The owner and/or applicant shall have the opportunity in this instance to submit appropriate applicable modifications to the original site specific vesting plan for the Planning Board and County.

SECTION 159 – APPEALS (Amended 5/3/21)

159-1 SUBMISSION OF PETITION - Petition for appeals from the enforcement and interpretation of this ordinance, denial of zoning and/or certificate of occupancy and applications for variances shall be submitted to the Planning and Zoning Department. The petition shall include the following:

- 1. Completed Appeal to Zoning Administrator Application.

Each petition shall be accompanied by a fee to defray the cost of advertising and other administrative costs involved.

159-2 An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Enforcement Officer certifies to the Board of Adjustment that, based on the records of the case, a stay would cause damage to life or property, in which case proceedings shall not be stayed otherwise than by an order from the Person County Superior Court.

159-3 No appeal may be taken to the Board of Adjustment from the action of the Commissioners in granting or denying a Special Use Permit. Any such action by the Commissioners shall be considered as the equivalent of action on a proposed zoning amendment and shall be reviewable only in the same manner as action on a proposed amendment.

159-4 *BOARD OF ADJUSTMENT PUBLIC HEARING*

- a) After submission of a completed application, the Zoning Administrator will schedule a public hearing for the Board of Adjustment in accordance with the published Board of Adjustment meeting schedule on file in the Planning and Zoning Department. t. The Zoning Administrator shall give notice of a public hearing on the application. A notice of such public hearing shall be published in a newspaper of general circulation in Person County. Said notice shall be published not less than five (5) days prior to the date established for such public hearing.
- b) The Board of Adjustment shall hold an evidentiary hearing to gather competent, material, and substantial evidence to establish the facts of the case. Testimony heard shall be under oath.
- c) The Board of Adjustment may subpoena witnesses and compel the production of evidence. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the Board may apply to the General Court of Justice for an order requiring that its order be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties. No testimony of any witness before the Board pursuant to a subpoena issued in exercise of the power conferred by this section may be used against the witness in the trial of any civil or criminal action other than a prosecution for false swearing committed on the examination. Any person who, while under oath during a proceeding before the Board, willfully swears falsely, is guilty of a Class 1 misdemeanor. (Added: 3/13/2006)
- d) The Board of Adjustment, by a majority vote of its members, may reverse any order, requirement, decision, or determination of an administration officer charged with the enforcement of any provision of this ordinance. The findings of fact and conclusions of law shall be established in writing upon the Board's determination. This document shall be approved by the Board and signed by the chair or other duly authorized member of the Board. A quasi-judicial decision is effective upon filing the written decision with the clerk to the Board or such other office or official. The decision of the Board shall be delivered within a reasonable time by personal delivery, electronic mail, or by first-class mail to the applicant, landowner, and to any person who has submitted a written request for a copy prior to the date the decision becomes effective (N.C.G.S. 160D-406)
- e) Every final decision of the Board of Adjustment shall be subject to review by the Person County Superior Court by proceedings in the nature of certiorari.
- f) The petition for the writ of certiorari must be filed with the Person County Clerk of Court within 30 days after the later of the following occurrences:
 1. A written copy of the Board's decision has been filed in the office of the Planning and Zoning Department; and
 2. A written copy of the Board's decision has been delivered by personal service or certified mail, return receipt requested, to the applicant or appellant and every other aggrieved party who has filed a written request for such copy at the hearing of the case.

A copy of the writ of certiorari shall be served upon the Person County.

ARTICLE XV

SECTION 160 - SEPARABILITY

- 160-1 Should any section or provision of these regulations be for any reason held void or invalid by the courts, it shall not affect the validity of any other section or provision hereof which is not itself held void or invalid.
- 160-2 Wherever the provisions of any other law, ordinance or regulation impose higher standards than are required by the provisions of this Ordinance, the provisions of such law, ordinance or regulations shall govern.

ARTICLE XVI

SECTION 170 - EFFECTIVE DATE

- 170-1 This ordinance, shall become effective on May 20, 1991.

APPENDIX A

INTERPRETATION OF TERMS AND DEFINITIONS

Words used in present tense include the future tense.

Words used in the singular number include the plural and words used in the plural number include the singular.

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

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

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

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

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

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

APPENDIX B

DEFINITIONS

(Amended 09/09/2019, 11/16/20; 5/3/21)

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

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

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

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

AIRPORT ELEVATION - 609.4 feet above mean sea level.

APPROACH SURFACE - A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in Section IV of this Ordinance. In plan the perimeter of the approach surface coincides with the perimeter of the approach zone.

BEST MANAGEMENT PRACTICE (BMP'S) - A structural or nonstructural management-based practice used singularly or in combination to reduce nonpoint source inputs to receiving waters in order to achieve water quality protection goals.

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

BOARD OF ADJUSTMENT - A semi-judicial body composed of representatives from or for the planning jurisdiction of Person County which are given certain powers under and relative to this ordinance.

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

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

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

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

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

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

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

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

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

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

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

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

CONSTRUCTION, TRADES - One who accomplished work or provides facilities under contract with another and specifically engages in a specialized trade such as plumbing, heating, wiring, sheet metal and roofing work, etc.

