



City of Southport, NC

# Unified Development Ordinance

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Unified Development Ordinance

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## Article 1: General Provisions

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## 1.1 TITLE

This ordinance shall be known and may be cited as the City of Southport Unified Development Ordinance (UDO). This ordinance may be referred to as “this ordinance” of which contains zoning, subdivision, signage, wireless telecommunication, and other land development regulations.

## 1.2 AUTHORITY

- A. This ordinance is adopted pursuant to the authority contained in North Carolina General Statute (NCGS) 160A-174 which states that a city may, by ordinance, define, prohibit, regulate, or abate acts, omissions, or conditions detrimental to the health, safety, or welfare of its citizens and the peace and dignity of the city, and may define and abate nuisances.
- B. Zoning provisions enacted herein are under the authority of NCGS 160D-702, which extends to cities the authority to enact regulations which promote the health, safety, morals, or the general welfare of the community.
- C. Subdivision provisions enacted herein are under the authority of NCGS 160D, Article 8 which provide for the coordination of streets within proposed subdivisions with existing or planned street and with other public facilities, the dedication or reservation of recreation areas serving residents of the immediate neighborhood within the subdivision, or alternatively, for the provision of funds to be used to acquire recreation areas serving residents of more than one neighborhood in the immediate area, and for the distribution of population and traffic in a manner that will avoid congestion and overcrowding.
- D. This UDO, which combines zoning and subdivision authority, is further enacted under the authority of NCGS 160D-103.

## 1.3 EFFECTIVE DATE

The provisions in this ordinance were originally adopted September 23, 2020 and became effective on September 23, 2020 and as subsequently amended.

## 1.4 JURISDICTION AND ZONING MAP

- A. This ordinance shall be effective throughout the city’s planning jurisdiction. The city’s planning jurisdiction comprises the area within the corporate boundaries of the city as well as the extraterritorial area as shown on the “Official Zoning Map” for the City of Southport. Such planning jurisdiction may be modified from time to time in accordance with NCGS 160D-202.
- B. A copy of the official zoning map showing the boundaries of the city’s planning jurisdiction shall be available for public inspection in the Planning and Inspections Department office. The map may be in paper or digital format.

## 1.5 INTERPRETATION OF ZONING DISTRICT BOUNDARIES

Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the UDO Administrator shall employ the following rules of interpretation:

- A. Boundaries indicated as approximately following the centerlines of alleys, streets, highways, streams, or railroads shall be construed to follow such centerline;
- B. Boundaries indicated as approximately following lot lines, city limits, or extraterritorial boundary lines, shall be construed as following such lines, limits, or boundaries;
- C. Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as following such shorelines;
- D. Where a district boundary divides a lot each part of the lot or tract so divided shall be used in conformity with the regulations established by this ordinance for the district in which said part is located, nor shall a change in lot line be construed to have modified a zoning district boundary;
- E. Where any street or alley is hereafter officially vacated or abandoned, the regulations applicable to each parcel of abutting property shall apply to that portion of such street or alley added thereto by virtue of such vacation or abandonment.
- F. Where any further uncertainty exists, the UDO Administrator shall interpret the intent of the map as to location of such boundaries.

## 1.6 RELATIONSHIP TO EXISTING ZONING AND SUBDIVISION ORDINANCES

- A. To the extent that the provisions of this ordinance are the same in substance as the previously adopted provisions that they replace in the city's zoning and subdivision ordinances, they shall be considered as continuations thereof and not as new enactments unless otherwise specifically provided. In particular, a situation that did not constitute a lawful, nonconforming situation under the previously adopted zoning ordinance does not achieve lawful nonconforming status under this ordinance merely by the repeal of the previous ordinance(s).
- B. Any violation of the previous zoning ordinance or subdivision regulations shall continue to be a violation under this ordinance and any other applicable ordinances, laws, or statutes. Violations of this ordinance shall be subject to the penalties set forth herein, and any other applicable ordinances, laws, or statutes, unless the use, development, construction, or other activity complies with the express terms of this ordinance.

## 1.7 INTERPRETATION AND CONFLICT

In interpreting and applying the provisions of this ordinance, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, prosperity and general welfare. It is not intended by this ordinance to interfere with, abrogate, or annul any easements or covenants between parties; provided, however, that where this ordinance imposes a greater restriction upon land development, the use of land or buildings, or requires larger open spaces than are imposed or required by other ordinances, rules, regulations or by easements, covenants, or agreements, the provisions of this ordinance shall govern.

## 1.8 RELATIONSHIP TO THE COMPREHENSIVE PLAN

It is the intention of the Board of Aldermen that this ordinance implement the planning policies adopted by the Board of Aldermen for the city and its extraterritorial planning area, as reflected in the comprehensive plan and other planning documents. While the Board of Aldermen

reaffirms its commitment that this ordinance and any amendment to it be in conformity with adopted planning policies, the Board of Aldermen hereby expresses its intent that neither this ordinance nor any amendment to it may be challenged on the basis of any alleged nonconformity with any planning document.

## 1.9 NO DEVELOPMENT OR LAND DISTURBANCE UNTIL COMPLIANCE WITH THIS ORDINANCE

- A. No land shall be developed, occupied, or used without full compliance with the provisions of this ordinance and all other applicable City, County, State, and Federal laws, rules, and regulations. Compliance with regulations from the following agencies may be required prior to issuance of any land development permit: US Fish and Wildlife Service, US Army Corp of Engineers, Brunswick County Environmental Health, NC Division of Coastal Management, NC Department of Transportation, and/or the NC Department of Environmental Quality among others.
- B. No alteration of vegetation, trees, or landscape material in excess of three (3) inches DBH shall occur on a lot or building site prior to the issuance of a zoning or tree removal permit. Some clearing of understory trees and shrubs may be required to prepare a site for survey, inspection by governmental agencies as part of any permitting process, or to stake the proposed building site.
- C. On densely vegetated lots, a walking access trail not to exceed three (3) feet may be cleared for access purposes. Permission to clear any understory trees and shrubs less than three (3) inches DBH for said walking access shall be permitted following consultation with the UDO Administrator; however, clearing shall be kept to an absolute minimum.

## 1.10 COMPUTATION OF TIME

- A. Unless otherwise specifically provided, the time within which an act is to be done shall be computed by excluding the first and including the last day. If the last day is a Saturday, Sunday, or legal holiday, that day shall be excluded. When the period of time prescribed is less than seven days, intermediate Saturdays, Sundays, and holidays shall be excluded.
- B. Unless otherwise specifically provided, whenever a person has the right or is required to do some act within a prescribed period after the service of a notice or other paper upon him and the notice or paper is served by mail, three (3) days shall be added to the prescribed period.

## 1.11 SEVERABILITY

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

## 1.12 FEES

- A. Reasonable fees sufficient to cover the costs of administration, inspection, publication of notice and similar matters may be charged to applicants for zoning permits, sign permits, special use permits, subdivision plat approval, zoning amendments, variances, appeals and any other applicable land development permit. The amount of the fees charged shall be as set forth in the city's budget or as established by resolution of the Board of Aldermen filed in the office of the city clerk.
- B. Fees established in accordance with Subsection (A) shall be paid upon submission of a signed application and no application shall be considered complete without submission of the applicable fee.

## Article 2: Administration and Procedures

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## 2.1 GENERAL

This article contains powers and duties, approval procedures, amendment procedures, and enforcement mechanisms. The following bodies and city staff have powers and responsibilities in administering this ordinance, reviewing applications for development/subdivision proposals, hearing matters of a quasi-judicial nature, or amendments under this ordinance:

- A. Board of Alderman
- B. Planning Board
- C. Board of Adjustment
- D. UDO Administrator

## 2.2 BOARD OF ALDERMEN

### A. POWERS AND DUTIES

The Board of Aldermen has the following responsibilities in relation to this ordinance:

1. Hear and decide applications for zoning map and text amendments to this ordinance.
2. Hear and decide proposals for Major Subdivision Preliminary and Final Plats, as specified in this ordinance.
3. Establish rules of procedure for the conduct of hearings and other proceedings before the Board of Aldermen.
4. Make the necessary appointments to the Planning Board and Board of Adjustment.
5. Such other actions as are, or may be, authorized by North Carolina General Statutes (NCGS) Chapter 160D.

### B. CONFLICTS OF INTEREST

A Board of Aldermen member shall not vote on any legislative decision regarding a development regulation adopted pursuant to this ordinance where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.

## 2.3 PLANNING BOARD

### A. POWERS AND DUTIES

The Planning Board has the following responsibilities in relation to this ordinance:

1. Acquire and maintain in current form such basic information and materials as are necessary to an understanding of past trends, present conditions, and forces at work to cause changes in these conditions.
2. Prepare and from time to time amend and revise a comprehensive and coordinated plan for the physical, social, and economic development of the area.
3. Establish goals and policies for guiding action in the development of the area.

4. Prepare and recommend to the Board of Aldermen ordinances promoting orderly development along the lines indicated in the comprehensive plan.
5. Review and recommend to the Board of Aldermen proposals for any zoning map or text amendment.
6. Review and recommend to the Board of Aldermen applications for Major Subdivision Preliminary and Final Plats, as specified in this ordinance.
7. Hear and decide applications for Major Site Plans, as specified in this ordinance.
8. Determine whether specific proposed developments conform to the principles and requirements of the comprehensive plan for the growth and improvement of the area.
9. Keep the Board of Aldermen and the general public informed and advised as to these matters.
10. Make recommendations for the timely implementation of programs to meet the goals and policies as adopted in the comprehensive plan.
11. Perform any other duties which may be lawfully assigned to it.
12. The Planning Board shall review and report as recommendations to the Board of Aldermen upon the extent, location, and design of all public structures and facilities, on the acquisition and disposal of public properties, and on the establishment of building lines. However, in the absence of a recommendation from the Planning Board, the Board of Aldermen may after the expiration of thirty (30) days from the date on which the questions have been submitted in writing to the Planning Board for review and recommendation, take final action.
13. Attend planning conferences or meetings of planning institutes or hearings upon pending planning legislation.

#### B. MEMBERSHIP, VACANCIES, AND MEETINGS

1. The Planning Board shall consist of seven (7) members and two (2) alternate members. Five (5) members and one (1) alternate member shall be citizens and residents of the city and shall be appointed by the Board of Aldermen. Two (2) members and (1) alternate member shall be citizens and residents of the extra-territorial jurisdiction of the city as described pursuant to NCGS 160D-307 and shall be appointed by the Brunswick County Board of Commissioners. All members shall serve a term of three (3) years. The Chairman and Vice-Chairman shall serve a term of one (1) year and may be reappointed following the end of the term at the discretion of the Planning Board.
2. The city clerk will advertise for vacancies when they occur. All candidates, including board members whose terms are expiring and who are seeking reappointment, must have an application no less than 30 days prior to the Board of Aldermen meeting in which the selection(s) are made and [no older than 90 days prior to the date of vacancy] on file with the city clerk's office and must inform the clerk they wish to be considered for the vacant position. All applicants must be interviewed by a committee, selected by the Board of Aldermen, consisting of two (2) Board of Aldermen members and the Chairman of the Planning Board. If the Chairman's term is expiring and he/she wants to apply for

reappointment, the Vice-Chairman of the Planning Board will be selected for the committee. The committee will make recommendations to the Board of Aldermen for the vacant position(s). Any citizen who has filed a current application and completed the interview shall be eligible for nomination. Citizens who have not met these requirements are not eligible for nomination to the Planning Board. The city clerk will place the applications of all candidates who meet these requirements in the agenda packets prior to the meeting in which the selection(s) are made.

3. Alternate members shall not be entitled to vote on matters before the Planning Board except when a regular Planning Board member is absent from a duly called meeting. In that situation, the alternate shall have the same privileges as the regular members and may count for quorum purposes and vote if a regular member is absent. Vacancies occurring for reasons other than expiration of terms shall be filled as they occur for the period of the unexpired term. Faithful attendance at the meetings of the board is considered a pre-requisite for the maintenance of membership on the board. Extraterritorial representatives shall have equal rights, privileges, and duties with the other members of the board to which they are appointed, regardless of whether the matters at issue arise within the city or within the extraterritorial area.
4. Meetings of the Planning Board will normally occur on the third Thursday of the month at a time and place designated by the board and shall be open to the public. A quorum shall consist of four (4) members of the board.
5. All regular members may vote on any issue unless they have disqualified themselves for one or more of the reasons listed in Section 2.3(C). A vote of a majority of the members present and voting shall decide issues before the board.
6. Special meetings may be called by the Chairman. It shall be the duty of the Chairman to call such a meeting upon a recommendation of the board. During a special meeting, no other business may be considered except that which was specified by advanced notice. The city clerk shall notify all members of the board in writing not less than five (5) days in advance of such special meeting. Notice of time, place, and subject of such meeting shall be published in a newspaper having general circulation in the City of Southport when possible.
7. The order of business at regular meetings shall be as follows:
  - a) Call to Order;
  - b) Approval of Minutes of Previous Meetings;
  - c) Approval of the Agenda;
  - d) Public Input;
  - e) Unfinished Business;
  - f) New Business;
  - g) Announcements;
  - h) Adjournment.

8. The petitioner or applicant who is on the agenda may withdraw the petition or application at any time; but if a motion is pending to make a recommendation to grant or deny, such motion shall have precedence.

#### C. RULES OF CONDUCT

Members of the Board may be removed for cause, including violation of any rule stated below:

1. Faithful attendance at all meetings of the Board and conscientious performance of the duties required of members of the Board shall be considered a prerequisite of continuing membership on the Board. Absence from four (4) regularly scheduled Board meetings during any one calendar year shall be considered cause for a recommendation to the Board of Aldermen of dismissal from the Board.
2. Members of the Planning Board shall not vote on recommendations regarding any zoning map, text amendment, or development approval where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member or where the member has a close familial, business, or other associational relationship.
3. No board member shall discuss any case with any parties thereto prior to the meeting on that case; provided however, that members may receive and/or seek information pertaining to the case from any other member of the board, or staff prior to the meeting. Board members shall disclose publicly any contact made by any party to a matter before the board.
4. Members of the board shall not express individual opinions on the proper judgment of any case with any parties thereto prior to the board's determination of that case. Violation of this rule shall be cause for dismissal from the board.

#### D. BASIC STUDIES

As background for its comprehensive plan and any ordinances it may prepare, the Planning Board may gather maps and aerial photographs of manmade and natural physical features of the area, statistics on past trends and present conditions with respect to population, property values, the economic base of the community, land use, and such other information as is important or likely to be important in determining the amount, direction, and kind of development to be expected in the area and its various parts. The Planning Board may make studies as to the community's social, economic, as well as its physical needs. In addition, the Planning Board may make, cause to be made, or obtain special studies on the location, condition, and adequacy of specific facilities, which may include but are not limited to studies of housing; commercial and industrial facilities; parks, playgrounds, and recreational facilities; public and private utilities; and traffic, transportation, and parking facilities. All city officials shall, upon request, furnish to the Planning Board such available records or information as it may require in its work. The board or its agents may, in the performance of its official duties, enter upon lands and make examinations or surveys and maintain necessary monuments thereon.



#### E. COMPREHENSIVE PLAN

1. The comprehensive plan, with the accompanying maps, charts, and descriptive matter, shall be the Planning Board's recommendations to the Board of Aldermen for the development of such territory, including, among other things, the general location, character, and extent of streets, bridges, boulevards, parkways, playgrounds, squares, parks, aviation fields, and other public ways, grounds, and open spaces; the general location and extent of public utilities and terminals, whether publicly or privately owned or operated, for water, light, sanitation, transportation, communication, power, and other purposes; the removal, relocation, widening, narrowing, vacating, abandonment, change of use, or extension of any of the foregoing ways, buildings, grounds, open spaces, property, utilities, or terminals; and the most desirable patterns of land use within the area.
2. The plan and any ordinances or other measures to effectuate it shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted, and harmonious development of the city and its environs which will, in accordance with present and future needs, best promote health, safety, morals, and the general welfare, as well as efficiency and economy in the process of development; including, among other things, adequate provisions for traffic, the promotion of safety from fire and other dangers, adequate provision for light and air, the promotion of the healthful and convenient distribution of population, the promotion of good civic design and arrangement, wise and efficient expenditure of public funds, and the adequate provision of public utilities, services, and other public requirements and the improvement of the community social and economic attributes.

#### F. ZONING AND SUBDIVISION REGULATIONS

1. The Planning Board may initiate, from time to time, proposals for amendment of this ordinance, based upon its studies and comprehensive plan. In addition, it shall review and make recommendations to the Board of Aldermen concerning all proposed amendments to this ordinance.
2. The Planning Board shall review, from time to time, the need for regulations for the control of land subdivision in the area and submit to the Board of Aldermen its recommendations, if any, for adoption or revision of such regulations.

#### G. PLANNING BOARD PROCEDURES FOR REPORTING TO THE BOARD OF ALDERMEN

The Planning Board will submit copies of all minutes of its regular and special meetings to the Board of Aldermen. Minutes shall be submitted to the city clerk within seven (7) days of approval of the minutes by the Planning Board.

#### H. ADVISORY COUNCIL AND SPECIAL COMMITTEES

1. The Planning Board may establish an unofficial advisory council and may cooperate with this council to the end that its investigations and plans may

receive fullest consideration, but the board may not delegate to such advisory council any of its official prerogatives.

2. The Planning Board may set up special committees, of up to three members, to assist in the study of specific questions and problems.

## 2.4 BOARD OF ADJUSTMENT

### A. POWERS AND DUTIES

The Board of Adjustment is established to conduct hearings in a quasi-judicial manner as provided in this ordinance in the course of the following:

1. Deciding whether variances from the requirements of this ordinance should be granted. Nothing in this ordinance shall be construed to authorize the Board of Adjustment or other approval body to permit a use in a district where that use is neither a permitted use nor Special Use.
2. Hear, review, and decide appeals from any final order, final decision of this ordinance, or official determination made by the UDO Administrator in the performance of official duties. Administratively review appeals from interpretation and enforcement of this ordinance by an official which is subject to an administrative appeal.
3. Hear and decide applications for Special Use Permits, as specified in this ordinance.
4. Pass upon, decide, or determine such other matters as may be required by this ordinance.

### B. MEMBERSHIP, VACANCIES, AND MEETINGS

1. The City of Southport Board of Adjustment is hereby created under the authority of NCGS 160D-302.
2. The Board of Adjustment shall consist of seven (7) members and two (2) alternate members. Five (5) members and one (1) alternate member shall be citizens and residents of the city and shall be appointed by the Board of Aldermen. Two (2) members and one (1) alternate member shall be citizens and residents of the extraterritorial jurisdiction of the city as described pursuant to NCGS 160D-307 and shall be appointed by the Brunswick County Board of Commissioners. The members of the board serving on the effective date of this ordinance, under the ordinance effective prior hereto, shall be considered as the five (5) members to be appointed by the Board of Aldermen, and each of these members shall serve the balance of the term to which he was appointed. The members of the board shall be appointed for terms of three (3) years.
3. The alternate members shall serve on the board in the absence or temporary disqualification of any regular member or to fill a vacancy pending appointment of a member. Alternate members shall be appointed for the same term, at the same time, and in the same manner as regular members. Each alternate member, while attending any regular or special meeting of the board and serving

on the behalf of any regular member, shall have and may exercise all the powers and duties of a regular member.

4. The Board of Adjustment shall elect one (1) of its members as Chairman and another as Vice- Chairman who shall serve for one (1) year. The city clerk, or designee, shall serve as secretary to the Board of Adjustment. The board shall draw up and adopt the rules of procedures under which it will operate. Meetings of the board shall be held at the call of the Chairman and at such other times as the board may determine. The Chairman, or in his absence, the Acting Chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon every question, or his absence or failure to vote, indicating such fact, and also keep records of its examination and any other official action.
5. The city clerk will advertise for vacancies when they occur. All candidates, including board members whose terms are expiring and who are seeking reappointment, must have an application no less than 30 days prior to the Board of Aldermen meeting in which the selection(s) are made and [no older than 90 days prior to the date of vacancy] on file with the city clerk's office and must inform the clerk they wish to be considered for the vacant position. All applicants must be interviewed by a committee, selected by the Board of Aldermen, consisting of one (1) appointed Board of Aldermen liaison and the Chairman of the Board of Adjustment. If the Chairman's term is expiring and he/she wants to apply for reappointment, the Vice-Chairman of the Board of Adjustment will be selected for the committee. The committee will make recommendations to the Board of Aldermen for the vacant position(s). Any citizen who has filed a current application and completed the interview shall be eligible for nomination. Citizens who have not met these requirements are not eligible for nomination to the Board of Adjustment. The city clerk will place the applications of all candidates who meet these requirements in the agenda packets prior to the meeting in which the selection(s) are made.
6. A quorum of the Board of Adjustment, necessary to conduct any business of the BOA, shall consist of four (4) members.
7. Pursuant to NCGS 160D-109(d), a member of the board or any other body exercising the functions of the Board of Adjustment shall not participate in or vote on any quasi-judicial matter in a manner that would violate an affected persons' constitutional rights to an impartial decision maker. Impermissible conflicts include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

8. For the purposes of this subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered “members of the board” for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

#### C. QUASI-JUDICIAL DECISIONS AND JUDICIAL REVIEW

1. The Board of Adjustment shall determine contested facts and make its decision within a reasonable time. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record and subject to the procedures provided in NCGS 160D-406 . Each quasi-judicial decision shall be reduced to writing and reflect the board’s determination of contested facts and their application to the applicable standards. The written decision shall be signed by the Chairman or other duly authorized member of the Board of Adjustment. A quasi-judicial decision is effective upon filing the written decision with the clerk to the Board of Adjustment. The decision of the board shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective. The person required to provide notice shall certify that proper notice has been made.
2. Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to NCGS 160D-1402. A petition for review shall be filed with the clerk of superior court by the later of 30 days after the decision is effective or after a written copy thereof is given in accordance with section (1) of this subsection. When first-class mail is used to deliver notice, three (3) days shall be added to the time to file the petition.

## 2.5 UDO ADMINISTRATOR

### A. POWERS AND DUTIES

The duty of the UDO Administrator is to assure enforcement of the provisions of this ordinance. The UDO Administrator is empowered to do those things set forth in this ordinance and other ordinances as specified as necessary to carry out his/her duties. The UDO Administrator shall be appointed by the city manager. It is the intention of this ordinance that all questions arising in connection with enforcement and interpretation shall be presented first to the UDO Administrator. Appeal from the UDO Administrator’s decision shall be to the Board of Adjustment. In administering the provisions of this ordinance, the UDO Administrator shall:

1. Make and maintain records of all applications for land development permits and requests, and records of all permits issued or denied, with notations of all special conditions or modifications involved.
2. Make interpretations and determinations of this ordinance as requested.
3. Modify typographical errors, spelling changes, numerical reference errors, errors in section or page numbering or other purely non-substantive editorial changes without formal adoption by the Board of Aldermen provided that such corrections do not change the meaning of the ordinance and any correction

- made pursuant to this section shall be reported in writing to the Board of Aldermen and made a part of the board's regular meeting minutes.
4. File and safely keep copies of all plans submitted, and the same shall form a part of the records of his or her office and shall be available for inspection at reasonable times by any interested party.
  5. Transmit to the appropriate board or commission and the Board of Aldermen all applications and plans for which their review and approval is required.
  6. Conduct inspections of premises and, upon finding that any of the provisions of this ordinance is being violated, notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. In exercising this power, staff are authorized to enter any premises within the jurisdiction of the city at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials; provided, however, that the appropriate consent has been given for inspection of areas not open to the public or that an appropriate inspection warrant has been secured.
  7. Except as otherwise provided by law, the UDO Administrator shall administer, review and enforce the city's land development ordinances and all approvals issued under the same. All development approvals shall be issued in writing. Any development approval issued exclusively in electronic form shall be protected from further editing once issued.
  8. In addition to powers and duties of the official enumerated herein, the UDO Administrator shall have all those powers set forth in other provisions of this ordinance and those provided in NCGS Chapter 160D.
  9. The UDO Administrator or any staff member shall not make a final decision on an administrative decision required by this ordinance if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship. If a staff member has a conflict of interest under this section, the decision shall be assigned to the supervisor of the staff person or such other staff person as may be designated by the development regulation or other ordinance.
  10. No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under this ordinance unless the staff member is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with the city to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the city, as determined by the Board of Aldermen.



