

## Chapter 11 DEFINITIONS

Words and terms set forth below shall have the meanings ascribed to them. Any word, term(s) or phrase used in this Unified Development Ordinance not defined below shall have the meaning ascribed to such word, term or phrase in the most recent editions of Merriam-Webster's Dictionary, Black's Law Dictionary or American Planning Association Planner's Advisory Service, Dictionary of Terms unless, in the opinion of the Administrator, established customs or practices in Pender County justify a different or additional meaning. Furthermore, for the purpose of this Unified Development Ordinance, certain words, terms and phrases are herein defined as follows:

- A. Words used in the present tense shall include the future tense.
- B. Words used in the singular number shall include the plural number and the plural singular.
- C. The word "shall" and "will" are mandatory and not discretionary.
- D. The word "may" is permissive.
- E. The word "lot" shall include the words "parcel", "plot" and "tract".
- F. The word "building" and "structures" are synonymous.
- G. The phrase "used for" shall include the terms "intended to be used", or "intended for" and "designed for" and "occupied for".
- H. Words used here in the masculine gender shall be interpreted to include the feminine gender.
- I. References to Section numbers herein refer to the Pender County Unified Development Ordinance unless specifically stated otherwise.

**60-YEAR Setback** means a distance equal to sixty (60) times the average annual long-term recession rate at a site, measured from the reference feature.

**ACCESS EASEMENT:** An easement that is at least forty five (45') feet wide and is recorded by map or other instrument in the Registry that specifically transfers rights to the adjacent property owners or specific property owners and their assigns, invitees, licensors and permittees for ingress, egress and utilities and for the construction and maintenance of ingress, egress and utility facilities. An access easement by designation on a recorded plat also transfers the right to construct and maintain water, sewer, electric and communication lines within the easement by any public entity or public utility.

**ACCESS:** A way or means of vehicular or pedestrian approach to provide physical entrance to a property.

**ACCESS RAMP:** A way or means of vehicular access to a highway or other high volume, limited-access transportation facility.

**ACCESSORY OR SECONDARY USE:** A use of land or of a building or portion thereof customarily associated with and incidental and subordinate to the principal use of the land or building and located on the same lot with such principal use. A secondary use shall be a use not already permitted by right in a zoning district but may be permitted in conjunction with a permitted use. In no instances shall an accessory or secondary use be permitted without the presence of a primary use.

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

**ACTIVE BUFFER:** A distance buffer which contains no building or principal structure of activity but which may contain an accessory use or activity.

**ACTIVE OPEN SPACE:** ~~Consists of areas such as park land chosen without regard to natural features for the explicit purposes of enhancing design, such as village commons, or providing space for outdoor recreation activities which may include, but not be limited to, tennis courts, ball fields, swimming pools, and tot lots with play equipment~~See Open Space, Active

**ADDITION:** A structure added to the original structure at some time after the completion of the original.

**ADDRESSABLE STRUCTURE:** Any structure requiring the installation of a dedicated permanent electrical meter.

**ADDRESSING COORDINATOR:** Individual, including their authorized representatives, charged with the administration of the road naming and addressing guidelines of Pender County along with the coordination of the E-911 Operations Director.

**ADJACENT OR ADJOINING LOT OR LAND:** A lot or parcel of land which shares all or part of a common lot line with another lot or parcel or land or which is immediately across a street or road from said parcel or lot.

**ADULT CARE RESIDENCES:** A public or private establishment operated or maintained for the maintenance or care of four or more adults who are aged, infirm or disabled and who are cared for in a primarily residential setting. Adult care residences do not include facilities or portions of a facility licensed by the State Board of Health and the home or residence of an individual who cares for or maintains only persons related to him by blood or marriage; and a facility or portion of a facility serving infirm or disabled persons between the ages of 18 and 21.

**ADULT RETAIL:** A retail establishment for which 25% or more of its stock in trade, as determined by floor area, is in videos, magazines, books, publications, tapes, films or other periodicals and paraphernalia which are distinguished or characterized by an emphasis on depicting or describing specified sexual conduct or specified anatomical areas.

**ADULT OR SEXUALLY ORIENTED BUSINESS:**

1. **Adult Arcade:** An establishment where, for any form of consideration, one or more motion picture projectors, slide projectors, or similar machines for viewing by five or fewer persons each are used to show films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas (as defined hereinafter).
2. **Adult Bookstore:** An establishment that has as substantial portion (over 25% of total retail space) of its stock-in-trade and offer for rent or sale, for any consideration, any one or more of the following: 1) books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, slides, or other visual representations that an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas; or 2) instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities.
3. **Adult Business:** An adult business shall be defined as any business activity, club or other establishment which permits its employees, members, patrons or guests on its premises to exhibit any specified anatomical areas before any other person or persons.

4. **Adult Motion Picture Theater:** An establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are shown, and in which 25% or more of the total presentation time is devoted to the showing of material characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas.
5. **Adult Theater:** A theater, concert hall, auditorium or similar establishment characterized by (activities featuring) the exposure of specified anatomical area or by specified sexual activities.
6. **Massage:** Any manipulation of body muscle or tissue by rubbing, stroking, kneading, or tapping, by hand or mechanical device.
7. **Massage Business:** Any establishment or business wherein massage is practiced, including establishments commonly known as massage studios or massage parlors. Excluded from this definition are legitimate massage therapists, bodywork therapists, or contact manipulation therapists, working under the direct supervision of a licensed Physician, or who in the regular course of their respective businesses, have been licensed or certified by any governmental subdivision in North Carolina, or licensed or certified by a recognized association or organization on file with the North Carolina Secretary of State, the North Carolina Board of Chiropractic Examiners, North Carolina Board of Medical Examiners, N.C. Board of Occupational Therapy, NC Board of Physical Therapy Examiners, or Board of Podiatry Examiners, or have been certified or licensed by a national organization and similarly registered.
8. **Sexually Oriented Business:** A sexually oriented business shall be defined as any business activity, club or other establishment, within which the exhibition, showing, rental, or sale of materials distinguished or characterized by an emphasis on material depicting, describing, or exhibiting specified anatomical areas or relating to specified sexual activities is permitted. Sexually oriented businesses shall include, but are not limited to: adult arcades, adult bookstores, adult motion picture theaters, adult theaters, massage businesses, as defined by this Ordinance.
9. **Specified Anatomical Areas:** Specified anatomical areas shall be defined as less than completely and opaquely covered human genitals, pubic regions, buttocks and female breasts below a point immediately above the top of the areola.
10. **Specified Sexual Activities:** Specified sexual activities shall be defined as:
  - a. Human genitals in a state of stimulation or arousal;
  - b. Acts of human masturbation, sexual intercourse, sodomy; or
  - c. Fondling of other erotic genitals, pubic regions, buttocks or female breasts.
11. **Total Retail Space:** Any space within the structure that is used for the direct sale of merchandise to the public and storage areas for those items.

**ADULT TREATMENT HOME:** A residential facility for persons recovering from alcohol abuse where supervision, rehabilitation and counseling are provided to the residents.

**AGGREGATE BASE COURSE (ABC STONE):** A mixture of various gradation of stone material, small and large, that is compacted together to provide a dense surface for different uses; Usually gray in color, consists of crushed granite or run stone, mixed with 3/4 inch average size crushed stone gravel; Also known as “crush and run” or “crusher run”. Installation of ABC stone shall comply with current NCDOT depth standards.

**AISLE:** The traveled way by which vehicles enter and depart parking spaces.

**ALL WEATHERED ROAD:** An unpaved road that is constructed of a material that does not create mud, or sedimentation runoff during rainfall, which allows emergency and typical passenger vehicles to pass at all times.

**ALLEY:** A strip of land owned publicly or privately, set aside primarily for vehicular service access to the rear or side of property otherwise fronting on a street of a higher classification.

**ALTERATION:** Any change in the total floor area, use or external appearance of an existing structure.

**ALTERNATIVE DESIGN STREET:** Alternative Design Streets are intended to provide individual lot access to structures in order preserve the mobility of the transportation system. Alleys and marginal access roads are examples of alternative design streets.

**AMBULANCE SERVICE:** A state-licensed business for operating owned motor vehicles that are designed and used to provide immediate care or to transport any persons who are sick, injured or otherwise incapacitated or helpless.

**APPROVED ARCHITECTUAL MATERIAL:** The structural or applied surface component of a façade including brick, rock, tinted or textured concrete masonry units, wood plank, fiber cement siding, precast concrete, tilt up concrete, shakes, split faced block, marble or simulated substitute. All materials shall be of a high quality. Vinyl and metal siding may be used as a minor material of the building façade.

**ARCHITECTUAL ELEMENT:** A façade module feature that is applied, inserted, incorporated or constructed into or upon the primary or secondary façade including real or faux windows, real or faux doors, awnings, gables, parapets, porticos, porte cocheres, arcades, arches, cupolas, columns, roof lines, material projections, recesses, cornices, etc.

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

**AREA OF SPECIAL FLOOD HAZARD:** see "Special Flood Hazard Area (SFHA)".

**ARTERIAL HIGHWAY:** A street so classified by the North Carolina Division of Highways or by the standards of Pender County (for instance, in the Pender County Collector Street Plan) which collects and distributes traffic to and from collector streets.

**ARTISAN MANUFACTURING:** On-site production of goods by hand manufacturing involving the use of hand tools and small-scale light mechanical equipment. Artisan Manufacturing businesses may not exceed 2,500 square feet. Typical uses include woodworking, cabinet shops, electronic goods, food and bakery products, printmaking, leather products, clothing and apparel, glass products, paper crafts, ceramic studios, jewelry manufacturing and similar types of arts and crafts or small-scale manufacturing uses that have limited, if any, negative external impacts on surrounding properties, water resource, air quality, and/or public health. Artisan manufacturing in the RP, Residential Performance zoning district may not include direct retail, loading areas or outdoor storage of products or materials.

**ASSISTED-LIVING FACILITY:** A building or series of buildings containing residential living facilities for older, disabled or infirm persons and which provides personal and health care services, twenty-four-hour supervision, and various types of assistance (scheduled and unscheduled) in daily living and meeting the requirements of the North Carolina State Legislative Code, as amended.

**AUCTION HOUSE:** A building in which the commissioned public sales of goods to the highest bidder, conducted by a licensed auctioneer for persons or groups other than community nonprofit organizations, occur more than once a year.

**AUTOMOBILE GRAVEYARD:** Any lot or parcel, upon which more than five inoperable motor vehicles which are exposed to the weather are placed, located or found.

**AUTOMOBILE PARKING STRUCTURE:** A building or structure consisting of more than one level designed and used for public or private parking of motor vehicles.

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

**BASE FLOOD:** The flood having a one-percent chance of being equaled or exceeded in any given year.

**BASEMENT:** any area of the building having its floor subgrade (below ground level) on all sides.

**BOARD OF ADJUSTMENT:** A Board whose members are appointed by the Board of County Commissioners ~~Circuit Court~~ for the express purpose of considering and acting on variances and zoning appeals.

**BOARDING- OR ROOMING HOUSE:** A dwelling or part thereof where, for compensation, lodging and meals are provided to boarders.

**BOAT:** A vessel or watercraft of any type or size specifically designed to be self-propelled, whether by engine, sail, oar, or paddle or other means, which is used to travel from place to place by water.

**BREAKAWAY WALL:** A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

**BUFFER:** An open area used to separate one use from another.

**BUILDING LINE:** Building lines are tangent to the exterior surface of a building or structure, parallel to front, side and rear lot lines. These are referred to as front, side and rear building lines, respectively.

**BUILDING:** Any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of any persons, animals, processes, equipment, goods or materials of any kind.

**BUSINESS PARK:** A development which includes multiple buildings and uses. Shopping Centers, Industrial Parks, and Office Parks are types of Business Parks.

**CALIPER:** The diameter of a tree as defined by the American Association of Nurserymen.

**CAMA – North Carolina’s Coastal Area Management Act.** This act, along with the Dredge and Fill Law and the federal Coastal Zone Management Act, is managed through North Carolina Department of Environment and Natural Resources’ (NCDENR’s) Division of Coastal Management (DCM).

**CAMPGROUND:** A lot or parcel, upon which two or more campsites are located, established or maintained for occupancy by the general public as temporary living quarters for recreation, education or vacation purposes.

**CAPITAL IMPROVEMENTS PLAN OR PROGRAM:** A plan or program adopted by the Pender County Board of Commissioners according to the provisions of the North Carolina Code, which recommends capital outlays by the County for a specific time period.

**CBRS:** ~~means~~ Coastal Barrier Resources System.

**CERTIFICATE OF OCCUPANCY:** A required permit allowing occupancy of a building, structure or use after it has been determined that the building, structure or use meets all the requirements of the Pender County Code.

**CERTIFIED LOCAL GOVERNMENT PROGRAMS (CLG):** Approved by the US Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1866 as amended in 1880.

**CHEMICAL STORAGE FACILITY:** A building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

**CHILD CARE CENTER :** An arrangement where, at any one time, there are three or more preschool-age children or nine or more school-age children receiving child care, regardless of the time of day, wherever operated, and whether or not operated for profit, unless excluded by NC G.S. 110-82(2)

**CLEAR ZONE:** A designated area void of buildings, structures, fences, berms and vegetation.

**COASTAL BARRIER RESOURCES SYSTEM (CBRS):** Consists of undeveloped portions of coastal and adjoining areas established by the Coastal Barrier Resources Act (CoBRA) of 1882, the Coastal Barrier Improvement Act (CBIA) of 1880, and subsequent revisions, and includes areas owned by federal or state governments or private conservation organizations identified as Otherwise Protected Areas (OPA).

**COASTAL HIGH HAZARD AREA:** Means a Special Flood Hazard Area extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on a FIRM, or other adopted flood map as determined in ~~Section 9.3.2~~ of this Ordinance, as Zone VE.

**COLLECTOR STREET:** See Street, Collector.

**COMMERCIAL INDOOR RECREATION:** Private, fee-supported, indoor facilities used for athletic, training or recreational purposes.

**COMMERCIAL OUTDOOR RECREATION:** Private, fee-supported, outdoor facilities used for athletic, training, recreational or park purposes that utilizes supervised athletic or recreational activities.

**COMMERCIAL SPORT AND RECREATION CLUBS:** A public or private fee-supported recreational facility located indoors or outdoors that may include swimming pools, court games and other similar activities.

**COMMERCIAL TELECOMMUNICATION FACILITY:** A structure, including the tower, antennas, panels, microwave dishes, receiving dishes, equipment building, other transmitting and receiving components and other accessory structures, used for the wireless electromagnetic transmission of information, excluding structures utilized as satellite earth stations and structures utilized for amateur or recreational purposes such as ham radio or citizen band radio.

**COMMERCIAL VEHICLE:** Any vehicle or trailer (1) with a gross vehicle weight registered with the North Carolina Department of Motor Vehicles or any other state or government agency as 12,000 pounds and greater and used for commercial purposes, or (2) any vehicle or trailer, regardless of weight, including vehicles used for a business use or licensed as a "for hire" vehicle, or any limousine or bus used as a common or contract carrier vehicle. For purposes of this chapter, a commercial vehicle shall not be deemed to include any of the following: police vehicle, emergency vehicle, commuter van, motor home, camping trailer, boat trailer or similar recreational equipment used as a personal property and not for hire or used as a school van or bus.

**COMMON AREA/OPEN SPACE:** Land that is used for recreational purposes, environmental resource protection, buffer areas, stormwater management areas and passive areas that are dedicated to the ~~tenants~~residents of a development for use and maintenance, and is protected to ensure that it remains in such uses, unless utilized under the provisions of this chapter.

**COMMUNITY BOATING FACILITY:** A private, nonprofit boating facility with navigable water frontage which includes a dock, pier, and/or launching ramp which is intended to serve five (5) or more residential units. Must be owned/controlled by a Homeowners Association (HOA) or any type of development association or collective owners group where more than one family has privileges to use facility. Commercial activities of any kind, including commercial letting of slips to parties that are not residents of the association or development, shall be prohibited.

**COMMUNITY WASTEWATER SYSTEM:** A sanitary wastewater facility which is publically or privately owned and established to serve more than one single residential dwelling, commercial, and/or industrial development and is approved through a state agency or utilities commission.

**COMMUNITY WATER SYSTEM:** A public water supply system established to serve all or a portion of a residential, commercial, and/or industrial development year round and is approved through a state agency or utilities commission.

**COMPATIBLE:** Capable of existing together in harmony; congruous.

**COMPREHENSIVE LAND USE PLAN:** A general plan for the future development of Pender County, adopted by the Pender County Board of Commissioners according to the provisions of the North Carolina Code.

**CONFERENCE/EVENT CENTER:** A structure or facility designed to accommodate meetings and other events with or without food service developed to be either stand-alone or within a hotel or motel.

**CONFINED/CONCENTRATED ANIMAL FEEDING OPERATION:** A lot or facility (other than an aquatic animal production facility) where at least one of the following conditions are met:1) Animals (other

than aquatic animals) have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period; 2) Crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility; OR- Any animal feeding operation that requires a National Pollution Discharge Elimination System (NPDES) permit.

**CONGREGATE-CARE FACILITY:** A building containing residential living facilities intended as housing for older persons and which offers the residents of such facility the opportunity to receive their meals in a central dining facility, to receive housekeeping services and to participate in activities, health services, and other services offered through a central management structure/service.

**CONSTRUCTION EQUIPMENT:** Heavy equipment or vehicles of a type used primarily by the construction industries. Such equipment may include, but is not limited to, bulldozers, backhoes, cement trucks, concrete mixers, construction tractors, cranes, derricks, dredging machinery, dump trucks, excavators, graders, hoists, pavers, power shovels, road construction and maintenance machinery, scaffolds, tank trucks, trenching machines, and water well drilling machinery.

**CONVALESCENT AND NURSING HOMES:** An extended- or intermediate-care facility licensed or approved to provide full-time convalescent or chronic care to individuals who, by reason of advanced age, chronic illness or infirmity, are unable to care for themselves.

**COTTAGE OCCUPATION:** A use conducted for the generation of revenue in an accessory structure located on the same lot or tract as a dwelling. The use must: be clearly incidental and secondary to the use of the property for residential purposes; not change the character of the structure or area; or have any exterior evidence of the occupation. Cottage Occupations are intended to be limited to low intensity uses that produce or repair a product, but can be operated in such a way that they do not adversely affect adjacent properties.

**COUNTRY GENERAL STORE:** A retail business allowed where specified in the rural zoning districts which sells groceries along with a variety of other retail goods.

**CROSS ACCESS:** A service drive between two or more contiguous sites providing direct access to properties and limiting travel on the public street system.

**DEDICATE:** The transfer or reservation for future conveyance of property by the owner to another party.

**DEVELOPER:** The legal or beneficial owner or owners of a lot or of any land included in a proposed development, including the holder of an option or contract to purchase, or other persons having enforceable proprietary interests in such land.

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

**DIRECTIONAL:** This includes the cardinal (North, South, East, West) points of direction.

**DISPLAY AREA:** A specific area used for the purpose of displaying products and services offered by a business or organization located on the same property or a contiguous property which is appropriately zoned and with an approved site plan.

**DISPOSAL:** as defined in NCGS 130A-280(a)(6), the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

**DISTANCE BUFFER:** A buffer based upon a required distance between the use to be buffered and the lot line of adjoining lots or parcels, within which a buffer is to be provided.

**DISTRICT:** A zoning district established by this Ordinance.

**DISTURBANCE:** The act of stripping vegetation, disturbing the soil, regrading or development of the land.

**DRAINAGE EASEMENT:** An easement established to maintain and protect a drainageway.

**DRAINAGEWAY:** Any natural or artificial watercourse, trench, ditch, swale or similar depression through which surface water flows.

**DRIVE-IN LANE:** Any driveway, aisle or travel lane which allows customers to receive goods or services while they remain in their vehicles.

**DRIVEWAY:** An access roadway or point of ingress and egress between a street and a parking space, structure(s) or lot(s).

**DRUG TREATMENT HOME:** A residential facility for persons recovering from drug or controlled substance abuse where supervision, rehabilitation and counseling are provided to the residents.

**DRY STACK STORAGE:** A structure designed to shelve boats temporarily from weather, water and other things that can cause damage. Dry-stack storage is designed so a boat is raised by a high-capacity forklift and stashed on a rack in a covered building, ready for quick retrieval.

**DWELLING:** A residential structure or portion thereof which is used exclusively for human habitation.

<u>Table of crosswalk terminology and categories</u>				
<u>Residential Use</u>	<u>Single family</u>	<u>Detached</u>	<u>Attached</u>	<u>Multifamily</u>
<u>Detached, conventional</u>	<u>X</u>	<u>X</u>		
<u>Detached, Zero lot line</u>	<u>X</u>	<u>X</u>		
<u>Manufactured home</u>	<u>X</u>	<u>X</u>		
<u>Duplex <sup>1</sup></u>	<u>X</u>		<u>X</u>	
<u>Multiplex (less than 5 dwellings)</u>			<u>X</u>	<u>X</u>
<u>Townhome or Townhouse</u>			<u>X</u>	<u>X</u>
<u>Multifamily (condominium or apartment)</u>			<u>X</u>	<u>X</u>
<u>X = indicates that the use or definition is included in the category.</u>				
<u><sup>1</sup> usually exempted from requirements for attached or multi-family.</u>				

1) **DWELLING, SINGLE-FAMILY:** A stand alone structure, not including manufactured homes, arranged or designed to be occupied by one household.

a) **SINGLE-FAMILY DETACHED:** A dwelling that is not attached to any other dwelling by any means. A "single-family detached residence" shall be a dwelling unit

located on a single lot with private yards. Conventional detached residences have private yards on all four sides, while zero lot line detached residences are set on one of the side property lines, with a maintenance easement on the adjoining lot

- b) **SINGLE FAMILY ATTACHED:** A dwelling with two or more single-family dwelling units which are generally joined together by an above-grade common party wall extending from the lowest floor to the roof or by a common floor-ceiling. A common floor-ceiling shall be the floor of one unit that is shared with the ceiling of another unit in vertically stacked dwelling units. Townhouse units may be attached by a garage or a connecting permanent architecturally unified structure such as a breezeway, carport, or wall, where structures continue the design, pattern and/or materials of the facade from one dwelling unit to another.
- i) **DWELLING, DUPLEX:** A two-unit building that is divided horizontally or vertically, and each unit has a separate entrance from the outside or through a common vestibule. A duplex may be located on one or two lots that share a common wall along the lot line, providing for fee-simple ownership.
- i) **DWELLING, TOWNHOUSE:** A multi-unit building with one dwelling unit from ground to roof, having individual outside access. Rows of attached dwellings shall not exceed 10 units and shall average no more than eight dwellings per structure.
- 2) **DWELLING, MULTIFAMILY:** A single structure arranged or designed to be occupied by two or more households, when the fee simple ownership of the underlying land is owned and maintained by an organization other than the occupants. This definition includes but is not limited to condominiums, apartments and single story structures.
- a) **DWELLING, MULTIPLEX:** An attached residence containing three to four dwelling units. Units may or may not have independent outside access. Units within multiplex structures may be arranged side to side, back to back or vertically.
- b) **DWELLING, MULTIFAMILY (CONDOMINIUM/APARTMENT)** Multifamily An apartment/condos buildings where individual dwelling units share a common outside access. They also share a common yard area, which is the sum of the required lot areas of all dwelling units within the building. Multi-Family developments shall contain five or more dwellings in a single structure. Common area shall be shared within the dwelling units for each structure or multiple structures.
- 3) **DWELLING, UPPER STORY RESIDENTIAL:** A mixed use floor plan typically with commercial/retail uses on the base floor or ground floor of the structure and residential dwelling units located above. The dwelling is attached to the nonresidential use, but may or may not be attached to other dwellings (as in the case of a single dwelling above a nonresidential use).

**EASEMENT:** A grant of one or more of the property rights by the property owner to and/or for use by the public, a corporation, or another person or entity.

**ELEVATED BUILDING:** A non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, or columns (posts and piers).

**ENCROACHMENT:** With respect to a floodplain, an encroachment shall be the advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

**ENVIRONMENTAL EASEMENT:** An easement established to protect and maintain particular environmental features according to the environmental protection requirements of this chapter.

**ENVIRONMENTAL FEATURES:** Land features that are classified as natural or environmentally sensitive areas including Special Flood Hazard Areas (SFHA), lakes, ponds, wetlands, natural stormwater retention areas, steep slopes, woodlands, stream buffers, water ways, riparian areas, and all other natural features.

~~**EXISTING MANUFACTURED HOME PARK OR SUBDIVISION:** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.~~

**FAÇADE:** The visible exterior portion of a building wall which extends from the ground to the top of the wall or roof line.

1. **FAÇADE, PRIMARY:** The façade that includes the storefront and main entrance, or main public facing portion of a building, and generally contains~~containing~~ the highest number of customer's entrances.
2. **FAÇADE, SECONDARY:** A façade which is designed to be viewed or can be viewed from a public street but is not the primary façade.
3. **FAÇADE, OTHER:** Any façade which is not considered a primary or secondary façade.
4. **FAÇADE, MODULE:** A sixty foot or shorter horizontal section of façade containing a minimum of five unique architectural elements.

**FAMILY CARE HOME:** A home with support and supervisory personnel that provides room and board, personal care and habilitation services in a family environment for not more than six resident persons with disabilities ~~as defined in NCGS § 168, Article 3.~~

**FAMILY CHILD CARE HOME:** A child care arrangement located in a residence where, at any one time, more than two children, but less than nine children, receive child care, regardless of the time of day, wherever operated, and whether or not operated for profit, unless excluded by NC General Statute. NC G.S. 110-82(2)

**FAST-FOOD RESTAURANT:** Any establishment whose principal business is the sale of food or beverages in a ready-to-consume state with a rapid turnover of customers. Food is provided for consumption on or off the premises. Such establishments usually involve customer self-service and the serving of food in disposable or edible containers.

**FLAG LOT:** See Lot, Flag.

**FLEET MAINTENANCE FACILITY, MEDICAL AND ALLIED HEALTH:** A structure or facility designed to maintain vehicles, aircraft and equipment associated with medical and allied health services.

**FLEX-TECH:** A development concept that accommodates aspects of retail, manufacturing, wholesale and warehousing by an individual user within a single structure. Such development is designed to accommodate users that require flexibility in their square footage allocation. A typical flex-tech user would be a small business that initially requires a relatively small square footage but may increase the business' square footage as the strength of the business improves.

**FLOOD or FLOODING:**

1. A general or temporary condition of partial or complete inundation of normally dry land areas from:
  - a. The overflow of inland or tidal waters; or
  - b. The unusual and rapid accumulation or runoff of surface waters from any source.
2. The collapse or subsistence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in Subsection 1A(1A) of this definition.
3. Mudflows which are proximately caused by flooding as defined in Subsections 1A and 2B of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

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

**FLOOD HAZARD BOUNDARY MAP (FHBM):** an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the area of special flood hazard have been defined as Zone A.

**FLOOD INSURANCE:** the insurance coverage provided under the National Flood Insurance Program.

**FLOOD INSURANCE RATE MAP (FIRM):** an official map of a community, issued by the Federal Emergency Management Agency, on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.

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

**FLOOD PRONE AREA:** see "Floodplain"

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

**FLOODPLAIN ADMINISTRATOR:** the individual appointed to administer and enforce the floodplain management regulations.

**FLOODPLAIN DEVELOPMENT PERMIT:** any type of permit that is required in conformance with the provisions of this Ordinance, prior to the commencement of any development activity.

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

**FLOODPLAIN MANAGEMENT REGULATIONS:** This Ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power which control development in flood-prone areas. This term describes federal, state or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

**FLOODPLAIN or FLOOD-PRONE AREA:** Any land area susceptible to being inundated by water from any source.

**FLOODPROOFING:** Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

**FLOODWAY:** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

**FLOOR AREA, RATIO:** The gross floor area of all buildings divided by the lot area.

**FLOOR AREA, GROSS:** The sum of the gross horizontal areas of the several floors of a building measured from the exterior face of exterior walls or from the center line of a wall separating two buildings.

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

**FULL SCREEN:** Elements of landscape screen plus a six-foot in height opaque fence, hedge, wall, mound or berm.

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

**GARAGE, BODY REPAIR:** A building or portion thereof, other than a private garage or public garage, designed or used for body or fender repair or spray painting.

**GARAGE, PRIVATE:** A deck, building or structure or part thereof used or intended to be used for the parking and storage of vehicles.

**GARAGE, PUBLIC:** A building or portion thereof, other than a private garage, designed or used for servicing, repairing or equipping motor vehicles, but not including spray painting, body or fender repair, service stations or vehicle sales.

**GOLF COURSE:** A tract of land used for playing golf, improved with tees, greens, fairways and other features, including accessory uses and structures.

**GOLF DRIVING RANGE:** An area in which individuals drive golf balls from a central tee.

**GOVERNMENT SERVICES OFFICE:** Offices or facilities owned, leased or operated by government agencies for government services. See "school" for school use.

**GROSS AREA:** The total area of the land contained within the boundaries of the lot or tract or within the perimeter boundaries of a development.

**GROSS DENSITY:** The total number of dwellings divided by the total gross area within the perimeter boundaries of a development. The "gross density" within a section of a development shall be the number of dwellings in the section divided by the total area of residential lots, common yard areas, common open space required in the section and right-of-way areas of roads and easements that are interior to the section.

**GROUP HOME:** For the purposes of this Ordinance, see "Family Care Home".

**HABITABLE FLOOR:** Any floor usable for living purposes, which includes working, sleeping, eating, cooking, or recreation, or a combination thereof, except for a floor used only for storage purposes.