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

CRITICAL AREA - The area adjacent to a water supply intake or reservoir where risk associated with pollution is greater than from the remaining portions of the watershed. The critical area is defined as extending either 1/2 mile from the normal pool elevation of the reservoir in which the intake is located or to the ridgeline of the watershed whichever comes first; or 1/2 mile upstream and draining to the intake located in the stream or river (run-of-the-river), or to the ridgeline of the watershed (whichever comes first).

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

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

DEVELOPMENT - The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure. This includes any land disturbing activity which adds to or changes the amount of impervious or partially impervious cover on a land area or which otherwise decreases the infiltration of perception into the soil. (Rev. 5/3/21)

DEVELOPMENT APPROVAL - An administrative or quasi-judicial approval made pursuant to this Ordinance that is written and that is required prior to commencing development or undertaking a specific activity, project, or development proposal. Development approvals include, but are not limited to, zoning permits, site plan approvals, special use permits, variances, and certificates of appropriateness. The term also includes all other regulatory approvals required by regulations adopted

pursuant to this Ordinance, including plat approvals, permits issued, development agreements entered into, and building permits issued. (Added 5/3/21)

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

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

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

DOUBLE-FRONTAGE LOT - A lot with street frontage along two opposite boundaries.

DU - A dwelling unit.

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

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

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

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

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

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

FAMILY CARE HOME - As defined in G.S. 168-21, a home with support and supervisory personnel that provides room and board, personal care and habitation services in a family environment for not more than six (6) resident handicapped persons.

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

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

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

GROUP HOME FOR DEVELOPMENTALLY DISABLED ADULTS - A residence which provides care for two to nine adults who are developmentally disabled and who have or can develop self-help skills, are ambulatory, in need of a home and are able to participate in activities in the community.

HAZARD TO AIR NAVIGATION - An obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.

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

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

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

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

IMPERVIOUS COVER - A surface that does not allow precipitation to percolate through it.

INDUSTRIAL DISCHARGE - The discharge of industrial process treated wastewater or wastewater other than sewage and includes:

- a) Wastewater resulting from any process of industry or manufacture, or from the development of any natural resource;
- b) Wastewater resulting from processes of trade or business, including wastewater from laundromats and car washes, but not wastewater from restaurants;
- c) Stormwater will not be considered to be an industrial wastewater unless it is contaminated with industrial wastewater; or
- d) Wastewater discharged from a municipal wastewater treatment plant requiring a pretreatment program.

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

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

LARGER THAN UTILITY RUNWAY - A runway that is constructed for and intended to be used by propeller driven aircraft of greater than 12,500 pounds maximum gross weight and jet powered aircraft.

LDN (DAY NIGHT AVERAGE SOUND LEVEL) - A method of estimating a measurable quantity of noise at airports and is based upon an Equivalent Sound Level (Leg).

LEG (EQUIVALENT SOUND LEVEL) - An energy summation of the aggregate noise environment as measured in A - weighted sound level.

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

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

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

LOT LINE, FRONT - Any boundary line of a lot running along a street right of way line.

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

LOT LINE, SIDE - A boundary line which is not defined as a front or rear lot line.

LOT OF RECORD - A lot which has been recorded in the Office of the Register of Deeds of Person County or a lot described by metes and bounds, the description of which has been recorded in the aforementioned office.

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

MAJOR VARIANCE FROM STATE WATERSHED RULES - A variance from the minimum statewide watershed protection rules that results in any one or more of the following:

- a) The relaxation, by a factor greater than ten (10) percent of any requirement under the low density option;
- b) The relaxation, by a factor greater than five (5) percent, of any buffer, density or built-upon area requirement under the high density option;
- c) Any variation in the design, maintenance or operation requirements of a wet detention pond or other approved stormwater management system. (Amended 11/3/97)

MINOR VARIANCE FROM STATE WATERSHED PROTECTION RULES - A variance from the minimum statewide watershed protection rules that results in a relaxation, by a factor of up to five (5) percent of any buffer, density, or built-upon area requirement under the high density option; or that

results in a relaxation by a factor of up to ten (10) percent, of any management requirement under the low density option.

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

MANUFACTURED HOME, CLASS A - A manufactured home that meets the following additional criteria:

- a) The structure is made up of two or more sections designed to be installed or assembled into one unit at the building site;
- b) The manufactured home has a length not exceeding four times its width, with length measured along the longest axis and width measured at the narrowest part of the other axis; and,
- c) The pitch of the roof of the manufactured home has a minimum vertical rise of two and two tenths (2.2) feet for each twelve (12) feet of horizontal run and the roof is finished with a type of shingle that is commonly used in standard residential construction.

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

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

MOBILE HOME - An alternative term for a manufactured home. (Def. Added 5/5/97)

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

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

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

NONCONFORMING BUILDING - A building or structure that is not in conformance with the provisions (Section 75-Table of Dimensional Requirements) of the district in which it is located. (Added 6/3/2013)

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

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

NON-NOXIOUS - Any substance not physically harmful or destructive to the environment or health threatening.

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

NONPRECISION INSTRUMENT RUNWAY - A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in non-precision instrument approach procedure has been approved or planned.