## 2.6 COMMON REVIEW PROCEDURES

### A. COMPLETE APPLICATIONS

All applications for any approval required by this ordinance must be complete. Applicants who submit incomplete applications will receive a written notice stating the information needed to complete the application and a date by which the information must be submitted to maintain the review schedule. No application for any provision of this ordinance will be considered complete until all fees required by the city's fee schedule have been paid in full.

Upon receipt of an application, the UDO Administrator shall determine if the application is complete. A complete application is one that:

1. Contains all information and materials established by the UDO Administrator and/or the requirements of this ordinance as required for submittal of the particular type of application.
2. Is in the form established by the UDO Administrator as required for submittal of the particular type of application.
3. Includes information in sufficient detail to evaluate the application to determine whether it complies with the appropriate substantive standards of this ordinance.
4. Is accompanied by the fee established for the particular type of application.
5. Is signed by the property owner, a designated owner's agent, or a contract purchaser of a property with authorization of the property owner. Written proof of authority must be submitted with every application.

### B. ZONING PERMIT

1. A zoning permit shall be required for changes of use or of any of the following: all new principal and accessory structures; enlargements of existing structures; construction/installation of fences/walls, piers, docks, decks, stairs, signs, and driveways; and/or any activity which proposes to increase the amount of impervious square footage on a lot.
2. It shall be unlawful to commence site preparation or excavation for the construction of any building or other structure including accessory structures or to commence the moving, alteration or repair of any structure or the use of any land or building including accessory structures, or the paving, site disturbance, tree removal, or other installation or construction of a hardened surface upon the site, until the UDO Administrator has issued a zoning permit for such work or use.
3. Zoning permits shall be void after one (1) year from date of issue if the use has not commenced. Unless substantial progress has been made or a building permit has been issued, an applicant must reapply for a zoning permit or submit an application for approval of vested rights in accordance with provisions of this ordinance.

4. Zoning permits are transferable so long as the land or structures or any portion thereof covered under a permit continues to be used for the purposes for which the permit was granted.
5. A completed application form for a zoning permit shall be submitted to the UDO Administrator. An application for a zoning permit must be accompanied by the applicable minor site plan, major site plan, or any other plan as required by this ordinance.
6. The UDO Administrator shall issue the zoning permit if the proposed activity set forth in the application is in conformity with the provisions of this ordinance and any applicable approved plans.

#### C. BUILDING PERMIT

1. Unless exempted in accordance with the State Building Code or NCGS 160D-1110, before commencing the construction, erection, repair, alteration, addition to, or moving of any building or structure or part thereof, or before commencing any excavation for such building or structure, or any form of activity pertaining to buildings and building regulations, a building permit for the same shall be obtained from the applicable building inspector with responsibility over building code and related matters. Compliance with all applicable provisions of the City's Building Code shall be required prior to the issuance of a building permit. Building permit shall be valid for six months in accordance with NCGS 160D-1111.
2. Before commencing the removal or demolition of any building or structure or part thereof, a building permit authorizing said removal or demolition shall be obtained from the building inspector.

#### D. TREE REMOVAL PERMIT

Tree removal permits shall be issued by the UDO Administrator for any proposed removal or alteration of a regulated tree, as defined by this ordinance, and in accordance with Article 3: Zoning.

#### E. FLOODPLAIN DEVELOPMENT PERMIT

Floodplain development permits shall be issued by the UDO Administrator for all development located within the Special Flood Hazard Area (SFHA) in accordance with Article 5: Flood Damage Prevention Ordinance.

#### F. SIGN PERMIT

Sign permits shall be issued by the UDO Administrator in accordance with Article 3: Zoning.

#### G. STORMWATER PERMIT

Stormwater permits shall be issued by the Public Services Director in accordance with Article 6: Stormwater Discharge Control Ordinance.

#### H. CAMA PERMIT

CAMA permits shall be issued by the Division of Coastal Management or designated City Local Permit Officer for any development within a regulated Area of Environmental Concern as defined by NCGS 113A-113.

#### I. ANNUAL ZONING PERMIT FOR HOMESTAYS AND SHORT-TERM VACATION RENTALS

An annual zoning permit is required for certain land uses, including Homestays and Short-Term Vacation Rentals. The UDO Administrator shall issue homestay and Short-Term Vacation Rental permits in accordance with Article 3: Zoning. These annual zoning permits must be renewed each year before the expiration date and in accordance with the terms of this UDO. The Annual Zoning Permit for Homestays and Short-Term Vacation Rentals is valid from January 1 thru December 31 in the year of issue and must be renewed annually. In addition, the annual zoning permit for a nonconforming Short-Term Vacation Rental located in a residential zoning district must be renewed by the property owner of record prior to the expiration of the existing zoning permit to maintain the nonconforming use. Failure to maintain a valid zoning permit for a nonconforming short-term vacation rental will result in forfeiture of all legal rights and claims to continue that use.

#### J. MODIFICATION OF PERMITS OR APPROVALS

1. Insignificant deviations from the permit (including approved plans and conditional district rezoning) issued by the Board of Aldermen, the Planning Board, the Board of Adjustment, or the UDO Administrator are permissible and the UDO Administrator may authorize such insignificant deviations unless classified as a major change as provided below.
2. Major changes to approved permits, plans, and conditions of development may be authorized only by the permit issuing authority in the same manner as outlined in this article for original submission. Major changes include, but are not limited to:
  - a) Change in use.
  - b) Any increase in development density; such as, increase in density of units, whether residential, office, commercial or industrial; an increase in number of off-street parking or loading spaces; or an increase in impervious surface area.
  - c) An increase in overall ground coverage by structures.
  - d) A change in any site dimension by more than 10 percent.
  - e) A reduction in approved open space or screening.
  - f) A change in access and internal circulation design.
3. The UDO Administrator shall determine whether amendments to and modifications of permits constitute an insignificant deviation or a major change as described herein.
4. A developer requesting approval of changes shall submit a written request for such approval to the UDO Administrator, and that request shall identify the changes. Approval of all changes must be given in writing.

#### K. PERMIT REVOCATION

1. Any permit required by this ordinance may be revoked by the permit-issuing authority (in accordance with the provisions of this section) if the permit recipient fails to develop or maintain the property in accordance with the plans submitted, the requirements of this ordinance, or any additional requirements lawfully imposed by the permit-issuing board.
2. Before a special use permit may be revoked, all of the notice and hearing requirements as provided in NCGS 160D-406(b) shall be complied with. The notice shall inform the permit recipient of the alleged grounds for the revocation.
3. Before any other permit may be revoked, the UDO Administrator shall give the permit recipient 10 days notice of intent to revoke the permit and shall inform the recipient of the alleged reasons for the revocation and of his/her right to obtain an informal hearing on the allegations. If the permit is revoked, the UDO Administrator shall provide to the permittee a written statement of the decision and the reasons therefor.
4. No person may continue to make use of land or buildings in the manner authorized by any required permit after such permit has been revoked in accordance with this ordinance.

#### L. RECONSIDERATION OF DENIAL

1. Whenever an application for a permit or approval authorized by this ordinance is denied, on any basis other than the failure of the applicant to submit a complete application, such action may not be reconsidered within a 12 month period unless explicitly specified by this ordinance or the applicant clearly demonstrates that:
  - a) Circumstances affecting the property that is the subject of the application have substantially changed or
  - b) New information is available that could not with reasonable diligence have been previously presented. A request to be heard on this basis must be filed in writing with the UDO Administrator.

## 2.7 SPECIFIC REVIEW PROCEDURES

#### A. MINOR SITE PLAN

1. Purpose. Minor site plan review is intended to ensure that the layout and general design of low-intensity development is compatible with all applicable standards in this ordinance and all other applicable city regulations.
2. Applicability. The following development types must submit a minor site plan as specified in this ordinance:
  - a) Proposals for single-family residential uses, duplexes, and attached residential units consisting of three (3) or fewer dwelling units or for renovation/rehabilitation projects that will modify an existing structure's footprint. A minor site plan is not required for changes of use whereby

- no increase in impervious square footage or an enlargement in an existing structure's footprint is proposed.
  - b) Nonresidential development projects whereby less than 10,000 square feet of impervious surfaces are proposed.
  - c) Accessory structures, construction/installation of fences/walls, piers, docks, decks, stairs, signs, and driveways.
- 3. Application Materials and Submittal. One (1) digital copy and three (3) hard copies of the minor site plan shall be submitted with all such applications. Minor site plans shall be submitted for review along with the typical building permit application, when required. When a building permit is not required, a copy of the plan should be submitted directly to the UDO Administrator for review and approval. Minor site plans shall be prepared and sealed by a licensed land surveyor, landscape architect, or engineer registered to practice in the State of North Carolina.
  - a) Accessory structures less than 150 square feet and construction/installation of fences/walls, piers, docks, decks, stairs, signs, and driveways do not require a minor site plan to be prepared by a licensed professional.
- 4. Minor site plans shall include all required information as provided in Appendix A: Submission Requirements.
- 5. Minor site Plan Review Procedure:
  - a) Within 30 working days of receipt of a complete application for a minor site plan, the UDO Administrator shall review the plans and make a determination to approve or disapprove plans based on this ordinance and other applicable land development ordinances.
  - b) If it is determined that more information is needed or that a significant number of changes must be made before the plan can be approved, the applicant shall make the necessary changes; and re-submit the plans. All re-submissions shall contain a list of the changes made. A new 30-day review period may begin on the date of the re-submission of a required information.
  - c) If plan approval is denied, the reasons for this action shall be communicated to the applicant in writing.
  - d) Minor site plan approval expires six (6) months from the date of approval.
  - e) Zoning permits may be issued once the minor site plan is approved.
- 6. In the event of failure to comply with an approved minor site plan or condition related thereto, the plan shall immediately become void and of no effect, no further permits for construction or compliance shall be issued and existing permits may be suspended or revoked by the UDO Administrator.

#### B. MAJOR SITE PLAN

- 1. Purpose. A major site plan is intended for more intense development proposals requiring greater discretion of the city.

2. Applicability. The following development types must submit a major site plan as specified in this ordinance:
  - a) Residential development of four (4) or more dwelling units on a lot.
  - b) Nonresidential development whereby 10,000 square feet or more of impervious surfaces are proposed.
  - c) All other development not subject to minor site plan approval.
3. Pre-Application Meetings. Applicants may request a pre-application meeting with the UDO Administrator prior to submission of an application to discuss procedural and substantive matters related to the proposed application.
4. Application Materials and Submittal. One (1) digital copy and 12 hard copies of the major site plan shall be submitted with all such applications.
5. The major site plan shall be prepared by and sealed by a licensed land surveyor, landscape architect, or engineer registered to practice in the state of North Carolina and shall include all of the required information as provided in Appendix A: Submission Requirements.
6. In the course of evaluating the proposed major site plan, the UDO Administrator may request additional information from the applicant. A request for such additional information shall stay until a date certain established by UDO Administrator any further consideration of the application.
7. Major Site Plan Review Procedure:
  - a) The UDO Administrator shall review the major site plan and may require a Technical Review Procedure. The Technical Review Committee may include, but not necessarily be limited to, the following individuals/departments: UDO Administrator, building inspector, city manager, Fire Department, Police Department, NC Division of Coastal Management, NC Department of Environmental Quality, Brunswick County Utilities, or Brunswick County Environmental Health.
  - b) If the UDO Administrator determines that more information is needed or that a significant number of changes must be made before the plan can be approved, the applicant shall make the necessary changes; and re-submit the plans. All re-submissions shall contain a list of the changes made. A new 30-day review period may begin on the date of the re-submission of a required information.
  - c) Upon determination that a major site plan application is complete, within 30 working days of the submittal date, the UDO Administrator and the Technical Review Committee (if applicable) shall review the plans and make a recommendation to the Planning Board as to compliance with this ordinance. The major site plan will be placed on the agenda of the next regularly scheduled Planning Board meeting following 30 working days of submittal of a complete application for a major site plan.
  - d) The Planning Board shall review the major site plan and written recommendations of the UDO Administrator and the Technical Review Committee (if applicable) prior to approving, denying, or conditionally

- approving the site plan. If the site plan submitted otherwise meets all of the standards of this ordinance, the Planning Board shall approve such.
- e) If plan approval is denied, the reasons for this action shall be communicated to the applicant in writing. A revised plan may then be submitted in the manner of a new application.
  - f) Major site plan approval expires 24 months from the date of approval.
  - g) Zoning permits may be issued once the site plan is approved.
8. In the event of failure to comply with an approved major site plan or condition related thereto, the plan shall immediately become void and of no effect, no further permits for construction or compliance shall be issued and existing permits may be suspended or revoked by the UDO Administrator.

#### C. SPECIAL USE PERMIT

1. Special use permits may be issued by the UDO Administrator, after approval by the Board of Adjustment. The petition for a special use permit and accompanying plans shall be submitted to the UDO Administrator. The application shall be processed in accordance with provisions pertaining to quasi-judicial hearings. Please note, all previously issued conditional use permits shall be subject to the conditions outlined in the initial approval. Additionally, any valid conditional use permit issued prior shall be deemed a special use permit.
2. Application Materials and Submittal. One (1) digital copy and 12 hard copies of the special use permit site plan shall be submitted with all such applications.
3. The special use permit site plan shall be prepared by and sealed by a licensed land surveyor, landscape architect, or engineer registered to practice in the state of North Carolina, and shall include all of the required information as provided in Appendix A: Submission Requirements.
  - a) Applications for home occupations, commercial or residential accessory dwellings, duplexes, triplexes, quadraplexes, bed & breakfast uses, and temporary sales offices shall prepare a minor site plan that includes all of the applicable information as provided in Appendix A: Submission Requirements. Preparation of the minor site plan for these uses by a licensed surveyor, landscape architect, or engineer is encouraged, but not required.
4. In the course of evaluating the proposed special use permit site plan, the UDO Administrator may request additional information from the applicant. A request for such additional information shall stay until a date certain established by UDO Administrator any further consideration of the application. This information may include (but not be limited to) the following:
  - a) Approved NC stormwater permit.
  - b) Proposed sign types and locations.
  - c) Scale of buildings relative to abutting property.
  - d) Exterior features and illumination of proposed development.
  - e) Description and copies of proposed deed restrictions to be placed on the property.



- f) Any other information reasonably needed to consider the application in reference to these regulations.
- 5. Notice of quasi-judicial hearing. Notice of hearings conducted pursuant to this section shall be mailed to the person or entity whose request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the city shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way.
- 6. Special Use Permit Review Procedure:
  - a) The UDO Administrator shall review the special use site plan and may require a Technical Review Procedure. The Technical Review Committee may include, but not necessarily be limited to, the following individuals/departments: UDO Administrator, building inspector, city manager, Fire department, Police Department, NC Division of Coastal Management, NC Department of Environmental Quality, Brunswick County Utilities, or Brunswick County Environmental Health.
  - b) If the UDO Administrator determines that more information is needed or that a significant number of changes must be made before the plan can be approved, the applicant shall make the necessary changes; and re-submit the plans. All re-submissions shall contain a list of the changes made. A new 30-day review period may begin on the date of the re-submission of a required information.
  - c) Upon determination that a special use permit application is complete, within 30 working days of the submittal date, the UDO Administrator and the Technical Review Committee (if applicable) shall review the plans and make a recommendation to the Board of Adjustment as to compliance with this ordinance. The special use permit site plan will be placed on the agenda of the next regularly scheduled Board of Adjustment meeting following 30 working days of submittal of a complete application for a special use permit.
  - d) The Board of Adjustment shall approve, modify, or deny the application for a special use permit. In approving a special use permit the Board of Adjustment, with due regard to the nature and state of all adjacent structures and uses in the district, shall make written findings that the following are fulfilled:
    - i) That the use will not materially endanger the public health, safety, or general welfare if located where proposed and developed according to the plan as submitted and approved;
    - ii) That the use meets all required conditions and specifications;

- iii) That the use will not adversely affect the use or any physical attribute of adjoining or abutting property, or that the use is a public necessity; and
  - iv) That the location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the City of Southport Comprehensive Plan.
- e) In approving the special use permit, the Board of Adjustment may designate, such conditions in addition and in connection therewith as will, in its opinion, assure that the use in its proposed location will be harmonious with the area in which it is proposed to be located and with the spirit of this ordinance. All such additional conditions shall be entered in the minutes of the meeting at which the special use permit is granted and also on the special use permit approving, and on the approved plans submitted therewith. All specific conditions shall run with the land and shall be binding on the original applicant for the special use permit, the heirs, successors, and assigns. Such conditions shall be consented to in writing by the applicant/landowner and may include the following:
  - i) A time limitation.
  - ii) Conditions may be imposed which require that one or more things be done before the use requested can be initiated. For example, "that a solid board fence be erected around the site to a height of six (6) feet before the use requested is initiated."
  - iii) Conditions of a continuing nature may be imposed. For example: "exterior loudspeakers shall not be used between the hours of 10:00 p.m. and 9:00 a.m."
- f) Conditions and safeguards imposed under this subsection shall not include requirements for which the city does not have authority under statute to regulate nor requirements for which the courts have held to be unenforceable if imposed directly by the city, including, without limitation, taxes, impact fees, building design elements within the scope of NCGS 160D-702(b), driveway-related improvements in excess of those allowed in NCGS 136-18(29) and NCGS 160A-307, or other unauthorized limitations on the development or use of land.
- g) The final written decision of the Board of Adjustment shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective, by the city clerk. If the Board of Adjustment denies the permit, it shall enter the reason for its action in the minutes of the meeting at which the action is taken.

- h) Approved special use permits shall be recorded in the Brunswick County Registry by the City of Southport and indexed under the record owner's name as grantor.
- i) In a case where a special use permit has not been exercised within the time limit set by the Board of Adjustment or within 12 months if no specific time limit has been set, then without further action, the special use permit shall be null and void. The term "exercised," as set forth in this subsection, means that binding contracts for the construction of the main building have been let; or in the absence of contracts that the main building is under construction to a substantial degree; or that prerequisite conditions involving substantial investment are contracted for, in substantial development, or completed (sewerage, drainage, etc.). When construction is not a part of the use, the term "exercised" means that the use is in operation in compliance with the conditions set forth in the permit.

#### D. VARIANCE

1. An application for a variance shall be submitted to the Board of Adjustment by filing a copy of the application with the UDO Administrator.
2. Notice of quasi-judicial hearing. Notice of hearings conducted pursuant to this section shall be mailed to the person or entity whose application or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the city shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way.
3. When unnecessary hardships would result from carrying out the strict letter of the UDO, a variance shall be granted by the Board of Adjustment upon a showing of the following:
  - a) Unnecessary hardship would result from a strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property;
  - b) The hardship results from conditions that are peculiar to the property, such as location, size or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis from granting a variance;
  - c) The hardship did not result from actions taken by the applicant or property owner. The act of purchasing property with knowledge that circumstances exist that might justify a variance shall not be considered as a self-created hardship;

- d) The requested variance is consistent with the spirit, purpose and intent of the ordinance, such that public safety is secured and substantial justice achieved.
4. Before granting a variance, the Board of Adjustment must take a separate vote and vote affirmatively (by a four-fifths majority) on each of the four (4) required findings stated above in Section 2.7.D.3. Insofar as practicable, a motion to make an affirmative finding on each of the requirements set forth herein shall include a statement of the specific reasons or findings of fact supporting such motion.
5. A motion to deny a variance may be made on the basis that any one (1) or more of the four (4) criteria set forth in Section 2.7.D.3 are not satisfied or that the application is incomplete. Insofar as practicable, such a motion shall include a statement of the specific reasons or findings of fact that support it.
6. Appropriate conditions, which must be reasonably related to the condition or circumstance that gives rise to the need for a variance, may be imposed on any variance issued by the Board of Adjustment.
7. No change in permitted uses may be authorized by variance.
8. A variance may be issued for an indefinite duration or for a specified duration only.
9. The nature of the variance and any conditions attached to it shall be entered on the face of the zoning permit, or the zoning permit may simply note the issuance of the variance and refer to the written record of the variance for further information. All such conditions are enforceable in the same manner as any other applicable requirement of this ordinance.
10. The final written decision of the Board of Adjustment shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective, by the city clerk.
11. An aggrieved person may appeal a decision by the Board of Adjustment on an application for appeal to the Superior Court. Such appeal shall be in the nature of certiorari and must be filed within 30 days of the effective decision and as provided by NCGS160D-1402.

#### E. APPEAL

1. An appeal from any final order or decision of the UDO Administrator or official charged with enforcement of the UDO or other ordinance that regulates land use or development may be taken to the Board of Adjustment by any party who has standing under NCGS160D-1402. Appeals of a final subdivision decision may be made in accordance with NCGS 160D-1403(b). The official who made the decision shall give written notice to the owner of the property and the party who sought the decision, if different. A notice of appeal, specifying the grounds therefor, shall be considered filed with the official and the Board of Adjustment when delivered to the city clerk, and the date and time of filing shall be entered on the notice by the clerk.

2. The owner or other party shall have 30 days from the date of the receipt of a written final, binding determination by the official to file an appeal. The written notice shall be delivered by personal delivery, electronic mail, or by first class mail. Any other person with standing to appeal shall have 30 days from the receipt of any source of actual or constructive notice of the decision to file an appeal. In the absence of evidence to the contrary, notice given pursuant to NCGS 160D-403(b) by first class mail is deemed received on the third business day following deposit of the notice for mailing with the United States Postal Service.
3. Notice of quasi-judicial hearing. Notice of hearings conducted pursuant to this section shall be mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the city shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way.
4. Whenever an appeal is filed, the official shall forthwith transmit to the Board of Adjustment all the papers, documents and exhibits constituting the record relating to the action appealed from, with a copy provided to the appellant and land owner, if the landowner is not the appellant.
5. An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from and accrual of any fines assessed during the pendency of the appeal to the Board of Adjustment and any subsequent appeal in accordance with NCGS 160D-1402 or during the pendency of any civil proceeding authorized by law or appeals therefrom, unless the official certifies by affidavit to the Board of Adjustment that a stay would, in his/her opinion, cause imminent peril to life or property or because the violation is transitory in nature a stay would seriously interfere with enforcement of the ordinance. In that case, enforcement proceedings shall not be stayed except by a restraining order issued by a court. If enforcement proceedings are not stayed, the appellant may file with the official a request for an expedited hearing of the appeal, and the Board of Adjustment shall meet to hear the appeal within 15 days after such a request is filed. Notwithstanding the foregoing, appeals of decisions granting a permit or otherwise affirming that a proposed use of property is consistent with the ordinance shall not stay the further review of an application for permits or permissions to use such property; in these situations the appellant may request and the board may grant a stay of a final decision of permit applications or building permits affected by the issue being appealed.
6. The official, or person currently occupying that position, who rendered the determination that has been appealed shall appear at the hearing as a witness. The Board of Adjustment may reverse or affirm (wholly or partly) or may modify

the order, requirement, decision, or determination appealed from and shall make any order, requirement, decision, or determination that in its opinion ought to be made in the case before it. To this end the board shall have all the powers of the officer from whom the appeal is taken. The board shall continue the hearing if new issues are presented at the hearing that were not in the notice of appeal and immediate consideration might unduly prejudice a party of interest or the city.