**HAZARDOUS WASTE FACILITY:** as defined in NCGS 130, Article 8, a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.

**HEIGHT:** The vertical distance from the average street grade (at ~~access base or building line~~ or ~~finished grade at the building line~~, whichever is the highest), to the highest point of the building, or roof structure, or other structure, as appropriate.

**HIGHEST ADJACENT GRADE (HAG):** The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**HISTORIC STRUCTURE:** any structure that is:

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

**HOME OWNERS' ASSOCIATION:** A private, nonprofit organization or corporation of property owners, established to own, operate and maintain various common facilities or properties.

**HOME OCCUPATION:** An occupation or profession customarily carried on in a dwelling unit, which:

1. Actually is carried on wholly within the principal building or structure;
2. Is carried on by members of the household residing on the premises;
3. Is clearly incidental and secondary to the use of the dwelling unit for residential purposes with no exterior display, no exterior storage of materials and no exterior indication of the home occupation or variation from the residential character of the principal building and neighborhood;
4. Produces no offensive noise, vibrations, smoke, dust, heat, odor, glare, traffic hazard or congestion and does not adversely affect the surrounding properties; and
5. Requires no internal or external alterations or construction features or equipment or machinery not customary in residential areas.

**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.

**HOSPITAL:** An institution rendering medical, surgical or convalescent care, including nursing homes, homes for the aged and sanatoriums and treatment centers that serve patients at least partially on an inpatient basis.

**HUMANITARIAN AID ORGANIZATIONAL OFFICE:** A charitable organization established to provide relief assistance to an identified distressed, underprivileged group. Relief would be provided in such forms as clothing, medical supplies or educational contributions. The organization must provide a public beneficial interest to the community.

**IMMEDIATE FAMILY:** Any person who is a natural or legally defined offspring, spouse, sibling, grandchild, grandparent, or parent of the property owner.

**IMPACT ANALYSIS:** A written statement describing the potential impacts of an application or development plan or proposal, including maps, plans, diagrams and other materials, and meeting all requirements set forth by the Pender County Division of Planning.

**IMPERVIOUS AREA or IMPERVIOUS SURFACE:** Any structure, surface, or area, generally roofed, paved, compacted, and/or graveled, with a surface that prevents, or significantly reduces, absorption of stormwater or rainwater into the ground.

**INACTIVE DISTANCE BUFFER:** A distance buffer which contains no structures, buildings, roads, driveways, accessory uses or activities.

**INOPERABLE VEHICLE:** Any vehicle, designed to be self-propelled, which by virtue of broken or missing component parts, is no longer capable of self-propulsion. For the purpose of this Ordinance, any motor vehicle or boat/boat trailer not having a current valid, applicable license registration affixed to the vehicle in the location and manner prescribed by law and in plain view, shall be considered an inoperable vehicle. This definition does not apply to farm exempt vehicles/machines including vehicles used exclusively for on-farm related activities, motor vehicles, boats/boat trailer displayed for sale or undergoing repair on an approved vehicle sales or repair business site.

**INSTITUTIONAL USE:** A nonprofit or quasi-public use or institution, such as a church, library, public or private school, hospital or municipally owned or operated building, structure or land used for public purposes.

**INSTITUTIONS OF HIGHER EDUCATION:** An educational institution whose primary purpose is to provide a collegiate or graduate education.

**INTERMITTENT:** Stopping and starting or alternating messages at two minute or less intervals.

**INTER-PARCEL CONNECTOR:** An at-grade entrance between adjoining properties that is designed to facilitate vehicular access between land uses without use of the street system.

**JUNKYARD OR SALVAGE YARD:** Any area, in whole or in part, where waste or scrap materials are bought, sold, exchanged, stored, baled, packaged, disassembled, or handled, including, however not limited to: scrap iron and other metals, scrap building/construction materials, plastic pipe, paper, rags, vehicles, vehicle parts and components, rubber tires, bottles, cans and household goods. The term includes junkyards and auto wrecking yards but does not include uses established entirely within enclosed buildings.

**KENNEL:** A place prepared to house, board, breed, handle or otherwise keep or care for dogs, cats or other domesticated animals for sale or in return for compensation.

**LAKES AND PONDS:** Natural or artificial bodies of water which retain water year round. Such bodies shall be considered to extend from the maximum water level plus an additional 10 feet.

**LANDFILL:** A sanitary landfill site used for the disposal of solid wastes beneath layers of soil and other materials.

**LANDSCAPE SCREEN:** A landscaped easement-buffer containing plants or other features approved by this [ordinance](#) chapter which provide a complete visual screen.

~~**LEGALLY NONCONFORMING SIGN:** Any sign lawfully existing on the effective date of an ordinance, or amendment thereto, that renders such sign nonconforming because it does not conform to all the standards and regulations of the adopted or amended ordinance.~~

~~**LEGALLY NONCONFORMING STRUCTURE:** A structure, the size, dimensions, or location of which was lawful prior to the adoption, revision, or amendment to the Zoning Ordinance but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning district.~~

~~**LEGALLY NONCONFORMING USE:** A use or activity that was lawful prior to the adoption, revision or amendment of the Zoning Ordinance but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning district.~~

**LIGHTING FIXTURE:** A complete lighting unit consisting of the lamp, lens, optical reflector, housing and any electrical components necessary for ignition and control of the lamp, which may include a ballast, starter and/or photo control.

**LIGHTING FIXTURE, DIRECTIONALLY SHIELDED:** A lighting fixture which emits a light distribution where some light is emitted at or above a horizontal plane located at the bottom of a fixture. Such fixtures may contain visors, louvers, or other types of shields or lenses which are designed to direct light onto a target area and to minimize stray light.

**LOADING AREA:** An off-street area containing loading spaces and maneuvering areas, as well as their associated driveways.

**LOADING SPACE:** An off-street space used for loading or unloading by commercial, industrial, public, or semipublic vehicles.

**LOT:** A designated parcel, tract or area of land established or to be established by plat or subdivision or previously established as a recorded lot.

1. **LOT AREA:** The total area within the lot lines of a lot.
2. **LOT, CORNER:** A lot abutting two or more streets at their intersection. (See Figure 4.31)
3. **LOT COVERAGE:** The total built upon area, including all non-pervious surface materials.
4. **LOT DEPTH or LOT LENGTH:** The distance between the front lot line and the rear lot line.
5. **LOT, FLAG:** A residential lot fronting on a public or a private street in which access to the street or public right-of-way is provided by a narrow strip of land (often also referred to as the "pipestem driveway yard") and such access is less than the minimum required lot width, and located between adjoining residential lots fronting on the same street. Flag lots are also referred to as an interior or pipestem lot.
- 4.6. **LOT, INTERIOR:** A lot other than a corner lot. (See Figure 4.31)
5. ~~LOT LENGTH:~~ The distance between the front lot line and the rear lot line measured at the maximum distance.
- 6.7. **LOT LINE, FRONT:** The front of a lot shall be considered to be that side of the lot which fronts on a street. In the case of a corner lot, either side abutting a street may be considered to be the front (although generally it is the primary façade with the front door), provided the structure to be located on the lot is situated to meet the required front, side and rear yards for the zoning district in which the lot is located. (See Figure 4.31)
- 7.8. **LOT LINE, REAR:** The lot line opposite and parallel to the front lot line or within 45° of being parallel to the front lot line. (See Figure 4.31)
- 8.9. **LOT LINE, SIDE:** Any lot line other than front or rear lot lines. (See Figure 4.31)
- 9.10. **LOT OF RECORD:** A lot for which a plat or survey description has been legally recorded with the Pender County Register of Deeds.
11. **LOT, NONCONFORMING:** See Nonconforming Lot.
10. ~~LOT, FLAGPIPESTEM:~~ A residential lot fronting on a public or a private street in which access is provided by a narrow strip of land, referred to as the "pipestem driveway yard," which is less than the minimum required front yard width, and located between adjoining residential lots fronting on the same street. Also referred to as an interior or pipestem lot.
- 11.12. **LOT, THROUGH:** A lot, other than a corner lot, with frontage on more than one street. These lots may also be called "double frontage lots". (See Figure 4.1)
- 12.13. **LOT WIDTH:** The horizontal distance between side lot lines measured at the front yard setback line, and which must be carried through the entire lot depth except in rare circumstances.

**LOWEST FLOOR:** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area, is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Federal Code 44 CFR 60.3.

**LOWEST ADJACENT GRADE (LAG):** The elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.

**MAINTAINED LIGHTING LEVEL:** A level of illumination which results when the initial output of the lamp is reduced by certain light loss factors. Such light loss factors typically include lamp

depreciation and dirt accumulation on lenses and other light fixture components. For the purpose of this chapter, the maintained lighting level shall represent an average foot-candle level measured over a specified area.

**MANEUVERING AREA, PARKING LOT:** A traveled way, including driveways and aisles, by which vehicles enter and depart parking spaces.

**MANEUVERING AREA:** A traveled way by which commercial, industrial, public, or semipublic vehicles enter and depart loading spaces.

**MANUFACTURED HOME COMMUNITY:** A parcel (or contiguous parcels) of land where manufactured homes are parked for living and sleeping purposes. May also be known as; a mobile home community, mobile home park, or manufactured home park.

**MANUFACTURED HOME:** A structure, transportable in one or more sections, which in travel mode is eight body feet or more in width or 40 body feet or more in length, or when erected on site, is 320 or more square feet and which is built in a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities.

**MANUFACTURED (OR MOBILE HOME) LOT:** Any parcel or ground within a manufactured home park designated for the exclusive use of one manufactured home and permitted accessory structure.

**MANUFACTURED HOME PARK OR SUBDIVISION, EXISTING:** A manufactured home park or subdivision (in this case used in the colloquial sense for “neighborhood”) for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

**MANUFACTURING:** The mechanical or chemical transformation of materials and substances into new products, including the assembly of component parts and the blending of materials.

**MARGINAL ACCESS ROAD:** a street parallel and adjacent to public or private streets (while physically separated from it) which provides both access to abutting properties and controlled access to the public or private street

**MARINA:** Any publicly or privately owned dock, pier, launching pad, basin, dry or wet storage facility constructed to accommodate ten (10) or more boats and providing any of the following commercial/retail services: permanent, temporary, or transient docking spaces, dry or wet storage, fueling facilities, haul out facilities, repair services, or retail sales for fuel, repair, convenient food items, boats, engines, and accessory equipment. Excluded from this definition are boat ramp facilities allowing access only, temporary docking that includes none of the previous listed services, and community boating facilities with five (5) or fewer slips (No commercial activities of any kind shall be allowed within the confines of the facility).

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

**MASTER DEVELOPMENT PLAN:** A general plan of development approved by the Pender County Planning Board for new developments in certain zoning districts before subdivision or site plan approval, according to the requirements of this ordinance chapter. These may remain valid but are no longer utilized as a development review and entitlement procedure upon adoption of this ordinance.

**MASTER STREET ADDRESS GUIDE (MSAG):** Consists of the street name, number range, and emergency providers for that range.

**MEAN SEA LEVEL:** means, for purposes of this Ordinance, the National Geodetic Vertical Datum (NGVD) as corrected in 1828, the North American Vertical Datum (NAVD) as corrected in 1888, or other vertical control datum used as a reference for establishing varying elevations within the floodplain, to which Base Flood Elevations (BFEs) shown on a FIRM are referenced. Refer to each FIRM panel to determine datum used.

**MEDICAL AND ALLIED HEALTH:** Medical related facilities, activities, and personnel, including administrative, clinical support, and general support services and personnel.

**MINIMUM LANDSCAPED AREA:** The minimum area or portion of a lot or parcel that must be landscaped with grass, vegetation or other landscaping materials, not including pavement or structures.

**MINING:** The breaking or disturbing of the surface soil or rock in order to remove minerals to make them suitable for commercial, industrial or construction use, but not including excavation or grading when conducted in aid of on-site farming or construction.

**MINOR MATERIAL:** An architectural material that is described as being lesser, as in size, extent, or importance. A minor material may not exceed fifteen percent of a façade module.

**MOBILE HOME or MOBILE HOME PARK:** See Manufactured Home or Manufactured Home Park.

**MOTOR VEHICLE SERVICE:** Businesses engaged in the maintenance, service or repair of motor vehicles.

**NATURAL STORMWATER RETENTION AREA:** Areas of poorly drained soils which are subject to periodic flooding and act as areas to temporarily store stormwater. In some cases, "natural stormwater retention areas" will contain floodplain and wetland areas.

**NATURAL WATERWAY:** Creeks, streams, runs, or other annual or perennial waterways identified on United States Geological Survey, State of North Carolina or Pender County maps.

**NET ACREAGE:** Net acreage (also known as net site area) is equal to the total area of a tract or parcel of land (gross area or gross acreage) minus resource conservation areas.

**NET DENSITY:** The total net acreage divided by the total number of units within a proposed development.

**NEW CONSTRUCTION:** For the purposes of determining insurance rates, structures for which the start of construction commenced on or after the effective date of an initial Flood Insurance Rate Map on or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means

structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

**NONCONFORMING LOT:** A lot existing at the effective date of this Ordinance or any amendment hereto that cannot meet the minimum standards or requirements of the district in which the lot is located, or any other associated standards of this Ordinance.

**NONCONFORMING SIGN:** Any sign lawfully existing and installed at the time of construction, but now does not conform to all the standards, setbacks, or regulations of the adopted or amended ordinance. Nonconforming sign structures shall be included in this definition.

**NONCONFORMING SITE ELEMENT:** Any site element or aspect of a site that was existing on the effective date of an ordinance, or amendment thereto, that renders such site element nonconforming because it does not conform to all the standards and regulations of the adopted or amended ordinance. See also "Site Element".

**NONCONFORMING STRUCTURE:** A structure, the size, dimensions, or location of which was lawful prior to the adoption, revision, or amendment to the Zoning Ordinance but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning district. Common nonconformities involve building height, size, impervious coverage or minimum floor space or the relationship between an existing building and the required yard setbacks.

any aspect of a development—other than a nonconforming lot, nonconforming use or nonconforming sign—that was lawfully established, in accordance with zoning regulations in effect at the time of its establishment but that no longer complies with one or more standards of this Ordinance. Common nonconformities involve building height, size, impervious coverage or minimum floor space or the relationship between an existing building and the required yard setbacks.

**LEGALLY-NONCONFORMING USE:** A use or activity that was lawful prior to the adoption, revision or amendment of the Zoning Ordinance but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning district.

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

**NUISANCE:** An activity which annoys, vexes or creates a health hazard or that which, by its existence, created annoyance, injury or damage to persons or property.

**NURSERY, RETAIL:** Uses which raise plant materials or sell plant materials and related products.

**OFFICE PARK:** A development primarily devoted to office uses, containing two or more uses within a single master development or site plan.

**OFFICE:** A room or building used for conducting the affairs of a business, professional, service, industry, government or other enterprise.

**OFFICIAL ROAD NAME:** Any road name that has been approved by the Pender County Board of Commissioners.

**OFF-STREET PARKING SPACE:** A temporary storage space for a motor vehicle with access to an aisle and driveway which is not located within a street or road right-of-way.

**ON-SITE UTILITY SYSTEMS:** On-site heating and cooling plants, pump stations, electro-magnetic systems, distribution transformers, pipes and meters, water and sewer lines, booster or relay stations, transformer substations, and water supply stations either located within a structure or freestanding.

**OPA:** Otherwise Protected Area.

**OPAQUE FENCE:** A fence that is constructed to visually obscure structures, outdoor storage areas, and other uses. A chain-link fence with slats shall not constitute an opaque fence.

**OPAQUE:** Not transparent or translucent.

**OPEN SPACE:** Land used for recreation, buffer yards, conservation purposes, or other outdoor amenity. Open space shall not include:

- Resource Conservation Areas (unless otherwise authorized in Article 12, and/or with the exception that a portion of open water may be counted as described in Article 7),
- existing or future roads or rights-of-way, although greenways may be counted if they are separated from vehicular travel lanes by at least 15' of natural grass or landscaped area, or
- any area on a privately-owned lot that is not explicitly accessible to the public or the neighborhood, is without a conservation easement or deed-restricted open space restriction, and is not held in common ownership

Open Space may be one of either two subtypes: Active Open Space and Passive Open Space.

[Total Open Space = Active Open Space + Passive Open Space]

**OPEN SPACE, ACTIVE (aka Active Recreation):** Areas of open space that have been improved and reserved for the explicit purpose of providing an amenity, such as village commons, gathering space, such as community building, or providing space for outdoor recreation activities that require improved facilities, including but not limited to: tennis courts, ball fields, swimming pools, greenways/multi-use-trails, piers and boat launches, docks or boardwalks along public trust waters, and tot lots with play equipment. Sidewalks along rights-of-way or otherwise required for pedestrian connectivity shall not be counted as Active Open Space.

**OPEN SPACE, PASSIVE:** Areas consisting of undisturbed, unique, or sensitive natural features (when available), that may include: streams, floodplains, wetlands (excluding tidal marsh), conservation resources, stands of mature trees or vegetation, and cultural or natural heritage areas (if identified). These natural spaces are characterized by primarily undisturbed soils and natural vegetative cover for wildlife habitat. Passive Open Space is explicitly accessible to the general public and/or the neighborhood. Passive Open Space is usually experienced through walking, viewing, or low-impact, low-exertion activities such as nature- or bird-watching. Passive Open Space should remain generally undisturbed, although amenities such as walking paths, piers, picnic areas, and other passive recreational facilities are allowed with minimal disturbance of the vegetation, and the actual structures/facilities themselves may be considered Active Open Space.

**OUTDOOR SHOOTING RANGE:** An area devoted to organized shooting and target shooting.

**OUTDOOR STORAGE AND PROCESSING:** The keeping or processing of goods, junk, material, merchandise or vehicles outside of an enclosed building and in the same place.

**OWNER:** An individual, firm, association, syndication, partnership or corporation having sufficient proprietary interest to seek development of land.

**PARCEL:** A lot or tract of land.

**PARK:** A tract of land designated and used for active and passive recreation.

**PARKING AISLE:** A vehicle access aisle used to provide direct access to a parking space in a parking lot.

**PARKING LOT:** An off-street, often paved parking area containing parking spaces, aisles, and other improvements.

**PARKING SPACE:** An area for the purpose of parking one automobile.

**PASSABLE TRAVEL WAY:** Conditions which allow a passenger or emergency vehicle to negotiate the travel path using reasonable care. A passable travel way must be free of obstacles or obstructions.

~~**PASSIVE OPEN SPACE:** Areas consisting of undisturbed, unique and sensitive natural features that may include streams, floodplains, wetlands (excluding tidal marsh) conservation resources, and natural heritage areas if identified. These natural spaces will be characterized by undisturbed soils and natural vegetative cover for wildlife habitat.~~

**PEDESTRIAN ACCESS:** Means by which individuals can travel on foot outside of private lots, parking spaces and street travel ways.

**PERIMETER BOUNDARY:** The exterior boundary of a development contained within a single site plan or Master Development Plan.

**PERVIOUS SURFACE or PERVIOUS AREA –** Any bare or vegetated soil or surface that allows the penetration of rainfall. This includes permeable pavement structures, drip-through decks not covered by a roof structure, and uncompacted gravel surfaces meeting the standard of pervious surfaces as described by NCDEQ.

**PET GROOMING SERVICES:** A personal service establishment at which domesticated animals are bathed, brushed, clipped, trimmed or shorn, or other such non-medical treatment is administered indoors, and no animals are kept on the premises outside of normal business hours of operation or overnight.

**PLAYGROUND:** A recreational area, including a play apparatus, designed to offer recreation to the public.

**POCKET DEVELOPMENT:** A type of planned development that consists of a grouping of structures that face a shared common green space accessed by an alleyway and designed to promote a close knit sense of community.

**PORTABLE STORAGE CONTAINERS:** A container designed to store personal property which are typically rented and intended to be delivered, temporarily used, and removed by truck. Portable storage containers shall not be used as an accessory structure or dwelling and shall not impede public vehicular or pedestrian access or create a public safety hazard. This definition includes shipping containers and other portable self-storage units.

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

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

**PRIMARY FRONTAL DUNE:** A continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and over-topping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively steep slope to a relatively mild slope.

**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; but when the runway has no specially prepared hard surface or planned hard surface, the "primary surface" ends at each end of that width prescribed in Part 77 of the Federal Aviation Administration regulations for the most precise approach existing or planned for either end of that runway. The elevation of any point on the "primary surface" is the same as the elevation of the nearest point on the runway center line.

**PRIVATE ROAD:** A road that has not been or not intended to be accepted for permanent maintenance by North Carolina Department of Transportation for use by the public.

**PRINCIPLE STRUCTURE:** A structure or combination of structures of chief importance or function on a site. In general, the primary use of the site is carried out in the principle structure.

**PRINCIPALLY ABOVE GROUND:** at least 51% of the actual cash value of the structure is above ground.

**PRIVATE CEMETERY:** A place used for the interment of human remains, including a burial park for earth interments, a vault or crypt interments, a mausoleum, a columbarium for cinerary interments, or a combination thereof, and not subject to the provisions of the North Carolina Cemetery Act.

**PRIVATE RESIDENTIAL BOATING FACILITY:** A private, nonprofit boating facility with navigable water frontage which includes a dock, pier, or launching ramp intended to serve one residential unit. Commercial activities of any kind shall be prohibited.

**PROTECTED POPULATION HOME:** A residential facility for persons protected pursuant to the provisions of the Federal Fair Housing Act.

**PUBLIC PARK:** Any area that is created, established, designated, maintained, provided or set aside by a local, state, federal agency or charitable organization for the purposes of public rest, play, access to reserved land or other resource, recreation, enjoyment or assembly, and all buildings, facilities and structures located thereon or therein ancillary to the recreational use of the property.

**PUBLIC SAFETY AND/OR NUISANCE:** anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

**PUBLIC WASTEWATER SYSTEM:** A single system of wastewater collection, treatment, and disposal owned and operated by a sanitary district, water and sewer authority, county, municipality, or a public utility.

**PUBLIC WATER SYSTEM:** A water system owned and operated by a public entity, including municipal and sanitary district water systems, approved by a public entity or water and sewer district.

**RAISED ISLAND:** A built-up structure containing curbing or curb and gutter, placed within or at the end of parking rows and within property entrances to guide traffic and/or provide space for landscaping, signage, or lighting.

**RECREATIONAL FACILITIES:** A place or facility designed, equipped and used for the conduct of sports, leisure-time activities and other recreational activities.

**RECREATIONAL VEHICLE:** A vehicle which is:

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

**RECREATIONAL VEHICLE PARK:** Any site or tract of land upon which fifteen (15) or more recreational vehicle spaces are provided for temporary occupancy. A recreational vehicle parks shall also be known as a campground or travel trailer park.

**RECREATIONAL VEHICLE SPACE:** A plot of land within a recreational vehicle park designated for the accommodation of one recreational vehicle and one motor vehicle.

**RECREATIONAL VEHICLE STORAGE:** An area provided within a residential recreational community for its residents to store recreational vehicles such as boats, campers, RV's and travel trailers.

**REFERENCE LEVEL:** the top of the lowest floor or the bottom of the lowest attendant utility, whichever is lower, for structures within Special Flood Hazard Areas designated as Zone A1-30, AE, A, A88 or AO. The reference level is the bottom of the lowest horizontal structural member of the lowest floor for structures within Special Flood Hazard Areas designated as zone VE.

**REGULATORY FLOOD PROTECTION ELEVATION:** The elevation above mean sea level to which the reference level of all structures and other development located within Special Flood Hazard Areas and Future Conditions Flood Hazard Areas must be protected.

- In "Special Flood Hazard Areas" where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE plus two (2) feet of freeboard.

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

**RELATED RESIDENTIAL LAND USE:** A dwelling, structure or facility that has a specific affiliation with or whose residents receive a direct benefit from hospitals, medical centers, medical offices, clinics, and schools of medicine.

**RELIGIOUS ORGANIZATIONS:** Churches, mosques, synagogues, temples or other place of religious worship, including any accessory use or structure, such as an office or dwelling located on the same lot.

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

**REPAIR, SUBSTANTIAL:** Any repairs where the quoted cost of the work exceeds 50% of the structure value.

**REPETITIVE LOSS:** Flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds twenty-five (25%) percent of the market value of the structure before the damage occurred.

**RESORT:** A facility for transient guests where the primary attraction is recreational features or activities.

**RESTAURANT:** A facility, in which food and drinks are prepared, served and consumed.

**RETAIL PETROLEUM PUMP CANOPY:** A roof-like structure designed to cover a retail petroleum pump island.

**RETAIL USES:** Establishments engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods. "Retail uses" shall not include coal, wood and lumber yards.

**REZONE:** To change the zoning district classification of a particular lot, parcel or area.

**RIGHT-OF-WAY:** Land dedicated or reserved for or occupied by a road, railroad, utility or other similar use.

**RIPARIAN BUFFER:** An area of trees, shrubs, or other vegetation that permits inundation by water and is at least 35 feet in width, measured outward from both sides of a natural waterway beginning along the slope of the ground from the channel scar line. A riparian buffer is managed to maintain the integrity of stream channels and reduce the effect of upland sources of pollution by trapping, filtering, and converting sediments, nutrients, and other chemicals.

**RIVERINE:** relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

**ROAD OF ORIGIN:** Each road shall have a road of origin. Generally, a road's origin will be the beginning point of the road as accessed from another road, from major road to minor roads, and from proximity to the axis point. These road origins shall be established by the Addressing Coordinator.

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

**SCENIC AREA:** An open area, the natural features of which are visually significant or geologically or botanically unique.

**SCHOOL:** Without residential component: any building used for organized education or instruction in any branch of knowledge. This school does not contain rooms where overnight lodging and meals are provided to students. B. With residential component: any building used for organized education or instruction in any branch of knowledge. This school does contain rooms where overnight lodging and meals are provided to students.

**SCREENING:** A method of visually shielding or obscuring one abutting or nearby structure or use from another by fencing, walls, berms, or densely planted vegetation.

**SEARCH AREA:** A geographic area in which a commercial telecommunication facility site may be located that would satisfactorily cover a targeted area and/or hand-off with its neighboring sites.

**SEASONAL USE:** Any use which ceases operation for at least three months in a year.

**SELF-SERVICE STORAGE FACILITY:** A structure containing separate storage spaces of varying sizes leased or rented as individual leases for the purpose of storing personal property and household goods.

**SEMITRAILER:** Every vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some part of its own weight and that of its own load rests on or is carried by another vehicle.

**SERVICE STATION:** Any premises primarily used for supplying gasoline, oil, tires, accessories and services for automobiles at retail directly to the motorist or consumer. Repair uses are accessory to the other retail services provided.

**SETBACK:** The required distance between a building or structure and a lot line.

1. **SETBACK, FRONT YARD:** The required distance between a street right-of-way line and the front line of a building or structure.
2. **SETBACK, REAR YARD:** The required distance between a building or structure and the rear lot line of the lot containing the building or structure.
3. **SETBACK, SIDE YARD:** The required distance between a building or structure and the side lot line of the lot containing the building or structure.
- ~~3.4.~~ **SETBACK, CORNER (SIDE) YARD:** The required distance between a building or structure and the side lot line of the lot containing the building or structure on the secondary street. This area is also known as a "side street yard".

**SEWAGE LIFT STATION:** A facility designed to move wastewater from lower to higher elevations.

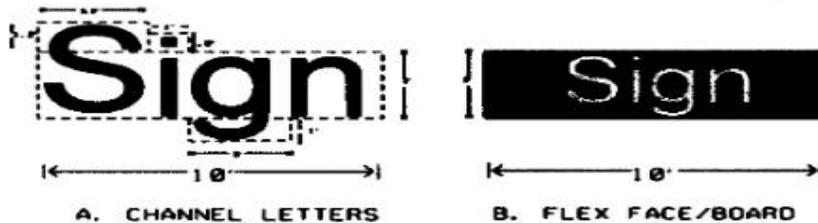
**SEWAGE TREATMENT FACILITY:** Any device or system used in the storage, treatment, disposal or reclamation of sewage and industrial wastes generated by more than two uses or dwellings.

**SHARED DRIVEWAY:** A driveway which provides access to more than one structure or lot primarily intended to ensure public safety access by providing mutual/common access to a street, to minimize the number of access points on streets, thereby maintaining street mobility, and to facilitate traffic flow between adjacent lots.

**SHOPPING CENTER:** Any development containing two or more uses within a single approved Master Development Plan or site plan.

**SIGN:** Any object, device, display or structure or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination or projected images.

1. **SIGN AREA:** The sign area shall be measured as the area of a sign face with the smallest square, circle, rectangle, triangle or combination thereof that encompasses the extreme limits of the letters, figures, designs, devices, pictures, projected images, symbols, fixtures, logos, emblems or insignias, or any part or combination thereof together with any materials or colors forming an integral part of the background of the sign face or used to differentiate the sign from the backdrop or structure against which it is placed. In the case of a double-faced sign where the interior angle formed by the faces is 45° or less or where the sign face is parallel, only one display face shall be used in calculating the area.