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

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

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

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

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

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

PLANNING BOARD - A body appointed by the County Commissioners to perform the following duties:

- a) Develop and recommend long-range development plans and policies;
- b) Advise the County Commissioners in matters pertaining to current physical development and zoning for the County's planning jurisdiction.

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

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

PRINCIPAL BUILDING / USE - The main building or use of a zoning lot. (Addition January 1996)

PROTECTED AREA - The area adjoining and upstream of the critical area of WS-IV watershed. The boundaries of the protected area are defined as within five (5) miles of and draining to the normal pool elevation of a reservoir or to the ridgeline of the watershed; or within 10 miles upstream and draining to the intake located directly in the stream or river or to the ridgeline of the watershed. (Amended November 1997)

QUASI-JUDICIAL DECISION - A decision involving the finding of facts regarding a specific application of a development regulation and that requires the exercise of discretion when applying the standards of the regulation. The term includes, but is not limited to, decisions involving variances, special use permits, certificates of appropriateness, and appeals of administrative determinations. Decisions on the approval of subdivision plats and site plans are quasi-judicial in nature if the regulation authorizes a decision-making board to approve or deny the application based not only upon whether

the application complies with the specific requirements set forth in the regulation, but also on whether the application complies with one or more generally stated standards requiring a discretionary decision on the findings to be made by the decision-making board. (Added 5/3/21)

REAL ESTATE SIGN - A sign advertising the premises for sale, rent or lease. (Def. Added 3/17/97)

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

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

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

SITE SPECIFIC VESTING PLAN – Any of the following development approvals including Special Use Permits, PUDs, subdivision plats, site plans, preliminary or general development plans, CD-rezonings, and formerly site specific and phased development plans. (Added 5/3/21)

SPECIAL USE PERMIT (SUP) – A permit issued to authorize development or land 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 specific standards. (Added 5/3/21)

STRUCTURE - An object, including a mobile object, constructed or installed by man, including but without limitation, buildings, towers, cranes, smokestacks, earth formation, and overhead transmission lines.

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

TEMPORARY SIGN - A sign that is used in connection with a circumstance, situation, or event that is designed, intended, or expected to take place or to be completed with a reasonably short or definite

period after the erection of such sign. If a sign display area is permanent but the message display but the message displayed is subject to periodic changes, that sign shall not be regarded as temporary. (Def. Added 3/17/97)

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

UNCOVERED - Not covered by a roof or other covering.

USE BY RIGHT - A use which is listed as an unconditionally permitted activity in this ordinance.

VARIANCE - A modification or alteration of any of the requirements of this ordinance.

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

VISUAL RUNWAY - A runway intended solely for the operation of aircraft using visual approach procedures.

WATER DEPENDENT STRUCTURE - Any structure for which the use requires access to or proximity to or citing within surface waters to fulfill its basic purpose, such as boat ramps, boat house, docks, and bulkheads. Ancillary facilities such as restaurants, outlets for boat supplies, parking lots and commercial boat storage areas are not water dependent structures.

WATERSHED - The entire land contributing surface drainage to a specific point.

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

- a) Class WS-II, waters protected as water supplies which are generally in predominately underdeveloped watershed; point source discharges of treated waste water are permitted pursuant to Rules .0104 and .0211 of this Subchapter; local programs to control nonpoint sources and stormwater discharges of pollution area required; suitable of all Class C uses.

- b) Class WS-III, waters protected as water supplies which are generally in low to moderately developed watershed; point source discharges of treatment of treated waste water area permitted pursuant to Rules .0104 and .0211 of this Subchapter; local programs to control nonpoint sources and stormwater discharges of pollution area required; suitable for all Class C uses.
- c) WS-IV, water projected as water supplies which are generally in moderately to highly developed watershed; point source discharges of treated waste water are permitted pursuant to Rules .0104 and .0211 of this Subchapter; local programs to control nonpoint sources and stormwater discharges of pollution area required; suitable for all Class C uses.
- d) Class C Uses, waters protected for secondary recreation, fishing, wildlife, fish and aquatic life propagation and survival, agriculture and other uses suitable for Class C.

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

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

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

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

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

ZONING ADMINISTRATOR - Planning Director (aka County Planner) or designated representative.

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

APPENDIX C

TABLE OF PERMITTED USES

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

- *Districts in which particular uses are permitted as a Use-By-Right are indicated by "X". Districts in which particular uses are permitted as a Use-By-Right with certain conditions are indicated by "X" with a reference to a footnote to this Table.*
- *District in which particular uses are permitted as a special use upon approval of the Board of Commissioners are indicated by "S". See Section 153 for details in obtaining a Special Use Permit.*