7. The final written decision of the Board of Adjustment shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective, by the city clerk.
8. An aggrieved person may appeal a decision by the Board of Adjustment on an application for appeal to the Superior Court. Such appeal shall be in the nature of certiorari and must be filed within 30 days of the effective decision and as provided by NCGS160D-1402.

## 2.8 CREATION OF NEW LOTS/DIVISION OF LAND

### A. GENERAL

No land within the city's planning jurisdiction shall be subdivided, combined, or re-subdivided and offered for sale, gifted, exchanged, or in any other way conveyed until a plat thereof has been approved as herein provided. No plat shall be recorded by the Brunswick County Register of Deeds until this approval is entered in writing on the face of the plat as herein provided.

### B. EXEMPT PLAT REVIEW

1. Applicability. Divisions or land and creation of lots which do not meet the statutory definition of subdivision in accordance with NCGS 160D-802 or are as provided in this section. In accordance with NCGS 160D-802(a)(1) & (4), newly created lots must be equal to or exceed the dimensional standards of the zoning district in which they are located.
2. Application Materials and Submittal. The applicant shall submit one (1) digital copy and one (1) hard copy of the final plat so marked to UDO Administrator for approval. The final plat shall be prepared by a licensed land surveyor or engineer registered to practice in the state of North Carolina. The final plat shall conform to the provisions for plats, subdivisions, and mapping requirements set forth in NCGS 47-30 and the Standards of Practice for Land Surveying in North Carolina.
3. Property owners or their authorized agents must present a paper or recordable map to the UDO Administrator for determination of whether the action created by the recording of the map meets the ordinance standards to be exempt.
4. If the proposal meets the exemptions listed in this ordinance or in NCGS 160D-802 the UDO Administrator shall sign an exemption note on the face of the recordable map before it is recorded.
5. In addition to the divisions of land identified in NCGS 160D-802(a)(1) through (4), the following divisions of land shall not be included within the definition of the term "subdivision" and shall not be subject to the lot dimensional standards in

this ordinance: (1) the division of land for the purpose of creating a lot for use as a site for a public utility; (2) the creation of a lot to be conveyed to the city or to a non-profit entity for the purpose of creating public parks, public access, or public open space, provided that the plat and the deed creating such parcel shall specifically state that the parcel created may not be used for any other purpose, and (3) the division of land owned by a governmental entity to facilitate the conveyance of a portion of said land to another governmental entity for governmental or public use.

6. If the proposal does not meet the exemptions, the UDO Administrator shall return the unsigned map to the property owner or authorized agent with a written description of why the map does not qualify to be exempt.
7. The applicant shall file any approved exempt plat with the Register of Deeds of Brunswick County within 30 days of approval; otherwise, such approval shall be null and void.
8. The exempt plat shall include all of the required certificates as provided in Appendix A: Submission Requirements.

#### C. MINOR SUBDIVISION REVIEW

1. Applicability. The city only requires submittal of a final plat for review of minor subdivision if it meets the criteria as provided in NCGS 160D-802(c) or the tract to be subdivided is five (5) acres or less in size and is subject to the following provisions:
  - a) Fronts on an existing approved street;
  - b) Does not involve any new public streets, right-of-way dedication, or prospectively requiring any new street for access to interior property;
  - c) Does not require drainage improvements or easements to serve the applicant's property or interior properties;
  - d) Does not involve any utility extensions; and
  - e) Does not require any easements, other than rear and side lot line easements.
  - f) However, if the subdivider owns, leases, holds an option on, or holds any legal or equitable interest in any property adjacent to or located directly across a street, easement, road, or right-of-way from the property to be subdivided, the subdivision shall not qualify under the minor subdivision procedure. Furthermore, the minor subdivision procedure may not be used a second time within three (3) years on any property less than 1,500 feet from the original property boundaries by anyone who owned, had an option on, or any legal interest in the original subdivision at the time the subdivision received preliminary or final plat approval.
2. Application Materials and Submittal. The applicant shall submit one (1) digital copy and one (1) hard copy of the final plat so marked to the UDO Administrator for approval. The final plat shall be prepared by a licensed land surveyor or engineer registered to practice in the state of North Carolina. The final plat shall conform to the provisions for plats, subdivisions, and mapping requirements set



forth in NCGS 47-30 and the Standards of Practice for Land Surveying in North Carolina.

3. The UDO Administrator shall review the final plat and shall proceed with approval, conditional approval with modifications to bring the plat into compliance, or disapproval of the final plat with reasons within 30 days of initial receipt of a complete application for a minor subdivision plat.
4. The applicant shall file any approved final plat with the Register of Deeds of Brunswick County within 30 days of approval; otherwise, such approval shall be null and void.
5. The minor subdivision plat shall include all of the required information and certificates as provided in Appendix A: Submission Requirements.

#### D. MAJOR SUBDIVISION SKETCH PLAN REVIEW

1. **Applicability.** Subdivisions and/or divisions of land not qualifying as exempt or as a minor subdivision.
2. **Application Materials and Submittal.** Prior to the filing of an application for approval of a major subdivision preliminary plat, the subdivider may submit to the UDO Administrator one (1) digital copy and 12 hard copies of a sketch design plan of the proposed subdivision which generally depicts the concept of the development and any explanatory materials as may be desirable. Copies of any pertinent additional information regarding the proposed subdivision or of adjoining property as may be useful to the Planning Board in formulating an overall plan for any given section of the city may be submitted.
3. The Planning Board at their next regularly scheduled meeting following acceptance of the sketch design plan by the UDO Administrator shall meet with the potential subdivider and the subdivider shall meet with the Planning Board. At this stage the subdivider should discuss his or her thoughts and ideas pertaining to the subdivision and also become familiar with the regulations affecting the land to be subdivided.
4. The discussion and any recommendations made by the Planning Board shall be advisory.

#### E. MAJOR SUBDIVISION PRELIMINARY PLAT

1. **Applicability.** Subdivisions and/or divisions of land not qualifying as exempt or as a minor subdivision.
2. **Pre-Application Meetings.** Applicants may request a pre-application meeting with the UDO Administrator prior to submission of an application to discuss procedural and substantive matters related to the proposed application.
3. **Application Materials and Submittal.** One (1) digital copy and 12 hard copies of the major subdivision preliminary plat shall be submitted with all applications for such.
4. The major subdivision preliminary plat shall be prepared by and sealed by a licensed land surveyor or engineer registered to practice in the state of North Carolina, and shall include all of the required information and certificates as

provided in Appendix A: Submission Requirements in addition to any other required information in Article 4: Subdivision Regulations.

5. Major subdivision preliminary plat review procedure:

- a) The UDO Administrator or his/her designee will review the major subdivision preliminary plat and may require a Technical Review Procedure. The Technical Review Committee may include, but not necessarily be limited to, the following individuals/departments: UDO Administrator, building inspector, city manager, Fire department, Police Department, NC Division of Coastal Management, NC Department of Environmental Quality, Brunswick County Utilities, or Brunswick County Environmental Health.
- b) If the UDO Administrator determines that more information is needed or that a significant number of changes must be made before the plat can be approved, the applicant shall make the necessary changes; and re-submit the plat. All re-submissions shall contain a list of the changes made. A new 30-day review period may begin on the date of the re-submission of a required information.
- c) Upon determination that a major subdivision preliminary plat application is complete, within 30 working days of the submittal date, the UDO Administrator and the Technical Review Committee (if applicable) shall review the plat and make a recommendation to the Planning Board as to compliance with this ordinance. The major subdivision preliminary plat will be placed on the agenda of the next regularly scheduled Planning Board meeting following 30 working days of submittal of a complete application for a major subdivision preliminary plat.
- d) The Planning Board shall review the major subdivision preliminary plat and written recommendations of the UDO Administrator and the Technical Review Committee (if applicable) prior to recommending approval, denial, or conditional approval of the major subdivision preliminary plat to the Board of Aldermen. Within 90 days of receipt of the major subdivision preliminary plat, the Planning Board shall transmit a formal recommendation to the Board of Aldermen.
- e) Should the Planning Board fail to act on the major subdivision preliminary plat within 90 days after acceptance of the preliminary plat by the Planning Board, the subdivider may proceed to major subdivision preliminary plat approval by the Board of Aldermen without a recommendation of the Planning Board.
- f) The Board of Aldermen shall consider approval or denial of the major subdivision preliminary plat at any of the next three (3) regularly scheduled meetings following receipt of the preliminary plat.
- g) The Board of Aldermen by formal motion may approve, conditionally approve, or disapprove the preliminary plat. If the plat is disapproved, the reasons shall be set forth in writing and refer specifically to those

parts of this ordinance or other land development ordinances with which the plat does not comply.

- h) Approval of the major subdivision preliminary plat by the Board of Aldermen is authorization for the subdivider to proceed with the construction of the required improvements in preparation for submission of the final plat.

- 6. The approval granted by the Board of Aldermen shall expire 24 months from the date of action by the Board of Aldermen. However, extensions may be granted upon application and request for such to the Board of Aldermen. Such time limits shall expire automatically unless extended by the Board of Aldermen, and once lapsed shall not be extended.

#### F. MAJOR SUBDIVISION FINAL PLAT

- 1. Applicability. Subdivisions and/or divisions of land not qualifying as exempt or as a minor subdivision and whereby a major subdivision preliminary plat has been approved and all necessary and/or required improvements have been installed in accordance with Article 4: Subdivision Regulations, Section 4.7, shall comply with the following procedures in order to obtain final plat approval. No final plat will be accepted for review by the Board of Aldermen unless accompanied by written notice by the city clerk acknowledging compliance with the improvement standards of this ordinance.
- 2. All improvements required by Article 4: Subdivision Regulations, Section 4.7, shall be installed, inspected, and approved prior to approval of any final plat. Performance guarantees in lieu of installation of required improvements shall not be allowed.
- 3. Pre-Application Meetings. Applicants may request a pre-application meeting with the UDO Administrator prior to submission of an application to discuss procedural and substantive matters related to the proposed application.
- 4. Application Materials and Submittal. One (1) digital copy and 12 hard copies of the major subdivision final plat shall be submitted with all such applications.
- 5. Final As-Built Drawings. Accompanying the application for a major subdivision final plat approval will be digital copies of as-built drawings showing the actual construction, location, and materials used in the installation of all required improvements as required by Article 4: Subdivision Regulations. These drawings will become a part of the public record of the city.
- 6. The subdivider shall within 24 months of the date of major subdivision preliminary plat approval or approval with conditions, unless an extension is granted by the Board of Aldermen, submit to the UDO Administrator a complete application for approval of a final plat. If the preliminary plat was approved with conditions, the final plat shall show the modifications made to meet the conditions attached to the preliminary plat approval. Final plats can continue to be submitted for subsequent sections of the major subdivision beyond the 24 months provided the first phase receives final approval during the initial 24-

month period. Each successive final plat for a stage of the subdivision shall be submitted for approval within 24 months of the date of approval of the previous final plat for a stage of the subdivision.

7. The major subdivision final plat shall be prepared by and sealed by a licensed land surveyor or engineer registered to practice in the state of North Carolina. The final plat shall constitute only that portion of the approved preliminary plat which the subdivider proposes to record and develop at the time and shall include all of the required information and certificates as provided in Appendix A: Submission Requirements in addition to any other required information in Article 4: Subdivision Regulations.
8. Major Subdivision Final Plat Review procedure:
  - a) The UDO Administrator or his/her designee shall review the major subdivision final plat and may require a Technical Review Procedure. The Technical Review Committee may include, but not necessarily be limited to, the following individuals/departments: UDO Administrator, building inspector, city manager, Fire department, Police Department, NC Division of Coastal Management, NC Department of Environmental Quality, Brunswick County Utilities, or Brunswick County Environmental Health.
  - b) If the UDO Administrator determines that more information is needed or that a significant number of changes must be made before the plat can be approved, the applicant shall make the necessary changes; and re-submit the plat. All re-submissions shall contain a list of the changes made. A new 30-day review period may begin on the date of the re-submission of a required information.
  - c) Upon determination that a major subdivision final plat application is complete, within 30 working days of the submittal date, the UDO Administrator and the Technical Review Committee (if applicable) shall review the plat and make a recommendation to the Board of Aldermen as to compliance with this ordinance.
  - d) The Board of Aldermen shall review the major subdivision final plat and written recommendations of the UDO Administrator and the Technical Review Committee (if applicable) prior to approval, denial, or conditional approval of the major subdivision final plat.
  - e) The Board of Aldermen shall approve or disapprove, according to the provisions of this ordinance, the final plat within fifty (50) days after receipt of the plat. Failure of the Board of Aldermen to act within fifty (50) days shall constitute denial of the plat.
  - f) If the Board of Aldermen by formal motion disapproves the final plat, the reasons shall be set forth in writing and refer specifically to those parts of this ordinance or other land development ordinances with which the plat does not comply.

- g) Within 30 working days after the approval of the Board of Aldermen of the final plat, the subdivider shall file the final plat with the Brunswick County Register of Deeds. Failure to file an approved final plat within 30 days shall make such approval null and void.

## 2.9 PLANNED UNIT DEVELOPMENT

### A. PURPOSE

A Planned Unit Development (PUD), is planned and developed as an integral unit, in a single development operation or a definitely programmed series of development operations and according to an approved master development plan. All PUDs require an amendment to the city's zoning map and master development plan approval, followed by the major subdivision approval process as specified in this ordinance.

### B. APPLICABILITY

The minimum amount of land (unified control to be planned and developed as a whole) required for a PUD district shall be eight (8) acres of net buildable area within the city corporate limits, on one or more contiguous parcels or 25 acres of net buildable area in the ETJ, on one (1) or more parcels (this may include parcels on both sides of a street).

### C. APPLICATION AND PLANNED UNIT DEVELOPMENT REVIEW PROCEDURE

1. The application for a planned unit development (PUD) shall be accompanied by an application to amend the zoning map (rezoning) to the planned unit development zoning district. The rezoning application shall be submitted concurrently with the PUD master development plan. The procedure for such shall be followed as outlined in Section 2.10. The approved master development plan shall provide the framework for development in the PUD. All applications must include a master development plan, supporting information and text which specifies the use or uses intended for the property, dimensional standards, and any development standards to be approved concurrently with the rezoning application. Development standards include such things as parking, landscaping, design guidelines, and buffers. The proposal shall comply with the design guidelines provided in Article 4: Subdivision Regulations, Section 4.15.
2. An application for PUD approval shall be accompanied by 12 hard copies and one (1) digital copy of a PUD master development plan.
3. The master development plan shall be prepared by and sealed by a licensed land surveyor, landscape architect, or engineer registered to practice in the state of North Carolina and shall include all of the required information as provided in Appendix A: Submission Requirements, any other required information in Article 4: Subdivision Regulations, and any other information deemed necessary by the UDO Administrator, Planning Board, or Board of Aldermen.
4. The UDO Administrator or his/her designee will review the PUD master development plan and may require a Technical Review Procedure. The Technical Review Committee may include, but not necessarily be limited to, the following individuals/departments: UDO Administrator, building inspector, city manager,

Fire department, Police Department, NC Division of Coastal Management, NC Department of Environmental Quality, Brunswick County Utilities, or Brunswick County Environmental Health.

5. The UDO Administrator shall, in writing, provide a recommendation to the Planning Board within 60 days following receipt of the complete application for a PUD proposal and associated master development plan.
6. Following receipt of recommendation from the Planning Board, the Board of Aldermen shall approve, conditionally approve, or deny the PUD master development plan.
7. When evaluating an application for the creation of a PUD zoning district, the Planning Board and Board of Aldermen shall consider the following:
  - a) The application's consistency to the general policies and objectives of the City's Comprehensive Plan, any other officially adopted plan that is applicable, and the Unified Development ordinance.
  - b) The potential impacts and/or benefits on the surrounding area, adjoining properties.
8. Following Board of Aldermen approval of a rezoning petition to establish a planned unit development district (PUD), the property for which approval was granted by the ordinance shall be labeled "PUD" on the official zoning map of the City of Southport. No permits for development shall be issued within any area designated as "PUD" except in accordance with an approved petition and applicable site plan, subdivision plat, and/or permit for development within the PUD. If an application for an applicable site plan, subdivision plat, and/or permit for development within the PUD is not filed with the UDO Administrator within 12 months of such approval, the Board of Aldermen shall reserve the right to rezone the property to the original zoning classification.

## 2.10 UDO TEXT AND ZONING MAP AMENDMENTS

### A. INITIATION OF AMENDMENTS

1. Purpose and applicability. Pursuant to NCGS 160D-601, the text of this ordinance or the zoning district boundaries as shown on the city's zoning map may be amended in accordance with the procedures established herein. A petition by the appropriate person or entity shall be submitted to the UDO Administrator and reviewed by the Planning Board, which shall consider its merit and make a recommendation to the Board of Aldermen. In no case shall final action by the Board of Aldermen be taken on amending, changing, supplementing, modifying or repealing the regulations or district boundaries hereby established until a public hearing has been held by the Board of Aldermen at which parties in interest and citizens shall have an opportunity to be heard.
  - a) Proposed changes or amendments to the zoning map may be initiated by the Board of Aldermen, Planning Board, city administration, or by the owner, or his or her agent, of property within the area proposed to be changed.

- b) Proposed amendments to the text of the ordinance may be initiated by any interested party.
  - c) No amendment to zoning regulations or a zoning map that down-zones property shall be initiated nor is it enforceable without the written consent of all property owners whose property is the subject of the down-zoning amendment, unless the down-zoning amendment is initiated by the city. For purposes of this section, "down-zoning" means a zoning ordinance that affects an area of land in one of the following ways:
    - i) By decreasing the development density of the land to be less dense than was allowed under its previous usage.
    - ii) By reducing the permitted uses of the land that are specified in a zoning ordinance or land development regulation to fewer uses than were allowed under its previous usage.
2. Application. An application for any change or amendment shall contain a description and/or statement of the present and proposed zoning regulation or district boundary. If a zoning map amendment is proposed, the names and addresses of the owners of the property involved shall be included. Such application shall be filed not later than 30 days prior to the meeting of the Planning Board at which the application is to be considered, and in all cases with enough lead time to properly advertise.
3. Public hearing requirement, advertised, mailed, and posted notice.
- a) Public hearing. A public hearing is required for all amendments prior the final decision before the Board of Aldermen. Public hearings are optional for advisory recommendations of the Planning Board.
    - i) Notification of the Board of Aldermen public hearing shall be published once a week for two (2) successive calendar weeks in a local newspaper of general circulation in the city. The notice shall be published the first time not less than 10 days nor more than 25 days before the date fixed for the hearing.
  - b) Mailed notice. When a change in the zoning classification of a piece of property is requested (zoning map change), the applicant shall provide to the UDO Administrator a list of names and addresses, as obtained from the county tax listings and tax abstract, of all abutting property owners and all owners of property within the area under consideration for rezoning, along with two sets of business (No. 10) envelopes stamped with a first class stamp and addressed to each person on the list. For the purposes of this section, properties are abutting even if separated by a street, railroad, or other transportation corridor. These addressed envelopes and the list shall be submitted at least 30 workdays prior to the Board of Aldermen meeting and public hearing at which the amendment will be considered. The UDO Administrator shall then mail notices of the public hearing to each person on the list at least 10 but no



more than 25 days prior to the date of the meetings at which the Board of Aldermen will consider the request for a zoning map amendment. The letter of notification shall contain a description of the request and the time, date, and location of the public hearing. Such certification shall be deemed conclusive in the absence of fraud.

- c) Posted notice. Notice of a proposed zoning change for any parcel, shall be prominently posted on the site proposed for rezoning or on an adjacent public street or highway right-of-way for at least 10 but no more than 25 days prior to the public hearing before the Board of Aldermen. When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required, but the UDO Administrator or his/her designee shall post sufficient notices to provide reasonable notice to interested persons. The posted notices shall be provided and erected by the UDO Administrator and shall include in the message the:
  - i) Present zoning classification
  - ii) Proposed zoning classification
  - iii) Time and place of the public hearing
  - iv) Location where additional information may be obtained.

- 4. Reapplication for amendment. With the exception of requests originating with the Board of Aldermen, Planning Board, or city administration, an application for any rezoning of the same property or any application for the same amendment to the ordinance text shall be permitted only once within any six (6) month period following official action. The Board of Aldermen, by simple majority, may waive this restriction if it finds any emergency exists.

#### B. PLANNING BOARD ACTION

- 1. Every proposed amendment, supplement, change, modification or repeal of this ordinance shall be referred to the Planning Board for its recommendation and report.
- 2. A petition to amend the district boundaries or regulations established by this ordinance shall be considered by the Planning Board at its next regular monthly meeting or any called special meeting, provided it has been filed, complete in form and content, at least 30 days prior to such meeting. Otherwise, consideration may be deferred until the following monthly meeting.
- 3. The Planning Board shall provide an advisory recommendation on any properly filed petition within 90 days after the introduction of such petition at a regularly scheduled meeting and shall transmit its recommendation and report, including the reasons for its determinations, to the Board of Aldermen.
- 4. Pursuant to NCGS 160D-604, the Planning Board shall advise and comment on whether the proposed text or zoning map amendment is consistent with the comprehensive plan or any other officially adopted plans that are applicable. The Planning Board shall provide a written recommendation to the Board of Aldermen that addresses plan consistency and other matters deemed

appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the Board of Aldermen. If a zoning map amendment qualifies as a "large-scale rezoning" under NCGS 160D-602(b), the Planning Board statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the recommendation made.

#### C. BOARD OF ALDERMEN ACTION

1. Before taking such lawful action as it may deem advisable, the Board of Aldermen shall consider the Planning Board's recommendations on each proposed text or zoning map amendment.
2. Board of Aldermen members shall not vote on any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A Board of Aldermen member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.
3. Prior to adopting or rejecting any zoning amendment, the Board shall adopt a written statement describing whether its action is consistent with the City Comprehensive Plan or any other officially adopted plans that are applicable. For zoning map amendments, a statement of reasonableness shall also be provided explaining why the Board considers the action to be reasonable and in the public interest. If a zoning map amendment qualifies as a "large-scale rezoning" under NCGS 160D-602(b), the statement describing plan consistency and reasonableness may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered.
4. If a zoning map amendment is adopted and the action was deemed inconsistent with the adopted plan, the zoning amendment shall have the effect of also amending any future land-use map in the approved plan, and no additional request or application for a plan amendment shall be required. A plan amendment and a zoning amendment may be considered concurrently.
5. Pursuant to NCGS 160A-75, no member shall be excused from voting except upon matters involving the consideration of the member's own conflict of interest or official conduct. A failure to vote by a member who is physically present in the aldermen's chamber, or who has withdrawn without being excused by a majority vote of the remaining members present, shall be recorded as an affirmative vote.
6. An affirmative vote equal to a majority of all the members of the Board of Aldermen not excused from voting on the question in issue, including the mayor's vote in case of an equal division, shall be required to adopt any

amendment to this ordinance or to take any action having the effect of an ordinance.

7. If any resident or property owner in the city submits a written statement regarding a proposed amendment, modification, or repeal this ordinance to the city clerk at least five (5) business days prior to the proposed vote on such change, the city clerk shall deliver such written statement to the Board of Aldermen.

#### D. APPLICATION WITHDRAWAL

Any application submitted for a text or zoning map amendment may be withdrawn at any time, but fees are nonrefundable.

## 2.11 CONDITIONAL REZONING

#### A. PURPOSE

1. A conditional zoning district is intended for a development that has a high level of certainty of being constructed and the most commonly expected application will contain a specified use or uses, permitted by right or special use, on small- and large-scale projects.
2. All uses listed as part of any application must be in the same format and description as listed in the table of uses.
3. Except as provided herein, all applications to establish a conditional zoning district must follow the regulations prescribed in this section in addition to the standard zoning map amendment (rezoning) process as described in this ordinance.