2. **SIGN, ANIMATED:** Any sign or part of a sign that changes physical position or light intensity by any movement or rotation or that gives the visual impression of such movement or rotation.
3. **SIGN, BANNER:** A sign having characters, letters or illustrations applied to cloth, paper, flexible plastic, or fabric of any other kind, with only such material for backing.
4. **SIGN, BUILDING ENTRANCE:** A sign designating the location to the outside entrance to a particular use.
5. **SIGN, BUSINESS:** A sign which directs attention to a business or profession conducted or to a commodity or service sold, offered or manufactured or to a service, activity or entertainment offered.
6. **SIGN, COTTAGE OCCUPATION:** A sign advertising an approved cottage occupation.
7. **SIGN, DIRECTIONAL:** A sign that is designed or erected for the purpose of providing direction and/or orientation for pedestrian or vehicular traffic.
8. **SIGN, ELECTRONIC MESSAGE:** A sign with a fixed or changing message and/or display composed of a series of lights that may be changed through electronic means. LED (light emitted diodes) is a type of electronic message sign. Such electronic sign messages shall be displayed for a minimum of two minutes, and shall not be animated by scrolling, flashing or other similar non-static displays. In no case shall an electronic message sign occupy more than 50% of the area of a permitted sign size.
9. **SIGN, FLASHING:** Any sign directly or indirectly illuminated that exhibits changing natural or artificial light or color effects by any means whatsoever.

- 10. SIGN, ILLUMINATED:** A sign lighted by or exposed to artificial lighting either by lights on or in the sign or directed toward the sign.
- 11. SIGN, INFLATABLE:** Any display capable of being expanded or powered by air or other gas and used to advertise a business, service, product or event.
- 12. SIGN, INFORMATIONAL:** A sign commonly associated with, and not limited to, information necessary for the convenience of visitors coming on the property, including signs marking entrances and exits, parking areas, circulation direction, rest rooms, and pick-up and delivery areas.
- 13. SIGN, MONUMENT:** A freestanding sign placed directly on the ground by means other than a support pole or brace in which the message portion is either on top of, or affixed to, the support structure. The width of the support structure for the monument sign must be a minimum of 50% of the width of the sign face area.
- 14. SIGN, MULTI-TENANT COMPLEX:** A sign that identifies the name of the development and the users in a shopping center or multi-tenant development.
- 15. SIGN, OFF-PREMISES:** A sign which directs attention to a business, commodity, service, activity or entertainment conducted, sold or offered on a parcel of land other than the one on which the sign is located.
- 16. SIGN, ON-PREMISES:** A sign which directs attention to a business, commodity, service, activity or entertainment conducted, sold or offered on the parcel of land on which the sign is located.
- 17. SIGN, PORTABLE:** A sign designed or intended to be moved easily that is not permanently embedded in the ground or affixed to a building or other structure.
- 18. SIGN, RESIDENTIAL SUBDIVISION IDENTIFICATION:** A sign which denotes the name of a residential subdivision, condominium or apartment complex.
- 19. SIGN, ROOF:** A sign that is mounted on the roof of a building or a sign that projects above the top wall or edge of a building with a flat roof, the eave line of a building with a gambrel, gable, or hip roof, or the deck line of a building with a mansard roof.
- 20. SIGN, TEMPORARY:** A sign intended to display either commercial or noncommercial messages of a transitory, nonpermanent, or temporary nature, and which may include, as a permitted sign pursuant to this chapter, a sign that is portable.
- 21. SIGN, WALL-MOUNTED:** A sign fastened to the wall of a building or structure in such a manner that the wall becomes the supporting structure for the sign.

**SITE ELEMENT:** Any part of a site that is improved from the undeveloped state and may include, but is not limited to:

- accessory structures
- landscaping, particularly if it is required for any type of development approval
- parking and parking areas
- outdoor storage areas
- signage and/or associated landscaping

**SITE PLAN:** A specific and detailed plan of development meeting the requirements of this Ordinance.

**SOLID WASTE:** garbage, waste, or other materials (including litter) that should be collected and discarded.

**SOLID WASTE DISPOSAL FACILITY:** As defined in NCGS 130A-280(a)(35), any facility involved in the disposal of solid waste.

**SOLID WASTE DISPOSAL SITE:** ~~As defined in NCGS 130A-280(a)(36),~~ any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.

**SPECIAL FLOOD HAZARD AREA (SFHA):** The land in the floodplain, as also regulated and defined by FEMA, subject to a one (1) percent or greater chance of being flooded in any given year, ~~as determined in Section 9.3.2 of this Article.~~

**SPECIAL FLOOD HAZARD AREA:** Areas subject to inundation by the one (1) percent Annual Chance Flood.

**START OF CONSTRUCTION:** substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

**STREET, COLLECTOR:** A street, so classified by the North Carolina Department of Transportation or by the standards of Pender County (for instance, in the Pender County Collector Street Plan), that connects arterial highways to neighborhoods and local streets or private streets.

**STREET ENTRANCE:** The location where at-grade access from a street to a parcel is provided. See similar: Driveway.

**STREET INTERSECTION:** The location where two or more streets cross at grade without a bridge.

**STREET, LOCAL:** A street, so classified by the North Carolina Department of Transportation or by the standards of Pender County (for instance, in the Pender County Collector Street Plan), designed to provide access to adjoining or abutting properties.

**STREET, PRIVATE:** A street that has not been or not intended to be accepted for permanent maintenance by NCDOT for use by the public.

**STRUCTURE:**

1. Any man-made object having an ascertainable stationary location on or in land or water, whether or not it is affixed to the ground. All buildings are "structures."
2. For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. Structure, for insurance rating purposes, means a walled and roofed building, other than a gas or liquid storage tank, which is principally above ground and affixed to a permanent site, as well as a manufactured home on a permanent foundation. For the latter purpose, the term includes a building while in the course of construction, alteration or repair, but does not include building materials or supplies intended for use in such construction, alteration or repair, unless such materials or supplies are within an enclosed building on the premises.

**SUBDIVISION:** Any division of a tract or parcel of land into two or more lots, building sites, or other divisions. Often a subdivision occurs when any one or more of those divisions are created for the purpose of sale, building development, or transfer of ownership (whether immediate or in the future) and includes all division of land involving the dedication of a new street or a change in existing streets. The word “subdivision” is often colloquially used in lieu of the word “neighborhood” when referring to land that has been subdivided for creation of a residential neighborhood or development.

~~**SUBSTANTIAL DAMAGE:** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty (50%) percent of the market value of the structure before the damage occurred.~~

**SUBSTANTIAL IMPROVEMENT:** Any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage regardless of the actual repair work performed. The term does not, however, include either any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or any alteration of an historic structure, provided that the alteration will not preclude the structures continued designation as an historic structure. See similar: Repair, Substantial.

**SUPPORT SERVICE:** A commercial, industrial, or institutional use providing a specific service for employees and patrons of hospitals, medical centers, medical offices, clinics, and schools of medicine.

**SWEEPSTAKES CENTER:** A business enterprise, whether principal or accessory, where persons may play games on on-site machines/terminals/computers that reveal the results of sweepstakes or similar contests associated with the on-site purchase of internet time, phone time, office supply or other retail good; and where redeemable cash sweepstakes awards (government issued coins and bills in hand) in amounts of \$10.00 or more may be received. This definition does not apply to any game or process prohibited by N.C. General Statute N.C.G.S. §§ 14-304 through 14-309 or to any game regulated by the North Carolina Education Lottery Commission.

**SWINE FARM:** Means a tract of land devoted to raising 250 or more animals of the porcine species.

**T-INTERSECTION:** A place where one road joins two others but does not cross them, so that the roads form the shape of a letter “T.”

**TELECOMMUNICATIONS TOWERS:** A structure, including the tower, antennas, panels, microwave dishes, receiving dishes, equipment building, other transmitting and receiving components and other accessory structures, used for the wireless electromagnetic transmission of information, excluding structures utilized as satellite earth stations and structures utilized for amateur or recreational purposes such as ham radio or citizen band radio.

**TEMPORARY TRAILER:** A mobile home or trailer to be removed after a designated time period.

**TEMPORARY USE:** A use established for a designated fixed period of time with the intent to discontinue such use upon the expiration of the time period.

**TOURIST HOME:** An establishment in a dwelling which supplies temporary accommodation to up to 14 overnight guests for a fee.

**TRACTOR-TRAILER TRUCK:** A motor vehicle with a short chassis and a swivel (fifth wheel), with a trailer pulled by the tractor designed to be used to haul freight.

**TRACTOR TRUCK:** Every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the load and weight of the vehicle attached thereto.

**TRACTOR TRUCK TRAILER:** The portion of a tractor truck without motive power, designed for carrying property or passengers wholly on its own structure.

**TRANSITIONAL SURFACE:** Surface which extends outward perpendicular to the runway center line extended at a slope of seven feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces.

**TRASH HEAP:** An area where trash, garbage or other solid wastes are deposited without being covered by a sanitary fill.

**TREE, DECIDUOUS:** Trees which drop their foliage annually before becoming dormant.

**TREE, EVERGREEN:** Trees with foliage which remain green year-round.

**TRIP ENDS:** The total trips entering and leaving a specific land use or parcel over a designated period of time.

**TRUCK:** Every motor vehicle designed to transport property on its own structure independent of any other vehicle and having a registered gross weight in excess of 7,500 pounds.

**USE:** Any purpose for which a lot or structure may be designed, arranged, intended, maintained or occupied or any activity, occupation, business or operation carried on a parcel of land.

**VARIANCE:** A reasonable deviation from those provisions regulating the size or area of a lot or parcel of land or the size, area, bulk or location of a building or structure when the strict application of this Ordinance would result in unnecessary or unreasonable hardship to the property owners and such need for a variance would not be shared generally by other properties, and provided that such variance is not contrary to the intended spirit and purpose of this Ordinance and would result in substantial justice being done.

**VIOLATION:** For floodplain management purposes, "violation" includes the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required ~~per this Ordinance in Article VII, Part 702, of this chapter~~ is presumed to be in violation until such time as that documentation is provided.

**WAREHOUSING, MEDICAL AND ALLIED HEALTH:** A structure or facility designed for the storage of medical supplies, equipment, furniture and fixtures associated with medical and allied health services.

**WASTE RECOVERY AND RECYCLING FACILITY:** A facility primarily engaged in (1) operating facilities for separating and sorting recyclable materials from nonhazardous waste streams (i.e., garbage)

and/or (2) operating facilities where commingled recyclable materials, such as paper, plastics, used beverage cans, and metals are sorted into distinct categories.

**WASTEWATER SYSTEM:** A system of wastewater collection, treatment and disposal in single or multiple components, including a privy, septic tank, public or community wastewater system, wastewater reuse or recycle system, mechanical or biological wastewater treatment system, any other similar system, and any chemical toilet used for human waste.

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

**WAYSIDE STAND, ROADSIDE STAND OR WAYSIDE MARKET:** Any structure or land used for the sale of agricultural or horticultural produce, livestock or merchandise produced by the owner or his family on their farm.

**WELLNESS CENTER:** A structure or facility designed to provide recreational, educational, and medicinal benefits to the public.

**WETLANDS:** Areas that are inundated or saturated by surface or groundwater at a frequency or duration sufficient to support, and that under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, and that is subject to a perpetual easement permitting inundation by water.

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## APPENDIX B LANDSCAPING & BUFFER PLANT TYPE LIST

### Value of Landscape and Buffer Plants

The placement of landscape plants on a property can serve numerous purposes. One of the most obvious is to enhance the appearance of the property and increase the property's value. Other benefits of plants and vegetative buffers in the home and business property landscape are as follows:

1. Reduce air pollution by absorbing Carbon Dioxide and releasing Oxygen.
2. Reduce erosion by dispersing and absorbing rainfall.
3. Reduce stream pollution by stabilizing soil and slowing, dispersing and absorbing stormwater runoff.
4. Reduce stormwater runoff and the potential for flooding.
5. As properties provide trees, plants and other landscape vegetation, not only is the appearance of individual properties improved, but Community Appearance is enhanced. This provides a substantial value to the community and other properties in the Community.
6. Buffer and Landscape trees and other plants also help reduce noise, ~~from auto traffic, odor,~~ nuisance, and/or glare (esp. from auto and other lights), and help collect & reduce litter from reaching adjacent properties.

### Pender County Landscape and Vegetative Buffer Requirements

The Pender County Unified Development Ordinance contains requirements for landscaping and buffer plantings for certain types of developments in and adjacent to parking lots containing more than 10 spaces and around the perimeter of the site or developed area of the site. These provisions are contained in Article 8, Landscaping and Buffering.

### Source of Information in Attached Plant List

The plant list included herein has been compiled directly from the NC State Agricultural Extension Service, Pender County's Cooperative Extension for plant types specifically suited for Pender County and Southeastern North Carolina. A substantial amount of information on plant type and suitability is available from the Extension Service Web Site.

### Purpose of This Plant List

The list attached is to be used as a guide for the reader only. The list of plants and shrubs included (in the list attached) are not the only types of trees and shrubs that may be used to meet the requirements in the Pender County Unified Development Ordinance for landscaping and buffering. The list only provides examples of plants that may be suitable for the locations on sites, where landscaping and plantings are required by the UDO. Many other types, species and varieties of plants can be used and are available. Plants for certain types of developments should be chosen that are low maintenance and adaptable to the conditions peculiar to the site. Landscape Architects, local nurseries, plant suppliers, the NC Agricultural Extension Service or other available sources should be consulted when making a substantial investment in plant materials and installation. Buffers and Landscaping required by the UDO must be maintained for the duration of any approval issued for the site and use. Preservation of existing trees and vegetation around the

perimeter of the site and in other key locations on the site is recommended and can save substantial financial resources.

### **Explanation for the Attached Plant List**

The Plant List attached is divided into five categories of plants that coincide with the requirements of the UDO. Those categories are as follows:

1. Recommended Canopy (large) Trees
2. Recommended Understory (small) Trees
3. Recommended Screening Shrubs
4. Recommended Ornamental Shrubs
5. Ground Covers & Grasses

### **FOR MORE INFORMATION**

#### **WEBSITE**

For more detailed information about each plant and to see images, visit the Plant Fact Sheets on the NC Cooperative Extension Consumer Horticulture website: [www.ncstate-plants.net](http://www.ncstate-plants.net)

More fact sheets of recommended plants and other local garden and landscape information are available from the **Pender County Cooperative Extension** website at <http://pender.ces.ncsu.edu>. Click on the Lawn and Garden link to access information specifically for Pender County growing conditions.

#### **CONTACT COOPERATIVE EXTENSION**

If you have questions about plant selection and maintenance, lawn care, vegetable gardening or plant pest problems call or visit your local North Carolina Cooperative Extension office.

The **Pender County Cooperative Extension Center** is open 8am to 5pm, Monday – Friday and is located at 801 South Walker Street, Burgaw. Our phone number is (910) 259-1235.

For residents of other counties in North Carolina, find out how to contact your local Cooperative Extension Office at North Carolina Cooperative Extension.

Assistance provided by:

Charlotte Glen, Extension Agent

Agriculture – Horticulture

North Carolina Cooperative Extension – Pender County Center

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**Recommended Canopy Trees**

<b>Botanical/ Common Name</b>	<b>Recommended Varieties</b>	<b>Height/Spread At Full Maturity</b>	<b>Growth Rate</b>	<b>Exposure</b>	<b>Notes &amp; Culture</b>
Acer rubrum Red Maple*	'October Glory' 'Red Sunset' 'Autumn Blaze'	40-50 ft Ht 25-35 ft Sp	Medium	Full Sun to Light Shade	Moist to well drained soil Does not perform well in parking lots. Needs consistent moisture
Betula Nigra River Birch* %	'Heritage' 'Dura Heat'	40-70 ft Ht 40-60 ft Sp	Fast	Full Sun	Moist to well drained soil
Celtis laevigata Sugarberry* %				Full Sun	Wet to well drained soil Extremely tough but not readily available
Crataegus phaenopyrum Washington Hawthorn*		25-30 ft Ht 20-25 ft Sp	Medium	Sun to Light Shade	Moist to well drained soil White flowers in Spring Red fruit in Fall
Fagus grandiflora American Beech*		50-70 ft Ht 40-60 ft Sp	Slow	Full Sun	Well drained soil Not readily available – not the best choice for parking lots
Ginkgo biloba Maidenhair Tree %	'Autumn Gold'	50-70 ft Ht 30-40 ft Sp	Slow	Full Sun	Well drained soil Very tough – good urban tree

Lagerstromia indica & fauriei Crepe Myrtle %	'Miami' 'Natchez' 'Tuscarora' Muskogee, Tuskegee, Biloxi, Choctaw, Fantasy	20-40 ft Ht 20-35 ft Sp	Medium	Full Sun	Well drained soil Flowers all Summer Drought tolerant
Magnolia grandiflora Southern Magnolia*	'DD Blanchard' 'Claudia Wanamaker' 'Overton' 'Bracken's Brown Beauty'	20-80 ft Ht 20-50 ft Sp	Slow to Medium	Full Sun to Part Shade	Well drained soil May be considered too large for most parking islands Evergreen
<b>Botanical/ Common Name</b>	<b>Recommended Varieties</b>	<b>Height/Spread At Full Maturity</b>	<b>Growth Rate</b>	<b>Exposure</b>	<b>Notes &amp; Culture</b>
Pistache chinensis Chinese Pistache%		30-35 ft Ht 25-35 ft Sp	Slow	Full Sun	Well drained soil. Exceptionally tough urban tree.
Quercus alba White Oak*		50-80 ft Ht 40-80 ft Sp	Slow to Medium	Full Sun	Moist to well drained soil Reddish purple fall color Not tough enough for parking lots
Quercus lyrata Overcup Oak* %		40-60 ft Ht 40-60 ft Sp	Medium	Full Sun	Wet to well drained soil Very tough
Quercus nigra Water oak* %		50-80 ft Ht 30-60 ft Sp	Medium to Fast	Full Sun to light Shade	Moist to well drained soil Salt Tolerant
Quercus nutallii Nutall Oak* %		40-60 ft Ht 30-50 ft Sp	Medium	Full Sun	Moist to well drained soil Red fall color. Faster

					growing than Shumard Oak.
Quercus phellos Willow Oak* %		40-80 ft Ht 30-80 ft Sp	Medium to Fast	Full Sun	Moist to well drained soil Fine texture foliage
Quercus shumardii Shumard Oak* %		40-60 ft Ht 40-60 ft Sp	Medium	Full Sun	Moist to well drained. Very similar to Nutall Oak
Quercus virginiana Southern Live Oak* %		40-80 ft Ht 60-100 ft Sp	Medium	Full Sun to part Shade	Adapts to most soil types Salt Tolerant Evergreen
Taxodium distichum Bald Cypress* %		50-70 ft Ht 20-30 ft Sp	Medium	Full Sun	Wet to well drained soils Lacey foliage Extremely tough
Ulmus parvifolia Lacebark Elm %	'Bosque' 'Allee' 'Athena'	40-50 ft Ht 30-40 ft Sp	Fast	Full Sun	Well drained soil Exfoliating bark extremely tough

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- **Full Shade** indicates a site that is in shade all day.

### Soil Conditions

- **Wet** indicates a site that stays moist most of the time and receives periodic flooding
- **Moist** indicates a site that is moist most of the time with brief (less than 12 Hrs.) periods of standing water.
- **Well drained** indicates a site where water drains from the surface and rarely stands.
- **Xeric** indicates a site that is extremely dry and sandy with very little ability to hold water.

## Recommended Understory Trees

### Deciduous Species

Botanical/ Common Name	Recommended Varieties	Height/Spread At Full Maturity	Growth Rate	Exposure	Notes & Culture
Acer barbatum Southern Sugar Maple*		20-25 ft Ht 15-20 ft Sp	Medium	Sun to Light Shade	Moist to well drained soil Yellow & orange Fall color

Acer buergerianum Trident maple		20-25 ft Ht 10-15 ft Sp	Medium	Sun	Well drained soil Yellow, orange & red Fall color
Acer palmatum Japanese Maple		10-25 ft. Ht 10-20 ft Sp	Slow	Sun to Part Shade	Well drained, consistently moist soil. Good specimen tree. Does best under irrigation.
Amelanchier arborea Serviceberry*	'Autumn Brilliance'	20-25 ft Ht 10-15 ft Sp	Medium	Sun to Part Shade	Moist to well drained soil Orange fall color White flowers in Spring
Carpinus caroliniana Ironwood*		20-30 ft Ht 15-25 ft Ht	Slow	Sun to Shade	Wet to well drained soil Interesting bark Very shade tolerant
Cercis canadensis Redbud*	'Forest Pansy' 'Royal White' 'Oklahoma'	12-30 ft Ht 15-25 ft Sp	Medium	Sun to part Shade	Moist to well drained soil Purple or white flowers in Spring
Chionanthus retusus% Chinese Fringetree		12-25 ft. Ht 15-25 ft Sp	Slow	Sun to Part Shade	Well drained soil White flowers in Spring Very drought tolerant

Cornus florida Dogwood*	'Cloud 9' 'Cherokee Princess'	15-25 ft Ht 10-20 ft Sp	Slow to Medium	Sun to Part Shade	Moist to well drained soil White flowers in Spring Burgundy Fall color Performs best under irrigation.
<b>Botanical/ Common Name</b>	<b>Recommended Varieties</b>	<b>Height/Spread At Full Maturity</b>	<b>Growth Rate</b>	<b>Exposure</b>	<b>Notes &amp; Culture</b>
Cornus kousa Kousa Dogwood		15-30 ft Ht 15-30 ft Sp	Slow to Medium	Sun to Light Shade	Well drained soil White flowers in Spring
<u>Crataegus phaenopyrum</u> <u>Washington Hawthorn*</u>		<u>25-30 ft Ht</u> <u>20-25 ft Sp</u>	<u>Medium</u>	<u>Sun to Light Shade</u>	<u>Moist to well drained soil</u> <u>White flowers in Spring</u> <u>Red fruit in Fall</u>
Ilex decidua Possumhaw*	'Warren's Red' 'Council Fire'	15-20 ft Ht 10-15 ft Sp	Medium	Sun to Light Shade	Moist to well drained soil. Red berries in Fall and Winter
Lagerstromia indica% Crepe Myrtle	'Apalachee' 'Catawba' 'Osage' 'Seminole' 'Sioux' 'Tuskegee' 'Yuma'	10-30 ft Ht 10-25 ft Sp	Fast	Sun	Well drained soil Blooms in Smmer
Magnolia stellata Star Magnolia		15-20 ft Ht 10-15 ft Sp	Slow	Sun to Light Shade	Well drained soil White or pink

					flowers in Spring
Magnolia x soulangiana Saucer Magnolia		20-30 ft Ht 15-25 ft Sp	Medium	Sun to Light Shade	Pink flowers in Spring
Prunus campanulata% 'Okame' Cherry		15-30 ft Ht 15-30 ft Sp	Medium	Sun to Light Shade	Well drained soil Pink flowers in Spring More drought tolerant than most flowering cherries.
Prunus mume Japanese Flowering Apricot		15-25 ft Ht 15-25 ft Sp	Medium	Sun to Light Shade	Well drained soil Pink, Red or White flowers in Winter
Prunus serrulata Japanese Flowering Cherry	'Kwanzan'	20-30 ft Ht 20-30 ft Sp	Medium	Sun to Light Shade	Well drained soil Pink flowers in Spring Performs best under irrigation.
Prunus x yedoensis Yoshino Cherry		15-25 ft Ht 15-25 ft Sp	Medium	Sun to Light Shade	Well drained soil Light Pink flowers in Spring Performs best under irrigation.
<b>Botanical/ Common Name</b>	<b>Recommended Varieties</b>	<b>Height/Spread At Full Maturity</b>	<b>Growth Rate</b>	<b>Exposure</b>	<b>Notes &amp; Culture</b>
Styrax japonicus Japanese Snowbell	'Emerald Pagoda' 'Pink Chimes'	20-30 ft Ht 20-30 ft Sp	Medium	Sun to Part Shade	Well drained soil White or Pink

					flowers in Spring Performs best under irrigation.
Viburnum prunifolium Blackhaw Viburnum*		10-20 ft Ht 10-15 ft Sp	Medium	Sun to part Shade	Moist to well drained soil White flowers in Spring Edible black fruit in Fall
Vitex agnus-castus% Chastetree		15-20 ft Ht 10-15 ft Sp	Medium	Sun	Well drained soil Pink or Lavender blue flowers in Summer Very drought tolerant

### Evergreen Species

Botanical/ Common Name	Recommended Varieties	Height/Spread At Full Maturity	Growth Rate	Exposure	Notes & Culture
Butia capitata Pindo palm		10-15 ft Ht 10-15 ft Sp	Medium	Sun to Light Shade	Moist to well drained soil
Eriobotrya japonica Loquat		15-20 ft Ht 15-20 ft Sp	Medium	Sun to light Shade	Well drained soil Fragrant white flowers in Fall
Ilex Hybrids% Red Hollies	'Oakleaf' 'Cardinal' 'Robin' 'Liberty' 'Patriot'	10-15 ft Ht 8-15 ft Sp	Medium	Sun to light Shade	Well drained soil
Ilex latifolia Lusterleaf holly		20-25 ft Ht 15-20 ft Sp	Medium	Sun to Part Shade	Well drained soil

					Red berries in Fall and Winter
Ilex opaca American Holly*		20-30 ft Ht 15-20 ft Sp	Slow	Sun to Part Shade	Moist to well drained soil Red berries in Fall and Winter
Ilex vomitoria% Yaupon Holly*	'Hoskin's shadow' 'Kathy Ann' 'Katherine'	15-20 ft Ht 10-15 ft Sp	Medium to Fast	Sun to Light Shade	Moist to Xeric soils Red Orange or Yellow berries in Fall and Winter
<b>Botanical/ Common Name</b>	<b>Recommended Varieties</b>	<b>Height/Spread At Full Maturity</b>	<b>Growth Rate</b>	<b>Exposure</b>	<b>Notes &amp; Culture</b>
Ilex x attenuata% Topel Holly*	'Savannah' 'Foster's #2' 'East Palatka'	20-30 ft Ht 10-15 ft Sp	Medium	Sun to Part Shade	Moist to well drained soils Red berries in Fall and Winter
Ilex x 'Nellie R. Stevens'% Nellie Stevens Holly		15-25 ft Ht 10-15 ft Sp	Medium	Sun to Part Shade	Moist to well drained soils Red berries in Fall and Winter
Magnolia grandiflora 'Little Gem'% Little Gem Magnolia*		15-25 ft Ht 10-15 ft Sp	Slow to Medium	Sun to Part Shade	Moist to well drained soils Fragrant White flowers in Summer
Magnolia virginiana Sweet Bay Magnolia*		20-30 ft Ht 10-20 ft Sp	Medium to Fast	Sun to Part Shade	Moist to well drained soil Fragrant White flowers in Spring Moderately evergreen – may lose most of its foliage in harsh winters
Myrica cerifera% Southern Wax Myrtle*		10-20 ft Ht 10-20 ft Sp	Fast	Sun to Light Shade	Wet to Xeric soil Blue-Black berries on female plants in winter

Prunus caroliniana% Carolina Cherry Laurel*		15-30 ft Ht 15-20 ft Sp	Fast	Sun to Light Shade	Well drained to Xeric soil White flowers in Spring
Osmanthus fragrans Fragrant Tea Olive		15-30 ft Ht 8-15 ft Sp	Medium	Sun to Light Shade	Moist to well drained soil Fragrant White flowers in Fall and Winter May be grown as a large shrub or small tree
Osmanthus fortunei Fortune's Osmanthus		15-25 ft Ht 8-20 ft Sp	Medium to Fast	Sun to Light Shade	Moist to well drained soil May be grown as a large shrub or small tree
Sabal palmetto Palmetto Palm*		10-30 ft Ht 10-15 ft Sp	Slow	Sun to Part Shade	Moist to well drained soil

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### Recommended Screening Shrubs

Botanical/ Common Name	Recommend ed Varieties	Height/Spre ad At Full Maturity	Spacing for Continuo us Screen	Growth Rate	Exposur e	Notes & Culture
Bambusa multiplex Hedge Bamboo		15-20 ft Ht 6-10 ft Sp	5 ft on center	Fast	Light to Part Shade	Well drained soil Clump forming bamboo. Not invasive – does not spread like most bamboos.
Elaeagnus Elaeagnus pungens, Elaeagnus ebbingii		10-15 ft Ht 10-15 ft Sp	5 ft on center	Fast	Sun	Well drained to Xeric soil, Very tough,

						Salt tolerant. Extremely vigorous. Best reserved for very sandy, poor soils and areas receiving salt spray.
Feijoa sellowiana Pineapple Guava		6-10 ft Ht 5-8 ft Sp	4-5 ft on center	Fast	Sun	Well drained soil Pink & crimson flowers in Spring, gray foliage
Ilex cornuta Chinese Holly	'Burfordii' 'Needlepoint' 'Fine Line'	8-15 ft Ht 6-12 ft Sp	6-8 ft on center	Mediu m	Sun to Light Shade	Well drained soil Dark green glossy leaves, Red berries in Fall & Winter
Ilex cornuta Dwarf Burford Holly	'Burfordii nana'	5-7 ft Ht 5-7 ft Sp	4 ft on center	Mediu m	Sun to Light Shade	Well drained soil Not to be confused with 'Burfordii' as it is much more compact
Ilex vomitoria Yaupon Holly*		8-15 ft Ht 6-10 ft Sp	6 ft on center	Mediu m to Fast	Sun to Part Shade	Moist to Xeric soil Red or orange

						berries in Fall & Winter. Tolerates salt spray.
Ilex x 'Nellie R. Stevens' Nellie Stevens Holly		15-25 ft Ht 10-15 ft Sp	10 ft on center	Fast	Sun to Part Shade	Moist to well drained soil, Green, glossy leaves. Red berries in Fall & Winter
Ilex x Red Hybrids Red Hollies	'Cardinal' 'Festive' 'Little Red' 'Oakleaf' 'Robin'	10-14 ft Ht 6-8 ft Sp	6 ft on center	Medium	Sun to Part Shade	Well drained soil Reddish new growth
Illicium parviflorum Anise Tree*		8-12 ft Ht 6-10 ft Sp	5-6 ft on center	Medium	Sun to Shade	Wet to well drained soil. Fragrant foliage
Botanical/ Common Name	Recommended Varieties	Height/Spread At Full Maturity	Growth Rate	Exposure	Notes & Culture	Botanical / Common Name
Juniperus chinensis 'Spartan' 'Spartan Juniper'		12-20 ft Ht 4-6 ft Sp	4 ft on center	Medium	Sun	Well drained soil. Tolerates salt spray.
Ligustrum japonicum Japanese Privet	'Davidson's Hardy' 'Recurvifolium'	6-12 ft Ht 6-10 ft Sp	6 ft on center	Medium	Sun to Light Shade	Well drained soil Tough plant with green, glossy foliage