PRINCIPAL USES	ZONING DISTRICTS				
	R	B-2	B-1	GI	RC
Accessory Building	X	X	X	X	X
Accessory Uses Incidental To Any Permitted Use (*See Note 1)	X	X	X		X
Adoption Services		X			X
Advertising Agencies		X	X		X
AGRICULTURAL OR FARM USE EXEMPT FROM PLANNING ORDINANCE					
Aircraft Equipment, Parts and Supplies (*See Note 5)			X	X*	X
Airline Ticket Agency (*See Note 5)		X	X	X*	X
Airport Operations (*Note 5 and Sections 90 & 91)	S	S	S	X*	S
Airstrips, (Private) /Heliport Without Commercial Activity (*See Note 8) (Added 5/7/01)	X*	X*	X*	X*	X*
Alcoholic Beverages Packaged, Retail Sale		X	X		X
Ambulance Service or Rescue Service	S	X	X	S	X
Amusement Parks			S		X
Animal Medical Care (Including Kennel Operations)		X	X		X
Antique Shops	S	X	X		X
Apparel And Accessory Sales		X	X		X
Appliance (Major) Sales and Repair		X	X		X
Appliance (Small) Sales and Repair		X	X		X
Art and Craft Supplies		X	X		X
Art Gallery		X	X		X
Auction Sales (Excluding livestock auctioning)		S	X		X
Automobile Off-Street Parking, (Commercial)		X	X	X	X
Automobile Parts and Accessory Sales		X	X		X
Automobile Rentals and Leasing (*See Note 5)		X	X	X*	X

PRINCIPAL USES	ZONING DISTRICTS				
	R	B-2	B-1	GI	RC
Automobile Repair and/or Body Work (Excluding commercial wrecking, dismanteling, or storage of junk vehicles) Amended 12/01/2008			X		S
Automobile Sales, New and Used		S	X		X
Automobile Service Station Operations		X	X		X
Bank, Savings and Loan Company and Other Financial Activities		X	X	S	X
Barber or Beauty College Instruction		X	X		X
Barbering and Hair Dressing Services		X	X		X
Bed and Breakfast Inns, Boarding and Rooming Houses, and Tourist Homes	S	X			X
Bicycle Sales and Repair		X	X		X
Blacksmith			X		X
Boats and Accessories, Retail Sales and Service		S	X		X
Books and Printed Matter, Distribution			X		X
Book Stores		X	X		X
Bowling Alley		X	X		X
Brewery (Added 10/2/17)	S				S
Bridal Shops		X			X
Builders Supply			X		X
Bus Repair and Storage Terminal Activities (Amended 12/1/2008)			X		S
Bus Station Activities (*See Note 5)		S	X	X*	X
Camper/Recreational Park (Amended 8/2/2010) (See Section 155-2)	S	S	S		S
Carpet and Rug Cleaning		X	X		X
Carwash		X	X		X
Catalog Sales		X	X		X
Catering		X	X		X
Cellular Telephone Sales and Services		X	X		X
Cemeteries - Church or Family	X	X	X	S	X
Cemeteries – Commercial	S	S	S		X
Chemical Retail Sales			X		X
Church, Temples, Synagogues	X	X	X	X	X
Clinic Services, Medical and Dental	S	X	X	S	X
Club or Lodge	S	S	S		X
Commercial Modular Building (Adopted 5/5/97)		X	X		X

PRINCIPAL USES	ZONING DISTRICTS				
	R	B-2	B-1	GI	RC
Construction, Trades (*Building, heating, electrical, plumbing, fire sprinkler and others) (Excluding outside storage of equipment or supplies) (Amended 11/19/2007)		S	X	X	X
Construction, Trades (With outside storage of equipment or supplies)			X		X
Contractor, General (Excluding outside storage of equipment or supplies)		X	X		X
Contractor, General (With Outside Storage of Equipment or Supplies)			X		X
Convenience Stores	S	X	X		X
County Governmental Facility (Adopted 2/3/97)	S	X	X		X
Curio and Souvenir Sales		X	X		X
Day Care Center	S	X	X	X	X
Distillery (Added 10/2/17)	S				S
Dry Cleaning and Laundry		X	X		X
Dwelling, Single-Family	X	X	X		X
Dwelling, Two-Family and Garage Apartments	X	X	X		X
Dwelling, Multiple-Family (See Section 80)	S	S	S		X
Eating and Drinking Facilities (Amended 12/1/2008)		X	X		S
Electrical / Electronic Equipment and Supply Sales		X	X		X
Employment Agencies		X	X		X
Equipment Rental (Amended 11/16/20)		X	X	X	X
Event Center (Amended 09/09/2019)	S	X	X	X	X
Exterminating Service		X	X		X
Family Care Home	X	X	X		X
Farm Machinery Sales and Servicing		S	X		X
Farm Supplies Merchandising (Excluding Farm Machinery)		X	X		X
Fire Station And Law Enforcement Operations	S	X	X	X	X
Floor Covering Sales		X	X		X
Flower Shop		X	X		X
Funeral Home	S	X	X		X
Furniture Retail Sales		X	X		X
Game and Sports Facilities (Amended 5-18-92)		S	S		
Glass Sales and Installation		X	X		X
Golf Courses	S	X	X		X
Grocery Retail		X	X		X
Grocery, Wholesale			X		X
Group Home for Developmentally Disabled Adults	X	X	X		X