#### B. APPLICATION AND CONDITIONAL ZONING REVIEW PROCEDURE

1. The application for a conditional rezoning approval shall also be accompanied by an application to amend the zoning map (rezoning) to the conditional development zoning district. The rezoning application shall be submitted concurrently with the conditional zoning master development plan. The procedure for such shall be followed as outlined in Section 2.9. The approved master development plan shall provide the framework for development in the conditional zoning district. All applications must include a master development plan, supporting information and text which specifies the use or uses intended for the property, dimensional standards, and any development standards to be approved concurrently with the rezoning application. Development standards include such things as parking, landscaping, design guidelines, and buffers.
2. Applications and proposals for conditional zoning approval shall only be considered within a nonresidential zoning district. All proposals for a conditional zoning application must abide by the uses and the dimensional standards required by the underlying base zoning district for which the proposal is located. No conditional zoning proposals shall be considered within the Open Space or PUD zoning district.

3. An application for conditional zoning approval shall be accompanied by 12 hard copies and one (1) digital copy of a conditional zoning master development plan.
4. The master development plan shall be prepared by and sealed by a licensed land surveyor, landscape architect, or engineer registered to practice in the state of North Carolina and shall include all of the required information as provided in Appendix A: Submission Requirements and any other information deemed necessary by the UDO Administrator, Planning Board, or Board of Aldermen.
5. The UDO Administrator or his/her designee will review the conditional zoning master development plan and may require a Technical Review Procedure. The Technical Review Committee may include, but not necessarily be limited to, the following individuals/departments: UDO Administrator, building inspector, city manager, Fire department, Police Department, NC Division of Coastal Management, NC Department of Environmental Quality, Brunswick County Utilities, or Brunswick County Environmental Health.
6. The UDO Administrator shall, in writing, provide a recommendation to the Planning Board within 60 days following receipt of the complete application for a conditional zoning district proposal and associated master development plan.
7. Following receipt of recommendation from the Planning Board, the Board of Aldermen shall approve, conditionally approve, or deny the conditional zoning master development plan.
8. When evaluating an application for the creation of a conditional zoning district, the Planning Board and Board of Aldermen shall consider the following:
  - a) The application's consistency to the general policies and objectives of the City's Comprehensive Plan, any other officially adopted plan that is applicable, and the Unified Development ordinance.
  - b) The potential impacts and/or benefits on the surrounding area, adjoining properties.
  - c) The report of results from the public input meeting.
9. The Board of Aldermen may not vote to rezone property to a conditional zoning district during the time period beginning on the date of a municipal general election and concluding on the date immediately following the date on which the Board of Aldermen holds its organizational meeting following a municipal general election unless no person spoke against the rezoning at the public hearing.

#### C. PUBLIC INPUT MEETING

1. Prior to scheduling a public hearing on the rezoning application, the applicant must conduct one (1) public input meeting and file a report of the results with the UDO Administrator.
2. The report for the public hearing will include a summary of the public input meeting.
3. The applicant shall mail a notice for the public input meeting to the owners of all properties located within 500 feet of the perimeter of the project bounds not less than 10 days prior to the scheduled meeting.

4. The notice shall include the time, date, and location of the meeting as well as a description of the proposal.
5. The applicant's report of the meeting shall include:
  - a) A copy of the letter announcing the meeting
  - b) A list of adjoining property owners contacted
  - c) An attendance roster
  - d) A summary of the issues discussed
  - e) The results of the meeting including changes to the project's proposal, if any.

#### D. CONDITIONS TO APPROVAL OF PETITION

1. In approving a petition for the reclassification of property to a conditional zoning district, the Planning Board may recommend, and the Board of Aldermen may request that the applicant add reasonable and appropriate conditions to the approval of the petition.
2. Any such conditions should relate to the relationship of the proposed use to the impact on city services, surrounding property, proposed support facilities such as parking areas and driveways, pedestrian and vehicular circulation systems, screening and buffer areas, the timing of development, street and right-of-way improvements, water and sewer improvements, stormwater drainage, the provision of open space, and other matters that the participants in the public input meeting, staff, Planning Board, and Board of Aldermen find appropriate or the petitioner may propose. Such conditions to approval of the petition may include right-of-way dedication, easements for streets, water, sewer, or other public utilities necessary to serve the proposed development.
3. The petitioner shall consider and respond to any such conditions after the Planning Board meeting and within three (3) days prior to the staff report for the Board of Aldermen being published. If the applicant does not agree with the Planning Board or staff's recommendations of additional conditions, the Board of Aldermen shall have the authority to accept any or all of the conditions forwarded from the review process.
4. If for any reason any condition for approval is found to be illegal or invalid or if the applicant should fail to accept any condition following approval, the approval of the site plan for the district shall be null and void and of no effect and proceedings shall be instituted to rezone the property to its previous zoning classification. All conditions must be consented to in writing by the petitioner.

#### E. EFFECT OF APPROVAL

1. If a petition for conditional zoning is approved, the development and use of the property shall be governed by the predetermined ordinance requirements applicable to the district's classification, the approved master development plan for the district, and any additional approved rules, regulations, and conditions, all of which shall constitute the zoning regulations for the approved district and are

binding on the property as an amendment to these regulations and to the zoning maps.

2. Following the approval of the petition for a conditional zoning district, the subject property shall be identified on the zoning maps by the appropriate district designation. A parallel conditional zoning shall be identified by the same designation as the underlying general district followed by the letters "CZ" (for example "CBD-CZ").
3. The master development plan does not substitute for an approved minor site plan, site plan, or subdivision plat as required by this ordinance.
4. No permit shall be issued for any development activity within a conditional zoning district except in accordance with the approved petition and applicable site plan, subdivision plat, and or permit for the district.
5. Any violation of the approved regulations and conditions for the district shall be treated the same as any other violation of this ordinance and shall be subject to the same remedies and penalties as any such violation.

#### F. REVIEW OF APPROVAL OF A CONDITIONAL ZONING DISTRICT

1. It is intended that property shall be reclassified to a conditional zoning district only in the event of firm plans to develop the property. Therefore, no sooner than three (3) years after the date of approval of the petition, the Planning Board may examine the progress made toward developing the property in accordance with the approved petition and any conditions attached to the approval.
2. If the Planning Board determines that progress has not been made in accordance with the approved petition and conditions, the Planning Board shall forward to the Board of Aldermen a report which may recommend that the property be rezoned to its previous zoning classification or to another district.

## 2.12 VESTED RIGHTS

### A. PURPOSE

The purpose of this section is to implement the provisions of NCGS 160D-108 pursuant to which a statutory zoning vested right is established upon the approval of a site-specific vesting plan as defined in this ordinance.

### B. ESTABLISHMENT OF A ZONING VESTED RIGHT

1. A zoning vested right shall be deemed established following the valid approval, or conditional approval, of a site-specific vesting plan and separate approval by the Board of Aldermen of a request for statutory zoning vested rights.
2. Notwithstanding subsection (1) this section, approval of a site-specific vesting plan with the condition that a variance be obtained shall not confer a zoning vested right unless and until the necessary variance is obtained.
3. The establishment of a zoning vested right shall not preclude the application of overlay zoning that imposes additional requirements but does not affect the allowable type or intensity of use, or ordinances or regulations that are general in nature and are applicable to all property subject to land use regulation by the

city, including, but not limited to, building, fire, plumbing, electrical and mechanical codes. Otherwise applicable new or amended regulations shall become effective with respect to property that is subject to a site-specific vesting plan upon the expiration or termination of the vested right in accordance with this article.

4. A zoning vested right is not a personal right, but shall attach to and run with the applicable property. After approval of a site-specific vesting plan and approval of an application for statutory zoning vested rights before the Board of Aldermen, all successors to the original landowner shall be entitled to exercise such right while applicable.

#### C. APPROVAL PROCEDURES AND AUTHORITY

1. Except as otherwise provided in this section, an application for site specific development plan approval shall be processed in accordance with the procedures established by ordinance and shall be considered by the designated approval authority for the specific type of zoning or land use permit or approval for which application is made. Consideration and approval of a zoning vested right constitutes a separate approval process under the sole discretion of the Board of Aldermen. Any application for a zoning vested right shall be processed concurrently or after the approval of the associated site-specific vesting plan and a duly advertised public hearing.
2. In order to obtain a zoning vested right, the applicant must request in writing at the time of application for the particular site-specific vesting plan type that the application for a zoning vested right be considered concurrently or following approval of such and acted on by the Board of Aldermen following notice and a public hearing. Notice of hearings conducted pursuant to this section shall be mailed to the person or entity whose application or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing and to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the city shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way.
3. In order for a zoning vested right to be established following approval of a site-specific vesting plan, the applicant must indicate at the time of application, on a form to be provided by the city, that a zoning vested right is being sought.
4. Each map, plat, site plan or other document evidencing a site-specific vesting plan shall contain the following notation: "Approval of this plan establishes a zoning vested right under NCGS 160D-108.1. Unless terminated at an earlier date, the zoning vested right shall be valid until (date)."
5. Following approval or conditional approval of a site-specific vesting plan and approval of zoning vested rights by the Board of Aldermen, nothing in this article shall exempt such a plan from subsequent reviews and approval to ensure



compliance with the terms and conditions of the original approval, provided that such reviews and approvals are not inconsistent with the original approval.

6. Nothing in this article shall prohibit the revocation of the original approval or other remedies for failure to comply with applicable terms and conditions of the approval or this ordinance.

#### D. DURATION

1. A zoning right that has been vested as provided in this article shall remain vested for a period of two (2) years unless specifically and unambiguously provided otherwise pursuant to subsection (2) of this section. This vesting shall not be extended by any amendments or modifications to a site-specific vesting plan unless expressly provided by the approval authority at the time the amendment or modification is approved.
2. Notwithstanding the provisions of subsection (1) of this section, the approval authority may provide that rights shall be vested for a period exceeding two (2) years but not exceeding five (5) years where warranted in light of all relevant circumstances, including, but not limited to, the size of the development, the level of investment, the need for or desirability of the development, economic cycles and market conditions. These determinations shall be in the sound discretion of the Board of Aldermen in consideration of approval of vested rights.
3. Upon issuance of a building permit, the expiration provisions of NCGS 160D-1111 and the revocation provisions of NCGS 160D-1115 shall apply, except that a building permit shall not expire or be revoked because of the running of time while a zoning vested right under this section is outstanding.

#### E. TERMINATION

1. A zoning right that has been vested as provided in this ordinance shall terminate in accordance with any one of the following:
  - a) At the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed.
  - b) With the written consent of the affected landowner.
  - c) Upon findings by the Board of Aldermen, by ordinance after notice and a quasi-judicial hearing, that natural or manmade hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety and welfare if the project were to proceed as contemplated in the site-specific vesting plan.
  - d) Upon payment to the affected landowner of compensation for all costs, expenses and other losses incurred by the landowner, including, but not limited to, all fees paid in consideration of financing, and all architectural, planning, marketing, legal and other consultant's fees incurred after approval by the city, together with interest thereon at their legal rate until paid. Compensation shall not include any diminution in the value of the property which is caused by such action.

- e) Upon findings by the Board of Aldermen, by ordinance after notice and a quasi-judicial hearing, that the landowner or his representative intentionally supplied inaccurate information or made material misrepresentations which made a difference in the approval by the approval authority of the site-specific vesting plan.
- f) Upon the enactment or promulgation of a state or federal law or regulation that precludes development as contemplated in the site-specific vesting plan, in which case the approval authority may modify the affected provisions, upon a finding that the change in state or federal law has a fundamental effect on the plan, by ordinance after notice and a hearing.

#### F. VOLUNTARY ANNEXATION

A petition for annexation filed with the city under NCGS 160A-31 or 160A-58.1 shall contain a signed statement declaring whether or not any zoning vested right with respect to the properties subject to the petition has been established under NCGS 160D-108 or 160D-108.1. A statement that declares that no zoning vested right has been established under NCGS 160D-108 or 160D-108.1, or the failure to sign a statement declaring whether or not a zoning vested right has been established, shall be binding on the landowner and any such zoning vested right shall be terminated.

#### G. LIMITATIONS

Nothing in this article is intended or shall be deemed to create any vested right other than those established pursuant to NCGS 160D-108 and 160D-108.1.

#### H. PERMIT CHOICE

If a land development regulation is amended between the time a development permit application was submitted and a development permit decision is made or if a land development regulation is amended after a development permit decision has been challenged and found to be wrongfully denied or illegal, NCGS 143-755 applies.

## 2.13 REVIEW PROCEDURES SUMMARY

Table 2.1: Review Procedures Summary						
Application Type	Advisory or Decision-Making Body					
	Board of Aldermen	Planning Board	Board of Adjustment	UDO Administrator	CAMA LPO	Building Inspector
FD = Final Decision; R = Advisory Recommendation; PH = Public Hearing; QJ = Quasi-judicial Hearing						
Complete Application				FD		
Zoning Permit, Sign Permit, Floodplain Permit, Tree Removal Permit				FD		
Building Permit						FD
CAMA Minor Permit					FD [1]	
Minor Site Plan				FD		
Major Site Plan		FD		R		
Special Use Permit			FD-QJ	R		
Variance, Appeal			FD-QJ			
Exempt Plat, Minor Subdivision				FD		
Major Subdivision Sketch Plan		R		R		
Major Subdivision Preliminary Plat	FD	R		R		
Major Subdivision Final Plat	FD			R		
Planned Unit Development (PUD)	FD-PH	R		R		
Text Amendment, Zoning Map Amendment (Rezoning)	FD-PH	R		R		
Conditional Zoning District	FD-PH	R		R		
Statutory Zoning Vested Rights	FD-PH			R		
[1] CAMA general and major permits are decided by the NC Division of Coastal Management and Coastal Resources Commission.						

## 2.14 PUBLIC NOTIFICATION REQUIREMENTS

Table 2.2: Public Notification Summary				
Application Type	Advisory or Decision-Making Body	Published Notice [1]	Mailed Notice [2]	Posted Notice [3]
X = Notification Required; PH = Public Hearing; QJ = Quasi-judicial Hearing				
Special Use Permit	Board of Aldermen		X-QJ	X-QJ
Variance	Board of Adjustment		X-QJ	X-QJ
Appeal	Board of Adjustment		X-QJ	X-QJ
Text Amendment	Planning Board			
	Board of Aldermen	X-PH		
Zoning Map Amendment	Planning Board			
	Board of Aldermen	X-PH	X-PH	X-PH
Statutory Zoning Vested Rights	Board of Aldermen		X-QJ	X-QJ
[1] Published notice provided once a week for 2 successive calendar weeks, with the first notice between 10 and 25 days before the hearing. [2] Mailed notice provided to affected owners and landowners abutting the subject lot between 10 and 25 days before the hearing. [3] Posted notice provided on site or adjacent street between 10 and 25 days before the hearing.				

## 2.15 ENFORCEMENT

### A. COMPLAINTS REGARDING VIOLATIONS

Whenever the UDO Administrator receives a complaint, which may be anonymous, alleging a violation of this ordinance, he shall investigate the complaint, take whatever action is warranted, and inform the complainant what actions have been or will be taken. The building inspector shall be responsible for enforcement matters pertaining to the City and State Building Code.

### B. PERSONS LIABLE

The owner, tenant, or occupant of any building or land or part thereof and any architect, builder, contractor, agent, or other person who participates in, assists, directs, creates, or maintains any situation that is contrary to the requirements of this ordinance may be held responsible for the violation and suffer the penalties and be subject to the remedies herein provided.

### C. PROCEDURES UPON DISCOVERY OF VIOLATIONS

1. If the UDO Administrator finds that any provision of this ordinance is being violated, he/she shall send a written notice to the person responsible for such violation, indicating the nature of the violation and ordering the action necessary

to correct it. The notice of violation shall be delivered to the holder of the development approval and to the landowner of the property involved, if the landowner is not the holder of the development approval, by personal delivery, electronic delivery, or first-class mail and may be provided by similar means to the occupant of the property or the person undertaking the work or activity. The notice of violation may be posted on the property. The person providing the notice of violation shall certify to the city clerk that the notice was provided, and the certificate shall be deemed conclusive in the absence of fraud. Additional written notices may be sent at the UDO Administrator's discretion.

2. The final written notice (and the initial written notice may be the final notice) shall state what action the administrator intends to take if the violation is not corrected and shall advise that the administrator's decision or order may be appealed to the Board of Adjustment.
3. Notwithstanding the foregoing, in cases when delay would seriously threaten the effective enforcement of this ordinance or pose a danger to the public health, safety, or welfare, the UDO Administrator may seek enforcement without prior written notice by invoking any of the penalties or remedies as described herein.

#### D. PENALTIES AND REMEDIES FOR VIOLATIONS

1. Violations of the provisions of this ordinance or failure to comply with any of its requirements, including violations of any conditions and safeguards established in connection with grants of variances or special use permits, shall constitute a misdemeanor, punishable by a fine of \$100, or a maximum 30 days imprisonment, or both.
2. Any act constituting a violation of the provisions of this ordinance or a failure to comply with any of its requirements, including violations of any conditions and safeguards established in connection with the grants of variances or special use permits, shall also subject the offender to a civil penalty of \$25. If the offender fails to pay this penalty within 10 days after being cited for a violation, the penalty may be recovered by the city in a civil action in the nature of debt.
3. This ordinance may also be enforced by any appropriate equitable action.
4. Each day that any violation continues after notification by the administrator that such violation exists shall be considered a separate offense for purposes of the penalties and remedies specified in this section.
5. Any one, all, or any combination of the foregoing penalties and remedies may be used to enforce this ordinance.

## Article 3: Zoning

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### 3.1 GENERAL

#### A. TYPES OF ZONING DISTRICTS

All land within the city's planning jurisdiction is classified by this ordinance to be within one (1) of the several base zoning districts or overlay districts respectively.

#### B. OVERLAY ZONING AREAS AND RELATIONSHIP TO ZONING DISTRICTS

Land within any base zoning district may also be classified into one (1) or more overlay zoning areas, as listed in Section 3.3, Overlay Zoning Districts. Regulations governing development in an overlay area shall apply in addition to the regulations governing development in the underlying district. If the standards governing a zoning district expressly conflict with those governing an overlay zoning area, the more restrictive standard shall control.

#### C. COMPLIANCE WITH DISTRICT STANDARDS

No land within the city shall be developed except in accordance with the zoning district use, use and development standards, and requirements of this article and all other regulations of this ordinance, as applicable.

### 3.2 BASE ZONING DISTRICTS

#### A. ESTABLISHMENT OF BASE ZONING DISTRICTS

For the purpose of this ordinance, the City of Southport and its extraterritorial jurisdiction is divided into the following classes of base zoning districts:

1. R-10: Residential District. Single and two-family residential district with 10,000 square foot minimum lot area.
2. R-20: Residential Agricultural District. Single and two-family residences with 20,000 square foot minimum lot area.
3. MF: Multi-Family District. A district designed to accommodate a variety of attached single-family dwellings up to a density of 11 units per acre.
4. MH: Manufactured Housing. A district established to offer affordable housing alternatives and to ensure the orderly development of such establishments.
5. CZ: Conditional Zoning District. A special district where uses and densities are established through public input for a development that has a high level of certainty of being constructed and the most commonly expected application will contain a specified use or uses, permitted by right or conditional use, on small- and large-scale projects.
6. PUD: Planned Unit Development District. A special district where multiple residential and commercial uses may be proposed and density and lot dimensions may be different from that of the base residential zoning districts in trade-off for significant dedication of open space, alternative housing types, and affordable development.
7. O/I: Office/Institutional District. A district designed for office/institutional uses at low to moderate densities and multi-family housing. This district should be used as a transitional zone between areas of conflicting land uses.

8. CBD: Central Business District. Restricted district in which commercial uses are densely developed in accordance with the City's historical commerce center.
9. BD: Business District. A commercial related district with lot and setback requirements suitable for placement abutting residential areas.
10. HC: Highway Commercial District. A district established for the retailing of durable goods, provision of commercial services to industrial areas, and the provision of services to transients.
11. LI: Light Industrial District. A district established to accommodate commercial warehousing and light industrial uses.
12. HI: Heavy Industrial District. A district designed for commercial, warehousing, and industrial uses.
13. OS: Open Space District. Areas of special public interest that should be placed in a zone protected from any development other than improvements or uses undertaken by the City of Southport.

### 3.3 OVERLAY DISTRICTS

#### A. ESTABLISHMENT OF OVERLAY DISTRICTS

Reserved.

### 3.4 INTERPRETATION OF DISTRICT REGULATIONS

- A. Regulations for each district shall be enforced and interpreted according to the following rules:
  1. Uses by right. All listed permitted uses are permitted by right according to the terms of this article.
  2. Special uses. Special uses are permitted, subject to compliance with the additional regulations specified.
  3. Permitted or special use with standards. Uses with additional standards are denoted with an "S."
  4. Unlisted uses. The uses listed may not address all possible uses. In determining if a use is permitted, the UDO Administrator shall consider which category of expressed uses most closely matches the use proposed and apply the regulations pertaining to that category to the proposed use. In determining the use which most closely matches the proposed use, the UDO Administrator shall consider the density and intensity of the use, and anticipated traffic, noise, light, and odor on adjacent properties. Such interpretation shall be provided in writing to the property owner and subject to appeal by the Board of Adjustment.
  5. Minimum regulations. Regulations set forth in this article shall be minimum regulations. If the requirements set forth in this article are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the more restrictive or higher standard shall govern.
  6. Restrictive covenants and deed restrictions. Unless restrictions established by covenants and deed restrictions running with the land are prohibited by the provisions of this article, nothing herein contained shall be construed to render such covenants or restrictions inoperative.

### 3.5 TABLE OF PERMITTED AND SPECIAL USES

#### A. USE TABLE

The following uses are listed as permitted by right (P), special (S), or permitted by right with an additional use standard (PS), or special with an additional use standard (SS) in each zoning district where allowed. The Use Table (3.1) is separated by Accessory Uses, Residential Uses, and Nonresidential Uses.

#### B. PROHIBITED USES

1. If a cell in the table of uses is blank the use is prohibited in the corresponding zoning district.
2. The following uses are prohibited throughout the City's planning jurisdiction in an effort to mitigate natural and manmade hazards, maintain desired environmental qualities, and enhance public health, safety, and welfare, as desired in the City's Comprehensive Plan:
  - a) The manufacturing, processing, fabrication, and/or bulk storage of acetylene gas (except for use on premises), ammunition, explosives, fireworks, gunpowder, jute, or matches;
  - b) The manufacturing, processing, and/or fabrication of acids (except non-corrosive acids), ammonia, ammonium nitrate, animal byproducts, bleaching powder, cellulose, chlorine, creosote and creosote treatment, detergents, enamels, lacquers, linoleum, oilcloth, paints, paper pulp, pigments, lime, plastic, rubber (except tire recappers), soaps (except artisan manufacturing), tannery products, turpentine, varnishes, whiting and/or wood fillers, and environmentally hazardous material. The fabrication of plastics is exempt from this prohibition.
  - c) The slaughtering of animals, except seafood processing.