Loropetalum chinense Pink Loropetalum	'Zhuzhou Fuchsia'	10-15 ft Ht 8-12 ft Sp	7 ft on center	Fast	Sun to Light Shade	Well drained, acid soil Hot pink fringy flowers in Spring Maroon- purple Foliage
Magnolia Grandiflora	'Little Gem' 'Kay Parris'	12- 20 ft Ht 8-10 ft Sp	8 ft on center	Slow	Sun to Part Shade	Large green glossy foliage. White flowers Summer
Myrica cerifera Southern Wax Myrtle*		8-15 ft Ht 8-15 ft Sp	6-8 ft on center	Fast	Sun to Part Shade	Moist to Xeric soil Extremely tough native shrub
Osmanthus Tea Olive	'Fragrans' 'Fortunei' 'Heterophyllus'	10-15 ft Ht 10-15 ft Sp	6-8 ft on center	Medium	Sun to Part Shade	Well drained soil Can be easily maintained at 5-6 ft
Pittosporum tobira	'Varegata' 'Variegata Winter Pride' 'Louisiana Green'	8-12 ft Ht 8-12 ft Sp	6-8 ft on center	Slow to Medium	Sun to Part Shade	Well drained soil Salt Tolerant Prone to deer damage
Raphiolepis umbellata. Indian Hawthorn	'Majestic Beauty'	8-10 ft Ht 8-10 ft Sp	6-8 ft on center	Medium	Sun	Well drained soil. Salt Tolerant. Prone to deer damage. Resistant to leaf

						spot disease that often affects other Indian Hawthorn varieties. Pink flowers in early summer.
Ternstroemia gymnanthera Japanese Cleyera	'Bronze Beauty' 'Jade Tiara'	8-12 ft Ht 5-7 ft Sp	5 ft on center	Slow	Sun to Full Shade	Well drained soil Very glossy green foliage with reddish new growth.
Thuja plicata Giant Arborvitae	'Green Giant'	30-40 ft Ht 10-15 ft Sp	10 ft on center	Fast	Sun to Part Shade	Well drained soil. Not as drought tolerant as 'Spartan' Juniper
Botanical/ Common Name	Recommended Varieties	Height/Spread At Full Maturity	Growth Rate	Exposure	Notes & Culture	Botanical / Common Name
Viburnum awabuki 'Chindo' Chindo Viburnum		10-15 ft Ht 6-8 ft Sp	6 ft on center	Medium	Sun to Part Shade	Well drained soil Large dark green glossy leaves
Viburnum tinus		6-10 ft Ht 6-8 ft. Sp	4-6 ft on center	Medium	Sun to Shade	Well drained soil. Pink

Laurustinu s						flower buds open up to white blossoms in late winter. Salt spray tolerant.
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**Recommended Ornamental Shrubs****Deciduous Species**

<b>Botanical/ Common Name</b>	<b>Recommended Varieties</b>	<b>Height/Spread At Full Maturity</b>	<b>Growth Rate</b>	<b>Exposure</b>	<b>Notes &amp; Culture</b>
Berberis thunbergii Japanese Barberry	'Crimson Pygmy' 'Gentry' 'Rose Glow'	2-3 ft Ht 3-4 ft Sp	Medium	Sun	Well drained soil Reddish- purple foliage. Small Thorns.
Callicarpa americana* American Beautyberry		4-8 ft Ht 4-8 ft Sp	Fast	Sun to Light Shade	Moist to well drained soil Magenta purple fruit in late Summer
Callicarpa dichotoma Purple Beautyberry		4-5 ft Ht 5-8 ft Sp	Fast	Sun to light Shade	Well drained soil Lilac-violet fruit in Summer
Chaenomeles speciosa Flowering Quince	'Cameo' 'Jet Trail' 'Texas Scarlet'	3-6 ft Ht 3-6 ft Sp	Medium	Sun to Part Shade	Well drained soil. Thorny plant with Scarlet –Red to Pink or White flowers in late Winter early Spring.
Euonymus alatus Winged Euonymus		5-15 ft Ht 5-15 ft Sp	Slow	Sun to Light Shade	Well drained soil Brilliant Red fall color deserving of the name 'Burnin g Bush'
Forsythia x intermedia Forsythia	'Lynwood Gold'	6-10 ft Ht 6-10 ft Sp	Fast	Sun	Well drained soil Dark Green leaves in Summer

					Deep Yellow flowers in early Spring
Hibiscus syriacus Rose of Sharon		8-12 ft Ht 6-10 ft Sp	Medium	Sun to Part Shade	Moist, well drained soil with high organic matter. White to Red to Purple-Violet flowers in Summer
Hydrangea macrophylla Bigleaf Hydrangea	'Merritt's Beauty' 'Nikko Blue' 'Endless Summer' Too many to list	3-10 ft Ht 3-10 ft Sp	Fast	Light to Part Shade	Moist, well drained soil with high organic matter. White, Pink, Blue or Purple flowers in Summer
<b>Botanical/ Common Name</b>	<b>Recommended Varieties</b>	<b>Height/Spread At Full Maturity</b>	<b>Growth Rate</b>	<b>Exposure</b>	<b>Notes &amp; Culture</b>
Hydrangea paniculata Panicle Hydrangea	'Chantilly Lace' 'Tardiva' 'Unique'	8-20 ft Ht 8-20 ft Sp	Fast	Sun to Part Shade	Moist well drained soil. White changing to mauve pyramidal shaped flowers in Summer
Hydrangea quercifolia* Oakleaf Hydrangea	'Alice' 'Snow Queen'	5-10 ft Ht 5-15 ft Sp	Slow to Medium	Sun to Part Shade	Moist, well drained soil. White changing to purplish-pink flowers in late Spring into early Summer.

Ilex verticillata* Winterberry	'Winter Red' 'Red Sprite'	6-10 ft Ht 8-15 ft Sp	Slow to Mediu m	Sun to Part Shade	Moist to wet acid soil. Red berries in Winter. Requires male & female for fruit set.
Lonicera sempervirens* Coral Honeysuckle	'Leo'	10-20 ft Ht 10-20 ft Sp	Fast	Sun to Shade	Well drained soil. Vigorous vine best placed on a fence or trellis. Orange, Red & Yellow flowers in Spring.
Spiraea x bumalda Japanese Spirea	'Anthony Waterer'	2-5 ft Ht 3-5 ft Sp	Fast	Sun	Well drained soil. White to Deep pink flowers in Summer.
Spiraea japonica Japanese Spirea	'Little Princess' 'Neon Flash' 'Shirobana' 'Goldmound'	2-4 ft Ht 2-4 ft Sp	Fast	Sun	Well drained soil. Rosy Pink flowers in Summer.
Spiraea nipponica 'Snowmound' Spirea	'Snowmound'	3-5 ft Ht 4-5 ft Sp	Mediu m	Sun to Part Shade	Well drained soil. Small Blue- Green leaves. White flowers in early Summer.
Spiraea x vanhouttei Vanhoutte Spirea		6-10 ft Ht 10-12 ft Sp	Mediu m	Sun to Part Shade	Well drained soil. Vase shaped plant with very showy White

					flowers in Spring
Viburnum macrocephalum Chinese Snowball Bush		12-15 ft Ht 10-15 ft Sp	Medium	Sun to Part Shade	Moist, well drained soil. Large clusters of white flowers in Spring
Botanical/ Common Name	Recommended Varieties	Height/Spread At Full Maturity	Growth Rate	Exposure	Notes & Culture
Viburnum plicatum var. tomentosum Doublefile Viburnum	'Shasta' 'Maresii'	8-10 ft Ht 8-10 ft Sp	Medium	Light Shade	Well drained soil. White flowers in Spring.
Viburnum prunifolium* Blackhaw Viburnum		12-15 ft Ht 8-12 ft Sp	Slow to Medium	Sun to Part Shade	Well drained to dry soil. Creamy White flowers in Spring.
Weigela florida Weigela		6-9 ft Ht 9-12 ft Sp	Medium	Sun	Well drained soil. Pink flowers in late spring.

### Evergreen Species

Botanical/ Common Name	Recommended Varieties	Height/Spread At Full Maturity	Growth Rate	Exposure	Notes & Culture
Abelia x 'Rose Creek' Rose Creek Abelia		3-4 ft Ht 3-4 ft Sp	Medium	Sun to part Shade	Well drained soil. Whitish-Pink flowers all Summer turning mauve .Dried flowers persist into Winter.
Abelia grandiflora	'Edward Goucher'	3-6 ft Ht 3-6 ft Sp	Medium to fast	Sun	Well drained soil.

Glossy Abelia	'Francis Mason' 'Little Richard' 'John Creech'				Semi evergreen during cold winters. Pink or White flowers in Summer.
Aucuba japonica Dwarf Aucuba	'Gold Dust' 'Nana' 'Serratifolia'	5-10 ft Ht 4-8 ft Sp	Slow	Part Shade to Shade	Moist, well drained acid soil that is high in organic matter. Large Green, glossy leaves with a tropical look. 'Gold Dust' has yellow speckled foliage.
Bambusa multiplex Hedge Bamboo		15-20 ft Ht 6-10 ft Sp	Fast	Light to Part Shade	Well drained soil Clump forming bamboo. Not invasive – does not spread like most bamboos.
Camellia japonica Common Camellia	'Marie Bracie' 'Professor Charles S. Sargent' 'Dr. Tinsley' Too many to list	5-15 ft Ht 5-15 ft Sp	Slow	Sun to Shade	Well drained acid soil with high organic matter. Blooms in late Winter to early Spring. Many varieties available in

					White, Pink, & Red
Botanical/ Common Name	Recommended Varieties	Height/Spread At Full Maturity	Growth Rate	Exposure	Notes & Culture
Camellia sasanqua Sasanqua Camellia	'Yuletide' 'Kanjiro' 'Show-no- Sake' Too many to list	5-15 ft Ht 5-15 ft Sp	Slow	Sun to Shade	Well drained acid soil with high organic matter. Blooms in late Fall to early Winter. Many varieties available in White, Pink, & Red
Cephalotaxis harringtonia False Yew	'Duke Gardens' 'Prostrata'	3-4 Ht 6-8 ft Sp	Slow	Sun to Shade	Well drained soil. Drought tolerant once established. Deer resistant
Chamaecyparis obtusa Hinoki False Cypress	'Nana Gracillis'	5-6 ft Ht 3-4 ft Sp	Slow	Sun to Part Shade	Moist, well drained acid soil.
Chamaecyparis pisifera Japanese False Cypress	'Boulevard' 'Filifera' 'Filifera Aurea'	10-20 ft Ht 10-15 ft Sp	Medium	Sun	Moist, well drained soil.
Clematis armandii Evergreen Clematis		20 ft Sp	Fast	Light to Part Shade	Well drained soil. Vine with dark Green, glossy leaves and white flowers in mid Spring. Needs support.

Clethra alnifolia* Summersweet	'Sixteen Candles' 'Hummingbird'	4-8 ft Ht 4-6 ft Sp	Slow to Medium	Sun to Part Shade	Moist to Wet acid soil. Very fragrant, white flowers in Summer
Eleagnus pungens Eleagnus ebbingii Eleagnus		10-15 ft Ht 10-15 ft Sp	Fast	Sun	Well drained to Xeric soil, Very tough, Salt tolerant. Extremely vigorous. Best reserved for very sandy, poor soils and areas receiving salt spray
X Fatshedera lizei Fatshedera		6-8 ft Ht 4 ft Sp	Medium	Part to Full Shade	Tolerant of light sandy or clay soils but prefers moist acid soil high in organic matter. Vine that is a cross between Fatsia & English ivy
<b>Botanical/ Common Name</b>	<b>Recommended Varieties</b>	<b>Height/Spread At Full Maturity</b>	<b>Growth Rate</b>	<b>Exposure</b>	<b>Notes &amp; Culture</b>
Fatsia japonica Japanese Fatsia		6-10 ft Ht 6-10 ft Sp	Medium	Part to Full Shade	Tolerant of light sandy or clay soils but prefers moist acid

					soil high in organic matter. Large Green glossy tropical looking leaves. White flowers in Fall
Feijoa sellowiana Pineapple Guava		6-10 ft Ht 5-8 ft Sp	Fast	Sun	Well drained soil. Pink & crimson flowers in Spring, gray foliage.
Gardenia jasminoides Cape Jasmine	'Chuck Hayes' 'August Beauty' 'Frost proof'	5-10 ft Ht 5-10 ft Sp	Medium	Sun to Part Shade	Moist well drained, acid soil that is high in organic matter. Protect from winter winds. Deer Resistant.
Ilex cornuta Chinese Holly	'Carissa' 'Needlepoint' 'Rotunda' 'Burfordi' 'Dwarf Burford'	4-15 ft Ht 5-12 ft Sp	Medium	Sun to Part Shade	Well drained soil. Drought & heat tolerant. Green, glossy, spined leaves. Red berries in Winter
Ilex glabra Inkberry Holly*	'Shamrock'	4-6 ft Ht 4-6 ft Sp	Slow	Sun to Shade	Moist acid soil.
Ilex vomitoria Yaupon Holly*	'Katherine' 'Hoskins Shadow'	15-20 ft Ht 8-12 ft Sp	Medium to Fast	Sun to Shade	Moist to Xeric soil. Drought, heat & salt

					tolerant. Most adaptable native shrub for SE North Carolina
Ilex vomitoria * Dwarf Yaupon	'Shillings' 'Bourdeaux'	3-5 ft Ht 4-5 ft Sp	Medium to Fast	Sun to Shade	Moist to Xeric soil. Drought, heat & salt tolerant. Most adaptable native shrub for SE North Carolina
Ilex hybrids Hybrid Hollies	'Lydia Morris' 'Mary Nell' 'Emily Brunner' 'Nellie R. Stevens'	15-25 Ht 10-15 ft Sp	Medium to Fast	Sun to Part Shade	Well drained soil. Dark Green, spined leaves. Red berries in Winter. Pyramidal growth habit.
Botanical/ Common Name	Recommended Varieties	Height/Spread At Full Maturity	Growth Rate	Exposure	Notes & Culture
Illicium anisatum Spice Bush		6-10 ft Ht 6-10 ft Sp	Medium to Fast	Sun	Moist, well drained, acid soil. Fragrant foliage smells like licorice.
Illicium floridanum* Florida Anise Tree	'Halley's Comet' 'Shady Lady'	6-10 ft Ht 5-8 ft Sp	Medium	Part Shade to Shade	Moist, well drained to poorly drained acid soil with high

					organic content. Deer resistant
Illicium parviflorum* Small Anise Tree		6-10 ft Ht 5-8 ft Sp	Medium	Part Shade to Shade	Moist well drained to poorly drained soil with high organic content. Deer resistant
Jasminum nudiflorum Winter Jasmine		3-4 ft Ht 4-7 ft Sp	Fast	Sun to Part Shade	Prefers moist well drained soil but adaptable to poor soil. Moderately drought tolerant once established. Good erosion control.
Juniperus chinensis Chinese Juniper	'Compacta' 'Spartan' 'Robusta green' 'Hetzii' 'Sargentii' 'Pfitzeriana'	3-20 ft. Ht 3-12 ft Sp	Slow to Medium	Sun	Well drained soil. Drought tolerant once established.
Juniperus 'Kaizuka' Hollywood Juniper	'Torulosa'	15-25 ft Ht 8-15 ft Sp	Medium	Sun	Well drained soil. Drought tolerant once established. Salt tolerant
Juniperus davurica Parson's Juniper	'Expansa'	2-3 ft Ht 6-8 ft Sp	Medium	Sun to Part Shade	Well drained soil. Excellent

					heat tolerance.
Ligustrum japonicum Japanese Privet	'Davidson's Hardy' 'Recurvifolium'	6-12 ft Ht 6-10 ft Sp	Medium	Sun to Light Shade	Well drained soil Tough plant with green, glossy foliage
Loropetalum chinense Pink Lorepetalum	'Zhuzhou Fuchsia' 'Ruby' 'Burgundy' 'Blush'	6-15 ft Ht 6-12 ft Sp	Fast	Sun to Light Shade	Well drained, acid soil Hot pink fringy flowers in Spring Maroon-purple Foliage
Botanical/ Common Name	Recommended Varieties	Height/Spread At Full Maturity	Growth Rate	Exposure	Notes & Culture
Michelia figo Banana Shrub		5-10 ft Ht 5-10 ft Sp	Medium	Sun	Moist, well drained, acid soil. Small creamy white flowers that smell like ripe bananas in Spring
Myrica cerifera* Southern Wax Myrtle		8-15 ft Ht 8-15 ft Sp	Fast	Sun to Part Shade	Moist to Xeric soil Extremely tough native shrub
Nandina domestica Heavenly Bamboo	'Gulfstream' 'Harbor Dwarf' 'Firepower' 'Moon Bay'	2-5 ft Ht 2-4 ft Sp	Medium	Sun to Shade	Well drained soil. Clusters of Red berries in winter. White

					flower panicles in spring.
Osmanthus Tea Olive	'Fragrans' 'Fortunei' 'Heterophyllus'	10-15 ft Ht 10-15 ft Sp	Medium	Sun to Part Shade	Well drained soil Can be easily maintained at 5-6 ft
Podocarpus macrophyllus Chinese Podocarpus	'Maki'	10-15 ft Ht 5-6 ft Sp	Slow	Sun to Shade	Well drained soil. Deer resistant.
Pittosporum tobira Japanese Pittosporum	'Variegata' 'Winter Pride' 'Louisiana Green'	2-12 ft Ht 4-12 ft Sp	Slow to Medium	Sun to Part Shade	Well drained soil Salt Tolerant Prone to deer damage
Pyracantha coccinea Scarlet Firethorn		6-18 ft Ht 6-18 ft Sp	Medium to Fast	Sun to Part Shade	Well drained soil. Commonly used for espaliers on walls & trellises. Red or orange berries in winter. Thorns!
Rhapheolepis umbellata Indian Hawthorn	'Olivia' 'Eleanor Tabor' 'Majestic Beauty'	2-10 ft Ht 4-10 ft Sp	Medium	Sun	Well drained soil. Salt Tolerant. Prone to deer damage. 'Majestic Beauty' is resistant to leaf spot disease that often

					affects other Indian Hawthorn varieties. However best used as a beach plant in sandy soils with good air circulation. Pink or White flowers in early summer.
Botanical/ Common Name	Recommended Varieties	Height/Spread At Full Maturity	Growth Rate	Exposure	Notes & Culture
Rhododendron Hybrids Azalea	'Formosa' 'Coral Bells' Too many to list!	2-6 ft Ht 2-4 ft Sp	Medium	Light to Part Shade	Moist, well drained soil a must! Available in many different colors blooming from early Spring to early Summer. 'Encore' <sup>TM</sup> varieties bloom Spring, Summer & Fall
Rosa banksiae 'lutea' Lady banks rose		20 ft Sp	Medium to Fast	Sun	Well drained soil. Plant on fences, arbors & trellises. Thornless rose with

					Yellow or White flowers in Spring.
Rosa 'Radrazz' Knockout Rose		3-5 ft Ht 3-5 ft Sp	Medium to Fast	Sun	Well drained soil. Cherry Red Rose with excellent resistance to leaf spot and other problems associated with Roses. Drought and salt tolerant
Rosa Rugosa Saltspray Rose		4-6 ft Ht 4-6 ft Sp	Fast	Sun	Well drained soil. Excellent beach plant with good salt & drought tolerance. Rose-purple to White flowers in Summer
Rosmarinus officialis Rosemary		2-5 ft Ht 2-5 ft Sp	Slow	Sun	Well drained soil. Tolerates wind and salt spray. Very deer resistant.
Ternstroemia gymnathera Japanese Clevera	'Bronze Beauty' 'Jade Tiara'	8-12 ft Ht 5-7 ft Sp	Slow	Sun to Full Shade	Well drained soil Very glossy green foliage with reddish new growth

Thuja occidentalis Emerald Arborvitae	'Emerald'	10-15 ft Ht 3-4 ft Sp	Slow to medium	Sun	Moist, well drained, acid soil. Good specimen, accent or hedge plant
Botanical/ Common Name	Recommended Varieties	Height/Spread At Full Maturity	Growth Rate	Exposure	Notes & Culture
Tracheospermum jasminoides Confederate Jasmine		15 ft Sp	Medium to Fast	Part Shade to Shade	Well drained soil. Climbing vine that needs support. Dark, Green, glossy leaves with fragrant White flowers in Spring.
Viburnum awabuki 'Chindo' Chindo Viburnum		10-15 ft Ht 6-8 ft Sp	Medium	Sun to Part Shade	Well drained soil Large dark green glossy leaves
Viburnum obovatum* Walter's Viburnum	'Densa' 'Whorled Class'	4-8 ft Ht 3-8 ft Sp	Medium	Sun to Part Shade	Wet to well drained soil. Fine textured foliage with clusters of small White flowers in early Spring
Viburnum tinus Laurustinus		6-10 ft Ht 6-8 ft. Sp	Medium	Sun to Shade	Well drained soil. Pink flower buds open up to white blossoms in late winter.

					Salt spray tolerant.
Yucca filamentosa* Adam's Needle Yucca	'Bright Edge' 'Colorguard'	2-3 ft Ht 2-3 ft Sp	Medium	Sun to Light Shade	Well drained soil. Drought, heat & salt tolerant. White panicle type flowers rise 2-3 ft above foliage in late spring. Great beach plant. Deer resistant

### Native Plants\*

Plants native to Southeastern USA are marked with an asterisk (\*). These plants are endemic to Southeastern United States from Virginia to eastern Texas.

### Drought Tolerant Plants

Extremely drought tolerant plants are marked with an underline. When planted in their preferred soil type, these plants are able to withstand extended periods of drought, 4-6 weeks, without supplemental irrigation once established. Most trees and shrubs take two to three growing seasons to become fully established. Perennials, grasses and groundcovers usually require one to two seasons to become established. Regular supplemental water should be provided until plants become established.

### Mature Size

Mature sizes of all plants are given as height and spread, though it may take many years to reach these dimensions. Mature size can vary depending on growing conditions.

### Recommended Varieties

For many plants, recommended varieties are given. These are selections of that plant that either perform better in our area or are more suitable to the landscape than the plain species. Plant varieties, also known as cultivars, are listed enclosed in single quotes.

### Exposure

Exposure refers to the amount of sunlight a site receives as follows:

- **Full Sun** indicates a site that receives at least 6-8 hours of direct sun each day.
- **Light Shade** indicates a site that is shaded less than half of the day by a light high shade such as that cast by pine trees.
- **Part Shade** indicates a site that is shaded half of the day by a dense shade like that cast by buildings or shade trees.

- **Full Shade** indicates a site that is in shade all day.

### Soil Conditions

- **Wet** indicates a site that stays moist most of the time and receives periodic flooding
- **Moist** indicates a site that is moist most of the time with brief (less than 12 Hrs.) periods of standing water.
- **Well drained** indicates a site where water drains from the surface and rarely stands.
- **Xeric** indicates a site that is extremely dry and sandy with very little ability to hold water.

### Recommended Groundcovers

#### Deciduous Species

Botanical/ Common Name	Recommended Varieties	Height/Spread At Full Maturity	Growth Rate	Exposure	Notes & Culture
Canna hybrids Canna Lily	'Miss Oklahoma' 'Red King Humpert' 'The President'	2-6 ft Ht 3- 6 ft Sp	Medium to Fast	Sun	Moist to well drained soil. Good choice for slopes and excellent erosion control
Cotoneaster dammeri Rockspray Cotoneaster	'Tom Thumb'	1-2 ft Ht 2-4 ft Sp	Medium	Sun	Well drained soil. Drought tolerant once established
Hemerocallis Daylily	'Stella D'Oro' 'Lemon Yellow' 'Cranberry baby' 'Happy Returns' 'Little Business'	1-3 ft Ht 1-3 ft Sp	Fast	Sun to Light Shade	Tolerant of most soils. Excellent for erosion control. Extremely drought and salt tolerant
Hosta lancifolia Plantain Lily	'Albomarginata' 'Francee' 'Krossa Regal' 'Gold Standard'	1-4 ft Ht 1-3 ft Sp	Medium	Shade	Moist to well drained soil.
Lantana camara Lantana	'New Gold' 'Spreading Sunset' 'Lemon Drop'	1-3 ft Ht 3- 4 ft Sp	Fast	Sun	Well drained to Xeric soil. Excellent for profuse color till frost. Drought and salt tolerant

#### Evergreen Species

Botanical/ Common Name	Recommended Varieties	Height/Spread At Full Maturity	Growth Rate	Exposure	Notes & Culture
Ajuga reptans Carpet Bugle	'Bronze Beauty' 'Burgandy Glow' 'Black Scallop'	3-4" Ht 24" Sp	Fast	Part Shade to Shade	Moist soil. Low spreading with lavender- blue flowers in Spring
Aspidistra elatior Cast Iron Plant		2 ft Ht 2-3 ft Sp	Slow	Light to Full Shade	Well drained soil. Large green upright leaves.
Cotoneaster dammeri Rockspray Cotoneaster	'Streib's Findling'	6"-12" Ht 3-4 ft Sp	Medium	Sun to Part Shade	Well drained soil Drought tolerant once established
Cyrtomium falcatum Holly Fern		2-3 ft Hg 2-3 ft Sp	Medium	Part to Full Shade	Well drained soil. More drought tolerant than most ferns. Deer Resistant.
Dryopteris erythrosora Autumn Fern		18"-24" Ht 2-3 ft Sp	Medium	Light to Full Shade	Bronze fronds emerge turning green with maturity. Can take some sun if under irrigation. Deer Resistant.
Euonymus fortunei Wintercreeper	'Coloratus'	2 ft Ht 3-4 ft Sp	Medium to Fast	Sun to Part Shade	Excellent for erosion Control. Scale insects can be a problem.

					Prone to deer damage.
Hedera canariensis Algerian Ivy		12-18" Ht Indeterminate SP	Medium	Light to Full Shade	Well drained soil. Excellent for slopes & erosion control.
Juniperus chinensis Chinese Juniper	'Sargentii'	1 ft Ht 6-8 ft Sp	Medium	Sun	Well drained soil. Heat and salt tolerant
Juniperus conferta Shore Juniper		12"-18" Ht 6-8 ft Sp	Fast	Sun	Well drained soil. Heat, drought and salt tolerant. Excellent for erosion control on banks and landward side dunes.
Juniperus horizontalis Spreading Juniper	'Bar Harbor' 'Blue Rug' 'Andorra'	12"-18" Ht 3-5 ft Sp	Medium to Fast	Sun	Well drained soil. Good choice for difficult conditions and urban plantings
Juniperus procumbens nana Dwarf Japanese Garden Juniper		8"- 2 ft Ht 10-15 ft Sp	Slow	Sun	Well drained soil. Good choice for adverse conditions
Liriope muscari Lily Turf	'Big Blue' 'Varegata' 'Evergreen Giant'	1-3' Ht. 12"-18" Sp	Medium	Sun to Part Shade	Moist to Xeric soil. Drought and salt tolerant. Excellent erosion control. Can handle root competition
<b>Botanical/ Common Name</b>	<b>Recommended</b>	<b>Height/Spread</b>	<b>Growth Rate</b>	<b>Exposure</b>	<b>Notes &amp; Culture</b>

	Varieties	At Full Maturity			
Liriope spicata Creeping Lily Turf		6"-12" Ht. Indeterminate Sp	Fast	Sun to Part Shade	Moist to well drained soil. Rapidly spreading groundcover . Excellent erosion control. Can handle root competition
Nandina domestica Heavenly Bamboo	'Harbor Dwarf' 'Harbor Belle' 'Firepower'	2-3 ft Ht 2-3 ft Sp	Medium	Sun to Part Shade	Moist to well drained soil. Green foliage with red new growth.
Ophiopogon japonicus Mondo Grass		6-8" Ht 8"-12" Sp	Slow	Part Shade to Sun	Well drained soil Dark green foliage similar to Liriope with a narrower bladed leaf
Rosa wichuraiana Wichura Rose		1-2 ft Ht 10-20 ft Sp	Fast	Sun to Part Shade	Well drained soil. Excellent groundcover for erosion control on slopes
Rosmarinus officinalis 'Prostratus' Trailing Rosemary		2-4 ft Ht 2-3 ft Sp	Slow	Sun	Well drained soil. Tolerates wind and salt spray. Very deer resistant.
Trachelospermum asiaticum Asiatic Jasmine		12"- 18" Ht 8-15 ft Sp	Medium to Fast	Sun to part Shade	Moist to well drained soil. Excellent vining groundcover

					. Good for erosion control once established
Vinca minor Periwinkle		5"-8" Ht 3-4 ft Sp	Medium to Fast	Shade to part Shade	Moist to well drained soil. Excellent under trees and shady banks.
Vinca major Big Leaf Periwinkle		1 ft Ht Indeterminate SP	Fast	Sun to Part Shade	Moist to well drained soil. Spreads rapidly. Lavender flowers in Spring. Good for slopes

### Recommended Grasses

Botanical/ Common Name	Recommended Varieties	Height/Spread At Full Maturity	Growth Rate	Exposure	Notes & Culture
Acorus gramineus Japanese Sweetflag	'Variegatus'	2-3 ft Ht 12"-18" Sp	Medium	Sun to Light Shade	Wet to Moist soil. Not drought tolerant. Evergreen.
Carex morrowii Japanese Sedge	'Aureo-variegata'	12" Ht 12" SP	Medium	Sun to Part Shade	Wet to well drained soil. Evergreen.
Eragrostis curvula Weeping Love Grass		1-2 ½ ft Ht 18"- 24" Sp	Fast	Sun to Part Shade	Well drained soil. Good temporary erosion control. Short lived.
Botanical/ Common Name	Recommended Varieties	Height/Spread At Full Maturity	Growth Rate	Exposure	Notes & Culture
Lomandra longifolia Breeze Grass	BreezeTM	2' Ht 2' Sp	Medium	Sun to Part Shade	Moist to well drained soil.