PRINCIPAL USES	ZONING DISTRICTS				
	R	B-2	B-1	GI	RC
Gunsmith		X	X		X
Hardware, Paint and Garden Supply Sales		X	X		X
Health Spas, Fitness Center (Amended 2/7/2011)		X	X		X
Historical Preservation Commercial Use	S	X	X		X
Home for the Aged	S	S	X		X
Home Furnishings And Appliance Sales		X	X		X
Hospital or Sanitarium Care (Except for the Insane, Feeble-Minded and Addicted) (Amended 12/1/2008)		S	X		S
Industrial, Light (See Appendix C Note 2) (Amended 11/16/20)		S	X	X	X
Industrial, Heavy (See Appendix C, Note 2) (Amended 11/16/20)			S	X	
Insurance Agencies		X	X		X
Interior Decorator		X	X		X
Janitorial Service		X	X		X
Jewelers		X	X		X
Karate and Other Martial Arts Instruction		X	X		X
Kennel Operations, Care		S	X		X
Landscape Contractor		X	X		X
Library	S	X	X		X
Livestock Sales and Auctions (Amended 12/1/2008)			S		S
Locksmith		X	X		X
Manufactured Home for Temporary Dwelling During Construction of Permanent Dwelling (Adopted 5/5/97)	See Note 7				
Manufactured Home (Individual) for Residential Occupancy - Class B (Rev. 5/5/97)	See Note 3				
Manufactured Home (Individual) for Residential Occupancy - Class A (Rev. 5/5/97)	See Note 6				
Manufactured Home Supplies and Equipment Sales		S	X		X
Manufactured Homes Under the Hardship Class A and B	See Note 4				
Marinas		X	X		X
Mobile Home Park but Excluding Any Mobile Home Sales (Amended 11-17-92, 7/11/94)	S	S	S		S
Mobile Home Sales and Service			X		X
Modular Homes (Amended 11-17-92)	X	X	X		X
Monument Sales		X	X		X
Motel, Hotel or Motor Court Operations			X		X
Movies, Video Sales and Rentals		X	X		X

PRINCIPAL USES	ZONING DISTRICTS				
	R	B-2	B-1	GI	RC
Moving and Storage Operations (Amended 12/1/2008)			X	S	S
Musical Instrument Sales		X	X		X
Newsstand Sales		X	X		X
Nonhazardous, Non-Toxic Solid Waste Disposal (Adopted 5/18/92)	S	S	S	S	S
Nursery Operation (Plant) - Agricultural	X	X	X		X
Nursing Home	S	S	X		X
Office and Professional Office (Adopted 12/6/99)	S	X	X	X	X
Office Supplies and Equipment Sales and Service		X	X		X
Painting Contractors		X	X		X
Paving Contractors (Amended 12/1/2008)					S
Pawn Shop		X	X		X
Pet Sales, Excluding Kennel Activities or Outside Storage of Animals		X	X		X
Pharmaceutical Sales, Retail		X	X		X
Photography, Commercial		X	X		X
Planned Building Group (See Article Viii, Section 80) (Added 12/1/03)	S	X	X		S
Post Office		X	X	X	X
Private Recreation Club Or Swimming Club Activities Not Operated As A Business Or Profit (Amended 12/1/2008)	S	S	S	S	S
Private Recreation Facilities For Profit (Amended 5/18/92, 7/8/96)	S	S	S	S	S
Public Recreations (Such as Community Center Buildings, Parks, Museums, Playgrounds, and Similar Facilities Operated on a Nonprofit Basis)	S	X	X		X
Public Utility Station, Bulk Station or Substations (Amended 12/1/2008)	S	S	S	S	S
Radio or Television Studio Activities Only			X		X
Radio, Telephone and TV Transmitting Tower (See Note 9 and Article VII & IX) (Amended 11/6/95)	S	X	X	X	S
Railroad Station Operations (Amended 12/1/2008)			S	S	S
Railroad Yard Operations				S	X
Real Estate Agencies		X	X		X
Reception Centers for Recycling		S	X		X
Reducing Salon Care		X	X		X
Rest Home	S	S	X		X
Retailing or Servicing Operations		S	X		X
Salvage Operation/Junkyard - Commercial				S	S
Second Hand and Swap Shop Sales		X	X		X

PRINCIPAL USES	ZONING DISTRICTS				
	R	B-2	B-1	GI	RC
School, Private or Public (Elementary, Secondary, or Higher Level) (Amended 12/1/2008)	S	S	X	X	S
Solar Energy Systems (Added 10/2/17; Deleted 10/5/20)	See Person County Solar Energy System Ordinance				
Sport Shops		X	X		X
Stables, Horse (Amended 4/4/94)	X		S		X
Stereophonic and High Fidelity Equipment and Supply Sales		X	X		X
STORAGE, HAZARDOUS, TOXIC AND RADIOACTIVE WASTE	NOT PERMITTED IN ANY DISTRICT				
Storage, Household and Commercial		S	X		X
Storage, Open (Amended 5-4-01)		S	S		S
Tanning Salons		X	X		X
Taxicab Stand Operations (*See Note 5)		X	X	X*	X
Teaching of Art, Music, Dance, Dramatics, or Other Fine Arts	S	X	X		X
Temporary Construction Building (Amended 6/6/2005)	X	X	X	X	X
Theater Productions	S	X	X		X
Tire Recapping				X	X
Tire Sales Centers		X	X		X
Tobacco Sales			X	X	X
Travel Agencies (*See Note 5)		X	X	X*	X
Truck Stop					X
Truck Terminal Activities Repair and Hauling and/or Storage					X
Variety, Gift and Hobby Supply Sales		X	X	X	X
Winery (Added 11/1/2004)	S				X

NOTES TO THE TABLE OF PERMITTED USES

NOTE 1- HOME OCCUPATIONS

(Amended 9/7/94, 3/18/96)

A home occupation is an occupation carried on in a dwelling unit or accessory building in accordance with the following.