Table 3.1: Table of Uses	Districts P = Permitted by Right; S = Special Use; PS or SS = Permitted or Special Use with a Use Standard													Use Stand ard
Uses	ICS	R-10	R-20	M F	MH	PUD	O-I	CBD	BD	HC	LI	HI	O S	Section #
Accessory Uses														
ACCESSORY STRUCTURES OR USES, GENERAL		PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS		3.6.A
ACCESSORY DWELLING, COMMERCIAL						SS	SS	SS	SS	SS	SS	SS		3.6.B
ACCESSORY DWELLING, RESIDENTIAL		SS	SS	SS	SS	SS	SS							3.6.C
CEMETERIES AND MAUSOLEUMS		SS	SS	SS	SS	SS	SS	PS	PS	PS				3.6.D

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Table 3.1: Table of Uses	Districts P = Permitted by Right; S = Special Use; PS or SS = Permitted or Special Use with a Use Standard													Use Stand ard
	ICS	R- 10	R- 20	M F	MH	PUD	O-I	CBD	BD	HC	LI	HI	O S	Section #
DOCKS, , PIERS, GAZEBOS, BULKEADS, AND LIVING SHORELINES		PS	PS	PS	PS	PS	PS	PS	PS				SS	3.6.E
HOME DAYCARE, ADULT AND CHILD		SS	SS	SS	SS	SS								3.6.F
HOME OCCUPATION		SS	SS	SS	SS	SS								3.6.G
HOMESTAY		PS	PS	PS		PS								3.6.H
MODULAR UNIT					PS	PS	PS	PS	PS	PS	PS	PS		3.6.I
OUTDOOR DISPLAY								PS	PS	PS				3.6.J
OUTDOOR STORAGE									PS	PS	PS	PS		3.6.K
OUTDOOR VENDING MACHINE					PS	PS	PS	PS	PS	PS	PS	PS		3.6.L
PORTABLE STORAGE CONTAINERS		PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS		3.6.M
RECREATIONAL VEHICLE OR TRAVEL TRAILER		PS	PS		PS	PS	PS							3.6.N
SELF-SERVICE ICE VENDING MACHINES									SS	SS				3.6.O
SOLAR ENERGY SYSTEMS		PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS		3.6.P
SWIMMING POOLS		PS	PS	PS	PS	PS	PS	PS						3.6.Q
TEMPORARY SALES OFFICES		PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS		3.6.R
TEMPORARY HEALTHCARE STRUCTURES		PS	PS	PS	PS	PS								3.6.S
Residential Uses														
DWELLING, SINGLE-FAMILY		P	P	P	P	P	P							
DWELLING, TWO-FAMILY (DUPLEX)		S	S	P	P	P	P							

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Table 3.1: Table of Uses	Districts P = Permitted by Right; S = Special Use; PS or SS = Permitted or Special Use with a Use Standard													Use Stand ard
	ICS	R- 10	R- 20	M F	MH	PUD	O-I	CBD	BD	HC	LI	HI	O S	Section #
DWELLING, MULTI-FAMILY				PS		SS	SS							3.7.A
DWELLING, TRIPLEX OR QUADRAPLEX				PS	SS	SS	SS							3.7.B
FAMILY CARE HOME		PS	PS	PS	PS	PS								3.7.C
MANUFACTURED HOME ON SINGLE LOT					PS									3.7.D
MANUFACTURED HOME PARK					PS									3.7.E
MIXED USES						PS	PS	PS	PS					3.7.F
MODULAR HOMES		PS	PS	PS	PS	PS	PS							3.7.G
Nonresidential Uses														
ADULT ESTABLISHMENT												SS		3.8.A
ALCOHOLIC BEVERAGES, PACKAGED, RETAIL SALES								P	P	P				
AUTOMOTIVE, MAJOR									SS	P	P	P		3.8.B
AUTOMOTIVE, MINOR								SS	P	P	P			3.8.B
BED & BREAKFAST	721191	SS	SS	SS	SS	SS	SS	SS	SS	SS				3.8.C
BOTTLE SHOP AND WINE BAR						P		P	P	P				
BUILDING MATERIAL DEALERS	444190								S	P	P	P		
BUSINESS, COMMERCIAL, OR OTHER NON-RESIDENTIAL USE NOT ELSEWHERE CLASSIFIED	561						SS	SS	SS	SS				3.8.D
BUS TERMINALS AND RAILROAD STATIONS									P	P				
CHURCHES, SYNAGOGUES & OTHER ASSOC. ACTIVITIES, INCL. OFFICES, ACTIVITY CENTER, ETC.	813110	SS	SS	SS	SS	SS	SS	PS	PS	PS				3.8.E



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Table 3.1: Table of Uses	Districts P = Permitted by Right; S = Special Use; PS or SS = Permitted or Special Use with a Use Standard													Use Stand ard
	ICS	R- 10	R- 20	M F	MH	PUD	O-I	CBD	BD	HC	LI	HI	O S	Section #
CLUBS OR LODGE		SS	SS			SS		SS	PS	PS				3.8.F
COMMERCIAL PARKING LOTS	812930						SS	SS	SS	PS	SS			3.8.G
COMMERCIAL RECREATION, INDOOR						S		S	P	P				
COMMERCIAL RECREATION, OUTDOOR										P				
CONTRACTORS, EQUIPMENT & SUPPLY DEALERS & SERVICE	811310									P	P	P		
CONTRACTORS, HEAVY CONSTRUCTION; GRADING, PAVING, MARINE, ETC.	234										P	P		
CULTURAL ARTS CENTER, INCL. THEATERS, OFFICES, CLASSROOMS, ETC.						P	P	P	P	P				
DANCE STUDIOS	611610					P	P	P	P	P				
DAYCARE, ADULT AND CHILD	624120						SS	SS	PS	PS				3.8.H
DIVERS, COMMERCIAL								P	P	P	P	P		
DRY CLEANERS	812320					SS		PS	PS	PS				3.8.I
DRY STORAGE										PS	PS	PS		3.8.J
EDUCATIONAL FACILITY		S	S	S	S	S	P	P	P	P				
ELECTRONIC GAMING OPERATIONS										SS				3.8.K
EXTERMINATING SERVICES	561710							PS	P S	P	P	P		3.8.L
FARMERS'S MARKET	445230	SS				SS		SS	PS	PS			S S	3.8.M
FARM MACHINERY SALE AND SERVICE									S	P	P			

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Table 3.1: Table of Uses	Districts													Use Stand ard	
	P = Permitted by Right; S = Special Use; PS or SS = Permitted or Special Use with a Use Standard														
Uses	ICS	R- 10	R- 20	M F	MH	PUD	O-I	CBD	BD	HC	LI	HI	O S	Sectio n #	
FEED, SEED, AND FERTILIZER SALES, RETAIL									S	P	P				
FISHING, COMMERCIAL	11411							P	P	P					
FLEA MARKET										SS				3.8.N	
FRUIT & VEGETABLE MARKET, WHOLESALE WITH INCIDENTAL RETAIL	445230							SS	SS	PS	PS	SS		3.8.O	
FUEL & ICE DEALERS	422710								P	P	P	P			
FUNERAL HOMES	812210						P	P	P	P					
FURRIERS AND FUR STORAGE									P	P					
GARBAGE COLLECTION, PRIVATE (NO LANDFILLS)	562111											P			
GAS COMPANIES (LP- BOTTLED & BULK STORAGE)	324110										P	P			
GOLF COURSE, PRIVATE OR PUBLIC, W/RELATED SERVICES INCL. PRO SHOP	713910	P	P	P		P									
GOVERNMENT USE, CITY OF SOUTHPORT		P	P	P	P	P	P	P	P	P	P	P	P		
GOVERNMENT USES WITH BUILDINGS, NON-CITY OF SOUTHPORT		SS	SS	SS	SS	SS	SS	SS	SS	SS	SS	SS		3.8.P	
GROCERY STORES	445110					P		P	P	P					
HARDWARE, LAWN, OR GARDEN STORE	444130							P	P	P	P	P			
HEALTH SERVICES,						P	P	P	P	P					
HELIPAD							SS							3.8.Q	
HOSPITALS	622110						P	P	P	P					
HOTEL, MOTEL, OR INN	721110					SS	SS		SS	PS				3.8.R	

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Table 3.1: Table of Uses	Districts P = Permitted by Right; S = Special Use; PS or SS = Permitted or Special Use with a Use Standard													Use Stand ard
Uses	ICS	R- 10	R- 20	M F	MH	PUD	O-I	CBD	BD	HC	LI	HI	O S	Sectio n #
HOTEL, RESIDENTIAL OR BOUTIQUE						SS	SS	PS	PS	PS				3.8.S
INSTITUTIONAL CARE FACILITY, ADULT										S				
INSTITUTIONAL CARE FACILITY, CHILD HANDICAPPED									S	S				
JAIL	922140									PS	PS	PS		3.8.T
KENNEL	812910									SS	PS	PS		3.8.U
LAUNDRY, INDUSTRIAL	812332									P	P	P		
LAUNDRY, COIN-OPERATED									P	P				
LIBRARY	514120					P	P	P	P	P				
LIQUOR STORES	445310							P	P	P				
MANUFACTURED HOME DEALERS	453930									P	P			
MANUFACTURED HOME (INDIVIDUAL) FOR OFFICE AND/OR EXHIBITION					S	S	S	S	S	S	S	S		
MANUFACTURING, ARTISAN									P	P	P	P		
MANUFACTURING, GENERAL											C	P		
MANUFACTURING, INTENSIVE												CS		3.8.V
MANUFACTURING, LIMITED										P	P	P		
MARINA, COMMERCIAL	713930					PS		PS	PS	PS	PS	PS		3.8.W
MARITIME SALES, RENTAL, AND SERVICE									P	P				
MICROBREWERY AND MICRODISTILLERY								SS	PS	PS	PS			3.8.X
MOBILE VENDOR OR FOOD TRUCK								PS	PS	PS	PS	PS		3.8.Y

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Table 3.1: Table of Uses	Districts													Use Stand ard
	P = Permitted by Right; S = Special Use; PS or SS = Permitted or Special Use with a Use Standard													
Uses	ICS	R- 10	R- 20	M F	MH	PUD	O-I	CBD	BD	HC	LI	HI	O S	Sectio n #
MOTION PICTURE PRODUCTION & DISTRIBUTION	512110										P	P		
MOTOR FREIGHT COMPANIES, MOVERS, VAN LINES, AND STORAGE										P	P	P		
MUSEUMS, ART GALLERIES	712110						P	P	P	P				
NIGHTCLUB	722410							SS	SS	SS				3.8.Z
NURSING & PERSONAL CARE FACILITY	623110					SS	SS		SS	PS				3.8.AA
OFFICE, GENERAL						P	P	P	P	P				
PACKAGE DELIVERY SERVICES, COMMERCIAL	492210						SS	SS	SS	PS	PS	PS		3.8.BB
PARKS & RECREATION AREAS, MUNICIPAL	924120	P	P	P	P	P	P	P	P	P			P	
PERSONAL SERVICE ESTABLISHMENT						P	P	P	P	P				
RADIO & TELEVISION STATIONS, STUDIOS, AND OFFICES							SS		PS	PS				3.8.CC
RECREATION FACILITY PRIVATE, INCL. CLUBS & RECREATION FACILITIES ASSOC. WITH MULTIPLE FAMILY COMPLEXES, GOLF COURSES, TENNIS FACILITIES, COUNTRY CLUBS, ETC.		SS	SS	SS	SS	SS	SS	SS	SS	SS				3.8.F
RECREATIONAL VEHICLE PARK										SS				3.8.DD
RESEARCH & DEVELOPMENT							SS	SS		PS	PS	PS		3.8.EE
RESTAURANT, CARRY-OUT	722211					S		P	P	P				
RESTAURANT, STANDARD & FAST-FOOD	722211					S		P	P	P				

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Table 3.1: Table of Uses	Districts													Use Stand ard
	P = Permitted by Right; S = Special Use; PS or SS = Permitted or Special Use with a Use Standard													
Uses	ICS	R- 10	R- 20	M F	MH	PUD	O-I	CBD	BD	HC	LI	HI	O S	Sectio n #
RETAIL SALES, MAJOR										P				
RETAIL SALES, MINOR						P		P	P	P				
RETAIL SALES, MODERATE									P	P				
SALVAGE OPERATIONS												SS		3.8.FF
SHOPPING CENTER	233320					SS		SS	PS	PS				3.8.GG
SHOOTING RANGE, INDOOR										PS	PS	PS		3.8.HH
SHOOTING RANGE, OUTDOOR												SS		3.8.HH
SHORT- TERM VACATION RENTALS						PS		PS	PS					3.8.II
SOLAR FARM												SS		3.8.JJ
STORAGE, SELF-SERVICE										PS	PS	PS		3.8.KK
TATTOO AND PIERCING ESTABLISHMENT												S		
TAXICAB STANDS								SS	PS	PS				3.8.LL
TELEPHONE COMMUNICATION FACILITY, UNATTENDED	513340	SS	SS	SS	SS	SS	SS	SS	SS	SS	PS	PS		3.8.M M
TRANSITIONAL HOUSING FACILITIES							S							3.8.NN
US POSTAL SERVICE	491110					P	P	P	P	P	P	P		
UTILITY STATIONS & PLANTS (PUBLIC & PRIVATE) INCL. LIFT STATIONS, SUBSTATIONS, ETC.		P	P	P	P	P	P	P	P	P	P	P	P	
VETERINARY SERVICES WITH OPEN PENS	541940									P	P	P		
VETERINARY SERVICES WITH PENS ENCLOSED IN A BUILDING	541940								S	P	P	P		
WAREHOUSING, GENERAL	493110									PS	PS	PS		3.8.OO

Table 3.1: Table of Uses	Districts													Use Stand ard
	P = Permitted by Right; S = Special Use; PS or SS = Permitted or Special Use with a Use Standard													
Uses	ICS	R- 10	R- 20	M F	MH	PUD	O-I	CBD	BD	HC	LI	HI	O S	Section #
WATER TRANSPORTATION INCL. DOCKS, TUGBOATS, BARGES, AND EXCURSIONS									P	P	P	P		
WELDING, REPAIR	811310								P	P	P	P		
WIRELESS TELECOMMUNICATION FACILITY OR COMPLEX, FREESTANDING AND SUBSTANTIAL MODIFICATIONS										SS	SS	SS		See Article 7
WIRELESS TELECOMMUNICATION FACILITY, COLLOCATION OR COLLOCATED SMALL/MICRO-WIRELESS FACILITY		PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS		See Article 7
YARD SALES		P	P	P	P	P	P	P	P	P				

### 3.6 ACCESSORY USE STANDARDS

#### A. ACCESSORY STRUCTURE OR USE, GENERAL

Where permitted, the following shall apply:

1. There shall not be more than two (2) accessory structures or uses per lot, excluding swimming pools, docks, piers, and waterside structures, in the R-10, R-20, MF, MH, PUD, O-I, CBD, BD and HC districts.
2. The total area of accessory structures, excluding swimming pools, shall not exceed 50% of the rear yard area of the lot and shall meet all rear and side yard setbacks of the district. However, accessory structures with a footprint of 530 square feet or smaller in any district may have setbacks of five (5) feet to a side or rear property line. No accessory structure shall be constructed beyond the front building line of the primary structure, except as allowed for riverfront lots as described below.
3. Riverfront lots: Detached garages are permitted in the street front yard on lots with frontage on the Cape Fear River in the R-10 district provided they are no closer than 75 feet from the street right-of-way.
4. No accessory structure, whether residential or nonresidential, shall be greater than 30 feet in height.

B. ACCESSORY DWELLING, COMMERCIAL

Where permitted, the following shall apply:

1. The residential unit may be occupied solely by the person engaged in the principal use or a full-time employee, and their family members residing with them.
2. The site shall provide an area of open space not occupied by any buildings, parking or structures equal to the floor area of the residential unit.
3. The amount of floor area for the residential unit shall not exceed 1,500 square feet.
4. The residential unit shall be located totally above the ground floor or totally to the rear of the principal use so as not to interrupt the commercial frontage.
5. In addition to the required off-street parking for the principal use, two (2) off-street parking spaces shall be provided for the residential unit.

C. ACCESSORY DWELLING, RESIDENTIAL

Where permitted, the following shall apply:

1. An accessory dwelling may be within, attached, or separate from the principal residential structure.
2. The principal use of the lot shall be a detached single-family dwelling, built to the standards of the North Carolina State Building Code.
3. No more than one (1) accessory dwelling shall be permitted on a single deeded lot in conjunction with the principal residential structure.
4. The accessory dwelling shall be owned by the same person as the principal residential structure.
5. The accessory dwelling shall not be served by a driveway separate from that serving the principal residential structure.
6. There shall be a separate parking space for the accessory dwelling subject to the off-street parking requirements of Section 3.14.
7. The accessory dwelling shall not exceed 800 square feet.
8. Detached garages with a second-floor accessory residential dwelling may not exceed a ground level building footprint area of 530 square feet and shall be constructed behind the front building line, except as allowed for riverfront lots, provided they are located no closer than five (5) feet to any adjoining lot line.

D. CEMETERIES AND MAUSOLEUMS

Where permitted, a cemetery or mausoleum may be allowed as an accessory use to churches and synagogues. No crematoriums shall be permitted.

E. DOCKS, PIERS, BULKHEADS, AND LIVING SHORELINES

Where permitted, docks, piers, bulkheads, and living shorelines shall be constructed in accordance with the CAMA use standards as stated in 15A NCAC 07H and the Army Corps of Engineers setback requirements. Within the Open Space District, only non-commercial residential docks and piers shall be permitted. Within the Open Space District, a residential



community dock attached to a homeowners/property owners association (HOA/POA) common area is permitted only within the community it serves. A residential HOA/POA community dock is not allowed in the Open Space District as a remote recreation facility for non-contiguous HOA/POA common areas. Docks may be utilized as a principal or accessory structure where permitted.

#### F. HOME DAYCARE, ADULT AND CHILD

Where permitted, the following shall apply:

1. All outdoor play areas are to be surrounded by a fence or wall at least four (4) feet in height.
2. There shall be adequate road ingress and egress to and from the site.
3. Traffic generated by the facility shall not be disruptive to any adjacent residentially developed properties.
4. Outdoor play areas may be located in the rear yard or side yard only. If located in the side yard, a minimum side yard setback of ten feet shall be observed. On corner or through lots, a minimum 20-foot setback, as measured from the abutting street right-of-way line, shall be observed. Greater setbacks may be required if otherwise called for in the underlying zoning district.
5. It complies with all applicable home occupation requirements, except the gross floor area requirement.

#### G. HOMESTAY

Where permitted, the following shall apply:

1. No displays of goods, products, services, or other advertising shall be visible outside the dwelling.
2. The homestay operation shall be managed and carried on by a person who:
  - a) Is a full-time resident of the property; and
  - b) Is present during the homestay term for the entire time lodgers are staying at the property. To be a "full-time resident," the person must reside on the property on a permanent basis, and it must be the person's primary home. For the purposes of this section, a person can only have one primary, full-time residence. To be "present during the homestay term," the full-time resident shall be at the property overnight and not away on vacation, visiting friends or family, traveling out of town for business or personal reasons, etc., during the homestay term. However, the full-time resident may be temporarily absent from the property for purposes related to normal residential activities such as shopping, working, attending class, etc. A minimum of two documents establishing proof of residency shall be supplied from an approved list of documents.
3. No activities other than lodging shall be provided. Special events, including weddings, receptions, and other large gatherings, are expressly prohibited.
4. No additional off-street parking is required for a homestay.
5. Only one homestay permit shall be permitted per property.
6. Homestay permits shall be limited to two guest rooms at a time.

7. No signage shall be allowed for homestays.
8. The length of stay of guests shall not exceed 30 days.
9. Exterior lighting shall be residential in nature and shall comply with the lighting requirements of the UDO.
10. The homestay owner or operator shall maintain a minimum of \$500,000 general liability insurance on the property, which covers the homestay use and homestay guests.
11. The homestay owner or operator must pay any applicable taxes, including occupancy and sales taxes, to the appropriate governmental entities.
12. The homestay owner or operator shall not prepare food for guests or provide pre-packaged or unpacked food items or beverages for guests.
13. The homestay area of the dwelling shall comply with all current and applicable building codes.
14. Accessory Dwellings with a Special Use Permit are not eligible for homestay use.
15. A homestay zoning permit is required pursuant to 2.6 (I). It shall be a violation of the City's Unified Development Ordinance to operate a homestay without having secured a valid homestay zoning permit.

#### H. HOME OCCUPATION

Where permitted, the following shall apply:

1. Home occupations shall be a use that is clearly a customary, incidental, and use of a residential dwelling unit and shall be permitted subject to the following limitations.
  - a) No exterior display of projects.
  - b) Industrial uses shall not be allowed including: manufacturing, processing, fabrication, and/or bulk storage of acetylene (except for use on premises), ammunition, explosives, fireworks, gunpowder, jute, or matches.
  - c) Not more than 25% of the gross floor area of the dwelling unit (excluding porch and garage areas) or 500 square feet, whichever is more, shall be used in the conduct of the home occupation. The 25% or 500 square feet, whichever is more, may be used in either the dwelling unit or an accessory structure or a combination of the two.
  - d) There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation.
  - e) There shall be no outside storage of anything connected with the home occupation, except one vehicle used in connection with the business. Such vehicle may be no larger than a passenger van or pick-up truck.
  - f) No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood. One (1) additional off-street parking space shall be required for any home occupation.
  - g) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interferences

detectable to the normal sense off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.

- h) There shall not be more than one (1) person other than residents of the dwelling unit employed at the premises in connection with the home occupation.

#### I. MODULAR UNIT

Where permitted, the following shall apply:

1. Modular units to be utilized for office or classroom use must have been originally constructed for such use and shall not be a renovated or modified manufactured home. Plans and specifications shall bear an engineer's seal and a third-party inspection certification. The modular unit must have a permanent foundation if it is meant to be located on site as a permanent fixture.
  - a) Parking. One (1) space for each person employed in the office at any given time during a 24-hour period plus four (4) spaces for visitors.
  - b) Requirements. A temporary certificate of occupancy/compliance may be issued, allowing modular units to be used for permanent stand-alone office space and to be located on a designated lot or land location.
  - c) Notwithstanding the foregoing, a temporary certificate of occupancy/compliance may be issued for a modular unit for use as a temporary field office for contractors, if the modular unit:
    - i) And the structure under construction are located on the same property;
    - ii) Is not moved to the site more than 30 days prior to construction and is removed not later than 30 days after construction has been completed;
    - iii) Is not used for any other purpose other than that connected with on-site construction;
    - iv) Is justified by the size and nature of the construction project;
    - v) Is to be used for a period not to generally exceed 18 months with subsequent annual renewals permissible upon demonstrated continued need;
    - vi) Is utilized only incidental to on-site construction during daylight hours and not for residential living quarters;
    - vii) Is parked in a location approved in advance;
    - viii) Sanitary facilities are connected with an approved sewer system unless an on-site port-a-john is provided;
    - ix) Electrical facilities are connected in compliance with regulations as set forth in the North Carolina State Building Code.
- (a) Also, notwithstanding the foregoing, a certificate of occupancy/compliance may be issued for a modular unit for use as a classroom by a public or private school, for a school administrative office, or for a manufactured home sales office, if the following requirements are met:
  - x) Sanitary facilities are connected with an approved sewer system;

- xi) Electrical facilities are connected in compliance with regulations as set forth in the North Carolina State Building Code;
- xii) Provisions pertaining to a modular unit foundation and anchorage shall be as provided in the NC State Building Code or its successor document.

#### J. OUTDOOR DISPLAY

Where permitted, outdoor display shall comply with the following minimum standards. This section applies to the display of retail and rental goods outside of an enclosed building. This section does not apply to permitted farmers' markets.

1. Outdoor display must be incidental to a permitted principal use in the zoning district. Only the business or entity occupying the principal use or structure shall sell merchandise or rent equipment in the outdoor display areas.
2. Merchandise or rental equipment shall not be placed or located where it will interfere with pedestrian or building access or egress, required vehicular parking and handicapped parking, aisles, access or egress, fire lanes, alarms, hydrants, standpipes, or other fire protection equipment, or emergency access or egress.
3. Outdoor display shall be removed at the close of operating hours and shall not be permitted to remain overnight.

#### K. OUTDOOR STORAGE

Where permitted, the following shall apply:

1. All outdoor/open storage areas shall be fenced with a minimum of a six (6) foot opaque fence and shall not be visible from the public right-of-way.
2. All outdoor storage materials shall be kept in the rear of buildings and in no case shall outdoor storage materials be located closer than five (5) feet from any adjoining property line.