					Evergreen. Soft, bright green foliage.
Pennisetum alopecuroides Fountain Grass	'Moudry' 'Hamlin' 'Little Bunny'	1-3 ft Ht 1-3 ft Sp	Medium	Sun to Light Shade	Moist to well drained soil. Good for erosion control
Leymus arenisus Blue Lyme Grass	'Blue Dune'	1-2 ft Ht 3-4+ ft Sp	Fast	Part Shade	Moist soil. Striking blue- green foliage. Spreads extremely rapidly.
Miscanthus sinensis Maiden Grass	'Adagio' 'Little Kitten'	3-4 ft Ht 3-4 ft Sp	Medium to Fast	Sun	Well drained soil Drought and salt tolerant.
Muhlenbergia capillaris* Muhly Grass		2-3 ft Ht 2-3 ft Sp	Fast	Sun	Well drained soil. Pink flower plumes in fall.

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**APPENDIX C ~~<RESERVED>~~ WALLACE MUNICIPAL AIRPORT – AIRPORT RESTRICTION MAP****WALLACE MUNICIPAL AIRPORT**  
Airport Minimum Standards Ordinance**~~AIRPORT MINIMUM STANDARDS ORDINANCE FOR COMMERCIAL ACTIVITIES (FBO/SASO/IO)~~**

~~AN ORDINANCE SPECIFYING A THRESHOLD OF SUITABLE REQUIREMENTS FOR AN OPERATOR ENGAGED IN COMMERCIAL AERONAUTICAL ACTIVITY AT THE WALLACE MUNICIPAL AIRPORT. THIS ORDINANCE PROVIDES CONTINUITY FOR MAINTAINING THE ORDERLY DEVELOPMENT OF COMMERCIAL BUSINESSES AT THE AIRPORT.~~

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

~~Section 1: Terms and Definitions~~

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

~~Section 3: General Regulations Governing Minimum Standards~~

~~Section 4: Required Minimum Standards for Commercial Aeronautical Activities~~

~~Section 5: Procedures for Receiving and Processing Applications~~

~~Section 6: Lease Termination~~

~~Section 7: Amendments, Conflicting Regulations, Violation, Changes~~

**Section 1: Terms and Definition**

- ~~1. “Aeronautical Activity” shall mean any activity which involves, makes possible, or is required for the operation of aircraft, or which contributes to or is required for the safety of such operations.~~
- ~~2. “Air Charter” shall mean an FAA certified commercial operator providing on-demand, non-scheduled service of persons or property for hire.~~
- ~~3. “Airport” shall mean the Wallace Municipal Airport (Henderson Field) (ACZ), North Carolina.~~
- ~~4. “Airport Commission (Committee)” An advisory group appointed by the Town Board charged with overseeing the supervision of Airport activities.~~
- ~~5. “Airport Manager” shall mean the representative of the Town having day today oversight of Airport activities. If no individual is designated with such charge, this responsibility is retained by the Airport Commission.~~
- ~~6. “Airport Owner” shall mean the Town of Wallace, as Airport Sponsor.~~
- ~~7. “Commercial Aeronautical Activity” shall mean a person or business providing goods and services to the aviation public for which compensation is received.~~

8. **~~“Commercial Aeronautical Operator (Operator)”~~**— Fixed Base Operator (FBO) / Special Aviation Service Organization (SASO) / Independent Operators (IO) shall mean a person or aeronautical business offering or supporting general aviation services.
9. **~~“Exclusive Rights”~~** shall mean excluding a Person from enjoying or exercising privileges conferred on one or more parties by excluding others by unreasonable standards or requirements.
10. **~~“FAA”~~** shall mean the Federal Aviation Administration.
11. **~~“Hangar”~~** shall mean a building providing shelter or enclosed space for the storage of aircraft or aircraft parts.
12. **~~“Lease”~~** shall mean an executed contract, in writing and enforceable by law, granting interests in property or the conduct of certain activities.
13. **~~“Motor Vehicle”~~** shall mean any powered ground vehicle.
14. **~~“Person”~~** shall mean an individual, partnership, firm, association, commercial business or corporation.
15. **~~“State”~~** shall mean the NCDOT—Division of Aviation (NCDOA).
16. **~~“Tenant”~~** shall mean a Person who leases or subleases real property and whose premises has access to the Airport.
17. **~~“Through the Fence”~~** shall mean any use of the Airport public landing areas by any person offering aeronautical activity or by aircraft based on land adjacent to, but not a part of, the Airport property.
18. **~~“Town”~~** shall be the Town of Wallace, North Carolina.
19. **~~“Town Board”~~** shall mean the Town of Wallace Board of Commissioners, the governing body lawfully empowered to exercise legal control over the Airport.

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

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

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

**Section 3: General Regulations Governing Minimum Standard Requirements**

The operating standards outlined below are the minimum threshold requirements for Commercial Aeronautical Operators (Fixed Base Operator, Special Aviation Service Organization, and/or Independent Operators) as a condition of the Operator’s right to lease premises and provided services on and at the Airport. The following shall apply to all prospective Operators, as disclosure

of adequate intent and resources to offer or conduct commercial aeronautical activity at the Airport:

- A. ~~Prior to initiating operations or providing services at the Airport, Operators must be a party to a fully executed lease or rental agreement with the Town Board.~~
- B. ~~Any executed agreement or lease with an Operator shall be subordinate to the provisions of any existing or future Airport property agreements or grant assurances relative to the operation or maintenance of the Airport, as agreed between the Town Board/Airport Sponsor and the United States Government and/or State of North Carolina.~~
- C. ~~The Operator ground lease or operating agreement shall not include any of the airfield or taxiway systems as specified by FAA Order 5100.38B, Section 526.~~
- D. ~~No Airport land or building space in excess of present and foreseeable Operator requirements shall be leased to any Operator. Any additional land may be made available on the basis of need and availability. Although Airport land designated or leased for Operator activities is limited and valued, nothing contained herein shall be construed to grant or authorize the granting of an exclusive right as forbidden by Section 308 of the Federal Aviation Act of 1958.~~
- E. ~~Operators must comply with applicable regulations set forth by local, state and federal agencies. The Operator shall post, in a prominent place, all necessary or required licenses or permits.~~
- F. ~~The Operator must establish an office at the Airport for public availability, and for public access to staff, facilities and equipment offered by the Operator. Office hours shall coincide with attended hours of Airport operation as published in the Airport/Facility Directory, unless stated otherwise in the Operator lease agreement.~~
- G. ~~The rates, charges and prices assessed by the Operator may be requested, and must be divulged, to the Airport Committee/Town Board upon written request, including any discounts, rebates or other similar type price reductions.~~
- H. ~~Operator shall have the right to choose, at its sole discretion, its vendors and suppliers. Operator reserves the right, at its sole discretion, to grant others certain rights and privileges upon the Airport which are identical in part or in whole to those granted to Operator.~~
- I. ~~The distribution or sale of fuel on or at the Airport is authorized only with the express prior written approval of the Town Board. No Operator may sell or distribute aviation petroleum products at the Airport unless having the prior written approval of the Airport Committee and Town Board, and having met the minimum standards found in Section 3.~~
- J. ~~Operations such as UNICOM radio, aircraft tie-down and other miscellaneous aeronautical activities not specifically described herein may be provided or conducted by any Operator upon application to and approval of the Airport Committee/Town Board. Reasonable terms and conditions for the privilege of engaging in these various services will be established or determined by the Airport Committee/Town Board as commensurate with the nature and scope of the activities involved.~~
- K. ~~Failure or inability of the Operator to meet the Airport Minimum Standards shall be reported in writing to the Airport Committee/Town Board, without delay.~~

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

submit this information to the NCDOT, Division of Aviation/FAA for review and airspace determination.

- A. ~~Before construction of facilities and equipment is undertaken, the Operator must furnish the Airport Committee/Town Board with a performance bond commensurate with the construction costs to be performed.~~
- B. ~~The building structure shall be constructed in accordance with North Carolina Building Codes and National Fire Protection Association (NFPA) standards.~~
- C. ~~All such building permits, licensing and environmental certifications shall be obtained by the Operator prior to construction. A certificate of occupancy must be obtained before the structure can be occupied.~~
- D. ~~No Operator shall erect advertising or vendor signs at the Airport without express written permission of the Airport Committee/Town Board.~~

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

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

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

- A. ~~No Operator leases or agreements will be executed for a period in excess of twenty (20) years.~~
- B. ~~Operator leaseholds may be subleased by a lessee only with prior written approval of the Town Board, or designated representative.~~
- C. ~~All improvements made by the Operator to their leasehold property become the property of the Town upon termination of the Operator's leasehold for such areas or facilities.~~
- D. ~~No new leases will be executed, amended or assigned unless the existing lease is in compliance with the standards and requirements contained herein.~~

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

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

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

#### **Section 4: Required Minimum Standards for Commercial Aeronautical Activities**

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

~~Based on statutory requirements, the Town may not refuse any person from the sale or distribution of fuel on or at the Airport. However, the sale and distribution of fuel must be authorized with the expressed prior written approval of the Town Board. Any distributor or seller of fuels must comply fully with the Wallace Municipal Airport Rules & Regulations Ordinance, as adopted. The distribution or sale of fuels without prior written consent is a violation, and subject to prescribed penalties listed herein.~~

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

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

Aircraft Line Service:

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

Hangar Storage: Operators desiring to provide hangar storage rental will meet the following requirements:

1. Lease at least 10,000 square feet for T hangars.
2. Lease at least 3,000 square feet for common hangars.

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

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

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

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

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

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

Crop Dusting and Spray Operators. Persons or Operators seeking to conduct crop dusting or spraying of agricultural chemicals shall be required to satisfy the Town Board that operations shall be conducted in compliance with applicable local, state and federal laws. Staging and washing areas shall be conducted in compliance with the applicable regulations. Any liability resulting from agricultural spraying operations is the sole responsibility of the operator. The Town Board has authority to require said operators to post a bond that would cover, with the intent of mitigating, liabilities to the Town and County resultant from the intentional or accidental dispersion of agricultural spraying or other compounds.

Through the fence Operators: In accordance with FAA AC 150/5190-5, through the fence operators conducting commercial business at the Airport may be charged an access fee commensurate with fair and uniform standards set by the Town Board.

Flying Club/Association. A flying club, or similar organization, is recognized as a plan for joint ownership of aircraft and the fair distribution of the cost of maintaining and operating such an aircraft. Such operation is not considered to be commercial in nature when so operated, nor is flight instruction by flying club members for flying other club members considered to be commercial in nature so long as there is not profit or for-hire motive involved in the operation. In all cases, the Town Board will determine if the operation is a commercial aeronautical activity. If determined to be commercial, the club or organization shall conform to the requirements set forth herein for commercial aeronautical operators.

### **Section 5: Procedures for Receiving And Processing Applications**

All Operators, as part of the application process, must show and demonstrate business and financial ability to the satisfaction of the Airport Committee/Town Board. The City will not accept, or take action on, a request to lease building space or land area, or a request for assignment of an existing lease, or in any way permit the installation of a commercial aeronautical activity until after the applicant, in writing, submits a proposal, which clearly sets forth the scope and type of operations being proposed, including the following:

- 1.— The name and address of the applicant;
- 2.— The proposed aeronautical operation or activity sought;
- 3.— The proposed land use and facility needs sought;
- 4.— The names and qualifications of the personnel to be involved in conducting the activity;
- 5.— The financial responsibility and technical ability of the applicant and operator to carry out said operations or activity, including historical evidence of satisfactory performance of previous similar
- 6.— The tools, equipment, services, and inventory, if any, associated with the proposed activity;
- 7.— The requested or proposed date for commencement of the activity and the term conducting the same;

- 8. ~~The estimated cost of any structure or facility to be furnished, the proposed specifications for the same, and the means or method of financing such construction or acquisition of facilities.~~
- 9. ~~Other information the Airport Committee/Town Board may require and specifically request.~~

~~Only applications completed according to the requirements will be considered. Upon approval of any such application in principal, the Town Board, or designated agent shall prepared a suitable lease or contract agreement setting forth the terms and conditions under which the Operator shall be conducted. Any rejected application shall be returned to the applicant within thirty calendar (30) days of the rejection with a written explanation of the reasons for rejection. Candidates are invited to resubmit at their discretion.~~

**Section 6: Lease Termination**

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

**Section 7: Amendments, Conflicting Regulations, Violation, Changes**

~~The minimum standards contained herein may be revised, supplemented, and/or amended by the Town from time to time in such a manner as to reflect changes at the Airport and fairness and consistency to all existing and prospective future airport tenants.~~

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

- A. ~~If any conflict is found between provisions of this Ordinance, the more stringent provision shall prevail. If any provisions of this Ordinance, or application thereof, are held invalid it shall not effect or impose other provisions of this Ordinance. To this end, the provisions of this Ordinance are declared to be severable.~~
- B. ~~Any published FAA regulation shall become effective as part of this Ordinance without requiring any action on the part of the Town Board.~~

~~A copy of these Minimum Standards and any adopted changes will be available at the Town Manager's office.~~

~~Adopted By the Town Board of Commissioners on \_\_\_\_\_, 20\_\_\_\_ and signed by~~

~~Chairperson, Town of Wallace Board of Commissioners~~

~~Witnessed by: Clerk to the Town Board of Commissioners~~

**WALLACE MUNICIPAL AIRPORT**  
Airport Rules and Regulation Ordinance

**AIRPORT RULES AND REGULATION ORDINANCE**

AN ORDINANCE TO PROMULGATE UNIFORM RULES AND REGULATIONS PERTAINING TO THE OPERATION OF THE WALLACE MUNICIPAL AIRPORT. THE ORDINANCE REGULATES THE CONDUCT OF AIRPORT USERS AND BASED OPERATORS, IN A SAFE, ORDERLY, AND EFFICIENT MANNER.

**Authority and Applicability**

The Town of Wallace, a Municipal Corporation of the State of North Carolina, hereby adopts and approves the following Airport Rules and Regulations for the operation and use of the Wallace Municipal Airport (Henderson Field) located in Pender County, North Carolina. The Airport is owned and operated by the Town of Wallace. Administration and enforcement of the terms of the Rules and Regulations shall be delegated at the discretion of the Town of Wallace.

Section 1: Terms and Definitions

Section 2: Delegated Powers and Compliance

Section 3: Airport Leases

Section 4: Air Traffic Procedures

Section 5: Airport Operating Procedures

Section 6: Aircraft Maintenance

Section 7: Aircraft Fueling Procedures

Section 8: Airport Motor Vehicle Operations

Section 9: Airport Fire Procedures

Section 10: Airport Security

Section 11: Conflicting Regulations, Violation, Changes

**Section 1: Terms and Definition**

1. **"Aeronautical Activity"** shall mean any activity which involves, makes possible, or is required for the operation of aircraft, or which contributes to or is required for the safety of such operations.
2. **"Airport"** shall mean the Wallace Municipal Airport (Henderson Field) (ACZ), North Carolina.
3. **"Airport Commission (Committee)"** An advisory group appointed by the Town Board charged with overseeing the supervision of Airport activities.
4. **"Airport Manager"** shall mean the representative of the Town having day today oversight of Airport activities. If no individual is designated with such charge, this responsibility is retained by the Airport Commission.
5. **"Airport Owner"** shall mean the Town of Wallace, as Airport Sponsor.
6. **"Commercial Aeronautical Activity"** shall mean a person or business providing goods and services to the aviation public for which compensation is received.
7. **"Commercial Aviation Operator"** Fixed Base Operator (FBO) / Special Aviation Service Organization (SASO) / Independent Operators (IO) shall mean a person or aeronautical business offering or supporting general aviation services.
8. **"FAA"** shall mean the Federal Aviation Administration.
9. **"Hangar"** shall mean a building providing shelter or enclosed space for the storage or aircraft or aircraft parts.

10. ~~"Lease"~~ shall mean an executed contract, in writing and enforceable by law, granting interests in property or the conduct of certain activities.
11. ~~"Motor Vehicle"~~ shall mean any powered ground vehicle.
12. ~~"Person"~~ shall mean an individual, partnership, firm, association, commercial business or corporation.
13. ~~"State"~~ shall mean the NCDOT – Division of Aviation (NCDOA).
14. ~~"Tenant"~~ shall mean a Person who leases or subleases real property and whose premises has access to the Airport.
15. ~~"Through the Fence"~~ shall mean any use of the Airport public landing areas by any person offering aeronautical activity or by aircraft based on land adjacent to, but not a part of the Airport property.
16. ~~"Town"~~ shall be the Town of Wallace, North Carolina.
17. ~~"Town Board"~~ shall mean the Town of Wallace Board of Commissioners, the governing body lawfully empowered to exercise legal control over the Airport.

## Section 2: Delegated Powers / Liability Exclusion / Compliance

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

- A. ~~Compliance~~—All persons on, and users of, the Airport shall comply with and be governed by these Rules and Regulations. The privilege of using the Airport and its facilities shall impose full responsibility and risk by the user thereof, and shall release and hold harmless and indemnify the Town, and its agents, from any liability or charges of loss resulting from such use, as well as claims of third persons using the Airport.
- B. ~~Failure to Comply~~—Any person violating this Ordinance may be subject to pertinent deprivation of use of the Airport facilities for such period of time as may be deemed necessary by the Town Board, or legal representation.
- C. ~~Enforcement~~—These Airport Rules and Regulations, as well as all applicable state laws and Town ordinances, shall be enforced by the Town Board and/or law enforcement officers appointed pursuant to law.

## Section 3: Airport Leases

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

- A. ~~Lease Records~~: Any person, hangar tenant and/or commercial aviation operators conducting business at the Airport must have an executed lease agreement or contract with the Town Board. Such persons shall retain and become familiar with the current Airport Rules and Regulations.
- B. ~~Airport Lease / Erection of Buildings or Structures~~: Any person desiring to erect or construct any new or renovated permanent or temporary structure, landscaping, signs or support facilities at the Airport shall submit plans and specifications to the Airport Committee and Town Board for review and approval. The plans shall include a general layout, drawn to scale, showing said structure (site location, building, ground and top elevations, and aesthetic and decorative features), access and proposed boundary of leasehold area, plus a completed FAA Form 7460 'Notice of Proposed Construction or Alteration'. The Town Board, prior to construction, shall submit this information to the NCDOT, Division of

Aviation/FAA for review and airspace determination. Buildings shall meet all building codes and development ordinances. All such building permits, licensing and environmental certifications shall be obtained by the person prior to construction. A certificate of occupancy must be obtained before the structure can be occupied. No Airport leases will be executed for a period in excess of twenty (20) years.

- C. ~~Subleasing: Leased property may be subleased by the lessee only with prior written authorization or approval of the Town Board, or designated representative. Any person that subleases, assigns their lease, or rents to any person who then performs any commercial aeronautical activity on the Airport shall notify the Town Board of such tenant within ten (10) days of such transaction.~~
- D. ~~Leasehold Condition / Abuse of Property — Tenants are required to keep their premises clean and clear of all rubbish, junk, debris, disabled/dismantled aircraft, vehicles and unsightly objects. No person shall construct, erect or store facilities, equipment or materials in a manner as to constitute a hazard to persons or property, or that could interfere with the safe movement of aircraft. Garbage, refuse, chemicals, or other waste material shall be placed in appropriately approved receptacles used to dispose of off Airport property. No person shall, in any way, destroy, remove or disturb buildings, signs, equipment, markers or other property on the Airport. The borrowing or use of Airport-owned tools or equipment must be specifically permitted by the Airport Manager/Airport Committee.~~
- E. ~~Through the Fence: The NCDOT, Division of Aviation and FAA discourage through the fence operations. Through the fence arrangements will not be allowed unless approved by the Town Board, and coordinated with the NCDOT, Division of Aviation.~~
- F. ~~Right of Entry: The Town Manager, Airport Manager, Fire Chief, or other designated Town agents shall have reasonable right of entry into all areas of the Airport, including enclosed structures.~~
- G. ~~Solicitation: — No person shall solicit funds nor post commercial-related signs or advertisements at the Airport without written permission of the Town Board/Airport Committee.~~
- H. ~~Abandonment: No person may abandon vehicles, equipment, aircraft or parts on the Airport property. The Town Board, or designated representative, has the right following due written notice to the owner after 90 days to have such equipment removed and/or disposed of without liability. The last registered owner of the equipment shall be liable for all costs incurred in the disposal of such property.~~

#### **Section 4: Air Traffic Procedures**

- A. ~~Airmen Certification: Any person operating aircraft on the Airport must be certified by the FAA.~~
- B. ~~FAA Regulations: All aeronautical activities at the Airport and all flight operations in the airspace above the Airport shall be conducted in conformity with FAA regulations.~~
- C. ~~Aircraft Movements: All takeoffs and landings, by fixed-wing and rotorcraft, shall be conducted on paved areas. Any aircraft movement conducted in non-designated areas must be approved, in advance, by the Town Board, or designated representative.~~

#### **Section 5: Airport Operating Procedures**

- A. ~~Public Use: The Town Board may suspend or restrict Airport operations when deemed necessary in the interest of safety, or as otherwise restricted due to weather, construction development, national security, and "Acts of God". The Airport Manager/Airport Committee has the authority to temporarily close the Airport by means of NOTAM.~~

- ~~B. Aircraft Registration: All aircraft based at the Airport shall be registered with the Airport Manager/Advisory Committee (pilot name, address, phone number, aircraft type, model, N-number).~~
- ~~C. Aircraft Size & Weight: Airport operations by aircraft and/or other operating vehicles in excess of the published pavement strength shall require prior written permission by the Airport Manager, or designated Town representative. Such operations will be evaluate on a case-by-case basis.~~
- ~~D. Aircraft Engine Run-Up: Aircraft engines shall be started and run up only in the places designated for such purposes. Engine run-ups shall be conducted so not to cause harm to people or damage to property, structures, or other aircraft. At no time shall engines be operating in hangars or enclosed structures.~~
- ~~E. Parked Aircraft: No aircraft shall be parked or stored at the Airport except in areas for such use, as designated or instructed by the Airport Manager, or designated representative. All aircraft not hangared shall be sufficiently secured at night and during inclement weather.~~
- ~~F. Aircraft Emergency Transmitter: Should an aircraft's Emergency Locator Transmitter (ELT) accidentally be activated, and the pilot or owner unable to be contacted or respond, the Airport Manager shall take steps to turn-off the ELT.~~
- ~~G. Taxiing Aircraft: Aircraft shall be taxied at a safe and reasonable speed with due respect for other aircraft, persons, or property. No two aircraft shall occupy the runway at the same time. Aircraft waiting on the taxiway for another aircraft to takeoff or land shall remain behind the runway holding position markings.~~
- ~~H. Public Access Within Aircraft Movement Areas: Only airmen, aircraft passengers, duly authorized personnel or persons being escorted by authorized personnel shall be permitted to access areas in which aircraft operate.~~
- ~~I. Aircraft Accident: In the event of an aircraft accident, the aircraft operator and/or owner shall promptly remove any disabled aircraft or parts hereof, subject to FAA/NTSB accident investigation. If unable, the Town Board/Airport Sponsor may, in compliance with FAA and other governmental regulations, move damaged or wrecked aircraft and parts from aircraft maneuvering and operating areas. The pilot of an aircraft involved in an accident on or near the Airport causing personal injury or property damage shall immediately report such incident to the Town Board/Airport Manger. In the event that the pilot is unable, the owner of the aircraft or the owner's agent shall submit an accident report to the Town Board/Airport Manager within 24 hours, including 1) names of persons involved, 2) addresses, 3) phone numbers and 4) general description of the accident. Airport property damaged or otherwise destroyed by an accident or other activity shall be paid for by parties responsible.~~
- ~~J. Special or Unique Airport Uses: Special use of the Airport shall be governed by the following:~~
- ~~1) Flying Events: No person or organization will engage in or promote any show, contest, demonstration or similar exhibition at or on the Airport without specific prior written authorization from the Airport Committee and Town Board. Said request for authorization must be submitted at least sixty (90) calendar days prior to the event. Such permission shall not be given without appropriate FAA clearance or exemptions, nor without proof of an insurance policy for the event, which covers hazards and holds the Airport Owner harmless from any and all claims resulting from such events.~~
  - ~~2) Parachute Activity: Parachute jumps at or onto the Airport must receive prior consent from the Airport Manager/Airport Committee. An FAA "NOTAM" shall be filed by the Airport Manager, or designated representative prior to any said parachute jumps.~~
  - ~~3) Agricultural Spray Activity: Aircraft agricultural spraying operations shall be conducted in compliance with applicable local, state and federal laws. Staging and~~

washing areas shall be conducted in compliance with the applicable regulations. Any liability resulting from agricultural spraying operations is the sole responsibility of the operator. The Town Board has authority to require said operators to post a bond that would cover, with the intent of mitigating, liabilities to the Town and County resultant from the intentional or accidental dispersion of agricultural spraying or other compounds.

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

### **Section 6: Aircraft Maintenance**

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

Persons in violation of these rules can be subject, at the discretion of the Airport Committee/Town Board, to the following fines, payable to the Town for Airport purposes:

- First offence: \$100.00
- Second offence: \$250.00
- Third offence: \$500.00 and eviction from, or excluded from Airport use.

### **Section 7: Aircraft Fueling**

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

- A. ~~No fuel storage and dispensing equipment, whether publicly or privately owned, shall be installed and used at the Airport without the prior written approval of the Airport Committee and Town Board. All equipment or storage used for the handling of fuels, whether 100LL, Jet-A or Avgas, shall fully comply with current National Fire Protection Association (NFPA) regulations and all applicable local, state or national regulations. Aircraft authorized by the FAA to use automobile gas shall be fueled in outside areas, unless the aircraft cannot be moved due to maintenance reasons.~~
- B. ~~Aircraft shall be grounded by an approved method during all fueling and de-fueling operations. No aircraft shall be fueled or de-fueled while the aircraft engine is running. No person shall engage in aircraft fueling operations without adequate fire extinguishers within ready reach.~~
- C. ~~Aircraft fuel dispensing trucks must be appropriately registered with the State, and parked at least fifty feet (50') from any hangar or building.~~
- D. ~~Smoking or lighting of an open flame shall be prohibited, at minimum, within one hundred feet (100') of any fueling operation.~~
- E. ~~Any person involved with an accidental release of fuel or fuel contamination situation must immediately contact the Airport Manager/Town Official and notify the: 1) type of fuel, 2) spill location, 3) quantity of fuel released, and 4) time of spill. If requested by the Airport~~

Manger/Town Official, a written report shall be filed by the responsible persons within seven (7) calendar days of the spill. Persons responsible for a spill will be accountable for any assessed fines and spill liability, including clean-up as prescribed by regulatory agencies.

### **Section 8: Airport Motor Vehicle Operations**

The following govern the movement of auto vehicles at the Airport:

- A. Motor vehicles shall be operated on designated roadways, parking areas, et cetera, unless authorized by the Airport Manager. Motor vehicles shall be parked in accordance with markings and posted signs.
- B. An aircraft owner who rents, leases, or owns a hangar at the Airport may park their motor vehicle in their hangar while their aircraft is being flown.
- C. Motor vehicles shall not be permitted on the runways, taxiways, aprons, or ramps (aircraft movement areas) without the express permission of the Airport Manager, unless the operation of such vehicle is in accordance with prior agreement to accomplish a necessary Airport purpose, service or inspection. No motor vehicle may operate on the runway while an aircraft is preparing for or conducting a takeoff or landing.
- D. Any motor vehicles authorized to operate on aircraft movement areas must be properly illuminated during night operations or periods of reduced visibility. Motor vehicles operating on the runway must monitor the designated common traffic frequency channel (CTAF/UNICOM).
- E. No vehicle shall exceed a speed of 15 mph while on the apron, and 45 mph while on the taxiway and runway system.
- F. Pedestrians or motor vehicle operators observed in areas other than public use areas without authorization by the Airport Manager/Airport Committee will be considered trespassing and may be subject to arrest.
- G. Any vehicle parked in violation or abandoned may be towed by the Airport Manager at the owner's expense, and without liability for damage which may result in the course of such moving.
- H. Any motor vehicle accident involving injury or property damage on the Airport shall be reported to the Airport Manager and/or Town Board representatives no later than 24 hours after the accident occurred.