1. The use is an incidental use to the residential property.
2. The home occupation shall not generate significantly greater volumes of traffic than would be expected in that residential neighborhood.
3. No more than one (1) person other than the resident of the dwelling is to be engaged in the home occupation.
4. No more than twenty-five percent (25%) of the total heated floor area of the principal structure shall be used for the home occupation.
5. One hundred percent (100%) of an accessory structure may be used for the home occupation: (1) if located to the side or the back of the principal structure; and (2) the total floor area of the accessory structure does not exceed fifty percent (50%) of the gross floor area of the principal structure.
6. The exterior of any structure (principal or accessory) shall not be built or altered in any manner nor shall the occupation be conducted in such a way as to cause the premises to substantially differ from its' residential character in exterior appearance.
7. The outside storage or exterior display of merchandise, products or materials, is prohibited.
8. Required parking for a home occupation shall be met off the street and not in a required front or side yard setback.
9. Signage shall comply with Article XII, Section 125.
10. All residential properties served by a well and/or sewage disposal system must have said systems evaluated (when applicable) in accordance with North Carolina General Statutes and local regulations.
11. The use shall not emit any obnoxious or offending noise, dust, vibration, odor, smoke, fumes, glare, electrical interference, interference to radio or television reception beyond what normally occurs in the applicable zoning district, and shall not present a fire hazard.
12. The on-premise sale and delivery of goods which are not produced on the premises is prohibited, except in the case of the delivery and sale of goods incidental to the provision of a service.

NOTE 2 – INDUSTRIAL AND MANUFACTURING OPERATIONS

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

TYPE OF INDUSTRIAL USE	GENERAL DESCRIPTION, INTENT AND STANDARDS	EXAMPLES OF USES
<p>LIGHT INDUSTRIAL (LI)</p>	<p>Light industrial uses are prohibited in the Residential (R) Zoning District.</p> <p>Industrial operations involving the manufacturing, processing, fabrication of acetylene gas (except for use on premises), ammunition, explosives, fireworks, gunpowder, or matches shall not be allowed in any district. (Amended 5/18/92)</p> <p>The intent of these categories is to provide development standards that promote the development of industrial and manufacturing operations without compromising the health, safety and welfare of properties adjacent to and in the vicinity of the project area. Included in this category are uses that shall have minimal impacts on the public health, safety and welfare.</p> <p>The distinctions used in this category closely follow the NAICS definitions. Manufacturing establishments are located in plants, factories, or mills and employ power-driven machines and materials-handling equipment. They may also employ workers who create new products by hand, without the characteristic machinery-intensive enterprise. Many manufacturing establishments process products of agriculture, forestry, fishing, mining, or quarrying as well as products of other manufacturing establishments. The subcategories reflect sectors with distinct production processes related to material inputs, production equipment, and employee skills. Most manufacturing establishments have some form of captive services (e.g., research and development, and administrative operations, such as accounting, payroll, or management). These are functionally the same as the primary establishment. However, when such services are provided by separate establishments, they will be evaluated as either light or heavy industrial in their own right. If needed, Person County Planning and Zoning staff should rely on the NAICS' activity dimension to differentiate between an office activity and a factory activity for such establishments.</p> <p>Vegetative and/or structural buffers shall be required when light industrial land uses are adjacent to or across from, any residential use regardless of the distance separating uses (For additional information, please see Setback Requirements – Section 75)</p>	<ul style="list-style-type: none"> ▪ Manufacture, assembly, repair or servicing of light industrial goods and products; business or consumer machinery; equipment, products or by-products; ▪ Commercial bakery; ▪ Crematorium; ▪ Cold storage plant; ▪ Coal sales and storage; ▪ Manufacture, assembly and repair of computer components including semi-conductors; precision instruments; electrical/electronic; toys; wind energy component; telecommunication equipment; advanced textiles; transportation equipment components; ▪ Sheet metal shop; ▪ Bottling; ▪ Woodworking, cabinet making, and/or furniture manufacturing