#### L. OUTDOOR VENDING MACHINE

Where permitted, the following shall apply:

1. Within the CBD zoning district, only attached automatic bank teller machines which are associated with the principal financial institution shall be permitted. No other outdoor vending machines or outdoor independently owned teller machines shall be permitted within the CBD zoning district.
2. Outdoor vending machines shall not obstruct pedestrian pathways, driving aisles, parking spaces, or any areas necessary for proper vehicular circulation or loading activities. A clear path of travel at least four feet wide must be provided around outdoor vending machines.
3. Outdoor vending machines shall not be located within four feet of the public right-of-way, or located in such a manner as to encourage or require customers to stand or park in the right-of-way in order to use the machine.
4. The back of an outdoor vending machine may not be located more than 18 inches from an exterior wall of the primary structure on the lot.
5. If exposed conduits or pipes are required (e.g., to supply the outdoor vending machine with power, coolant for refrigeration, or the product being dispensed),

they shall be secured to the building and painted or otherwise screened to match the building exterior. Exposed conduits, pipes, and utility connections shall not bridge a span or gap greater than 18 inches.

6. All outdoor vending machines shall be maintained in a clean and attractive condition. Any graffiti on an outdoor vending machine shall be removed within 24 hours. If the outdoor vending machine is removed, the area shall be cleaned and restored to its previous condition, including the removal of any abandoned pipes, conduits or other connecting hardware.
7. In addition to the above, the following criteria shall apply to outdoor vending machines:
  - a) Outdoor vending machines shall not block or visually obstruct the sales counter as viewed from outside the establishment.
  - b) The area occupied by outdoor vending machines may not exceed 20% of the width of the building elevation along which they are located, nor shall the combined width of all vending machines at any one site exceed 30 feet.
  - c) Sign copy on an outdoor vending machine shall be limited to that which fits on the exterior panels of the machine and shall only advertise the actual product or service provided by the machine.

#### M. PORTABLE STORAGE CONTAINERS.

Where permitted, the following shall apply:

1. A temporary portable storage container may be placed for 30 or less consecutive days in any 12-month period without issuance of a permit in all zoning districts upon notification of the UDO Administrator.
2. Temporary portable storage containers being used for over 30 days shall apply for and obtain a zoning permit from the UDO Administrator. A maximum of one (1) portable storage container shall be allowed per lot in residential areas for up to a 12-month period if the following conditions are met:
  - a) The principal structure is damaged and is undergoing repairs, construction, reconstruction, or renovation.
  - b) A building permit has been issued for the repairs, construction, reconstruction, or renovation, if required, and is valid.
  - c) After a 12-month period, an extension may be granted for up to 30 additional days as approved by the UDO Administrator.
  - d) Temporary portable storage containers used by developers for construction of a subdivision shall renew their permit with the UDO Administrator every 12 months. Portable storage containers must be removed upon completion of the subdivision.
3. Permanent portable storage containers may be permitted for commercial use as storage. Permanent portable storage containers may be permitted in the HC, LI, and HI districts. Permanent portable storage containers shall submit a site plan for review by the UDO Administrator.
4. Permanent portable storage containers in commercial areas shall be screened from view of any public right-of-way, private street or access easements and any

residential use or residential zoning district. Screening shall be accomplished by a combination of fencing or landscaping, which is contiguous and at least one (1) foot higher than the height of the container. Screening plans shall be included in the site plan submitted for review.

5. Permanent portable storage containers shall not be permitted as accessory structures or habitable structures in residential districts.
6. Portable storage containers shall not be located in an area that displaces required parking standards.
7. Setback requirements for portable storage containers shall be the same as setback requirements in their respective zoning districts.
8. Portable storage containers shall meet the following appearance standards:
  - a) Portable storage containers shall not exceed the dimensions of 40 feet in length, eight (8) feet in width and 10 feet in height. Stacking of portable storage containers shall not be permitted.
  - b) No sign shall be attached to a portable storage container other than the provider's contact information.
  - c) The structure of a portable storage container shall be maintained in good condition free from structural damage, rust and deterioration.

#### N. RECREATIONAL VEHICLES OR TRAVEL TRAILERS

Where permitted, the following shall apply:

1. Recreational vehicles occupied for human habitation and intended for permanent residential use must be placed in an approved manufactured home or recreational vehicle park. However, temporary residential use may occur in cases where the recreational vehicle is secondary to a primary residential use, only when construction or repair of a single-family home occurs. Two general restrictions for either temporary residential use shall apply, as well as specific restrictions and limitations for each. In no case shall the recreational vehicle be utilized as a short or long-term rental unit. The general restrictions and limitations are as follows:
  - a) Location of the recreational vehicle shall be in the rear yard, unless evidence can be provided to the UDO Administrator that size constraints or other factors prevent rear yard location. The specific restrictions and limitations are as follows:
    - i) When secondary to a primary residential use, the period of human habitation shall not exceed 14 days, and may not be re-established for a period of 90 days from the last day terminated;
    - ii) When construction or repair of a single-family home occurs, the homeowner and his family may occupy a recreational vehicle for a period of 180 days. An extension to a maximum of 365 days may be granted by the UDO Administrator upon presentation of evidence that construction cannot be completed within 180 days due to factors beyond their control. All occupied recreational

vehicles shall maintain an adequate disposal system and a source of potable water. Emptying of wastewater disposal systems shall be done in accordance with the City of Southport Sewer Use Ordinance.

#### O. SELF-SERVICE ICE VENDING MACHINES

Where permitted, the following shall apply:

1. Self-service ice vending machines or other similar uses shall be an accessory to an existing business or commercial entity in the Business District (BD). Such uses shall only be located as an accessory for convenience stores, car washes, and marinas of 20 boat slips or more.
2. Self-service ice vending machines or other similar uses may be located in the Highway Commercial (HC) District as a principal use.
3. No self-service ice vending machine or other similar use shall encroach into the minimum required setback.
4. Architectural features of any self-service ice vending machine or other similar use shall be complementary to existing development in the immediate area. Building elevations shall be submitted with each application considered for approval.
5. The foundation of each unit shall be screened by skirting, lattice or landscaping.
6. Roof-mounted or other equipment on top of the unit shall be screened by a parapet wall.
7. Within 30 calendar days of the closure or ceasing of operations of any self-service ice vending unit or other similar use, all equipment and incidentals shall be removed from the premises.
8. Landscaping:
  - a) Where a self-service ice vending machine or other similar use is proposed as an accessory to an existing business location that has an approved site plan on record, skirting, lattice or landscaping shall be provided around the foundation of the unit. If the landscaping option is chosen, the planting of vegetation similar to that on the existing site or immediate vicinity shall be provided.
9. Access:
  - a) Ingress and egress shall be located where such will not impede pedestrian or vehicular traffic flow.
  - b) The existing access or driveway of the primary business shall be utilized, unless deemed inappropriate.
10. Vehicle Parking and Stacking Lane:
  - a) Four (4) standard parking spaces shall be available on the site. In the design of the area around the self-service ice vending machine, a provision will be made for the stacking of vehicles on the property. The stacking area will be designed to avoid a backup of vehicles on to the



public right of way. The design standard for the stacking requirements will include:

- i) Required stacking lane shall be a minimum of eight feet wide by one hundred 150 feet long in total length with a vertical clearance of 15 feet in order to accommodate full-size pickup trucks with boats on trailers.
- ii) The stacking lane shall be located on private property and as much as possible to the rear or side of the lot. In no case shall a stacking lane be arranged or located in any way that impedes off-site traffic movements on adjacent public roadways.

#### P. SOLAR ENERGY SYSTEMS

Where permitted, the following shall apply:

1. Roof-mounted solar energy systems. Solar panels should generally relate to the slope of the roof surface to which they are attached. However, the height not exceed the maximum building height requirement of the district in which it is located. Roof-mounted solar energy systems shall in no instance extend beyond the edge of the roof to which they are attached.
2. Ground-mounted solar energy systems shall be prohibited.

#### Q. SWIMMING POOLS

Where permitted, swimming pools shall be setback five (5) feet from the existing property line and enclosed by protective fencing meeting the requirements of the NC Residential Building Code.

#### R. TEMPORARY SALES OFFICE

Where permitted, temporary sales offices are intended to serve the development/property which the office is associated with, to include but not necessarily be limited to, approved subdivisions and major site plans. Temporary sales offices are accessory uses. The temporary sales office shall be discontinued when 90% of the principal use development, subdivision, or planned building group is sold, occupied, and/or leased wholly or partially, including timeshare agreements.

#### S. TEMPORARY HEALTHCARE STRUCTURES.

Temporary healthcare structures shall be permitted in accordance with NCGS 160D-915.

### 3.7 RESIDENTIAL USE STANDARDS

#### A. DWELLING, MULTI-FAMILY (INCLUDING TOWNHOUSES, APARTMENTS & CONDOMINIUMS)

Where permitted, the following shall apply:

1. The site plan must be designed to give adequate consideration to the following factors:
  - a) The size and shape of the tract.
  - b) The topography and necessary grading.

- c) The reasonable preservation of the natural features of the land and vegetation.
  - d) The size of the development in relationship with adjacent and nearby land uses.
  - e) The impact on city infrastructure.
- 2. Developments with 50 or more dwelling units shall have a direct point of ingress and egress onto a major or minor thoroughfare. Developments with 100 or more dwelling units shall have at least two (2) direct points of direct ingress and egress onto a major or minor thoroughfare.
  - a) Developments with 100 or more dwelling units shall be provided with a divided ingress-egress driveway with a landscaped median for all entrances from public streets.
  - b) Any proposed ingress and egress points shall be located and designed so as to not result in a substantial amount of vehicular traffic to be channeled onto adjacent non-thoroughfare local streets.
  - c) Sidewalks and/or paths shall be constructed within the development to link the interior of the development with residential buildings within the development and to other destinations such as, but not limited to, adjoining streets, mailboxes, trash disposal areas, on-site amenity areas and the like.
- 3. The minimum spacing between multi-family buildings within a development shall be 20 feet, plus one (1) foot for each one (1) foot of height in excess of 30 feet, or as required by the City of Southport fire code.
- 4. In order to provide an interesting and aesthetically attractive development, the following standards shall apply:
  - a) With the exceptions of buildings that front the same public street, buildings shall be arranged in patterns that are not strictly linear. Exceptions shall be allowed for buildings that define common space such as a courtyard or green.
  - b) Building entryways shall face a street, sidewalk or common area. Buildings shall not face the rear of other buildings within the same development.
- 5. Multi-family residential structures shall be controlled by a maximum height, maximum number of dwelling units per acre, [maximum floor area ratio (FAR)], the maximum open space ratio (OSR), and maximum impervious coverage ratio as provided below:
  - a) Maximum number of dwelling units per acre shall be 11.
  - b) Maximum FAR shall be 3:1.
  - c) Minimum OSR shall be 55%.
  - d) Maximum impervious coverage ratio shall be 35%.
- 6. No more than 20% of the off-street parking associated with the multi-family use may be located in the front yard facing a public street.

7. For all multi-family developments not specifically developed for the elderly and containing more than 100 dwelling units, a shelter shall be constructed at a location where a public-school bus may pick up and/or drop off children riding county school buses.
8. Multi-family exterior building design must comply with the following:
  - a) Exterior materials shall be durable and residential in character. Suggested materials include wood clapboard, wood shingles, brick, stone, stucco, vinyl, or similar materials. Suggested pitched roof materials include asphalt shingles, standing seam metal, slate, or similar materials.
9. The following minimum building design standards shall be complied with:
  - a) Buildings shall not exceed 150 feet in length;
  - b) Facades greater than 50 feet in length, measured horizontally, shall incorporate wall plan projection or recesses. Ground-floor facades that face public streets shall have arcades, windows, entry areas, awnings, or other such features for at least 60 percent of their horizontal length;
  - c) Buildings shall be arranged so that they are aligned parallel to a sidewalk or around common open space, such as courtyards, greens, squares, or plazas; and
  - d) On owner-occupied units (townhouses and condominiums), side- or rear-entry garages are encouraged. When front-entry garages are provided, the garage should be recessed at least four (4) feet behind the unit front wall line closest to the required front yard setback.
10. Orientation. Multi-family buildings shall be oriented as follows:
  - a) For lots not exceeding 40,000 square feet, all multi-family buildings shall be oriented to the street.
  - b) For lots that are at or over 40,000 square feet, at least 80 percent of the ground are between the front lot line and the maximum setback, excluding required driveways and access points, shall be occupied by multi-family dwelling units that are oriented to the street. The remaining area may include driveways and required access points, or courtyards or similar open spaces.
11. Fenestration. Windows, porches, balconies, and entryways shall comprise of at least 30 percent of the length of the front elevation on each floor.
12. Articulation/Modulation. Buildings that contain multi-family dwellings shall be articulated as follows:
  - a) Multi-family buildings that face single-family homes shall be articulated at intervals consistent with the existing yard requirements or the yard requirements of the opposing block.
  - b) The articulation of buildings pursuant to this section shall include at least two (2) of the following:
    - i) Horizontal projections or offsets, such as towers or turrets, which extend at least five (5) feet from the front elevation and

- the height of the building up to the eaves. Projections or offsets shall be at least three (3) feet in depth and eight (8) feet in width;
- ii) Projecting entryways, such as stoops, balconies, porticoes, bay windows, arcades, or porches
  - iii) Changes in roof elevations, roof dormers, hips, or gables; or
  - iv) Open balconies that project at least six (6) feet from the front building plane.
13. Townhouse:
- a) No unit shall be connected on more than two (2) sides by common walls.
  - b) All yard dimensional requirements shall apply to the property lines of the entire development. The minimum lot size and setback requirements of the base zoning district shall only apply to the parent parcel. Zero lot lines may be utilized for individual units.
  - c) A zero (0) side and/or rear yard setback, may be permitted in a townhouse subject to the following provisions:
    - i) Any wall, constructed on the side or rear lot line shall be a solid doorless and windowless wall. Such wall shall contain no electrical, mechanical, heating, air conditioning, or other fixtures that project beyond such wall. Roof eaves may encroach two (2) feet into the adjoining lot;
    - ii) A five (5) foot maintenance and access easement with a maximum eave encroachment easement of two (2) feet within the maintenance easement shall be established on the adjoining lot and shall assure ready access to the lot line wall at reasonable periods of the day for normal maintenance;
    - iii) Where zero (0) side or rear yard setbacks are proposed, the buildable area for each lot shall be indicated on the preliminary and final subdivision plat.
    - iv) Zero lot lines shall not be allowed on any perimeter boundary line or lot line of a townhouse.
14. Open space areas shall be provided for all multi-family developments with over five (5) dwelling units. Swimming pools and their accessory areas shall not constitute any part of the open space requirements. No part of the required play area shall be used for any other purpose. All recreation areas shall be enclosed with permanent fencing at least five (5) feet in height.
- a) All open space shown on the site plan or plat shall be recorded in the Brunswick County Register of Deeds Office and shall be conveyed by leasing or conveying title including beneficial ownership to a corporation, association, or other legal entity, the terms of such lease or other instruments of conveyance must include provisions suitable to the city for guaranteeing:
    - i) The continued use of land for the intended purposes;

- ii) Continuity of proper maintenance for those portions of open space land requiring maintenance;
  - iii) When appropriate, the availability of funds required for such maintenance;
  - iv) Adequate insurance protection; and
  - v) Recovery for loss sustained by casualty, condemnation, or otherwise.
- b) Furthermore, the applicant shall file in the Brunswick County Register of Deeds office at the time of site plan approval, legal documents which shall produce the above guarantees and in particular, will provide a method for reserving the use of open space for the use and enjoyment of the residents of the development.
- c) Required open space shall comply the provisions outlined in Section 4.14.G. Criteria of the Subdivision Article.

#### B. DWELLING, QUADRAPLEX OR TRIPLEX

Where permitted, the following shall apply:

1. The quadraplex, or triplex must be architecturally consistent with adjacent properties and the principal entrance of each dwelling unit must be located on an exterior wall facing a public street right-of-way. The exterior design must comply with the following:
  - a) Exterior materials shall be durable and residential in character. Exterior wall materials shall be wood clapboard siding, wood shingles, brick, stone, stucco, vinyl, or similar materials. Roof materials shall be asphalt shingles, standing seam metal, slate or similar materials.
2. Windows. Windows shall have a vertical-to-horizontal ratio of at least 1.5:1 and less than 3:1, which are recessed into the face of the building and broken up with smaller planes of glass.

#### C. FAMILY CARE HOME

Family care homes shall be permitted in accordance with NCGS 168-22.

#### D. MANUFACTURED HOME ON SINGLE LOT

Where permitted, the following shall apply:

1. Skirting and Curtain Wall Requirements for Manufactured Homes.
  - a) All single-wide manufactured homes shall have skirting placed around the base prior to the issuance of a Certificate of Occupancy.
  - b) Double-wide manufactured homes shall have a curtain wall constructed around the base within 90 days from the date the home is placed on a lot.
  - c) For both single- and double-wide manufactured homes, one (1) row of ventilation ports, 8-inch by 16-inch, shall be provided every ten feet, and

- one (1) access opening with a door that is between 18 inches and 42 inches in height and between 24 inches and 60 inches in width.
2. Electrical Service Requirements for Manufactured Homes. All manufactured homes shall have electrical service within 90 days from the date the home is placed on a lot.

#### E. MANUFACTURED HOUSING PARK

Where permitted, the following shall apply:

1. No person shall begin construction of a manufactured home park or make any addition to a manufactured home park that either alters the number of sites for manufactured homes within the park or affects the facilities required therein until he first secures a permit authorizing such construction or addition.
2. If the owner of a manufactured home community (which consists of at least five (5) manufactured homes) intends to convert the land to another use, the landowner must give each owner of each manufactured home notice of the intended conversion at least 180 days before the home owner is required to vacate and move, regardless of the term of tenancy.
3. In no case shall the size of a manufactured home space be less than 8,500 square feet.
4. All manufactured home parks shall be located on an undivided tract of land not less than three (3) acres in size.
5. Parking space sufficient to accommodate at least two (2) automobiles shall be located on each manufactured home space.
6. The manufactured home park shall be located on ground that is not susceptible to flooding. The park shall be graded so as to prevent any water from ponding or accumulating on the premises. All ditch banks shall be sloped and seeded.
7. There shall be at least 20 feet clearance between manufactured homes including manufactured homes parked end to end. No manufactured home shall be located closer than 20 feet of any exterior boundary line of the park, no closer than 15 feet to the edge of any interior street right-of-way, or closer than 10 feet to any manufactured home space (lot) boundary line.
8. Existing manufactured home parks which provide manufactured home spaces having a width or area less than that described above may continue to operate with spaces of existing width and area, but in no event shall any such nonconforming manufactured home park be allowed to expand unless such extension meets the requirements of this ordinance.
9. Each manufactured home space shall be graded and grassed to prevent erosion and provide adequate storm drainage (including retention pond facilities, when applicable) away from the manufactured home.
10. Interior Drives. All manufactured home spaces shall abut upon an interior drive of no less than 36 feet in right-of-way, which shall have unobstructed access to a public street or highway, it being the intent of this section that manufactured home spaces shall not have unobstructed access to public streets or highways

except through said interior drive. All interior drives shall be graded to their full right-of-way and shall have a road of at least 20 feet in width. Minimum improvements shall be a compacted base of four (4) inches of #7 ABC stone. Roads shall be maintained with passable surface. Graded and stabilized road shoulders and ditches shall be provided.

11. Cul-de-sacs. Any interior drive designed to be closed shall have a turnaround at the closed end with a minimum right-of-way diameter of 100 feet. The entire right-of-way of such turnaround shall be graded and usable for the turning of motor vehicles.
12. Intersections. Drives shall intersect as nearly as possible at right angles, and no drive shall intersect at less than 75 degrees.
13. Spaces Numbered. Each manufactured home space shall be identified by a permanent number which shall not be changed. The appropriate number of each manufactured home space must be permanent and visibly displayed. Each number shall be placed on a concrete, wood, metal, or any permanent post and conspicuously located on the lot.
14. Signs for Identification of Parks. Permanent identification sign(s) shall be required for every manufactured home park. The size of the signs shall be as follows: Not more than two (2) signs with a total maximum area of 48 square feet and a total minimum area of 12 square feet. Signs must be located on the park property within 50 feet of the entrance and at least 10 feet off the front property line. Signs must be located a minimum of five (5) feet from any side property lines. Only indirect non-flashing lighting may be used for illumination, and the sign must be constructed in such a manner as to prevent a direct view of the light source from any public road right-of-way.
15. Sanitary Facilities, Water Supply, Sewerage, Electricity, Lighting, and Refuse Collection Facilities. Each manufactured home space shall be equipped with plumbing and electrical connections and shall be provided with electrical current in sufficient amount to safely meet the maximum anticipated requirements of a manufactured home.
16. Water, Sewerage, and Electricity. Each manufactured home space shall be provided with and shall be connected to a public sanitary sewerage and water supply systems. Wells and septic tanks shall be prohibited.
17. Lighting. Distribution lines shall be installed underground. Underground lines shall be placed at least 18 inches below the ground surface where possible and at least one (1) foot radial distance from water, sewer, gas, or communications lines.
18. Exterior lighting shall be provided for all streets, walkways, buildings, and other facilities subject to nighttime use. The average illumination level in manufactured home parks shall be at least three tenths (0.3) footcandle, and a minimum level of one tenth (0.1) footcandle shall be maintained on all streets. Potentially hazardous locations such as street intersections and walkways shall be individually illuminated with a minimum level of six tenths (0.6) footcandle.

19. Refuse Collection Facilities. The park owner is responsible for seeing to refuse collection.
20. Manufactured Home Stands and Anchors.
  - a) The area of the manufactured home stand shall be improved to provide an adequate foundation for the placement and anchoring of the manufactured home, thereby securing the structure against uplift, sliding, rotation, and/or overturning.
  - b) Each manufactured home owner shall provide anchorage in accordance with the State of North Carolina Regulations for Manufactured Homes.
  - c) Any manufactured home placed in a manufactured home park after adoption of this ordinance shall have skirting.
21. Service, Administration, and Other Buildings.
  - a) Within a manufactured home park, one (1) manufactured home may be used as an administrative office. Other administrative and service buildings housing sanitation and laundry facilities or any other such facilities shall comply with all applicable ordinances, codes, and statutes regarding buildings, electrical installations, plumbing, and sanitation systems.
  - b) All service buildings, commercial structures, and the grounds of the park shall be maintained in a clean condition and kept free from any condition that will menace the health of any occupant or the public or constitute a nuisance.
22. Structural Additions. All structural additions to manufactured homes other than those which are built into the unit and designed to fold out or extend from it shall be erected only after a building permit shall have been obtained. The building permit shall specify whether such structural additions may remain permanently, must be removed when the manufactured home is removed, or must be removed within a specified length of time after the manufactured home is removed.
23. Storage. Storage of a manufactured home or recreational vehicle is prohibited.
24. Management. In each manufactured home park, the permittee or duly authorized attendant or caretaker shall be in charge at all times to keep the manufactured home park, its facilities and equipment in a clean, orderly, safe, and sanitary condition.
25. Manufactured Home Park. It shall be the duty of the operator of a manufactured home park to keep an accurate register containing a record of all registered occupants. The operator shall keep the register available at all times for inspection by law enforcement officials, public health officials, and other officials whose duties necessitate acquisition of the information contained in the register.
26. Sales in Manufactured Home Parks.
  - a) It shall be unlawful to sell on a commercial basis manufactured homes or trailers within manufactured home parks.



- b) It shall be unlawful to sell a manufactured home space(s) within the manufactured home parks.