### **Section 9: Fire Procedures**

- A. Smoking or lighting of an open flame is prohibited at places with posted signs or within one hundred feet (100') of any aircraft, hangars, fuel trucks, fuel loading stations, or tank farms. No person shall have an open fire any place on the Airport without prior permission from the Airport Committee/Town Board.
- B. No person shall bring any explosives onto the Airport.
- C. No person shall store material or equipment, use flammable liquids or gases, or allow their premises to become in such condition as to violate, in any manner, the fire code in force in the area of the Airport. Unless authorized by the Town Board, the storage of paint thinners, fuels, or other such combustible materials in hangars or hangar areas is prohibited.
- D. Tenants of all hangars and buildings shall provide suitable fire extinguishers and equipment to be kept in ready condition as required by the Town Fire Chief.
- E. Any changes to the hangar electrical system must receive prior authorization from the Town Board/Airport Committee. At a minimum, extension cords must be of the grounded type and are for temporary use only.
- F. Tenants and persons are required to keep their premises clean and clear of all rubbish, junk, debris, old aircraft and vehicles and unsightly objects. If, after written warning by the

Airport Committee/Town Board, the area is not cleaned, removal of such items will be performed at the direction of the Town and billed to the responsible tenant or persons.

**Section 10: Airport Security**

- A. Security Requirements Regulated by the Town Board or their agents:
  - 1) Restricted areas are established for safety and security reasons. Except for passenger enplaning or deplaning of aircraft, the general public is prohibited from the areas of the airport posted as being RESTRICTED AREAS.
  - 2) Only flight crews, passengers going to and from aircraft, aircraft service and maintenance technicians, FAA, Fire Fighting personnel, and others authorized by the Town Manager, shall be permitted into the RESTRICTED AREAS.
- B. Security of Aircraft and Airport Operations Area
  - 1) A breach in security caused by a user or person that results in an FAA finding of negligence will be cause to review, find, and possibly cancel or curtail tenant access to the RESTRICTED AREAS.
- C. Weapons
  - 1) No person will carry a weapon on the Airport except encased for appropriate transport in an aircraft. Federal, state, and local law enforcement officers are exempt from this rule.

**Section 11: Conflicting Regulations, Violation, Changes**

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

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

\_\_\_\_\_  
Adopted By the Town Board on \_\_\_\_\_, 20\_\_\_\_ and signed by

\_\_\_\_\_  
Chairperson, Town of Wallace Board of Commissioners

\_\_\_\_\_  
Witnessed by:

\_\_\_\_\_  
Clerk to the Board of Commissioners



**APPENDIX D ~~<RESERVED>~~TYPICAL FORMS AND SURVEYOR NOTES**

~~PERFORMANCE GUARANTEE REQUIREMENTS~~

~~Guarantee Required Prior to Signing Final Plat~~

~~Prior to signing the Final Plat for recordation by the Administrator, items A or B in this Section must be complete. Upon default, meaning failure on the part of the Subdivider to complete the required improvements in a timely manner as spelled out in the performance bond or escrow agreement, then the surety, or the financial institution holding the escrow account shall if requested by Pender County, pay all or any portion of the bond or escrow fund to the County up to the amount needed to complete the improvements based on an engineering estimate. Upon payment, Pender County, in its discretion, may expend such portion of said funds, as it deems necessary to complete all or any portion of the required improvements.~~

~~A. All requirements of this Ordinance are complete including the following:~~

- ~~1) All improvements required by this Ordinance and required as a condition of approval, must be constructed and/or installed.~~
- ~~2) All improvements required by this Ordinance and required as a condition of approval must be certified by a licensed surveyor and/or engineer that their construction and installation is complete in accordance with the standards of this Ordinance.~~
- ~~3) All public streets and related drainage are certified to be complete and in accordance with NCDOT requirements by the NCDOT District Engineer.~~
- ~~4) A Defects Guarantee for the required improvements has been submitted and approved in accordance with this Ordinance.~~

~~B. Documents guaranteeing the completion of all required improvements have been submitted and approved including the following:~~

- ~~1) A Performance Guarantee Agreement for Improvements in favor of Pender County on an approved format in this Ordinance or in a format approved by the Pender County Attorney shall be submitted and approved.~~
- ~~2) An Irrevocable Letter of Credit, Performance Bond, or Escrow Agreement in favor of Pender County or in a format approved by the Pender County Attorney shall be submitted and approved to cover the cost of the incomplete and uncertified improvements. The amount of the Guarantee will be at least equal to the cost of construction of the improvements as shown on a Construction Cost Estimate prepared, signed, and sealed by a licensed engineer.~~
- ~~3) Release of Guarantee Security~~
- ~~4) The County may release a portion of any security posted as the improvements are completed once said improvements are inspected and approved and that their construction and installation is complete in accordance with the standards of this Ordinance.~~

~~Type Guarantee Required~~

~~The Guarantee shall provide for 125% of the estimated cost of completion in one of the following forms:~~

- ~~1) Filing an irrevocable letter of credit from a federally insured lending institution specifying the limit of credit dedicated to the subject subdivision which will be extended to the County upon request.~~
- ~~2) Depositing or placing in escrow, a certified check or cash, conditioned upon satisfactory completion of the final plat requirements and improvements.~~
- ~~3) Filing a performance or surety bond from a licensed surety or bonding company assuring completion of the improvements.~~

~~Release of Guarantee Requirements~~

~~A. The Administrator shall release the Performance Guarantee when all requirements of this Ordinance have been met, construction and installation of all required and proposed~~

~~improvements have been completed and certified and a Defects Guarantee has been submitted and approved. Certification must include the following:~~

- ~~1) Certification from a Professional Land Surveyor that all monuments and markers required by this Ordinance and NCGS 39-32.1-4 have been installed.~~
- ~~2) Certification from the District Engineer that public streets have been constructed to NCDOT Secondary Road Standards.~~
- ~~3) Certification from a Registered Engineer that construction of private streets and all other required and proposed improvements have been completed specifically in compliance with the provisions of this Ordinance.~~
- ~~4) Certification of completion and performance of the Drainage System by a Registered Engineer or Land Surveyor.~~
- ~~5) Certification by the Administrator or his designee that the improvements required have been installed and such approval is issued to the Subdivider in writing and entered into the record file.~~
- ~~6) Performance Guarantees shall require construction and installation of improvements within one year after the date of issuance of a permit or approval of construction plans if no permit is required.~~
- ~~7) The applicant may request up to two (2) extensions up to six months of the time limit for compliance if circumstances beyond the control of the applicant warrant an extension. The request for an extension shall be in writing and accompanied by a schedule for completion of remaining work. Approval of such request shall be at the Administrator's sole discretion.~~

#### Required Improvements

##### A. Monuments and Markers

- ~~1) Control monuments shall be set at the points of curvature ("PC" and "PT") or at the "PI" of all street centerline curves (one monument per curve if installed at the "PI" and two if installed at the points of curvature). However, no more than two street centerline curve control monuments will be required within a 1,000 foot lineal section of any street. A standard steel 60 penny nail or a standard "PK" or "MAG" nail shall be placed at these points where control monuments are not located. "PK" and "MAG" nails shall be at least 2.5 inches long.~~
- ~~2) Centerline control monuments will not be required on cul-de-sacs 500 feet or less in length when nails specified above are located at required monument control points.~~
- ~~3) A control monument shall be placed at all street centerline intersections.~~
- ~~4) Monuments set in the street pavement shall have monument access boxes set on top of a brick, block, other masonry, or rock footing.~~
- ~~5) When any portion of the development is in a Special Flood Hazard Area, as defined in this Ordinance, as amended, and set out in the FEMA Flood Insurance Rate Maps (FIRM), one (1) permanent monument in each subdivision is required to have its elevation recorded on the final plat.~~
- ~~6) A steel or iron pipe or the equivalent of not less than one half (1/2) inch in diameter and at least thirty (30) inches in length, where possible, shall be set at all property and lot corners, except those located by monuments. A property marker shall also be set in street right-of-way lines at the point of curvature and point of tangency.~~
- ~~7) Control Corners, as described and required in NCGS 39-32.1-4, shall be installed.~~

#### GRANTOR/GRANTEE CERTIFICATE

The following statement shall appear on the plan and be signed by the Grantor(s) and Grantee(s) prior to approval:

*The Grantor(s) and Grantee(s) certify that the Grantee(s) is within three (3) degrees of collateral kinship to the Grantor(s), and that the purpose of this waiver is not to circumvent the provisions of the Pender County Unified Development Ordinance, and that none of the lots shall be conveyed to non-family members for a period of not less than five (5) years.*

DRAFT

DEVELOPMENT AGREEMENTS

~~As authorized by this Ordinance, Development Agreements must comply with all state regulations in NCGS §153A-349.1 et. seq.~~

~~REQUIRED CERTIFICATES (PRELIMINARY PLAT)~~

~~The following certificates shall appear on the preliminary plat signed and sealed prior to approval:~~

**Certification of Submission**

A copy of this plat has been submitted. Approval is subject to review; this does not constitute an approval.

Pender County Utilities: \_\_\_\_\_ Date: \_\_\_\_\_  
 Pender County Environmental Health: \_\_\_\_\_ Date: \_\_\_\_\_  
 Pender County Addressing Coordinator: \_\_\_\_\_ Date: \_\_\_\_\_

**Certificate of Preliminary Plat Approval**

Preliminary Plat Approved by Pender County for a period of two (2) years subject to the Pender County Unified Development Ordinance requirements and conditions of approval.

Planning Staff: \_\_\_\_\_ Date: \_\_\_\_\_

~~REQUIRED CERTIFICATES (FINAL PLAT)~~

~~The following certificates shall appear on the final plat signed and sealed prior to approval:~~

**Certificate of Ownership, Dedication, and Jurisdiction**

I (we) hereby certify that I am (we are) the owner(s) of the property shown and described here on and that I (we) hereby adopt this plan of subdivision with my (our) own free consent and dedicate all streets, alleys, walks, parks, and other areas to public or private use as noted. Further, I (we) certify that the land as shown here on is located within the subdivision jurisdiction of Pender County.

Owner: \_\_\_\_\_ Date: \_\_\_\_\_  
 Owner: \_\_\_\_\_ Date: \_\_\_\_\_

**Surveyor Certificate I**

I, \_\_\_\_\_, certify that this plat was (drawn by me or drawn under my supervision) from (an actual survey made by me or made under my supervision) (deed description in Book \_\_\_\_\_, Page \_\_\_\_\_,) or (other); that the boundaries not surveyed are clearly indicated as drawn from the information found in Book \_\_\_\_\_, Page \_\_\_\_\_; that the ratio of precision as calculated is 1: \_\_\_\_\_; that the plat was prepared in accordance with G.S.47-30 as amended.

Witness my original signature, registration number and seal this day of \_\_\_\_\_ A.D. \_\_\_\_\_.  
 Signature: \_\_\_\_\_ (Seal)  
 Registration Number: \_\_\_\_\_

**Surveyor Certificate II**

The subdivision shown on this plat (does/does not) contain Special Flood Hazard Areas and (is/is not) located in a Floodway as delineated by the Federal Emergency Management Agency.

The subdivision shown on this plat (does/does not) contain Areas of Environmental Concern as delineated by the North Carolina Coastal Resources Commission.

Witness my original signature, registration number and seal this day of \_\_\_\_\_ A.D. \_\_\_\_\_.  
 Signature: \_\_\_\_\_ (Seal)  
 Registration Number: \_\_\_\_\_

**Surveyor Certificate III**

One of the following must be stated:

1. This plat is of a survey that creates a subdivision of land within the subdivision area of a county or municipality that has an ordinance that regulates parcels of land.
2. This plat is a survey that is located in a portion of a county or municipality that is unregulated as to an ordinance that regulates parcels of land and is therefore not subject to regulation by a subdivision ordinance.
3. This plat is of an existing parcel or parcels of land and does not create a new street or change in existing streets as defined in the Unified Development Ordinance and is exempt from the definition of subdivision contained in said Unified Development Ordinance.
4. This plat is a survey of an existing building or other structure, or a natural feature and is therefore not subject to regulation by an ordinance.
5. This plat and survey is a control survey and is therefore not subject to regulation by the Pender County Unified Development Ordinance.
6. This plat is a survey of another category, such as the recombination of existing parcels, a court-ordered survey or other exception to the definition of subdivision and is therefore not subject to subdivision regulation.

Witness my original signature, registration number and seal this day of \_\_\_\_ A.D. \_\_\_\_.

Signature: \_\_\_\_\_ (Seal)

Registration Number: \_\_\_\_\_

Note: Surveyor Certificates II & III may be combined into one Certificate.

**Parcel Identifier Certificate**

Parcel Identifiers have been issued for all parcels shown on this plat.

Tax Supervisor: \_\_\_\_\_ Date: \_\_\_\_\_

**Certificate of Registration by Register of Deeds**

Pender County, North Carolina

Filed for registration on the \_\_\_\_ day of \_\_\_\_ 20\_\_ at \_\_\_\_ a.m./p.m. and duly recorded in book \_\_\_\_ at page \_\_\_\_, slide \_\_\_\_.

Register of Deeds: \_\_\_\_\_

**Private Road Certification**

I (we) hereby certify that all private roads as depicted on subdivision plat \_\_\_\_\_ have been designed, installed, inspected, and approved in accordance with Article 7 of the Pender County Unified Development Ordinance, as amended by Pender County Ordinance \_\_\_\_\_.

DRAFT

**Reviewed and Approved by the Addressing Coordinator**

Addressing Coordinator: \_\_\_\_\_ Date: \_\_\_\_\_

**Reviewed and Approved by Environmental Health**

Environmental Health: \_\_\_\_\_ Date: \_\_\_\_\_

**Reviewed and Approved by Pender County Utilities**

Pender County Utilities: \_\_\_\_\_ Date: \_\_\_\_\_

Engineer Improvement Certification, Major Subdivisions  
*(Example Form)*

~~(Letterhead)~~ \_\_\_\_\_

Date

Pender County  
Planning and Community Development  
PO BOX 1519  
Burgaw, NC 28425

**Re: Installation of Required Improvements for (Name and Section of Subdivision)**

This will provide certification that the following improvements have been installed to the specifications noted for the above referenced subdivision and section:

1. ~~The streets in this development are private, however, I have observed the construction of said streets and certify that their construction is complete and meets NCDOT Subdivision Roads Minimum Construction Standards and drainage facility requirements. Said streets have been designed and constructed in accordance with Minimum Design and Construction Criteria for Subdivision Roads, contained in the NCDOT Subdivision Roads Minimum Construction Standards and NCDOT Guidelines for Drainage Studies and Hydraulic Design.~~
2. ~~Alternatively designed streets comply with the requirements for submission to NCDOT Minimum Design and Construction Criteria for Subdivision Roads, contained in the NCDOT Subdivision Roads Minimum Construction Standards, except the width of said streets.~~
3. ~~Drainage facilities, in addition to the street drainage, have been installed for the remainder of the development to accommodate a ten year, one hour storm event, without flooding or substantial ponding of water on any lots in the development or any area of the development to be used for building construction. Drainage easements of at least 20 feet in width have been reserved astride these facilities where they are located on private property.~~
4. ~~Street name signs have been installed at all street intersections in accordance with the specifications and requirements of the Pender County Emergency Management Office.~~
5. ~~Road signs have been installed in accordance with NCDOT Standards.~~
6. ~~Additional statements verifying the construction of community or public water or sewer systems will be required as appropriate.~~

This certification is provided this \_\_\_ day of \_\_\_\_\_, 20 \_\_, to comply with the provisions of The Pender County Unified Development Ordinance.

Engineer Signature \_\_\_\_\_

~~(Seal)~~ \_\_\_\_\_

Engineer Name \_\_\_\_\_

Surveyor Improvement Certification, Major Subdivisions  
*(Example Form)*

~~(Letterhead)~~ \_\_\_\_\_

Date

Pender County  
Planning and Community Development  
PO BOX 1519  
Burgaw, NC 28425

**Re: Installation of Required Improvements for (Name and Section of Subdivision)**

This will provide certification that the following improvements have been installed to the specifications noted for the above referenced subdivision and section:

- ~~1. Concrete control monuments, or other markers as required in the Pender County Unified Development Ordinance, have been set at the points of curvature (PC and PT) or at the point of intersection (PI) of all street centerline curves. All control corners comply with the requirements of Article 5A of GS 39.~~
- ~~2. Steel or iron pipes, not less than one half inch in diameter and at least thirty inches long (property markers), have been installed at all property and lot corners, except those located by concrete monument.~~
- ~~3. This development or a portion thereof is located in a FEMA designated Special Flood Hazard Area and a permanent concrete monument located \_\_\_\_\_ has been installed and its elevation is shown on the final plat of \_\_\_ Section \_\_\_\_ OR This development does not contain any FEMA designated Special Flood Hazard Areas and elevation monuments have not been installed.~~
- ~~4. The Homeowner's Association documents for this development have been recorded in Book \_\_\_ Page \_ and the plat for this Section has been recorded at Slide \_\_, Sheet \_ and all open space, common area, and facilities shown on the plat have been transferred to the Homeowner's Association.~~

~~This certification is provided this \_\_\_ day of \_\_\_\_\_, 20 \_\_\_, to comply with the provisions of The Pender County Unified Development Ordinance.~~

Surveyor Signature \_\_\_\_\_

(Seal) \_\_\_\_\_

Surveyor Name \_\_\_\_\_

STATE OF NORTH CAROLINA \_\_\_\_\_ COUNTY OF PENDER

PERFORMANCE GUARANTEE AGREEMENT FOR IMPROVEMENTS

*(Example Form)*

~~THIS AGREEMENT MADE AND ENTERED INTO this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_ by and between (Subdivider), hereinafter known as " the Subdivider", and Pender County, hereinafter known as " the County" (The designation Subdivider and County, as used herein shall include said parties, their heirs, successors and assigns and shall include singular, plural, masculine, feminine, or neuter as required by context).~~

WITNESSETH:

~~WHEREAS, the Subdivider is attempting to secure from the County approval of a Final Plat of a proposed subdivision to be known as the \_\_\_\_\_ Subdivision to be located in Pender County, North Carolina, and~~

~~WHEREAS, the Pender County Unified Development Ordinance requires the completion of certain improvements prior to Final Plat approval by the County; and~~

~~WHEREAS, said Ordinance also allows the County, at its discretion, to permit the Subdivider to post a Security Guaranty with the County to guarantee the completion of said required improvements; and~~

~~WHEREAS, the County desires to approve said Final Plat and, in lieu of requiring completion of all improvements prior to said approval, will accept from the Subdivider the filing of a (Surety Performance Bond with \_\_\_\_\_ Company as surety), (Letter of Credit from the \_\_\_\_\_ Bank) or (Cash Deposit and Escrow~~

Agreement with \_\_\_\_\_ as Escrow Agent) to guarantee and secure completion of said improvements.

IT IS THEREFORE, AGREED AS FOLLOWS:

1. ~~The Subdivider will, on or before the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, complete as required the following improvements in the \_\_\_\_\_ Subdivision:~~
2. ~~The Subdivider shall file with the County of Pender through its Planning Director the Security Guaranty as noted above securing and guaranteeing completion of said improvements by the required date; and~~
3. ~~When the Security Guaranty noted above is filed and other requirements of said Ordinance are met, then the County acting through its Planning Director will execute the Final Plat of the \_\_\_\_\_ Subdivision for recording.~~

Improvement	Cost to Complete

~~IN WITNESS WHEREOF, the County and the Subdivider have hereunto set their hands and seals, or if corporate, have caused this instrument to be signed in its corporate name by its duly authorized officers by authority of its Board of Directors, the day and year first above written.~~

For Pender County:

\_\_\_\_ Date: \_\_

Planning Director

For Subdivider:

Name/Title: \_\_ Date: \_\_

Signature: \_\_\_\_

IRREVOCABLE LETTER OF CREDIT

{Name of Bank}

{Address, include branch, if any}

{Date}

{Example Form}

Phone Number: \_\_\_\_\_ Contact Name: \_\_\_\_\_

Irrevocable Letter of Credit Number: \_\_\_\_\_

Pender County Board of Commissioners  
805 South Walker Street  
Burgaw, NC 28425

Commissioners,

~~We hereby open our irrevocable credit in your favor available by your drafts at sight on us for a sum not exceeding \$\_\_\_ for the account of \_\_\_ hereinafter known as "Customer". When presented for negotiation, drafts must be accompanied by the signed statement of the County Manager of Pender County that drawing is due to default or failure to perform by Customer, the following improvements in the \_\_\_\_\_ Subdivision on or before the \_\_\_\_\_ day of \_\_, 20\_\_:~~

~~(List here the required improvements)~~

~~The term of this irrevocable credit is through and including the \_\_\_\_\_ day of \_\_, 20\_\_ or upon written notice from the Pender County Manager or Planning Director that the required improvements have been timely completed, whichever is earlier.~~

~~The Pender County Manager or Planning Director will notify us when either of the following occurs:~~

- ~~1. \_\_\_\_\_ The required improvements have been timely completed and the credit may be released;~~
- ~~or~~
- ~~2. \_\_\_\_\_ The Customer has failed to perform or is in default hereunder.~~

~~All drafts drawn hereunder must be marked as follows:~~

~~\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_~~

~~The amount of any draft drawn under this credit must be entered on the reverse side hereof, and acknowledged by the Pender County Manager and this letter of credit presented to the issuing bank along with a signed notice of failure to perform by the Customer with a list of the improvements that are incomplete.~~

~~This Letter of Credit shall be transferable and/or assignable. This Letter of Credit, except as otherwise expressly provided herein, is governed by the Uniform Commercial Code in force in the State of North Carolina on the date hereof,~~

~~Very truly yours,  
By: \_\_\_\_\_ By: \_\_\_\_\_  
\_\_\_\_\_ Name of Bank \_\_\_\_\_ Authorized Signature~~

STATE OF NORTH CAROLINA \_\_\_\_\_ COUNTY OF

PENDER  
PERFORMANCE BOND  
(Example Form)

~~KNOW ALL MEN BY THESE PRESENTS that we, \_\_\_\_\_ (Name of Subdivision) \_\_\_\_\_ as Principal, and \_\_\_\_\_ (Name of Bonding Company) \_\_\_\_\_ as Surety, a Corporation authorized to transact business in North Carolina, are (the Name of the Bonding Company) held and firmly bound unto the County of Pender, a political subdivision of the State of North Carolina, and a body politic and corporate, in the sum of \$ \_\_\_\_\_, lawful money of the United States~~

~~of America, for the payment of which, will and truly be made, we, and each of us, bind ourselves and each of us, our successors and assigns, jointly and severally, by these presents.~~

~~THE CONDITIONS OF THIS OBLIGATION ARE SUCH THAT:~~

~~WHEREAS, the Principal has submitted a Final Plat of the subdivision known as Subdivision, located in Pender County, North Carolina, for approval by Pender County, which approval is a condition precedent to the right of said Principal to have said final plat registered in the Office of the Register of Deeds for Pender County; and~~

~~WHEREAS, the Pender County Planning Director is unable, pursuant to County Ordinance, to sign said plat of said Subdivision for registration until all required improvements are completed or until a guarantee of completion of said required improvements is filed with the County of Pender through said County Planning Director; and~~

~~WHEREAS, the Principal does this date agree to complete the improvements listed in Exhibit A attached hereto as required by the Pender County Unified Development Ordinance on or before the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_;~~

~~NOW THEREFORE, if the Principal shall fully comply with all the terms hereof, including the requirements of that Agreement attached hereto as Exhibit A, by which the Principal agrees to complete certain improvements on or before the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, then this obligation shall be null and void; otherwise, it shall remain in full force and effect.~~

~~It is hereby understood and agreed that in the event that any required improvements as included in the attached Agreement, Exhibit A, have not been installed as provided in said Agreement within the term of Performance Bond, Pender County may thereupon declare this bond to be in default and collect the amount of funds indicated in said Agreement for the cost of installation of said improvements. Upon receipt of the proceeds of this Bond, Pender County shall use such proceeds for completion of the installation of the required improvements to the extent that such funds will provide for completion and will refund to the Principal and Surety, as their interest may appear, any surplus not needed to complete said improvements.~~

~~IN WITNESS WHEREOF, the Grantors have hereunto set their hands and seals, or if corporate, has caused this instrument to be signed in its corporate name by its duly authorized officers by authority of its Board of Directors, the day and year first above written.~~

~~Principal: \_\_\_\_\_ Surety: \_\_\_\_\_~~

~~By: \_\_\_\_\_ (SEAL)  
President~~

By: \_\_\_\_\_ (SEAL)  
Attorney in fact (Power of Attorney attached)

Attest: \_\_\_\_\_

STATE OF NORTH CAROLINA \_\_\_\_\_ COUNTY OF PENDER

ESCROW AGREEMENT  
(Example Form)

~~THIS AGREEMENT entered into by and among Pender County acting through the Pender County Planning Director, hereinafter referred to as "County", \_\_\_\_\_, the developer of \_\_\_\_\_, hereinafter referred to as "Developer", and \_\_\_\_\_, hereinafter referred to as "Escrow Agent." (The designation County, Developer and Escrow Agent, as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine, or neuter as required by context);~~

WITNESSETH:

~~WHEREAS, \_\_\_\_\_, the developer has applied for approval of a subdivision development in Pender County known as \_\_\_\_\_ under Pender County's Unified Development Ordinance, herein referred to as " Ordinance"; and~~

~~WHEREAS, the approved plat proposes improvements which have not been completed; and~~

~~WHEREAS, pursuant to the Ordinance, developers are required to provide performance guarantees that proposed improvements will be completed in accordance with the Ordinance and with plans submitted for the subdivision development; and~~

~~WHEREAS, the Developer wishes to tender cash deposits to comply with the Performance Guarantee Agreement.~~

~~Now, Therefore, the Developer tenders with this agreement the sum of (\$ \_\_\_\_\_) dollars to the Escrow Agent to assure compliance with the Performance Guarantee Agreement for the construction of the improvements listed in the Performance Guarantee for subdivision. The Escrow Agent will deposit those funds in an account and by their execution of this agreement, the parties hereto agree that such funds will only be disbursed upon the authorized signature the County, through the County Planning Director in accordance with the following escrow instructions:~~

- ~~1. \_\_\_\_\_ The funds may be deposited in a federally insured institution at interest payable to the Developer.~~
- ~~2. \_\_\_\_\_ Funds will be disbursed after improvements secured by the Performance Guarantee Agreement are completed.~~
- ~~3. \_\_\_\_\_ Upon completion of the prescribed improvements, the Developer will submit a written request for disbursement to the County through the Planning Director, together~~

~~with a certification satisfactory to the County from an engineer or other qualified person that the prescribed improvements have been completed in accordance with the Ordinance and approved plans.~~

~~4. Upon receipt of the request for disbursement the County Planning Director will determine if the prescribed improvements have been completed as required and proposed, and shall either inform the Developer of any deficiencies in order that they may be corrected, or authorize disbursement in the event they have been satisfactorily completed as prescribed.~~

~~5. Upon submission, execution and approval of the request for disbursement by the Developer and the County through the Planning Director, it shall be forwarded to the Escrow Agent who shall make disbursements in accordance with the approved request.~~

~~6. Upon completion of improvements and receipt of an approved Final Request and Authorization for release of escrow funds, the Escrow may be terminated.~~

~~7. In the event that Developer and/or his contractor does not complete the improvements provided for herein by the \_\_\_\_ day of \_\_\_\_ 20\_\_\_\_, then County may, at its sole option give the Developer 30 days notice of its intent to declare the Agreement in default. If the Developer does not complete the improvements provided for herein within the 30 day period, or reach other satisfactory arrangements with the County, then the County may in its sole discretion declare this Agreement to be in default and may demand that the Escrow Agent forthwith pay all sums held by him and not previously released for \_\_\_\_\_ subdivision to the County. The County agrees that it will use such sums so received to apply toward the completion of the improvements to the extent that said sums last, and will refund to Developer any surplus not needed to complete said improvements. Provided, that the County does not agree to complete the improvements using any of its own funds, nor does it obligate to ensure the completion of the improvements beyond the sums made available under this Agreement to pay for same.~~

~~IN WITNESS WHEREOF, the parties have hereunto set their hands and seals, or if corporate, has caused this instrument to be signed in its corporate name by its duly authorized officers by authority of its Board of Directors, the day and year first above written.~~

FOR: PENDER COUNTY

Planning Director \_\_\_\_\_ Date

FOR: SUBDIVIDER

Print Name \_\_\_\_\_ Title

Signature \_\_\_\_\_ Date

FOR: ESCROW AGENT

Print Name \_\_\_\_\_ Title

Signature \_\_\_\_\_ Date

STATE OF NORTH CAROLINA, COUNTY OF PENDER

I, \_\_\_\_\_, a Notary Public, certify that \_\_\_\_\_, personally came before me this day and acknowledged the due execution of the foregoing instrument. Witness my hand and official seal, this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_ My Commission Expires: \_\_\_\_\_  
Notary Public

STATE OF NORTH CAROLINA, COUNTY OF PENDER

I, \_\_\_\_\_, a Notary Public, certify that \_\_\_\_\_, personally came before me this day and acknowledged that he is President of \_\_\_\_\_, a nonprofit corporation of the State of North Carolina and that authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by him as its President. Witness my hand and official seal, this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_ My Commission Expires: \_\_\_\_\_  
Notary Public

STATE OF NORTH CAROLINA, COUNTY OF PENDER

I, \_\_\_\_\_, a Notary Public, certify that \_\_\_\_\_, personally came before me this day and acknowledged the due execution of the foregoing instrument. Witness my hand and official seal, this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_ My Commission Expires: \_\_\_\_\_  
Notary Public

FOR RELEASE OF ESCROW FUNDS  
REQUEST AND AUTHORIZATION FOR RELEASE OF ESCROW FUNDS  
(Subdivision Name)  
(Example Form)

Whereas, Pender County and \_\_\_\_\_ (“the Subdivider”) have entered into an agreement to escrow funds to insure the completion of improvements in \_\_\_\_\_ (Subdivision Name) here after referred to as the “Subdivision”; and

Whereas, a certain phase of the improvements in the Subdivision have been completed and the parties, by their execution of this request and authorization, agree to the disbursement of escrowed funds as follows:

(Insert improvements completed and amount to be disbursed)

Now, therefore, the parties to the Escrow Agreement for the Subdivision hereby authorize the escrow agent to disburse the sum of \_\_\_\_\_ Dollars in accordance with the Escrow Agreement.