TYPE OF INDUSTRIAL USE	GENERAL DESCRIPTION, INTENT AND STANDARDS	EXAMPLES OF USES
HEAVY INDUSTRIAL (HI)	<p>Heavy industrial uses are prohibited in the Residential (R), Neighborhood Business (B-2) and Rural Conservation (RC) Zoning Districts. (Amended 11/16/20)</p> <p>Industrial operations involving the manufacturing, processing, fabrication of acetylene gas (except for use on premises), ammunition, explosives, fireworks, gunpowder, or matches shall not be allowed in any district. (Amended 5/18/92)</p> <p>Vegetative and/or structural buffers shall be required when heavy industrial land uses are adjacent to or across from, any residential use regardless of the distance separating uses (For additional information, please see Setback Requirements – Section 75)</p> <p>This District is generally for those industrial uses where the impacts to the public health, safety and/or welfare are greatest.</p> <p>These industrial uses typically have large land requirements and require the outdoor storage of materials. In addition to most of the industrial uses permitted as “Industrial, Light” uses, uses involving the primary processing of materials such as metal refining, plastics, pulp and paper, animal rendering, clay sand or gravel processing are included in this category. (Amended 11/16/20)</p> <p>The Director of Planning may use discretion to consider uses not specifically listed here as long as these meet the intent of the definition. The Planning Director shall provide a summary supporting of their interpretation for the record.</p> <p>The distinctions used in this category closely follow the NAICS definitions. Manufacturing establishments are located in plants, factories, or mills and employ power-driven machines and materials-handling equipment. They may also employ workers who create new products by hand, without the characteristic machinery-intensive enterprise. Many manufacturing establishments process products of agriculture, forestry, fishing, mining, or quarrying as well as products of other manufacturing establishments. The subcategories reflect sectors with distinct production processes related to material inputs, production equipment, and employee skills. Most manufacturing establishments have some form of captive services (e.g., research and development, and administrative operations, such as accounting, payroll, or management). These are functionally the same as the primary establishment. However, when such services are provided by separate establishments, they will be evaluated as either light or heavy industrial in their own right. If needed, Person County Planning and Zoning staff should rely on the NAICS’ activity dimension to differentiate between an office activity and a factory activity for such establishments.</p>	<ul style="list-style-type: none"> ▪ Animal Processing, Packing, Treatment and Storage Livestock Slaughter, Processing of Food and Related Products ▪ Production of Chemicals, Rubber, Leather, Clay, Bone, Plastic, Stone, Glass ▪ Production of Fabrication of Metals or Metal Products (enameling, galvanizing, sawmill) ▪ Asphalt and concrete plants ▪ Power generating plants, including the storage of ore, coal, atmospheric gas, grain, petroleum and other materials used to produce power ▪ Hazardous material disposal ▪ Explosive Storage and Distribution Facilities ▪ Fertilizer Manufacture ▪ Quarry Operations ▪ Storage, Flammable

INDUSTRIAL ADDITIONS:

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

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

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

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

NOTE 3 - MANUFACTURED HOMES, CLASS B

(See Note 6 for Manufactured Homes, Class A)

(Amended 7/11/94, 11/6/95, 5/5/97; 5/3/21)

A 'Class B' manufactured home shall be a permitted use in the Residential (R) and Rural Conservation (RC) Zoning Districts provided that:

- (1) The exterior finish is in good repair and the exterior materials are comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction. Acceptable materials for the exterior of such homes include but are not limited to vinyl or aluminum horizontal lap siding (whose reflectivity does not exceed that of gloss white paint), wood, or hardboard.
- (2) The manufactured home is set up in accordance with the standards set by the North Carolina Department of Insurance and a continuous, permanent masonry foundation or masonry curtain wall, unpierced except for required ventilation and access, is installed under the perimeter of the manufactured home;
- (3) The roofing materials are compatible with those used in standard residential construction;
- (4) The wheels, axles, transporting lights and towing apparatus have been removed
- (5) Stairs, porches, entrance platforms and other means of entrance and exit to the home are installed or constructed in accordance with the *North Carolina State Building Code, Volume VII - Residential*.

A Class B manufactured home meeting conditions 1 through 5 above shall be a special use in the Highway Business (B-1) and Neighborhood Business (B-2) Zoning Districts except when located within a mobile home park.

Class B manufactured homes may be used only for residential purposes and may not be used for storage accessory buildings, utility buildings nor shops.

All standards of this ordinance must be met before a Certificate of Compliance is issued by the Person County Inspection Department.

Class B manufactured homes not meeting requirements (1) through (5) above may be located in a mobile home park subject to the provisions of the *Person County Mobile Home Park Ordinance*. (Rev. 5/5/97)

NOTE 4 - MANUFACTURED HOMES, HARDSHIP (Revised 5/3/21)

The Zoning Administrator may grant temporary permits for placing mobile homes for dwelling purposes to the rear or side of a dwelling located on a residential lot in certain hardship cases when the Zoning Administrator finds that:

- (1) The person or persons occupying the mobile home are physically dependent upon the person or persons occupying the dwelling house, or that the person or persons occupying the dwelling house are physically dependent upon the person or persons occupying the mobile home.
- (2) The water and sewage facilities are approved by the District Health Department.
- (3) One of the following types of relationships exists between the occupants of the manufactured home and the occupants of the principal dwelling unit:
 - a) Blood relationship.
 - b) Relationship by marriage.
 - c) Legal guardian relationship established by law.
 - d) The attendant is compensated for his or her services and is providing care for not more than two related persons.
- (4) The manufactured home meets requirements 1 through 5 in *Note 3 Manufactured Homes, Class B In Appendix C, Notes to the Table of Permitted Uses*.