#### F. MIXED USES

Where permitted, the following shall apply:

1. The floor area devoted to the dwelling(s) shall not exceed twice the floor area devoted to the permitted business use(s).
2. The minimum floor area for each dwelling shall be 500 square feet and the maximum floor area shall be 1,000 square feet.
3. No mixed-use building shall exceed 40 feet (i.e. one (1) floor commercial plus two (2) floors residential) in height.
4. Each dwelling shall have a direct means of access to the exterior of the building so that no access to the dwelling is provided through the use located on the lower floor(s) of the commercial building.
5. Parking for such dwelling(s) shall be in addition to that required for the permitted lower floor use(s).
6. Proposed curb cuts and driveways for required off-street parking lots that eliminate existing on-street parking spaces shall replace the number of on-street parking spaces eliminated by said curb cut(s) and driveway(s) within the parking lot being created, in addition to the number of parking spaces otherwise required by this ordinance.

#### G. MODULAR HOMES

Where permitted, the following shall apply:

1. The pitch of the roof for homes with a single predominant roofline shall be no less than five (5) feet rise for every 12 feet of run.
2. The eave projections of the roof shall not be less than 10 inches (excluding roof gutters) unless the roof pitch is 8/12 or greater.
3. The minimum height of the first story exterior wall must be at least 7 feet 6 inches.
4. The materials used in and the texture of the exterior must be compatible in composition, appearance, and durability to the materials commonly used in the exteriors of standard residential construction.
5. The modular home must be designed to require foundation supports around the perimeter. These may be in the form of piers, piers and curtain walls, piling foundations, perimeter walls, or another type of approved perimeter support.

### 3.8 NONRESIDENTIAL USE STANDARDS

#### A. ADULT ESTABLISHMENT

Where permitted, the following shall apply:

1. The sexually oriented business may not be located or operated 1,000 feet of:
  - a) A church, synagogue, or regular place of worship;

- b) A public or private elementary or secondary school;
  - c) A public library;
  - d) A boundary of any residential district;
  - e) A publicly owned park, beach, beach access, or other recreation area or facility;
  - f) A licensed day care center;
  - g) An entertainment business that is oriented primarily towards children;
  - h) Another sexually oriented business.
2. For the purpose of this section, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as part of the premises where a sexually oriented business is to be conducted, to the nearest property line of the premises of any use listed in (1) above.
3. No more than one (1) adult or sexually oriented business establishment or massage business shall be located in the same building or structure or on the same lot. No person shall permit any building, premises, structure, or other facility that contains any adult establishment to contain any other kind of adult establishment. No person shall permit any building, premises, structure, or other facility in which sexually oriented devices are sold, distributed, exhibited, or contained to contain any adult establishment.
4. No person shall permit any viewing booth in an adult mini motion picture theater to be occupied by more than one (1) person at any time.
5. It shall be unlawful for an owner or operator of a sexually oriented business to allow the merchandise or activities of the establishment to be visible from a point outside the establishment.
6. It shall be unlawful for the owner or operator of a sexually oriented business to allow the exterior portion of the sexually oriented business to have flashing lights, or any words, lettering, photographs, silhouettes, drawings, or pictorial representations of any manner except to the extent permitted by the provisions of this article.
7. It shall be unlawful for the owner or operator of a sexually oriented business to allow exterior portions of the establishment to be painted any color other than a single monochromatic color. This provision shall not apply to a sexually oriented business if the following conditions are met:
- a) The establishment is a part of a commercial multi-unit center; and
  - b) The exterior portions of each individual unit in the commercial multi-unit center, including the exterior portions of the business, are painted the same color as one another or are painted in such a way so as to be a component of the overall architectural style or pattern of the commercial multi-unit center.
  - c) Nothing in this section shall be construed to require the painting of an otherwise unpainted exterior portion of a sexually oriented business.

- d) A violation of any provision of this section shall constitute a violation of this ordinance.
- 8. No sexually oriented business, except for an adult motel, may remain open at any time between the hours of 1:00 AM and 8:00 AM on weekdays and Saturdays, and 1:00 AM and 12:00 PM on Sundays.

#### B. AUTOMOTIVE, MAJOR AND MINOR

Where permitted, the following shall apply

- 1. Minor automotive establishments are limited in function to dispensing gasoline, oil, grease, antifreeze, tires, batteries, and automobile accessories directly related to motor vehicles; to washing, polishing and servicing motor vehicles, only to the extent of installation of the above-mentioned items; and to selling at retail the items customarily sold by service stations. A minor automotive establishment shall not overhaul motors, provide upholstery work, auto glass work, painting, welding, bodywork, tire recapping, or auto dismantling.
- 2. Lighting facilities shall be arranged and of such nature that nearby residential properties are not disturbed.
- 3. All automotive establishments shall extinguish all floodlights at the close of daily operation or 11:00 PM., whichever is earlier.
- 4. Automotive establishments located within the City shall have no gasoline or oil pump located within 12 feet of any street right-of-way line. Outside the City, no such pump shall be located within 15 feet of any street right-of-way line.
- 5. Car wash facilities shall be subject to the following requirements:
  - a) Vacuuming, drying and polishing facilities may not be located in any required yard or buffer area adjacent to a residential zoning district.
  - b) At least two staging spaces and one drying space per wash bay shall be provided.
  - c) Hours of operation may be from 8:00 AM to 9:00 PM only, when adjoining a residential zone.
  - d) All vehicular accessible areas on the lot shall be at least 100 feet from any interior lot line separating the lot from a residential zone.
  - e) Security light must be shielded from adjacent residential zoned properties to prevent undue bright lights from shining onto/into dwellings.
  - f) Loud music is to be controlled by the property owner.
- 6. Automotive establishments engaged in repair work shall be prohibited from the storage of vehicles on-site for more than 10 days, otherwise such use shall be deemed a salvage operation.

#### C. BED AND BREAKFAST

Where permitted, the following shall apply:

1. Sanitation. Compliance with rules governing the sanitation of bed and breakfast homes, section 2200 of the North Carolina Administrative Code, Title 10, Department of Human Resources.
2. Management Plan. The application for a bed and breakfast home should include a management plan.
3. An on-site manager shall be required to have permanent residence at any permitted bed and breakfast establishment.

D. BUSINESS, COMMERCIAL, OR OTHER NON-RESIDENTIAL USE NOT ELSEWHERE  
CLASSIFIED

Where permitted, the following shall apply:

1. The Board of Adjustment must find that the proposed use will be similar in character and intensity to other permitted or conditional uses provided for within the district in which it is proposed. Such determination shall be noted as a finding of fact and shall be included in the record of the final disposition of the application.
2. Any proposed outdoor operations, inventory display and/or storage must be specifically approved by the Board of Adjustment who may establish any additional conditions as may be determined necessary. Such conditions may include, but shall not be limited to: screening, buffering, increased setbacks or other appropriate conditions up to and including denial of such proposed outdoor use for the location sought for due cause in order to protect, maintain or promote the general public, health, safety and welfare. Such due cause shall be noted as a finding of fact and shall be included in the record of the final disposition of the application.
3. Parking and/or loading requirements shall be those noted for the use most closely associated with the proposed use as determined by the Board of Adjustment in conjunction with staff review and recommendation.
4. The Board of Adjustment shall reasonably consider and may require the establishment of appropriate hours of operation for the proposed use should they determine such limitation to be appropriate in order to protect, maintain or promote the general public health, safety and welfare.
5. The Board of Adjustment shall consider and may require any additional relevant time, place and manner conditions or restrictions as may be deemed appropriate for the location sought for due cause in order to protect, maintain or promote the general public health, safety and welfare. Such due cause shall be noted as a finding of fact and shall be included in the record of the final disposition of the application.

E. CHURCHES, SYNAGOGUES, & OTHER ASSOCIATED ACTIVITIES, INCLUDING OFFICES,  
ACTIVITY CENTER, ETC.

Where permitted, the following shall apply:

1. If a school is operated on-premises, parking needs may be satisfied by that already provided by the church. A school having an enrollment certification of 100 or more students shall be considered a separate use and approved as an educational facility. It shall be considered a separate principal use and may be allowed on the same lot so long as the school meets all applicable use, area, bulk, and setback requirements.
2. A single-family residential use, occupied by the pastor, priest, rabbi, and the like of the facility, may be placed on the lot containing the church/house of worship. The structure shall meet all setback requirements for single-family dwellings for the zoning district in which the lot is located. The structure may not be used for day care facilities.
3. If a day care center with an enrollment capacity in excess of 25 students is operated on-premises, the day care center shall be deemed a separate use and approved as such.

#### F. CLUB OR LODGE

Where permitted, the following shall apply:

1. Outdoor recreational facilities, with the exception of swimming pools, shall be located at least 20 feet from any side or rear lot line, except 50 feet shall be required if in or adjacent to a residential district. Rear and side yard setbacks for outdoor swimming pools shall be 50 feet each, unless adjacent to residential districts.
2. Outdoor swimming pools shall be at least 100 feet from any adjoining residential zoning district.
3. Hours of operation may be between 7:00 AM and 10:00 PM only, if located in a residential zoning district.

#### G. COMMERCIAL PARKING LOTS

Where permitted, the following shall apply:

1. Landscaping. A screen not less than six (6) feet high of dense plant material is required where lot abuts a residential lot. Plant material shall be of a type which will grow to a height of six (6) feet within five (5) years following planting. Any additional buffering provisions subject to non-residential uses shall apply.
2. Signage. Proposed location of one (1) sign which may be no larger than 10 square feet; sign shall be freestanding and not higher than seven (7) feet above the ground. Two (2) incidental unlighted entrance and exit signs not exceeding two square feet each may be provided at each entrance and/or exit.

#### H. DAYCARE, ADULT AND CHILD

Where permitted, the following shall apply:

1. All outdoor play areas are to be surrounded by a fence or wall at least four (4) feet in height.
2. There shall be adequate road ingress and egress to and from the site.

3. Traffic generated by the facility shall not be disruptive to any adjacent residentially developed properties.
4. Outdoor play areas may be located in the rear yard or side yard only. If located in the side yard, a minimum side yard setback of ten feet shall be observed. On corner or through lots, a minimum 20-foot setback, as measured from the abutting street right-of-way line, shall be observed. Greater setbacks may be required if otherwise called for in the underlying zoning district.

#### I. DRY CLEANERS

Where permitted, the dry cleaner shall be limited to a customer pick-up station with 2,000 square feet or less of enclosed floor area. There shall be no on-site dry cleaning or washing of clothes.

#### J. DRY STORAGE

Where permitted, the following shall apply:

1. All storage areas shall be fenced with a minimum of an eight (8) foot opaque fence and screened with a Type A bufferyard along all property lines, including the front.
2. Dry storage facilities with 10 or more spaces shall provide a dustproof surface with adequate drainage facilities and must comply with the Parking Facility Landscaping requirements contained within this article. Dry storage facilities containing 25 or more spaces shall be paved with concrete, asphalt material, or with alternative paving material determined to exhibit equivalent water resistance and load bearing characteristics as asphalt or concrete.

#### K. ELECTRONIC GAMING OPERATIONS

Where permitted, the following shall apply:

1. Days/Hours of operation: businesses engaging in electronic gaming operations activities may operate from 8:00 am until 12:00 midnight each day, seven (7) days per week.
2. The maximum number of machines/terminals/computers for any electronic gaming operations business is 20.
3. Minimum paved parking spaces:
  - a) One (1) space per every two (2) terminals or one (1) space per every 100 square feet of total floor area, whichever is greater;
  - b) One (1) handicapped space per every 25 or fewer spaces;
  - c) One (1) in every eight (8) accessible spaces, but not less than one, shall be served by an access aisle 96 inches wide minimum and shall be designed "van accessible";
  - d) One (1) additional space per each one (1) employee.
4. All applicable permits must be issued to the applicant prior to the issuance of the conditional use permit and the opening of business.

5. If food or beverage is served, the establishment must meet the requirements of the Brunswick County Health Department, including any and all necessary permits and/or licenses.
6. The establishment must be a minimum of 500 feet from any building being used as a dwelling or residential zoning district.
7. The establishment must be a minimum of 1,000 feet from any other organization engaged in an electronic gaming operations business or any adult and sexually oriented business.
8. The establishment must be a minimum of 1,000 feet from any established religious institution/synagogue, school, daycare center/home, library, public park, recreation area or motion picture establishment where "G" or "PG" rated movies are shown to the general public on a regular basis.
9. A current certificate and straight-line drawing prepared within 30 days prior to application by a registered land surveyor depicting the property lines and the structures containing any existing electronic gaming businesses within 1,000 feet of the property to be certified; the property lines of any established religious institution/synagogue, school, daycare center/home, library, public park, recreation area or motion picture establishment where "G" or "PG" rated movies are shown to the general public on a regular basis that is within 1,000 feet of the property to be certified. For purposes of this Section, a use shall be considered existing or established if it is in existence at the time an application is submitted.
10. Measurement of distance separation shall be in a straight line from the closest point of the buildings at which the internet cafe/sweepstakes business is located.
11. No alcohol.

#### L. EXTERMINATING SERVICES

Where permitted, the use shall be comprised of administrative offices only, no chemical storage or service vehicles.

#### M. FARMERS MARKET

Where permitted, the following shall apply:

1. All farmer's market activities must be located open-air with no activities located in permanent structures. No activities may be located within a public right-of-way.
2. Off-street parking shall not be required in the CBD. No activities may be located within a public right-of-way.

#### N. FLEA MARKET

Where permitted, no activities shall be located within a public right-of-way. Operating hours shall be 8:00 AM to 5:00 PM. Temporary living quarters will not be permitted.

O. FRUIT & VEGETABLE MARKET, WHOLESALER WITH INCIDENTAL RETAIL

Where permitted, all sales and storage of materials, goods, and/or commodities shall be inside the principal structure. In the CBD and BD districts, all outside parking and loading/unloading shall be screened/buffered from adjacent residentially zoned or used property.

P. GOVERNMENT USES WITH BUILDINGS, NON-CITY OF SOUTHPORT

Where permitted, all structures must be designed to closely resemble the neighborhood's basic architecture. All government uses with buildings must also comply with the following:

1. All outdoor lighting is installed so as not to shine or reflect directly onto surrounding properties.
2. All signs shall be non-illuminated.

Q. HELIPAD

Where permitted, the following shall apply:

1. Helipads or heliports shall only be permitted in accordance with a duly established and operated hospital facility.
2. Compliance with federal regulations and standards. The establishment of any helipad and the operation and flight of helicopters within and above the corporate limits of the city shall at all times comply and be in conformity with at least the minimum of all pertinent regulations and standards promulgated from time to time by the Federal Aviation Administration and other applicable federal agencies, with particular reference to applicable federal air regulations, civil air regulations, and advisory circulars or successor publications.
3. Minimum altitude for helicopter flight. Except when necessary for take-off or landing, no person may operate a helicopter below the following altitudes:
  - a) Generally. An altitude allowing, if a power unit fails, an emergency landing without undue hazard to persons or property on the surface. In addition, each person operating a helicopter shall comply with the routes, altitudes and other directions and regulations specifically prescribed for helicopters by any rule or ordinance pertaining to the same. At no time shall a helicopter be below 500 feet without special permission granted by the City Manager.
  - b) Over congested areas. Over any congested area of the city or over any open-air assembly of persons, an altitude of 1,000 feet above the highest obstacle within a horizontal radius of 2,000 feet of the helicopter.
  - c) Over other than congested areas. An altitude of 500 feet above the surface of open fields or areas upon which there are no trees, building or other obstacles; provided, however, the helicopter shall not be operated closer than 500 feet to any person, vehicle, vessel, tree, tower or structure.
4. Permit to operate helipad – Required; application; issuance; terms and conditions.



- a) No helipad shall be established or used unless an application for the establishment of the same shall have first been filed in writing with and approved by the Board of Adjustment. Such application shall contain a description of the proposed location, dimensions, obstruction clearance planes, proximity and height of nearest buildings, trees, towers or other structures, characteristics of the immediate area of such helipad and such other information as the Board of Adjustment may require.
  - b) If the Board of Adjustment finds and determines that the public safety and convenience will be preserved and a nuisance or other burdensome condition will not be created and that the public interest will not be adversely affected by the establishment and use a helipad at such site and under such conditions and that such use at such site will be in accord with pertinent zoning regulations, it may issue a permit for the establishment and use of such helipad and the operation of helicopters to and from the same. The Board of Adjustment may impose such terms and conditions in the issuance of such permit as it determines to be necessary in the promotion of the public safety, convenience, health and welfare.
  - c) No helipad shall be established or used unless such permit therefore has been granted under the provisions hereof and the required insurance has been issued and is in effect as required in this article.
- 5. Compliance with safety and fire prevention standards. As a further condition precedent to the issuance of a permit to establish and use a helipad and to land and take-off helicopters from such helipad, the applicant for such permit shall first secure written certification from the City Manager that the helipad being considered complies with all safety and fire prevention standards necessary for the safety of the operation and adjacent properties and with the other provisions in this section.
- 6. Area, design, construction, and location of heliports and helipads.
  - a) The minimum dimension of the area which describes an approved helipad shall be equal to not less than 1 ½ times the diameter of the rotors of the helicopter.
  - b) Approved helipads shall be so located that at least two (2) obstruction clearance planes are available which are compatible with the flight characteristics of the helicopter. Obstruction clearance planes shall be selected with due regard to the safety and convenience of persons and to the safety of property on the surface.
  - c) That is such helipad is to be elevated in any manner by being constructed on a platform or on the roof of a building, such platform or building shall be inspected and approved as structurally safe for use by a certified structural engineer at the expense of the applicant.
  - d) That is such helipad is to be at ground level it shall either: (a) be located in an enclosed area which does not permit access by the public at will, or

- (b) be completely enclosed by a fence or wall, either temporary or permanent, designed so as to provide safety for persons, vehicles or other things in the area.
  - e) That the design, construction and physical characteristics of any such helipad shall conform to applicable standards, rules and regulations of the Federal Aviation Administration. That the plans and specifications of any such helipad shall be submitted to the City Manager of the City of Southport for examination and determination whether they conform to any applicable provisions of the existing building code, and the necessary permits, if any are required pursuant to such code, shall be obtained before any construction is begun.
  - f) Landing Pad. Every helipad located above ground level shall be provided with a landing pad constructed in accordance with applicable Building Codes and/or FAA Regulations.
  - g) Dust-Proof Cover. All helipad landing areas shall be composed of asphalt.
  - h) Lighting. Any helipad intended to be used for night landing or take-off shall be provided with flood lights which are directed toward the ground and windsock only, and with linear perimeter lighting of fluorescent or cold cathode type, or by amber lights spaced around the helipad pad, not less than 20 feet apart.
  - i) All elevated helipads shall be restricted to helicopters not exceeding the gross weight or load rating stated in the application for permit or permits.
  - j) All helipads shall be marked in accordance with FAA criteria.
  - k) Fencing. Every ground level helipad shall be fenced and protected to prevent entrance of unauthorized personnel with a fence, a minimum of 36 inches in height, entirely surrounding the minimum helipad area as established by the FAA; except that the minimum fence height may be increased 12 inches for each 10 feet that the landing area is extended beyond the minimum area required. Other fencing shall be in accordance with applicable Building Code requirements, if any. Each side of this fence shall be marked with an appropriate warning sign, two (2) feet by two (2) feet in size.
7. Minimum Area. No permit shall be issued for a helipad which does not meet the minimum area standards of applicable FAA regulations.
8. Safety Features Required. No permit for the operation of helipad shall be approved by the Chief of the Southport Fire Department until the following fire prevention equipment is provided at the site of the proposed helipad:
- a) A set standpipe not less than two and one-half inches in diameter shall be provided at each helipad landing site. This standpipe shall be provided with a hose sufficiently long to reach the landing pad. This hose is to be equipped with a spray nozzle and a water supply sufficient to efficiently operate same.

- b) When a set standpipe cannot be provided, a Badger 50 lb. wheeled A, B, C extinguisher unit: 50 lb.A/B/C wheeled (30- A, /160-B,C) ½' hose 25' long w/quick release handle and tires of hard rubber, shall be provided.
  - c) A telephone, other than a pay phone, shall be provided at each helipad for emergency purposes.
  - d) Any elevated, or roof-top landing area shall be provided with two exits as remote from each other as practical; at least one of the exits shall be a stairway exit. The other exit may be an emergency exit leading from the area by means of a ladder or a stairway on any landing area.
  - e) No smoking shall be permitted on any landing area.
  - f) No fueling or major repairing of helicopters shall be permitted at any helipad.
  - g) Fire protection and other required emergency equipment shall be property sheltered from weather.
9. No permit shall be approved by the Board of Adjustment until they are sufficiently satisfied that no inordinate danger to the public will be created by operation of helipads or by external load of temporary landing operations.
10. Inspection. The Fire Chief, Police Chief or the Building Inspector, or any of their authorized personnel, shall have authority to make periodic inspections of the helipad to determine that all the requirements of a permit issued are complied with.
11. Proof of Air Operation Liability Insurance or Bonding of Aircraft Operator. All operators of all aircraft using these facilities shall file proof of possession of adequate insurance or other surety in the amount of \$1,000,000.00, in case of accidents, fires or personal or property damage resulting from operation of their facility or aircraft.
12. Notice of Construction, Alteration or De-activation Required by Federal Law. All applicants shall give proper notice to the United States of American of construction, alteration or de-activation as required by Federal Law on FAA Form 7480-1. Proof of this notice shall be submitted with the application.
13. Approach Zone. A helipad shall provide at least two approach lanes at least 90 degrees apart for landing or takeoff, sufficiently clear of obstructions to provide a slope of 1:8, approximately 7 degrees measured from the horizontal. Any curved approach necessary due to the obstruction of buildings or structures shall provide a turning radius of 600 feet. The flight approach to a helipad shall be over open area and along major transportation corridors to the extent possible.

#### R. HOTEL, MOTEL OR INN

Where permitted, the following shall apply:

- 1. The lot size shall be a minimum of one (1) acre.
- 2. The primary means of ingress and egress shall be via a major thoroughfare as designated on the Brunswick County Comprehensive Transportation Plan (CTP).

3. The property shall have a minimum of 200 feet of frontage on a major thoroughfare.
4. Any building on the site must be a minimum of 200 feet from any residential district.
5. In the HC district, the building height may exceed 40 feet if approved by the Board of Adjustment and if the building satisfies the following:
  - a) The City of Southport Fire Chief finds that the City can provide adequate/safe fire protection.
  - b) Buildings which exceed 40 feet in height and are located on parcels adjacent to residentially zoned property must have an additional one-half (½) foot of both rear and side yard setback for each one (1) foot of building height over 40 feet.

#### S. HOTEL, RESIDENTIAL OR BOUTIQUE

Where permitted, residential or boutique hotels shall be limited to 10 or fewer rooms or suites. There shall not be any exterior accessory uses (including swimming pools) except for off- street parking and structures associated with landscaping.

#### T. JAIL

Where permitted, jails shall not be sited within 200 feet of any existing church, school, or day care facility. The jail shall be fenced and screened as provided in the case of salvage operations and junkyards.

#### U. KENNEL

Where permitted, the following shall apply:

1. All pens shall be enclosed in a building.
2. The property on which the kennel is to be located shall be no closer than 200 feet to any residential zoning district.
3. Limited outdoor exercise runs or facilities shall be permitted so long as their hours of use are restricted to the hours between 8:00 a.m. and 5:00 p.m.

#### V. MANUFACTURING, INTENSIVE

Where permitted, the following shall apply:

1. The approved conditional use must demonstrate compliance with all state and federal environmental regulations including assurances of non adverse impact(s) on air or water quality. An environmental impact assessment may be required as a part of the conditional use permit and must be prepared and sealed by a North Carolina Licensed and Registered Engineer.
2. The use will not overly impact the ability of a public agency to collect and/or treat any wastewater generated by the use or the ability of the public agency to treat and distribute any potable water needed by the use.
3. The use will not overly impact (impact beyond capacity) the system of streets serving the use, or improvements will be made to the streets in consort with the

development of the use, the result of which will be adequate handling of the additional traffic generated.