IN WITNESS WHEREOF, the County and the Subdivider have hereunto set their hands and seals, or if corporate, have caused this instrument to be signed in its corporate name by its duly authorized officers by authority of its Board of Directors, the day and year first above written.

TYPE REQUEST: Partial or Final

REQUEST FOR RELEASE OF ESCROW FUNDS:

FOR: SUBDIVIDER

\_\_\_\_\_  
Print Name \_\_\_\_\_ Title

\_\_\_\_\_  
Signature \_\_\_\_\_ Date

AUTHORIZATION FOR RELEASE OF ESCROW FUNDS:

FOR: PENDER COUNTY

\_\_\_\_\_  
Planning Director \_\_\_\_\_ Date

DEFECTS GUARANTEE FOR THE BENEFIT OF PENDER COUNTY  
(Example Form)

THIS DEFECTS GUARANTEE, made and granted this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_, hereinafter referred to as "Subdivider"; and, hereinafter referred to as "Guarantor," to PENDER COUNTY, a political subdivision of the State of North Carolina, hereinafter referred to as the "County" (The designation Guarantor and County, as used herein shall include said parties, their heirs, successors and assigns and shall include singular, plural, masculine, feminine or neuter as required by context);

WITNESSETH:

~~WHEREAS, the Subdivider has applied to Pender County for approval of a development known as \_\_\_\_\_; and~~

~~WHEREAS, the Subdivider has submitted a final plat for approval for said development and all improvements required by the Pender County Unified Development Ordinance are complete; and~~

~~WHEREAS, the County, has determined that pursuant to the Pender County Unified Development Ordinance a Defects Guarantee is required as a condition of approval of the development and such Guarantee would benefit the public welfare;~~

~~THEREFORE THE SUBDIVIDER AND GUARANTOR, as a condition of final plat approval, makes the following warranty:~~

~~1. \_\_\_\_\_ Purpose of Agreement~~

~~The purpose of this agreement is to provide a guarantee on all improvements required by the Pender County Unified Development Ordinance for \_\_\_\_\_.~~

2. Guaranty

a. ~~Subdivider hereby warrants that all utility taps, ramps, streets, pavement, sidewalks, drainage facilities, water and sewer lines, and/or other improvements, as required by the Pender County Unified Development Ordinance and proposed for the said development as presented and approved with the Preliminary Plat approved on the \_\_\_ day of \_\_\_, 20\_\_\_ will be free of defects in design and construction for one (1) year from the date of issue of a signed acceptance of construction by the Pender County Planning Director.~~

b. ~~In the event the County notifies the Subdivider of a defect within one year from the date of acceptance of construction of all improvements, it is hereby understood and agreed that Subdivider will correct such defect(s) within 30 days of receipt of a written " Notice to Correct Defect" received from the County.~~

c. ~~The County Shall inspect any attempted repairs as soon as possible upon notification from the Subdivider that repairs have been completed, and shall not unreasonably delay or withhold approval of repairs.~~

3. Remedies

~~It is understood and agreed that in the event the Subdivider fails to correct such defect within 30 days of receipt of written notice by the Subdivider as set forth herein, a violation of the Pender County Unified Development Ordinance will exist on the property and the Subdivider will be subject to Penalties for Violations as prescribed in the Legal Provisions of said Ordinance. In addition, it is understood and agreed that upon the 60th day after the " Notice to Correct Defect" is received by the Subdivider that approval of the development's final plat will terminate and such termination of approval will prohibit any additional sale of lots in the development. The Subdivider further agrees that any sale of a lot after the termination of approval of the plat for the Development will constitute a separate offence under the provisions of said Unified Development Ordinance and that upon any successful verdict from a Court of Competent Jurisdiction, the Subdivider must pay the cost, including reasonable attorney fees, incurred by Pender County in obtaining such verdict. The remedies noted herein shall be in addition to any other remedy the County may have at law, including injunctive relief.~~

~~IN WITNESS WHEREOF, the parties have hereunto set their hands and seals, or if corporate, has caused this instrument to be signed in its corporate name by its duly authorized officers by authority of its Board of Directors, the day and year first above written.~~

FOR: SUBDIVIDER and/or PERSONAL GUARANTOR \*\*

\_\_\_\_\_  
Print Name \_\_\_\_\_ Title

\_\_\_\_\_  
Signature \_\_\_\_\_ Date

STATE OF NORTH CAROLINA, COUNTY OF PENDER

I, \_\_\_\_\_, a Notary Public, certify that \_\_\_\_\_, personally came before me this day and acknowledged the due execution of the foregoing instrument. Witness my hand and official seal, this the \_\_\_\_\_ day of \_\_, 20\_\_\_\_.

\_\_\_\_\_  
My Commission Expires: \_\_\_\_\_  
Notary Public

{And For a Corporation}

\_\_\_\_\_  
Company Name \_\_\_\_\_

\_\_\_\_\_

Print Name of Signer \_\_\_\_\_ Title \_\_\_\_\_

Signature of Signer \_\_\_\_\_ Date \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Secretary

STATE OF NORTH CAROLINA, COUNTY OF PENDER

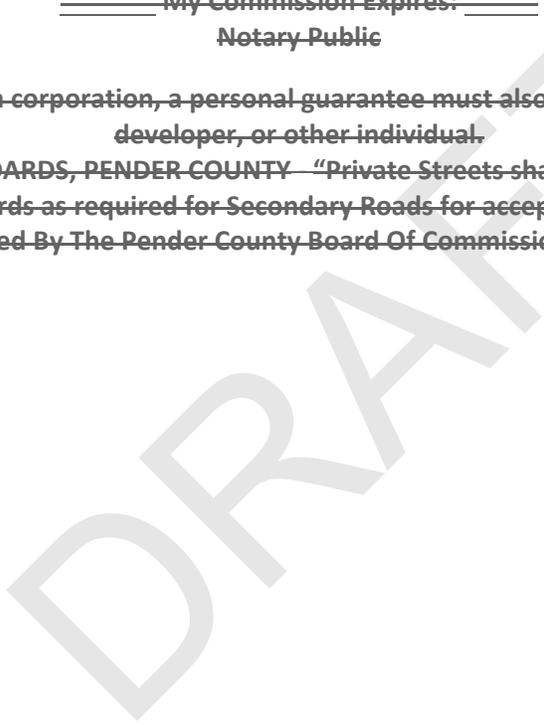
I, \_\_\_\_\_, a Notary Public, certify that \_\_\_\_\_  
personally came before me this day and acknowledged that he is Secretary of  
\_\_\_\_\_, a corporation of the State of North Carolina and that by authority duly  
given and as the act of the corporation, the foregoing instrument was signed in its name by its  
President, sealed with the corporate seal, and attested by himself as its Secretary. Witness my  
hand and official seal, this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_ My Commission Expires: \_\_\_\_\_

Notary Public

~~\*\* If Subdivider is a corporation, a personal guarantee must also be provided by owner,  
developer, or other individual.~~

~~PRIVATE STREET STANDARDS, PENDER COUNTY – "Private Streets shall meet all construction and  
design standards as required for Secondary Roads for acceptance by NCDOT."  
As Adopted By The Pender County Board Of Commissioners 3-15-04.~~



Engineer Certification—Low Impact Development Project

**Example Form**

(Letterhead)

Date:

Pender County  
Planning and Community Development  
PO Box 1519  
Burgaw, NC 28425

Re: ~~Low Impact Development Project Certification for: (Name and Section of Subdivision)~~

~~This will provide certification that the design plans, prepared by me or under my supervision, for stormwater management in the above referenced development comply with the following requirements:~~

- ~~• The LID Project complies with the requirements for stormwater management as set forth in 15A NCAC 02H.1005.~~
- ~~• The LID Project utilizes a combination of engineered, structural LID stormwater best management practices (BMPs) as defined in Chapter 4: LID Stormwater BMPs of North Carolina State University's Low Impact Development: A Guidebook for North Carolina and designed in accordance with 15A NCAC 02H.1008 to treat runoff from all surfaces generated by one and one-half inches of rainfall, or the difference in the stormwater runoff from all surfaces from the predevelopment and post-development conditions for a one-year, 24-hour storm, whichever is greater, in order to achieve average annual 85% Total Suspended Solids (TSS) removal for the developed area of a site.~~
- ~~• The LID Project utilizes a combination of engineered, structural LID stormwater best management practices (BMPs) as defined in Chapter 4: LID Stormwater BMPs of North Carolina State University's Low Impact Development: A Guidebook for North Carolina to control and treat the increase in storm water runoff volume associated with post construction conditions as compared with pre construction (existing) conditions for the 1 year frequency, 24 hour duration storm event in order to achieve a storage volume discharge rate equal to or less than the predevelopment discharge rate for the 1-year, 24-hour storm event.~~

~~This certification is provided this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, to comply with the provisions of the Pender County Unified Development Ordinance.~~

~~\_\_\_\_\_  
(Engineer Signature)  
\_\_\_\_\_  
Seal  
\_\_\_\_\_  
(Engineer Name)  
\_\_\_\_\_~~

Engineer Certification – Stormwater Compliance

**Example Form**

(Letterhead)

Date:

Pender County  
Planning and Community Development  
PO Box 1519  
Burgaw, NC 28425

Re: Stormwater Certification for: (Name and Section of Subdivision/Development)

This will provide certification that the design plans, prepared by me or under my supervision, for stormwater management in the above referenced development comply with the following requirements:

- ~~The project complies with the requirements for stormwater management as set forth in Section 7.9 of the Pender County Unified Development Ordinance.~~
- ~~All stormwater analysis, design and preparation of plans shall be performed by or under the direct supervision of a NC licensed professional. A NC licensed professional is considered any individual licensed by the State of North Carolina to perform such work as defined by their respective licensing board. The design professional shall date, sign and seal all design documents according to the requirements and standards as set out by their licensing board.~~
- ~~Typical industry standards of care shall be used in the design, analysis and preparation of plans in accordance with rules and requirements of the applicable licensing board.~~

This certification is provided this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, to comply with the provisions of the Pender County Unified Development Ordinance.

\_\_\_\_\_  
(Engineer Signature)

Seal

\_\_\_\_\_  
(Engineer Name)

## APPENDIX E    CONDITIONAL ZONING DISTRICTS

In accordance with Section 3.4 Conditional Rezoning; the following conditional zoning districts are established and applied to each subject property as set forth on the official zoning map. Each conditional district (bearing the designated CD on the official zoning map) corresponds to the underlying general use district. All zoning requirements that apply to the general use district are also applicable in the conditional district unless adopted conditions are more restrictive.

<b>Case Number</b>	<b>Change Requested</b>	<b>Final Action</b>
11034	From RP to RA-CD1	Approved 12/9/13
11031-R	From PD to OI-CD1	Approved 1/20/15
CZMA 132-2015	From RP to RM-CD1	Approved 12/3/15
CZMA 160-2016	From RP to RA-CD2	Approved 5/16/16
CZMA 305-2016	From RP to RM-CD2	Approved 11/21/16
CZMA 367-2016	From PD to IT-CD1	Approved 11/21/16
CZMA 448-2017	Amend RM-CD2 for additional acreage (From RP to RM-CD2)	Approved 3/20/2017
CZMA 497-2017	From RP to GB-CD1	Approved 6/19/2017
CZMA 519-2017	From PD to GB-CD2	Approved 6/19/2017

**CASE 11034**

**Rezoning Proposal:** EFS Properties, LLC, applicant and owner, is requesting approval of a Zoning Map Amendment for a Conditional Rezoning from RP, Residential Performance, to RA-CD1, Rural Agricultural – Conditional District for the use of a Nonmetallic Mineral Mining and Quarrying (NAICS 2123) operation.

**Property Record Numbers, Acreage, and Location:** The property is located along the north side of NC Highway 210, approximately 3,400 feet northeast of the intersection of Shaw Hwy and NC Hwy 210, Rocky Point. The property contains approximately 55.69 acres and may be identified as Pender County PIN 3255-78-6248-0000.

**Summary:** This proposal consists of a Zoning Map Amendment for a conditional rezoning of 55.69 acres from RP, Residential Performance, to RA-CD1, Rural Agricultural – Conditional District, for the use of a Nonmetallic Mineral Mining and Quarrying (NAICS 2123), specifically for a sand mine. The request complies with the criteria set forth in Article 3.4.4 of the Unified Development Ordinance. The request is consistent with the 2010 Comprehensive Land Use Plan.

**Project Description:** According to the applicant's submitted site plan and supporting materials, the site will contain several areas associated with the sand excavation. These areas, as depicted within Table 1 below will contain areas for temporary sediment collection, stockpile areas, and the pit/excavation area. Adjacent to the excavation area, will contain an office/construction trailer for on-site staff when the mine site is active. Ingress/egress to the site will utilize a driveway connection to NC Highway 210, subject to review and approval from the NCDOT.

**Table 1**

<b>CATEGORY</b>	<b>AFFECTED ACREAGE</b>
Tailings/Sediment Ponds	0.86
Stockpiles	1.65
Wastepiles	0
Processing Area/Haul Roads	1.45
Mine Excavation	12.7
Other	0
<b>Total Disturbed Acreage</b>	<b>16.66</b>

It is anticipated that the mine excavation will commence and be active for approximately three years. The State Mining Application (Attachment 1) submitted is requesting a ten year approval, this is in part due to demand of the excavated material and is requested to allow for the full ten year state allowance. Excavation activities will be limited to a frontend loader and truck as there will be no explosives used on site. The maximum depth of the mine will be limited to twenty (20') feet below the natural ground level, which is a decrease from the applicant's original request of thirty (30') feet due in part to address community concerns of impacts that may be caused to wells.

The anticipated mine depth will require dewatering activities on site. The applicant has stated that this will not exceed 5,000 gallons per day (gpd). As outlined within Attachment 1, there are not any wells located within 500' of the excavation area. This is confirmed through statement provided by Pender County Utilities (November 28, 2012 phone conversation).

The project will incorporate a minimum of a 100' No Disturb Area surrounding the excavation area, stockpile, and temporary sediment trap. Any areas outside of the limits of disturbance will maintain the existing natural vegetation.

According to the Pender County Unified Development Ordinance, a public input meeting must be held with the adjacent property owners to discuss concerns and evaluate mitigating factors that may be conditioned with the application. On September 25, 2013, Mr. Charles Cazier, Professional Engineer, held the required meeting at the county administrative building, Pender County planning staff was present. The meeting was attended by four individuals in which the main topics brought up for discussion were: *effects to wells within the area; concerns of depth of mine; values of adjacent properties; and the intention of future site use.* As a resultant of the meeting and comments, the applicant has proposed to reduce the maximum mine depth from thirty (30') feet to twenty (20') feet. Also, it has been stated that the resultant of the mine will be a pond feature that could be utilized for future residential development on the tract.

As a criterion for a conditional rezoning request, mutually established conditions must be met between the applicant and the county for the project. Staff has met with the applicant to discuss the project and review proposed conditions. The applicant has verbally accepted these conditions and are proposed in this report (see item F) under EVALUATION.

**Approval:** On December 9, 2013 the Pender County Board of Commissioners approved a Zoning Map Amendment for a Conditional Rezoning from RP, Residential Performance, to RA-CD1, Rural Agricultural – Conditional District as described herein.

**Conditions of Approval:**

1. Maximum depth of the pit/excavation area will be limited to twenty (20') feet in depth measured from the natural ground level.
  2. Hours of operation shall be from 7am to 7pm Monday through Saturday.
  3. Mining/extraction activities on-site shall be limited to three (3) years.
  4. Material mined/extracted shall be limited to sand only.
  5. The project shall comply with all applicable requirements as outlined in the Pender County Unified Development Ordinance.
  6. No junk, debris, trash, inoperable vehicles, recycled or salvaged materials shall be stored on the site.
  7. All operations must follow federal, state, and local standards, regulations, ordinances, permits, statutes, and/or laws.
  8. As shown on the site plan submitted for the project, a No Disturb Buffer of at least 100' shall be maintained around the permitted Pit/Excavation Area.
  9. Dewatering of the excavation site utilizing pumping mechanisms shall be prohibited.
-

**CASE 11031-R**

**Rezoning Proposal:** Pender County, applicant and owner, is requesting approval of a zoning map amendment for a conditional rezoning of one (1) tract from PD, Planned Development zoning district, to OI-CD1, Office & Institutional conditional zoning district. The proposed use of the property— the existing Pender Solid Waste Transfer Station and proposed Hampstead Convenience Center— shall be classified as NAICS, North American Industry Classification System Number 562111- Solid Waste Collection Public.

**Property Record Numbers, Acreage, and Location:** The subject property is located at 248 Transfer Station Road (SR 1695) in Hampstead, and may be further identified by Pender County PIN 4203-17-8616-0000. There is one (1) tract associated with this request totaling ± 19.21 acres.

**Summary:** The application consists of a zoning map amendment for a conditional rezoning of one (1) tract (± 19.21 acres total) from PD, Planned Development zoning district, to OI-CD1, Office & Institutional conditional zoning district. The proposed use of the property— the existing Pender Solid Waste Transfer Station and proposed Hampstead Convenience Center— shall be classified as NAICS, North American Industry Classification System Number 562111- Solid Waste Collection Public. A conditional rezoning of this property to OI-CD1, Office & Institutional conditional zoning district is consistent with three (3) policies in the 2010 Comprehensive Land Use Plan and conflicts with one (1) policy. It is also in conflict with the 2010 Comprehensive Land Use Plan conservation designation of this tract. However, all County-owned property was designated as conservation in 2010. A public meeting was held on November 10, 2014 to address the potential impacts to adjacent property owners.

**Project Description:** Pender County, applicant and owner, is requesting approval of a zoning map amendment for a conditional rezoning of one (1) tract totaling ± 19.21 acres from PD, Planned Development zoning district, to OI-CD1, Office & Institutional conditional zoning district. The proposed use of the property— the existing Pender Solid Waste Transfer Station and proposed Hampstead Convenience Center— shall be classified as NAICS, North American Industry Classification System Number 562111- Solid Waste Collection Public. The subject property is located at 248 Transfer Station Road (SR 1695) in Hampstead, and may be further identified by Pender County PIN 4203-17-8616-0000.

The Solid Waste Transfer Station is currently on the site and is operated by Pender Solid Waste. The Transfer Station's primary purpose is to serve as a collection location for all incorporated and unincorporated municipal solid waste in Pender County. All municipal solid waste collected at the Transfer Station is transported to a landfill located in Sampson County. This operation is six days a week Monday through Saturday from 8am until 4:30pm and is available to the general public, private collectors, and municipal collectors. Pender Solid Waste anticipates this facility has the capacity to accept municipal solid waste, including growth, for the next fifteen to twenty (15-20) years.

On November 15, 2010 the Board of Commissioners voted 4-0 to relocate the scales and associated scale house for the County's Transfer Station in coordination with the Hawksbill Cove Master Development Plan proposal (case 10771), which received conditional Planning Board approval for 1,023 single-family residential units on October 2, 2012. This consent included ingress/egress to the Transfer Station solid waste facilities on a new location within the County's site and the future right of way connection in the current scale location.

The Hampstead Convenience Center is currently located at 17619 US HWY 17 in Hampstead. This property may be further identified by Pender County PIN 3293-98-7023-0000. The Hampstead Convenience Center is one of twelve (12) centers throughout the County to provide for convenient disposal of general household waste and recycled materials. The Hampstead Convenience Center will be relocated from its present location to 248 Transfer Station Road (SR 1695) as part of this conditional rezoning request.

**Public Input Meeting Summary:**

According to Pender County Unified Development Ordinance Section 3.4.3, prior to scheduling a public hearing on the rezoning application, the applicant must conduct one public input meeting. On November 10, 2014, Pender Solid Waste held the required meeting at the Pender County Hampstead Annex located at 15060 US HWY 17. The meeting was attended by three (3) individuals. At the meeting, the applicant introduced the proposed site plan and discussed the following items:

1. Project will be in two (2) phases – scale relocation followed by the Hampstead Convenience Center relocation;
2. The scales will not be relocated until Transfer Station Road (SR 1695) is extended by the developer of Hawksbill Cove, necessitating the scale relocation;
3. The proposed NCDOT bypass is not the major impetus for the Hampstead Convenience Center relocation; rather, it is safety concerns;
4. Construction for the Hampstead Convenience Center relocation will begin in approximately one year from the subject public input meeting;
5. Proposed OI-CD1 rezoning will not affect the zoning of adjacent PD, Planned Development zoning districts;
6. A formal public hearing will be held on Jan. 6, 2015 where concerns can also be voiced;
7. An eight-foot (8') shadow box fence is proposed as a visual buffer around the northwest and southwest perimeter of the project area.

The attendees of the meeting had the following concerns:

1. Traffic, noise, and groundwater contamination;
2. Diminishment of property values;
3. Illegal dumping on adjacent properties;
4. Litter and debris along Transfer Station Road (SR1695);
5. Feeding and establishment of feral cats.

**Approval:** On January 20, 2015 the Pender County Board of Commissioners approved a zoning map amendment for a conditional rezoning from PD, Planned Development zoning district, to OI-CD1, Office & Institutional conditional zoning district as described herein.

**Conditions of Approval:**

1. Pender Solid Waste shall continue to monitor existing groundwater wells as required by the local regulatory authority;
2. Pender Solid Waste shall coordinate with selected contractor, at the request of adjacent property owners, to remove errant waste disposed of on adjacent properties;
3. Pender Solid Waste shall coordinate with selected contractor to establish a schedule to litter-sweep Transfer Station Road (SR 1695);

4. Promoting the feeding of animals that may constitute a nuisance or hazard on-site shall be prohibited;
  5. Pender Solid Waste shall install a shadow box fence ten (10) feet in height along the northwest and southwest sides of the project area in order to minimize the visual impact for adjacent property owners. This height shall be increased as necessary to provide a visual barrier to the Hampstead Convenience Center prior to final zoning approval. Additionally, Pender Solid Waste shall provide a vegetated buffer twenty (20) feet in width along the southwest side of the project area and a quarter of the way up the northwest side of the project area. The buffer shall consist of broadleaf evergreen vegetation that is six (6) feet in height at planting and ten (10) feet in height within four (4) years of planting. The vegetated buffer shall be visually-opaque at maturity. The buffer shall contain no vegetation that is toxic to horses or any other livestock (As recommended at the January 6, 2015 Planning Board meeting);
  6. Hours of operation for the Transfer Station shall be Monday through Saturday from 8:00am to 4:30pm;
  7. Hours of operation for the Hampstead Convenience Center shall be Monday through Saturday from 7:00am to 7:00pm and Sunday from 1:00pm to 7:00pm;
  8. Operators shall inspect the site daily, and any windblown trash shall be disposed of in appropriate containers. When conditions are extremely dry, the operator shall have water and hoses to wet down surfaces as necessary;
  9. No sorting, separation, or material recovery shall be conducted at the Transfer Station;
  10. Disposal of items that are banned from solid waste landfills shall not be allowed at the Pender County Solid Waste Transfer Station. Loads shall be occasionally screened by operators to ensure compliance;
  11. A major site development plan shall be required prior to issuance of permit for the construction of any building or improvement on the site.
-

**CASE 132-2015 (11458)**

**Rezoning Proposal:** Grey Bull Inc., applicant, on behalf of Linda Kaye Howard Taylor et al, owner, is requesting approval of a Zoning Map Amendment for a conditional rezoning of one (1) tract totaling approximately 120.87 acres from RP, Residential Performance zoning district to RM-CD1, Residential Mixed conditional zoning district. The proposed uses within the RM-CD1, Residential Mixed conditional zoning district are; telecommunication tower, single family dwelling conventional detached and other typical neighborhood amenities or project infrastructure. All other uses will be prohibited unless an alteration is made to the approval. It is the applicant's intention to develop the site for a single family residential subdivision. There are 106 proposed residential units on the subject parcel.

**Property Record Numbers, Acreage, and Location:** The subject property is located to the east of US HWY 17, to the south and west of the residential subdivision Forest Sound, and to north of the residential subdivision Hampstead on the Sound in Hampstead and may be further identified by Pender County PIN 3292-27-2690-0000.

**Summary:** The application consisted of a conditional rezoning of one (1) tract totaling approximately 120.87 acres from RP, Residential Performance zoning district to RM-CD1, Residential Mixed conditional zoning district. As submitted, the request complies with all criteria set forth in Section 3.4.4 Review Criteria for Rezoning of the Pender County Unified Development Ordinance and is not in conflict with the 2010 Comprehensive Land Use Plan. The application is consistent with three (3) goals and thirteen (13) policies of the 2010 Pender County Comprehensive Land Use Plan and potentially conflicts with one (1) policy. At their October 13, 2015 meeting the Pender County Planning Board unanimously recommended approval of the conditional rezoning request with the conditions as outlined in this report.

**Project Description:** The proposed uses within the RM-CD1, Residential Mixed conditional zoning district are; telecommunication tower, single family dwelling conventional detached and other typical neighborhood amenities or project infrastructure. All other uses will be prohibited unless an alteration is made to the approval. It is the applicant's intention to develop the site for a single family residential subdivision. There are 106 proposed residential units on the subject parcel.

The minimum lot size proposed is 6,800 sq. ft. and a proposed maximum height of forty (40) feet. Setbacks of this conditional rezoning are below:

	Proposed Setbacks (in feet)	RP Zoning District Setbacks (in feet)
Front Yard	5	30
Side Yard	5	10
Corner Yard	5	15
Rear Yard	10	25
Chord Length	40	30

*Utilities*

The Applicant is proposing a public water connection to Pender County Utilities and all review and approvals for the public water service are per Pender County Utilities Department. An intent to service letter was provided by the applicant on behalf of Old North State Water Company LLC. to service 110 single family residential units. The applicant shall work directly with Old North State Water Company LLC. and Pender County for wastewater approval for service to each phase of the development prior to final approval. Old North State Water Company LLC. currently operates the

Majestic Oaks wastewater package plant and the subject parcel is proposing connection into the same plant for wastewater services.

#### *Open Spaces*

The applicant is required to provide 3.18 acres of open space with at least 1.59 acres of active open space.

#### *Recreational Units*

With 106 lots proposed the applicant is required to provide 1.5 recreational units, which equates to \$15,000. The Applicant intends to develop the recreation facilities within the subject property; a commercial outdoor fitness equipment for the residents to utilize while they are walking throughout the subdivision. There are also “senior playgrounds” where unit has component that are geared toward increasing the balance, coordination and agility of the adult users.

#### *Public Roadways*

A public collector roadway will connect Forest Sound Road (private) to Second Street (SR 1616). This roadway is recommended in the 2007 Coastal Pender Collector Street Plan in Figure 4.1 as a priority new collector with bicycle facilities.

#### *Private Roadways*

The Applicant has provided evidence of legal rights for ingress and egress through Forest Sound Road (private) from the subject property. The access point and use of Forest Sound Road (private) shall be in accordance with the current HOA of Forest Sound and their road maintenance agreement on this private roadway.

#### *Traffic*

A Traffic Impact Analysis (TIA) is required for this development.

#### **Public Input Meeting Summary:**

According to Pender County Unified Development Ordinance Section 3.4.3, prior to scheduling a public hearing on the rezoning application, the applicant must conduct one public input meeting. On September 2, 2015 the Applicant held a Community Meeting at the Auditorium of the Hampstead Annex at 4:30PM in accordance with Section 3.4.3 of the Pender County Unified Development Ordinance. Approximately sixty (60) citizens were present at the meeting; concerns raised at this community meeting include but were not limited to;

1. type of product and the projected price point
2. timeframe for construction build out
3. impact on schools
4. planned roadway improvements and the coordination of the U-5732 Hampstead Superstreet
5. traffic and safety at Forest Sound Rd. (private) driveway with US HWY 17
6. maintenance of Forest Sound Rd. (private)
7. construction traffic
8. wetlands, drainage and other environmental impacts
9. safety of neighborhood and the private boat ramp
10. the unknown potential of the stub connection shown on the southwestern portion of the proposal
11. future land use and growth patterns of the County
12. appropriate buffers
13. buildout if the conditional rezoning proposal is not approved
14. utilities connections.

Following the Community Meeting, the Applicant has met with Forest Sound HOA Representatives to devise a list of mutually established conditions to further expand upon on the concerns.

**Approval:** On November 23, 2015 the Pender County Board of Commissioners approved a zoning map amendment for a conditional rezoning from RP, Residential Performance zoning district to RM, Residential Mixed conditional zoning district 1 as described herein.