The permit shall expire after one (1) year and shall be renewable upon similar findings by the Zoning Administrator. When the hardship ceases to exist, the permit shall automatically be revoked and the mobile home removed. When any of the terms, conditions, or restrictions imposed on the zoning permit are not being complied with, the Zoning Administrator shall rescind and revoke such permits after notifying all parties concerned by letter.

Any mobile home approved by the Zoning Administrator under the hardship provisions prior to the date of this amendment shall be included in the above restrictions with regard to expiration of permits after one (1) year from the date of issuance and all such permits shall be renewed within one (1) year of the date of this amendment. (Rev. 5/5/97)

NOTE 5 - AIRPORT OVERLY

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

NOTE 6 - MANUFACTURED HOMES, CLASS A
(Adopted 5/5/97)

A Class A manufactured home shall be a permitted use in the Residential (R), Highway Business (B-1), Neighborhood Business (B-2) and Rural Conservation (RC) Zoning Districts provided that:

- (1) The manufactured home is listed and assessed as real property;
- (2) All roof structures shall provide an eaves projection of no less than six inches, which may include a gutter;
- (3) The exterior siding consists predominantly of vinyl or aluminum horizontal lap siding (whose reflectivity does not exceed that of gloss white paint), wood, or hardboard, comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction;
- (4) The manufactured home is set up in accordance with the standards set by the N.C. Department of Insurance and a continuous, permanent masonry foundation or masonry curtain wall, unpierced except for required ventilation and access, is installed under the perimeter of the manufactured home;
- (5) Stairs, porches, entrance platforms, ramps and other means of entrance and exit to and from the home shall be installed or constructed in accordance with standards set by the *North Carolina State Building Code, Volume VII - Residential*; and
- (6) The moving hitch, wheels and axles, and transporting lights have been removed.

A Class A manufactured home may be used only for residential purposes and may not be used for storage, accessory buildings, utility buildings nor shops. All standards of this ordinance must be met before a Certificate of Compliance is issued by the Person County Inspection Department.

A Class A manufactured home not meeting criteria (1) through (6) above may be located in a mobile home park subject to provisions of the *Person County Mobile Home Park Ordinance*.

NOTE 7 - MANUFACTURED HOME FOR TEMPORARY DWELLING DURING CONSTRUCTION OF A PERMANENT DWELLING (Revised 5/3/21)

The Zoning Administrator may allow the temporary placement of a manufactured home for dwelling purposes on a lot during construction or installation of a permanent residential unit on that lot provided that:

- (1) A building permit has been issued for construction of the permanent home;
- (2) The construction of the permanent home is started within six (6) months from placement of the manufactured home on the lot and is completed within three (3) years from the date of approval of the zoning permit. At the discretion of the Zoning Administrator, the duration of the zoning permit may be extended a maximum of five (5) years from the date of approval of the permit to allow completion of the permanent home;
- (3) The exterior finish is in good repair and the exterior materials are comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction. Acceptable materials for the exterior of such homes include but are not limited to vinyl or aluminum horizontal lap siding (whose reflectivity does not exceed that of gloss white paint), wood, or hardboard; and
- (4) The manufactured home is set up in accordance with the standards set by the North Carolina Department of Insurance.

The manufactured home must be removed from the lot within thirty (30) days following issuance of the Certificate of Occupancy of the permanent home.

Should any of the terms, conditions or restrictions imposed on the zoning permit be violated, the Zoning Administrator shall rescind and revoke such permits after notifying by letter all parties concerned and granting them full opportunity of a hearing. When such a zoning permit is revoked, the manufactured home for which it was issued must be removed from the property within thirty (30) days after the revocation is final. (Adopted 5/5/97)

NOTE 7A – TEMPORARY EMERGENCY USE OF CAMPER/RECREATIONAL VEHICLE (Added 8/2/2010; Revised 5/3/21)

Temporary emergency use of a camper/recreational vehicle is allowed for a period of six months in the event of a fire, flood or other natural disaster which has made the principal dwelling uninhabitable. The temporary use must be located on the same lot and a zoning permit is required. The zoning permit may be renewed for one additional six month period.

The Zoning Administrator may allow the temporary use of a camper/recreational vehicle for dwelling purposes during the construction or installation of a new permanent residential unit due to the previous residential unit being made uninhabitable by a natural disaster provided that:

1. A building permit has been issued for construction of the permanent home.
2. Approval is for a maximum period of one year. Applicant shall only be allowed one reapplication for the same lot after the initial six month application period.
3. The camper/recreational vehicle cannot be used for residential purposes on the same lot once the certificate of occupancy is issued or the time allowed by the zoning permit has expired.

NOTE 8 – PRIVATE AIRSTRIP/HELIPORT

(Added May 7, 2001)

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

NOTE 9 – RADIO, TELEPHONE AND TV TRANSMITTING TOWER

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

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

Lattice towers, or self-supporting towers, with a triangular base tapered to the top and engineered with break-points may be setback a distance $\frac{1}{2}$ their height.

At a minimum, towers in all Districts are subject to the standards of the Table of Dimensional Requirements (Table 75; page 64).

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

NOTE 10 – DELETED 10/5/20