**Conditions of Approval:**

The conditions for this project as approved by the Board of County Commissioners are as follows:

1. Uses allowed shall be limited to one hundred and six (106) Single Family Detached Conventional housing type as defined typical neighborhood amenities and project infrastructure, as well as an approved telecommunication tower (Case 10965). A “single-family detached residence” shall be a dwelling unit located on a single lot with private yards on all four sides.
2. The Applicant shall submit an approved Traffic Impact Analysis (TIA) prior to the approval of any phases of the development proposal.
3. Buffers

a. The project shall provide a twenty (20) foot buffer within common area along Forest Sound Road (private) where single family lots are proposed and are adjacent to the private road right of way through a combination of existing vegetation and supplemental plantings to preserve community cohesiveness with the adjacent Forest Sound neighborhood to the extent practical. Buffer plantings shall be installed in addition to existing natural growth on the property where existing vegetation and natural growth does not meet the required buffer.

The plantings shall consist of indigenous trees and shrubs such as but not limited to; wax myrtles, red cedars, oak species, maples and other similar species. The specific plantings shall have a minimum plant size in accordance with the Pender County Unified Development Ordinance (Section 8.1.6) including; for canopy trees a minimum of a two (2) inch caliper measured at four and a half (4.5) feet above ground and planted thirty (30) feet on center or as a mature canopy tree may dictate and for understory trees a minimum of four (4) feet in height at planting.

Landscape and buffer maintenance shall be the responsibility of the homeowners association and referenced within the restrictive covenants and subsequently recorded in the Pender County Register of Deeds. All buffer installation is required prior to the Final Plat approval of any phase.

b. Applicant met with adjacent property owners located on Second Street (SR 1616) where the platted right of way exists located within the legal description of “Lot 1 & 2” and “Lot 19 & 20” on Map Book 8 Page 27 Hampstead on the Sound Section 5 and both parties agreed to mutually define, establish, and install a landscape buffer equal to ten (10) feet in width measured from the outside boundary of the NCDOT right of way identified as Second Street (SR 1616) and the side yard of each property aforementioned.

The plantings shall consist of indigenous trees and shrubs such as but not limited; to wax myrtles, red cedars, oak species, maples and other similar species as available. The specific plantings shall be a minimum of two (2) inch caliper. All buffers shall be installed by the Applicant at Applicant’s expense and maintained by property owners as mutually agreed upon.

The developer shall work with NCDOT in the installation of any additional driveway accesses requested by the property owners on Second Street (SR 1616) and culverts, if any, to allow for access to existing rear yards.

c. The project shall contain a twenty (20) foot landscape easement measured from the rear of the lots on the eastern property boundaries (Grovediere Lane), specifically lot numbers 20-23 as depicted on the Conditional Rezoning Site Plan dated September 14, 2015. The easement shall require the Applicant and property owners for these lots to maintain existing and natural vegetation. The easement shall serve as a perpetual vegetative buffer between adjacent properties. Responsibility of maintenance shall be conveyed to each individual property owner and referenced and enforced by the rights conveyed to the homeowners association through the bylaws and restrictive covenants recorded at the Pender County Register of Deeds.

#### 4. Roadways

a. The Applicant shall collaborate with the Forest Sound Homeowners Association, herein FSHA, to devise a Road Maintenance Agreement specifically to address improvements and long-term maintenance of Forest Sound Road (private) from the site entrance to US HWY 17. The applicant has agreed to resurface Forest Sound Road (private) and enter into a mutually satisfactory Agreement, herein "Agreement", with the FSHA to effectuate the same. The Agreement will define the resurfacing to meet or exceed the current NCDOT Subdivision Roads (Secondary Roads) Standards for resurfacing. All improvements are required prior to the approval of Final Plat for any phase.

b. If there are any changes requested to the site plan presented with this Conditional Rezoning or if additional single family residential structures are proposed, the project shall be reevaluated in accordance with Pender County Unified Development Ordinance standards. If future development is proposed, roadway connection to Davis Road and Lea Drive Extension (SR 1614) will be revaluated.

5. The Applicant and FSHA have collaborated independently from Pender County to mutually agree upon a private agreement to assist in alleviating some of the concerns FSHA expressed as a result of the proposed development. Some of the terms and conditions of the private agreement contain provisions for the following;

a. Privacy through funding a private gate entrance designed and maintained by FSHA.

b. Formal education by Applicant delivered to each future homeowner of the proposed residential subdivision through written documents, such as but not limited to Restrictive Covenants, maps, and notices, outlining the easements, buffers and various private property areas of the FSHA and the necessary legal requirements to adhere to the private property restrictions in place to protect unauthorized access of the same.

6. The applicant shall direct site work involved with the construction of the project to the greatest extent possible to ingress on Second Street (SR 1616 )and egress on Forest Sound Road (private) to distribute traffic equitably as not to decrease service at any intersection or negatively increase safe conditions to the network (Added at 11/23/2015 Board of County Commissioners Meeting).

## CASE 160-2015

**Rezoning Proposal:** Charlotte P. Kelly, applicant and owner, requested a conditional zoning map amendment for one (1) tract totaling approximately 0.47 acres from RP, Residential Performance zoning district to RA-CD 2, Rural Agricultural zoning district. The approval is to allow only the following NAICS uses: 453 Miscellaneous Store Retailers, 7222 Limited Service Eating Places and 445 Food and Beverage Stores.

**Property Record Numbers, Acreage, and Location:** The subject property, located at 5230 Point Caswell Road, recorded on Register of Deeds Book 403 Page 528, is located near the intersection of Point Caswell Road (SR 1128) and Rooks Road (SR 1126) in the Caswell Township and may be further identified by Pender County PIN: 2257-66-1048-0000.

**Summary:** The approval is to allow only the following NAICS uses: 453 Miscellaneous Store Retailers, 7222 Limited Service Eating Places and 445 Food and Beverage Stores.

**Public Input Meeting Summary:**

According to Pender County Unified Development Ordinance Section 3.4.3, prior to scheduling a public hearing on the rezoning application, the applicant must conduct one public input meeting. On February 22, 2016 the Applicant held a community meeting in accordance with Section 3.4.3 of the Pender County Unified Development Ordinance. Two citizens participated and on February 22, 2016 both adjoining landowners submitted emails to the applicant that they did not object to this conditional zoning map amendment.

**Approval:** On May 16, 2016 the Pender County Board of Commissioners approved a zoning map amendment for a conditional rezoning from RP, Residential Performance zoning district to RA-CD2, Rural Agricultural zoning district 2 as described herein.

**CASE 305-2016**

**Rezoning Proposal:** DRC Hampstead, LLC., applicant, on behalf of Jesse F. Lea Sr et al, owner, is requesting approval of a Conditional Zoning Map Amendment for three (3) tracts totaling approximately 78.39 acres from RP, Residential Performance zoning district to RM-CD 2, Residential Mixed conditional zoning district 2. The request is to allow the following NAICS uses only: conventional single family detached homes, multifamily and associated neighborhood amenities in a proposed residential mixed use development known as Sparrows Bend. The project proposal consists of 137 conventional single family detached homes and 228 multifamily units.

**Property Record Numbers, Acreage, and Location:** The subject properties are located to the west of US HWY 17 and along the east side of Hoover Road (SR 1569). The subject properties are in the Topsail Township and may be further identified by Pender County PINs 3293-01-5693-0000, 3293-11-0659-0000 and 3293-01-9640-0000.

**Project Description:** This application consists of a conditional rezoning of three (3) tracts totaling approximately 78.39 acres from RP, Residential Performance zoning district to RM-CD 2, Residential Mixed conditional zoning district 2. The density proposed on the entire tract is 7.1 units per acre.

The proposed uses within the RM-CD 2, Residential Mixed conditional zoning district 2 are only to include; single family dwelling conventional detached (NAICS 236117), multifamily housing (NAICS 236116) and other typical neighborhood amenities or project infrastructure as described in the Applicant's narrative and demonstrated on the Applicant's site plan. All other uses will be prohibited unless an alteration is made to the approval. Any changes to the requested petition shall be processed in accordance with amendments to the zoning map and in accordance with Section 3.4 of the Pender County Unified Development Ordinance.

It is the Applicant's intention to develop the site for a single family residential subdivision and a multifamily housing complex. There are 137 proposed residential units on single family lots and 228 multifamily units in 10 (ten) apartment buildings on the subject parcel. The multifamily units will range between 1 (one) and 3 (three) bedrooms according to the Applicant.

**Setbacks**

According to the submitted site plan; the minimum lot size proposed is 6,000 sq. ft. and the maximum lot size proposed is 12,000 sq. ft. As proposed, the maximum height of the single family units is 35 feet. The maximum height of the multifamily buildings is 45-feet. Setbacks of this conditional rezoning are below:

Location	Approved Setback (in feet)
Front Yard	5
Side Yard	5
Corner Yard	5
Rear Yard	10
Chord Length	40

*Density*

<b>DENSITY CALCULATIONS</b>	
Total Apartment Units: 228 Total Single Family Units: 137 Grand Total Units: <b>365</b>	
Total Acreage	<b>78.39</b>
Total Non-Residential Acreage (ROW, parking, sidewalks)	<b>10.14</b>
Total Wetlands Acreage (11.65) – Total Passive Open Space (5.45)	<b>5.59</b>
Total Open Space (.03 acres/unit)	<b>10.95</b>
Active Open Space	6.43
Passive Open Space	6.06
Total Developable Land Acreage	<b>51.53</b>
Maximum Allowable Density Units/Acre (max. 5du/ac allowed)	<b>257.66</b>
Total Proposed Density Units/Acre using 399 units	<b>7.1</b>

The Applicant’s intent is to utilize Low Impact Design (LID) measures to the greatest extent possible and to preserve mature existing vegetation, according to the submitted site plan and their narrative. Exceptional design locations have been identified on the site plan. The Applicant has listed on the site plan types of exceptional design that may be included in this development. These include bio-retention systems/rain gardens, the use of permeable pavement, water harvesting systems, swales and infiltration basins. These activities are all supported in the NC State Low Impact Development Guidebook.

*Buffers*

The buffers provided are consistent with the buffer requirements in the Pender County Unified Development Ordinance Section 8.2.8, Project Boundary Buffer. The south project border is proposed to be a B-3 Buffer. The north project border is proposed to be a B-4 Vegetative Buffer. The east project border is proposed to be a C-4 Buffer. The western project border is proposed to be a B-4 Vegetative Buffer, as well as undisturbed project area.

The applicant has initiated a property transfer with property owners that abut Old Marsh Road (private). Although not finalized, the density calculations were performed without the acreage proposed to be involved in this transfer. The purpose of this transfer is to give the property owners the land they have historically utilized for access to their properties, which currently belongs to the Applicant. Additionally, there is still a 10-foot buffer with a fence proposed in this area.

*Recreational Units*

With 365 units proposed the applicant is required to provide 4 (four) recreational units, which equates to \$40,000. This can be installed on the property, approved in conjunction with the Parks and Recreation Master Development Plan or a payment in lieu of dedication can be made as the Board deems appropriate. The Applicant intends to develop the recreation facilities within the subject property. The Parks and Recreation Supervisor stated in her TRC report that a playground should be installed for children ages 2-12. The Applicant has agreed to provide this amenity as requested, and has demonstrated it on the site plan.

*Traffic*

A Traffic Impact Analysis has been conducted and the traffic impact has been scoped by the WMPO. The approved project includes 34 less units than originally were proposed in the TIA.

**Public Input Meeting Summary:**

On July 12, 2016 the Applicant held a Community Meeting at the Hampstead Annex Auditorium from 4:00 PM until 5:30 PM in accordance with Section 3.4.3 of the Pender County Unified Development Ordinance. Approximately 13 citizens were present at the meeting; the roster can be found in Attachment 6. A report of the community meeting can be found in Attachment 9. Concerns raised at this community meeting include but were not limited to:

1. Adequate buffers between existing uses and the proposed project are necessary (fence or berm suggested)
2. Motorists are traveling too fast on Hoover Road (SR 1569). This may be exacerbated with a new development.
3. There is an existing drainage problem around the Kingsport residential subdivision.
4. Peak traffic hour congestion is present at the Hoover Road (SR 1569) and US HWY 17 intersection.
5. Multi-family housing may decrease single family home values.

Following the Community Meeting, the Director of Planning and Community Development contacted the NCDOT regarding the perceived speeding on Hoover Road (SR 1569). He requested information on a previously completed study that considered lowering the speed limit from 45 miles per hour to 35 miles per hour. A written response was provided stating that the conditions observed in the area did not warrant a reduction in speed.

**Approval:** On November 21, 2016 the Pender County Board of Commissioners approved a zoning map amendment for a conditional rezoning from RP, Residential Performance zoning district, to RM-CD2, Residential Mixed conditional zoning district 2 as described herein.

**Conditions of Approval:**

1. Specific approval of density bonus, not to exceed 7.1 units per acre.
2. Finalization of property exchange along Old Marsh Road.
3. Installation of 10-foot fence on western property boundary.

**CASE 367-2016**

**Rezoning Proposal:** Rocky Point Holdings, LLC., applicant, on behalf of Jack Stocks and Rocky Point Holdings, LLC, owners, is requesting approval of a Conditional Zoning Map Amendment for a portion of one (1) tract and the entirety of another tract totaling approximately 18.11 acres from PD, Planned Development zoning district to IT-CD 1, Industrial Transitional conditional zoning district 1. The request is to allow Warehousing (NAICS 493110).

**Property Record Numbers, Acreage, and Location:** The subject properties are located along Carver Road (SR 1437) approximately 3,000 feet west of the intersection with NC 133 and Carver Road (SR 1437) in the Rocky Point Township and may be further identified by Pender County PINs: 3223-53-8360-0000 and 3223-55-9108-0000.

**Project Description:** The project as proposed will be composed of two (2) parcels. The first parcel is made up of approximately 4.51 acres and currently houses a Filmwerks facility that was permitted through the Master Development Plan process. There are no changes proposed to the existing development on this portion of the site. The second part of this project includes a 13.6 acre portion of a 162.7 acre parcel owned by Jack Stocks. This portion is proposed to be split off from the parent track at a later date.

The proposed uses within the IT-CD, Industrial Transitional conditional zoning district are only to include NAICS 493110: General Warehousing and Storage. By definition, this industry comprises establishments primarily engaged in operating merchandise warehousing and storage facilities. These establishments generally handle goods in containers, such as boxes, barrels, and/or drums, using equipment, such as forklifts, pallets, and racks. They are not specialized in handling bulk products of any particular type, size, or quantity of goods or products.

It is the Applicant's intention to develop the site for a 100,000 square foot metal warehouse structure to be used both for storage and construction of items associated with Filmwerks. Filmwerks produces stages for broadcasting and products associated with backup power sources. The Applicant proposes to construct a new access onto the southwest side of Carver Road (SR 1437) that will range between 28-feet and 30-feet wide and will require approval by NCDOT. The Applicant has also proposed two (2) wet detention basins, a 15-20 foot vegetated buffer, an exterior parking and storage area, and 20 additional parking spaces. All other uses will be prohibited unless an alteration is made to the approval.

**Height:**

As approved, the building height will be forty (40) feet high, consistent with IT, Industrial Transitional regulations listed in Section 4.14 of the Unified Development Ordinance Zoning District Dimensional Requirements. The maximum height in this district is fifty (50) feet.

**Setbacks:**

Location	Approved
Front	399.4'
Side	50.1' Left 300.2' Right
Rear	48.6'

**Public Input Meeting Summary:**

On September 20, 2016, the Applicant held a Community Meeting at the existing Filmwerks facility at 589 Carver Road in Rocky Point at 5:30 pm in accordance with Section 3.4.3 of the Pender County Unified Development Ordinance. Letters inviting adjacent property owners were mailed to the community on September 9, 2016. No representatives from the public attended this meeting or called for further information on the project.

**Approval:** On November 21, 2016 the Pender County Board of Commissioners approved a zoning map amendment for a conditional rezoning from PD, Planned Development zoning district, to IT-CD1, Industrial Transitional conditional zoning district as described herein.

**Conditions of Approval:**

1. Building shall be painted or colored green to blend in with the landscape and existing building

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CASE 448-2017

**Rezoning Proposal:** DRC Hampstead, LLC., applicant and owner, is requesting approval of a Conditional Zoning Map Amendment Revision and Preliminary Plat review for four (4) parcels totaling approximately 87.87 acres in the RM-CD2, Residential Mixed Conditional zoning district 2. The request is to add approximately ten (10) acres and twelve (12) single family dwellings from the original approval. The current project proposal consists of 228 apartment units and 149 single family homes with associated neighborhood amenities. The subject properties are located along the north side of US HWY 17 and may also be accessed from the east side of Hoover Road (SR 1569).

**Property Record Numbers, Acreage, and Location:** The subject properties are in the Topsail Township and may be further identified by Pender County PINs: 3293-01-5693-0000, 3293-11-0659-0000, 3293-01-9640-0000 and 3292-02-1695-0000.

**Project Description:** The Board of County Commissioners approved the RM-CD2, Residential Mixed conditional zoning district 2 on November 21, 2016 for the subject parcels. Following the conditional approval, the applicant did not submit an amended plan for administrative zoning review and approval.

The proposal consists of amending a previously conditionally zoned property by adding to the adjacent parcel to the RM-CD2, Residential Mixed conditional zoning district 2. The proposed RM-CD2, Residential Mixed conditional zoning district 2 equals approximately 87.87 acres.

The applicant proposes amending the total number of single family dwelling lots to 149 by adding approximately ten (10) acres of the adjacent parcel. The adjacent property has been purchased by the applicant and will be recombined to add to the overall project area. The proposed uses within the RM-CD 2, Residential Mixed conditional zoning district 2 are only to include; single family dwelling conventional detached (NAICS 236117), multifamily housing (NAICS 236116) and other typical neighborhood amenities or project infrastructure as described in the Applicant’s narrative and demonstrated on the Applicant’s site plan. All other uses will be prohibited unless an alteration is made to the approval. Any changes to the requested petition shall be processed in accordance with amendments to the zoning map and in accordance with Section 3.4 of the Pender County Unified Development Ordinance.

	Previously Approved RM-CD2 District November 2016	Proposed RM-CD2 District February 2017
Single Family Units Proposed	137 units	149 units
Multi-Family Units Proposed	228 units (10 buildings)	228 units (10 buildings)
<b>Total Number Units</b>	365 units	377 units

Proposed Density	5.84 units per acre
Previously Approved RM-CD2 Density	7.1 units per acre

### Open Spaces

	November 2016	February 2017
<b>Open Spaces Required (in acres)</b>	10.95	11.31
<i>Active Open Space</i>	5.475	5.965
<i>Passive Open Space</i>	5.475	5.655
<b>Open Space Provided (in acres)</b>	12.49	18.83
<i>Active Open Space</i>	6.43	7.79
<i>Passive Open Space</i>	6.06	11.04

### Lot Sizes

	RM-CD2 zoning district
<b>Front Yard</b>	5 feet
<b>Side Yard</b>	5 feet
<b>Corner Yard</b>	5 feet
<b>Rear Yard</b>	10 feet
<b>Chord Length</b>	40 feet
<b>Height</b>	
<i>Single Family Units</i>	35 feet
<i>Multi-Family Units</i>	45 feet
<b>Minimum Lot Size</b>	6,000 square feet
<b>Maximum Lot Size</b>	12,000 square feet

### Services

The Applicant is proposing a public water connection to Pender County Utilities and all review and approvals for the public water service are per Pender County Utilities.

### Recreation Units

With 377 units proposed the applicant is required to provide 4 (four) recreational units, which equates to \$40,000. The Applicant intends to develop the recreation facilities within the subject property. The Parks and Recreation Supervisor stated in her TRC report that a playground should be installed for children ages 2-12, and the applicant has committed to such on their submitted site plan. Also provided is a recreation building, pool and a 2,500 sq. ft. dog park.

### Traffic

A Traffic Impact Analysis (TIA) is required for this development.

### Public Input Meeting Summary:

On January 12, 2017 the Applicant held a Community Meeting at the Hampstead Annex Auditorium from 6:00 PM until 7:30 PM in accordance with Section 3.4.3 of the Pender County Unified Development Ordinance. Approximately 9 citizens were present at the meeting. A report of the community meeting can be found in Attachment 9. Concerns raised at this community meeting include but were not limited to:

1. Location of project entrances;
2. General project information including number of units proposed;
3. Relationship to adjacent parcels;
4. Drainage and traffic improvements.

**Approval:** On March 21, 2017 the Pender County Board of Commissioners approved a zoning map amendment for a conditional rezoning from RP, Residential Performance zoning district to RM, DE 2 Residential Mixed conditional zoning 2 district as described herein.

**Conditions of Approval:**

1. Density not to exceed 5.84 units per acre
2. Finalization of property exchange along Old Marsh Road.
3. Amend the project boundary buffers; on the southern property bounds (nearest Old White Marsh access easement) is required as a C type, instead of what is shown as a B-1 buffer. It is recommended that the applicant construct a C-1 or C-2 buffer with a higher fence in order to meet the previous condition and the requirement for the C type buffer.
4. A 15 foot easement along the subject properties connection to Hoover Road (SR 1569). The applicant had agreed in the November 2016 on their submitted site plan to coordinate with Pender County on this easement dedication in compliance with the Pender County Collector Street Plan.
5. No individual lot access to the parcels to be created along Collector Street A, as demonstrated on the submitted site plan.
6. Extension of the sidewalk located on Collector Street A to the extent of the project bounds in order to connect with the commercial properties along US HWY 17.
7. Alternative parking areas shall be provided

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**Case 497-2017**

**Rezoning Proposal:** Hampstead Investment Holdings, LLC., applicant and owner, is requesting approval of a conditional zoning map amendment for two (2) tracts totaling approximately ±2.22 acres from RP, Residential Performance zoning district to GB-CD 1, General Business conditional zoning district 1. The request is to allow the storage of boats and watercraft outdoors on dry stack structures, an existing fishing supply store (NAICS 451110), an existing food and beverage store (NAICS 445), and associated parking and landscaping.

**Property Record Numbers, Acreage, and Location:** The subject properties are located at the terminus of Lewis Road (SR 1564) approximately 3,000 feet east of the intersection of Sloop Point Loop Road (SR 1563) and Lewis Road (SR 1564) in the Topsail Township and may be further identified by Pender County PINs: 4224-02-5093-0000 and 4224-01-5894-0000.

**Project Description:** The ±2.22 acres are currently occupied by a commercial use, as described in the History Section of this report. In addition to the existing retail store, the applicant proposes a dry stack storage facility. The proposal also includes a parking area, stormwater facilities, and temporary boat staging for the boats stored in the dry stack to be transferred into the water. The applicant proposes 224 dry stack storage spots. There are no permanent wet slips proposed. The applicant also proposes to use low impact design (LID) features such as underground stormwater containment or permeable pavement. An adjacent dock and boat ramp service the Pecan Grove Homeowner' Association, with the State of North Carolina's public boat ramp further to the south.

**Proposed Uses:** The proposed uses within the GB-CD1, General Business conditional zoning district 1 are to include the storage of boats and watercraft outdoors or on dry stack structures, an existing fishing supply store (NAICS 451110), and an existing food and beverage store (NAICS 445). NAICS Sector 451110 industry comprises of establishments primarily engaged in retailing new sporting goods, such as bicycles and bicycle parts; camping equipment; exercise and fitness equipment; athletic uniforms; specialty sports footwear; and sporting goods, equipment, and accessories. This includes fishing supply stores, such as the one currently operating on-site. NAICS Sector 445 usually retails food and beverage merchandise from fixed point-of-sale locations. The GB, General Business zoning district is designed to accommodate uses which require close access to major highways. The district is established to provide convenient locations for businesses which serve the needs of surrounding residents, including office, retail, and personal service uses.

All other uses or expansions will be prohibited unless an alteration is made to the approval. Any changes to the requested petition shall be processed in accordance with amendments to the zoning map and in accordance with Section 3.4 of the Pender County Unified Development Ordinance.

**Proposed Height and Setbacks** According to Section 5.3.13.F. of the Pender County Unified Development Ordinance, dry stack storage found in the definition of a marina (commercial) must follow;

- 1) Setbacks

- a) Up to 35' in height: 100' front and 50' sides and rear.
- b) Between 36' to 50' in height: Add two (2) additional feet of setback for every one foot in height above 35'.

The applicant intends on applying b) above for additional height on the dry stack storage beyond 35 feet in height. The structures are proposed at 43 feet in height. Which is 8 feet above the required setback for dry stack storage.

Additionally, as this is an LID project per Section 7.14.B details: LID Projects in the RA, RP, GB, OI, and IT zoning districts shall be allowed a 50% reduction in the Minimum Lot Width, Minimum Chord Length at ROW Line for “cul de sac’s”, Minimum Front, Side, and Rear Yards, and Minimum Required Structure Separation. Meaning that in order to further reduce the setback, the applicant may employ LID measures. Section 7.14.A states that in order for a project to utilize the variations to dimensional standards as prescribed in Section 7.14.B, the applicant shall submit a certification from a licensed professional stating that the project conforms to all of the Low Impact Development (LID) criteria found in the Ordinance.

Setback Location	Setback Required (in feet)	Height Allowable (in feet)
Front Yard	100	35
Side and Rear Yards	50	
Setback Location	Setback Provided (in feet)	Height As Proposed (in feet)
Front Yard	66	43
Side and Rear Yards	41	

For every two (2) feet in setback the applicant earns one (1) additional foot in height. The Applicant has provided 16 additional setback feet which would allow for 8 feet in height allowance over the required 35 feet.

**Public Input Meeting:** On March 13, 2017, the Applicant held a Community Meeting at the Pender County Hampstead Annex at 6:00 pm in accordance with Section 3.4.3 of the Pender County Unified Development Ordinance. Letters inviting adjacent property owners were mailed to the community on March 1, 2017 (Attachment 1). Two (2) representatives from the public attended this meeting to gather further information on the project.

**Approval:** On June 19, 2017, the Pender County Board of Commissioners approved a zoning map amendment for a conditional rezoning from RP, Residential Performance zoning district, to GB-CD1, General Business conditional zoning district as described herein.

**Conditions of Approval:**

1. There shall be no more than 1 boat trailer parked on the site.
2. All parking associated with the proposed use shall be contained on-site.
3. The applicant shall take proactive steps to ensure that there is no stacking on Lewis Road (SR 1564).
4. A minimum of Forty-two (42) on-site parking spaces shall be required based on comments received at the May 2, 2017 Board of Commissioners hearing.

**Case 519-2017**

**Rezoning Proposal:** Monkey Junction Mini Storage, applicant, on behalf of Pinnacle Property of Hampstead and Michael D. Hoover, owners, is requesting the approval of a Conditional Zoning Map Amendment for four (4) tracts totaling approximately 9.41 acres from PD, Planned Development zoning district to GB-CD2, General Business conditional zoning district 2. This request is to allow for multi-unit self-storage units (NAICS 531130).

**Property Record Number, Acreage, and Location:** The subject properties are located along the west side of US HWY 17 approximately  $\pm$  2,500 feet to the north of the intersection of US HWY 17 and Sloop Point Loop Road (SR 1563) in the Topsail Township and may be further identified by Pender County PINs: 4204-76-8504-0000, 4204-86-1659-0000, 4204-77-7047-0000, and 4204-77-3088-0000.

**Description:** The proposed development consists of ten (10) detached storage buildings totaling 185,325 square feet of storage space with an additional office space of 1,200 square feet. "Multi-unit self-storage units", which includes industries primarily engaged in renting or leasing space for self-storage.

**Proposed Use:** The proposed uses within the GB, General Business zoning district are to include the use of multi-unit, self-storage units (NAICS 531130). NAICS Sector 531130 industry comprises of establishments primarily engaged in renting or leasing space for self-storage. The applicant also proposes storage of boats and recreational vehicles. The GB, General Business zoning district is designed to accommodate uses which require close access to major highways. The district is established to provide convenient locations for businesses which serve the needs of surrounding residents, including office, retail, and personal service uses.

All other uses or expansions will be prohibited unless an alteration is made to the approval. Any changes to the requested petition shall be processed in accordance with amendments to the zoning map and in accordance with Section 3.4 of the Pender County Unified Development Ordinance.

**Setbacks:** Per Section 4.14, Zoning District Dimensional Requirements, the setback requirements for the GB, General Business zoning district are as follows:

<b>Dimensional Standards for GB Zoning District</b>	<b>RequiredSetback</b>	<b>Provided Setback</b>
Min. Front Yard	25'	25'
Min. Side Yard	10'	10'
Min. Corner Yard	12'	N/A
Min. Rear Yard	10'	10'

**Public Input Meeting**

The public meeting was held on April 20, 2017, at the Hampstead Annex from 6 to 7:30 PM. Approximately fifteen (15) residents of the surrounding properties participated in the community

meeting. Topics of the meeting ranged from traffic and access concerns, drainage, building locations, buffering, and property values. Lengthy discussions were held regarding the building aesthetics and impact that buildings 'I' and 'J' will have on the surrounding properties. Based on the results of the community meeting, staff formulated the suggested conditions found within this report based on conversations with community and the applicant in an attempt to mitigate these concerns.

**Approval:** On June 19, 2017, the Pender County Board of Commissioners approved a zoning map amendment for a conditional rezoning from PD, Planned Development zoning district, to GB-CD2, General Business conditional zoning district as described herein.

**Conditions of Approval:**

1. All outdoor lighting shall be located in a manner that will not direct light on adjacent properties.
2. A C-2 Buffer containing a 15 foot wide strip with a 6 foot high wood stockade, basket weave, or other solid wood fence and an evergreen hedge that will provide a continuous screen at least 6' high within 4 years and 1 canopy tree, 4 understory trees and a grass cover of at least 98 % coverage (except within 4 feet of the base of any tree), per 100 linear feet along the entire westernmost property line near building 'J'.
3. Architectural design standards for structures along US HWY 17 shall follow the submitted artistic rendering submitted by the applicant, as shown in Attachment 4, containing a brick façade and two-story columns.

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