4. Not only will the use meet the minimum screening requirements of this ordinance, but also additional screening will be installed, as necessitated by the visual characteristics of the particular use, so that the use will be screened from view of adjoining residential districts, or the nature of the topography makes the screening from distance view from the residential areas impossible, and other measures such as heavy on-site landscaping will be taken to lessen any near or distance visual impacts.

#### W. MARINA, COMMERCIAL

Where permitted, the following shall apply:

1. Activities and possible uses on the marina property shall be limited to wet boat storage, dry stack boat storage, boat service and repairs, boat accessory sales, ship's store, coffee shop, boat trailer parking areas, automobile parking areas, launching ramps, piers, and boat petroleum service areas.
2. If dry stack boat storage buildings are located as part of the commercial marina, it shall be located no closer than 30 feet from any property line unless such property line abuts the water.
3. Dry stack boat storage buildings shall be fully enclosed.

#### X. MICROBREWERY AND MICRODISTILLERY

Where permitted, the following shall apply:

1. Microbreweries or microdistilleries shall not exceed 10,000 square feet of gross floor area, except that there is no size limit within the HC and LI Zoning District.
2. Required parking shall be calculated based on square footage proposed for each use.
3. Storage of materials, including silos, products for distribution and other items requiring long-term storage shall be allowed in areas behind a building, in enclosed buildings, or otherwise screened from the public right-of-way or pedestrian way.
4. All microbreweries or microdistillers shall include one (1) or more accessory uses such as a tasting room, tap room, restaurant, retail, demonstration area, education and training facility or other use incidental to the facility and open and accessible to the public.
5. All microbreweries or microdistillers shall be designed such that all newly constructed loading and unloading facilities (if applicable) are internal to the site or in-service alleys or back of building.

#### Y. MOBILE VENDOR OR FOOD TRUCK

Where permitted, the following shall apply:

1. Zoning Permit. A zoning permit is required for each site and must be signed by the property owner, including the city, and completed and submitted along with

a minor site plan (the site plan may be sketched). The zoning permit shall be renewed annually upon issuance. If a property owner has a property large enough to accommodate more than one mobile vendor, only one zoning permit is required to be submitted showing the location of all mobile vendors. The minor site plan must show the limits of the property, the location(s) of the proposed mobile vendors, and label adjoining uses on neighboring properties. The applicant must also submit a NC Department of Agriculture Permit and a copy of the vehicle or trailer registration.

2. Place of Operation. Mobile vendors may operate on an individual property for a maximum of 120 days per 12-month period. Mobile vendors and all related equipment shall be removed from the site following the permitted hours of operation.
3. Mobile vendors may not park in handicapped accessible parking spaces, nor can they park in access or drive aisles. The approved location for parking the trucks, as shown on the zoning permit, must be physically marked. The food truck parking space can be marked with paint, tape, cones, or other easily identifiable material.
4. Prohibitions. All equipment associated with a mobile vendor must be located within three (3) feet of the vendor. The operator is responsible for disposing of all trash associated with the operation. City trash receptacles may not be used to dispose trash or waste. All areas within five (5) feet of the mobile vendor must be kept clean. Grease and liquid waste may not be disposed in tree pits, storm drains, the sanitary sewer system or public streets. Mobile vendors are all subject to the City-wide noise ordinance.
5. Maximum Number of Mobile Vendor Locations Per Property.
  - a) Maximum of two (2) vendors on lots of one-half acres or less.
  - b) Maximum of three (3) vendors on lots between one-half acre and 1 acre.
  - c) Maximum of four (4) vendors on lots greater than 1 acre.
6. Food Truck Location. Food trucks must be located at least 50 feet from the front door of any restaurant and outdoor dining area and at least 50 feet from any permitted mobile food vending cart location. These minimum distance requirements are all measured in a straight line from the closest point of the proposed food truck location to the closest point from the buffered point, or in the case of a restaurant measured from the closest point of the restaurants main entrance. If a zoning permit is issued and a restaurant subsequently opens within 50 feet (measured from the restaurants main entrance) of the approved food truck location, the food truck may continue to operate until the permit expires.
7. Temporary outdoor seating associated with a food truck is only permitted on lots at least two (2) acres in size or greater.

Z. NIGHT CLUBS, NOT CONTAINED IN RESTAURANTS, MOTELS OR SIMILAR BUSINESSES  
Where permitted, no part of a parcel of property containing a night club shall be located within 500 linear feet of any portion of a parcel of property containing a residence or residences.

AA. NURSING AND PERSONAL CARE FACILITY

Where permitted, the following shall apply:

1. Any facility which is licensed to have greater than 50 residents shall maintain a side setback of at least 20 feet and a rear setback of at least 35 feet when the side or rear yard is in or abuts a residential district or a lot containing a principal residential use, unless a greater setback is otherwise required for the zoning district in which it is located.
2. No sign exceeding four (4) square feet in area shall be permitted and all signs shall be non-illuminated.
3. The lot size shall be no less than 5,000 square feet.
4. The construction and operation of such facilities shall comply with the provisions of the General Statutes of the State of North Carolina and any other applicable federal, state, or local codes.

BB. PACKAGE DELIVERY SERVICES, COMMERCIAL

Where permitted, exterior loading areas must be completely screened from view from any public right-of-way.

CC. RADIO & TELEVISION STATIONS, STUDIOS, AND OFFICES

No communication towers are permitted. Satellite dishes must be screened from ground level view.

DD. RECREATIONAL VEHICLE PARKS (INCLUDING TRAVEL TRAILERS)

Where permitted, the following shall apply:

1. An RV Park shall require a minimum lot size of three (3) acres.
2. A minimum of 8% of the total land area shall be devoted to accessible common open spaces intended for recreational use. These open spaces are separate from the individual RV sites, hereinafter referred to as campsites, and shall be grouped and of character suitable for active and passive recreation and shall be reasonably located for safe and convenient access to residents. Sufficiency of size of each open space shall be determined by the Board of Adjustment.
3. A buffer strip of at least 10 feet in width shall be maintained along all public road frontages and along the perimeter of the RV Park. These buffers shall be free of all encroachment by campsites, buildings or structures, parking areas or impervious coverage.
4. An RV Park shall contain at least 15 individual campsites.
5. All campsites shall be located on land with elevations that are not susceptible to flooding. Campsites shall be graded to prevent any water from ponding or accumulating within the park. Each campsite shall be properly graded to obtain a reasonably flat area and to provide adequate drainage away from the space. This requirement is not intended to circumvent FEMA regulations or the City of Southport Flood Damage Prevention Ordinance.

6. Each campsite shall be located at least 30 feet from the edge of any publicly-maintained street or road.
7. RV Park shall be designed to prevent overcrowding, fire hazards, and to provide sufficient light and air. In no case shall an individual campsite be less than 1,250 square feet in area or have a minimum average width of less than 25 feet. In no case shall an RV be parked closer than 15 feet to another RV.
8. No campsite shall have direct vehicular access to a public road.
9. Each campsite shall be identified by a permanent number which may not be changed. The appropriate number of each campsite must be permanent and visibly displayed on each space. Each number shall be placed on a concrete, wood, metal, or any permanent post and conspicuously located on the campsite.
10. Each RV Park and any future additions thereto must meet the minimum standards and requirements set forth in the International Building Codes with North Carolina Amendments for sanitation and plumbing installations, accommodations, use and any associated parking. These structures may also contain a retail sales counter and/or coin operated machine for the RV Park residents' use, provided there is no exterior advertising. Vending machines also may be permitted in a sheltered area provided there is no exterior advertising on the structure. All service structures shall be maintained in a clean and sanitary condition and kept in good repair at all times. Structures shall be safely and adequately illuminated. Facilities shall be easily accessible and conveniently located to all users of the RV Park. All structures shall be constructed in accordance with the International Building Code with North Carolina Amendments, and shall meet Building Code and/or UDO setback requirements.
11. In addition to the prohibition on advertising on vending structures, the sign regulations for the base zoning district in which the RV Park is located shall apply.
12. Parking within the RV Park shall take place off an internal street within designated parking areas only.
13. Access to all campsites and accessory structures within the RV Park shall be made using internal streets.
14. Internal Street Standards
  - a) One or two-way streets shall be used throughout the RV Park. Such streets shall be well-maintained and clearly identified. All streets within the RV Park shall be privately owned and maintained. Each campsite shall abut an internal street within the RV Park.
  - b) Streets shall have a minimum width of 20 feet for two-way streets and 14 feet for one-way streets.
  - c) Any dead-end shall be provided with a permanent turnaround with a minimum radius of 40 feet.
  - d) All internal streets within the RV Park shall be surfaced with a minimum of six (6) inches of compacted stone and shall be capable of supporting the imposed load of fire apparatus in accordance with the Fire Apparatus Access Roads Standard in the North Carolina Fire Code (NC Fire Code



Section 503, fire apparatus weighing at least 75,000 pounds) and be equipped with adequate and suitable drainage facilities.

- e) Maintenance of all internal streets and drainage facilities shall be the responsibility of the owner of the RV Park. Such streets shall be maintained in a manner to be free from pot holes, breaks in the pavement, rough surfaces, ponding of water and associated problems which would impede or cause hazards to motor vehicles. Speed reduction bumps on paved internal streets are permissible, but they shall be painted and appropriate signs indicating the bump must be placed along the street.
- f) All internal streets shall be subject to annual inspections by the City of Southport Code Enforcement Officer or Building Inspector per Section 106 of the North Carolina Fire Code.

15. External Access

- a) An RV Park shall not be located on through lots. RV Park roads shall be designed to slow traffic.
- b) An RV Park with only one point of external access shall provide at least one permanent turnaround within the campsite. All external access must be approved by the Southport Public Services Director or the North Carolina Department of Transportation if the connecting street is a state-maintained road.
- c) Any proposed electronic vehicular access gates or barricades must be siren-activated for Emergency Vehicle access.

16. Water

- a) An accessible, adequate, safe and potable supply of water shall be required. Where public, municipal, or community water systems exist within 1,000 feet of the park, the developer shall connect to such system.
- b) Internal water distribution systems shall be installed in accordance with minimum City Standards.

17. Sewer

- a) Adequate and safe sewage disposal facilities shall be provided in all RV Parks. Where public, municipal, or community sewer systems exist within 1,000 feet of the RV Park, the developer shall connect to such system.
- b) Each RV Park shall provide at least one sewage dumping station for each 100 campsites which are not equipped within individual sewer and water connections. Sewage dumping stations shall be approved by the Brunswick County Health Department or the North Carolina Division of Water Quality.

18. RV Park Operation

- a) The person to whom an operating permit for an RV Park is issued shall operate the RV Park in compliance with this ordinance and shall be

responsible for maintaining the RV Park, its facilities and equipment in good repair and in a clean and sanitary condition.

- b) The RV Park owner shall notify its visitors of all applicable provisions of this ordinance and inform them of their responsibilities under this ordinance.
- c) The RV Park owner shall be responsible for refuse collection. Storage, collection, and disposal of refuse shall be so managed as not to create health hazards, rodent harborage, insect-breeding areas, accident, fire hazards, or air pollution. Any refuse storage devices shall be enclosed on three sides by opaque fencing material. The method of garbage disposal shall be noted on the plan and approved by the City of Southport Board of Adjustment.
- d) Swimming pools or bathing areas shall be installed, altered, improved, and used in compliance with applicable County and State Health Services regulations. Any bathing area shall require the approval of the Brunswick County Health Department.
- e) Except as specifically permitted by this paragraph, it shall be unlawful to locate a mobile home in an RV Park. Two (2) mobile homes shall be permitted to be located within a RV Park to be used as residences of persons responsible for the operation and/or maintenance of the RV Park.
- f) No more than one (1) RV camper may be parked on any one (1) campsite.
- g) RV campers and travel trailers shall not be permitted on parcels, lots, or spaces other than those approved through these regulations.
- h) The transfer of title of campsites, either by sale or by any other manner shall be prohibited within any RV Park.
- i) All RV campers must be placed individually on approved campsites where all design standards and utilities have been completed.
- j) Junked or wrecked vehicles shall be prohibited in an RV Park.

19. Inspection

- a) The Brunswick County Health Department, the City of Southport Building Inspector, the City of Southport Code Enforcement Officer and the Public Services Department are hereby authorized and directed to make such inspections as are necessary to determine satisfactory compliance with this ordinance. It shall be the duty of the owners of RV Parks to give these agencies free access to such premises at reasonable times for inspections.

EE. RESEARCH & DEVELOPMENT

Where permitted, the research and development activity must not include/require any hazardous materials. All research and development activities must be enclosed in a permanent structure.

#### FF. SALVAGE OPERATIONS

Where permitted, the following shall apply:

1. Any portion of the proposed use/site must be located at least 500 feet from any residentially zoned property.
2. The salvage operation and junkyard shall be entirely surrounded by a screened security fence or by a nonscreened security fence/vegetation screen. In the event that a salvage operation or junkyard shall be surrounded by a nonscreened security fence, the vegetation screen shall be planted on at least one side and contiguous to the security fence. The vegetation shall be of a type that will reach a minimum height of six (6) feet within five (5) years and shall be planted at intervals evenly spaced and in close proximity to each other so that a continuous, unbroken hedgerow will exist along the length of the security fence surrounding the salvage operation or junkyard. Each owner, operator, or maintainer of a salvage operation or junkyard to which this ordinance applies and who chooses to surround said salvage operation or junkyard with a security fence and vegetation screen shall utilize good husbandry techniques with respect to said vegetation, including, but not limited to, proper pruning, proper fertilizer and mulching so that the vegetation will reach maturity as soon as possible and will have maximum density and foliage. Dead or diseased vegetation shall be replaced at the next appropriate planting time.
3. The security fence shall be maintained in good order and shall not be allowed to deteriorate. All gates shall be closed and securely locked at all times, except during business

#### GG. SHOPPING CENTER

Where permitted, all exterior lighting shall be directed onto the proposed shopping center site. Within the CBD district, no individual establishment shall include a drive-through nor be greater than 3,000 square feet in area. Within the BD district, no individual establishment shall be greater than 5,000 square feet in floor area.

#### HH. SHOOTING RANGE, INDOOR AND OUTDOOR

Where permitted, the following shall apply:

- A. This section is intended to regulate the establishment and operation of shooting range facilities. Such recreational and training complexes, due to their potential noise impacts and safety concerns, merit careful review to minimize adverse effects on adjoining properties. Further, the regulations of this section have been made with reasonable consideration among other things, as to the character of the City and its areas and their peculiar suitability for these businesses and recreational facilities.
- B. It is the intent of this section to accomplish the following:
  1. Shot containment. Each shooting range facility shall be designed to contain the bullets, shot or arrows on the range facility within the safety fan zone.
  2. Noise mitigation. Each shooting range facility shall be designed to minimize offsite noise impacts generated by the activities conducted on the range facility.

- C. All new shooting facilities shall be designed, constructed and operated in strict compliance with National Rifle Association (herein referred to as the N.R.A.) standards, specifically "The Range Manual, A Guide to Planning and Construction," Section 1: Chapters 1 through 7, Section 2: Chapters 1 through 18, Section 3: Chapters 1 through 12; Section 4 and verified by the NRA Range Technical Team, National Shooting Sports Foundation (NSSF), the U.S. Occupational Safety and Health Administration (OSHA:), and the National Institute of Occupational Safety and Health (NOISH). In addition, construction standards shall comply with all appurtenant North Carolina Building Codes and verified by a professional engineer.
- D. Setbacks. All outdoor shooting stations on a range facility shall be located a minimum of 150 feet from any property line.
- E. Warning signs. Warning signs meeting N.R.A. guidelines for shooting ranges shall be posted at 100-foot intervals along the entire perimeter of the outdoor shooting range facility.
- F. Distance from occupied dwelling. All outdoor shooting range stations shall be located at least 1,000 feet from any occupied dwelling, excluding those dwellings occupied by the range owner and staff of the range. A shooting range lawfully operating as a conforming use shall not be rendered nonconforming by the subsequent location of a residence within 1,000 feet of the shooting station.
- G. The permittee shall be required to carry a minimum of \$500,000 of liability insurance. Such insurance shall name the city as an additional insured party and shall save and hold the city, its elected and appointed officials and employees acting within the scope of their duties harmless from and against all claims, demands and causes of action of any kind or character, including the cost of defense thereof, arising in favor of a person or group's members or employees or third parties on account of any property damage arising out of use of the range, or in any way arising out of the acts or omissions of the permittee, his/her group, club or its agents or representatives. The City shall be notified of any policy changes or lapses in coverage.
- H. The site plan shall also include a complete layout of each range, including shooting stations or firing lines, target areas, shotfall zones or safety fans, backstops, berms and baffles, when necessary and projected noise contours;
- I. Permit display. Permits shall be kept and displayed in a readily visible location on the shooting range facility and at all times be available for public inspection.
- J. Changes or expansions. If any shooting range facility is intended to be substantially changed or expanded to include types of ranges, operations or activities not covered by an approved permit or otherwise cause nonconformance with this section, a new permit for the entire facility shall be secured.
- K. Abandonment and discontinuance. When an existing shooting range is discontinued without the intent to reinstate the range use, the property owner shall notify the city of such intent by providing written notice to the UDO Administrator.

## II. SHORT-TERM VACATION RENTALS

Where permitted, the following shall apply:

1. No displays of goods, products, services, or other advertising shall be visible outside the dwelling.
2. No activities other than lodging shall be provided. Special events, including weddings, receptions, and other large gatherings, are expressly prohibited.
3. Off-street parking requirements shall be consistent with residential use requirements in 3.14 D.
4. No signage shall be allowed for short-term vacation rentals.
5. The length of stay of guests shall be less than 30 days.
6. Exterior lighting shall be residential in nature and shall comply with the lighting requirements in the UDO.
7. Rental rules, including the maximum number of guests per stay, prohibition of any large gatherings, trash disposal procedures and sanitation schedules, noise ordinance hours, where guests are to park, and emergency contact information must be posted in a common area of the unit.
8. All Short-Term Vacation Rentals operating within this planning jurisdiction shall have a designated responsible party who is available twenty-four hours a day during all times that the property is rented or used on a transient basis. The name, telephone number, and email address of the designee shall be conspicuously posted within the short-term rental unit. The designee shall reside within (20) miles of the short-term rental property and be available to respond to complaints within forty-five (45) minutes of their receipt.
9. The short-term vacation rental owner or operator shall maintain a minimum of \$1,000,000 of general liability insurance on the property, covering short-term vacation rental use and guests.
10. The short-term vacation rental owner or operator must pay any applicable taxes, including occupancy and sales taxes, to appropriate governmental entities.
11. The short-term vacation rental shall comply with all current and applicable building codes.
12. A short-term vacation rental zoning permit is required pursuant to 2.6 (I). It shall be a violation of the City's Unified Development Ordinance to operate a short-term vacation rental without having secured a valid short-term vacation rental zoning permit.
13. Short-term vacation rentals in residential zoning districts (R-10, R-20, MF) shall be considered nonconforming and only permitted with the following standards and restrictions:
  - a) A short-term vacation rental in residential zoning districts must have been in operation as a short-term vacation rental prior to the date of the adoption of the standards and regulations herein. For purposes of this ordinance, in order to have been in operation prior to the adoption hereof, the short-term vacation rental must have received verifiable bookings prior to the date of adoption of this ordinance. No new short-

term vacation rentals may be established and/or permitted in residential zoning districts (R-10, R-20, MF) after the adoption of the standards and regulations herein.

- b) To establish the legal nonconforming status, pre-existing short-term vacation rentals in residential zoning districts (R-10, R-20, MF) must apply for a short-term vacation rental permit within 60 days of the adoption of the standards and regulations herein.
  - c) Legal nonconforming short-term vacation rentals in residential zoning districts may continue in operation until such time that the use is discontinued for a period greater than 180 consecutive days, provided, however, that rental of the dwelling unit for periods of longer than thirty (30) days shall not be deemed a discontinuance during said rental period for the purpose of this section. In addition, the short-term vacation rental annual permit will be required for all nonconforming short-term vacation rentals. Failure to renew said permit before its expiration will also constitute a conclusory presumption that the lawful nonconformity has ceased for more than 180 consecutive days, which will result in the voluntary forfeiture of all rights and claims to operate a nonconforming short-term vacation rental at the address noted on the permit under this provision.
- 14. The short-term vacation rental annual zoning permit for legal nonconforming uses shall terminate upon discontinuance of use for a period of one hundred eighty (180) days or more or a failure to renew the annual zoning permit.
  - 15. Any short-term vacation rental for which there are three (3) final determinations of violations of City Code and/or criminal convictions related to the property (on, adjacent to, or within the property) by a property owner, tenant, guest, host, lessee, or individual otherwise related directly to the property within any rolling three hundred sixty-five (365) day period, shall constitute a violation of the supplemental standards of the permitted use and shall terminate the short-term vacation rental zoning permit. For any short-term vacation rental zoning permit that is terminated due to code/criminal violations, a property owner shall be ineligible for permitting for a period of three (3) years.
  - 16. The rights and claims to operate a legal nonconforming short-term vacation rental are forfeited after three (3) final determinations of violations of the City Code and/or criminal convictions related to the property (on, adjacent to, or within the property) by a property owner, tenant, guest, host, lessee, or individual otherwise related directly to the property within any rolling three hundred sixty-five (365) day period.

## JJ. SOLAR FARM

Where permitted, the following shall apply:

17. Solar farms shall be located a minimum of 100 feet from all property lines (inclusive of equipment and fencing).
18. Solar farms shall have fencing installed a minimum of six (6) feet in height and secured to reduce/eliminate trespassing.
19. Height. The maximum height of any solar panel and associated equipment (not including power lines) shall not exceed 25 feet.
20. Buffers. Evergreen buffers having a minimum of three (3) feet in height at the time of project construction and reaching a minimum of eight (8) feet in height within five (5) years.
21. Landscaping including vegetative buffers, security fences and gates shall be maintained for the duration of the solar farm operation, up to and including decommissioning (dismantled/removed).
22. Vegetative buffers shall be installed (exception granted if an existing natural buffer meeting the requirements of this ordinance exists) surrounding the solar farm site to screen adjacent properties - with the exception of the entrance-road frontage of the lot or parcel where a buffer is not required.
23. Solar panels/arrays shall be constructed so as to minimize glare or reflection onto adjacent properties and roadways.
24. Decommissioning. The UDO Administrator shall be advised, in writing within thirty (30) days, by the solar farm operator or property owners (whichever entity/party holds the zoning and building permits holder) in the event the project is sold or otherwise transferred to another entity/party and/or the current operator/owner abandons the project.
25. At the time of applying for permits the applicant (solar farm developer or property owner) shall include a decommissioning plan with the anticipated life expectancy of the solar farm and the anticipated cost in current dollars, as well as the method (s) of insuring that funds will be available for decommissioning and restoration of the project site to its original, natural condition prior to the solar farm development.
26. If the site is damaged, the solar farm operator shall have 12 months to bring the project back to its operational capacity and within compliance with the UDO. If for any reason the solar farm is not generating electricity after six (6) months, the operator shall have six (6) months to complete decommissioning of the solar farm in compliance with this section.
27. In the event of bankruptcy or similar financial default of the solar farm, the property owner of the project site shall bear the decommissioning costs.

28. Other Applicable Codes/Inspections. All solar farms shall be in compliance the requirements of the most current State Building and Electrical Codes, the State of North Carolina and the City of Southport.
29. All active solar farms shall be inspected by the UDO Administrator or his designee on an annual basis to ensure compliance with applicable State Building and electrical Codes.
30. Each solar farm shall be required to have the facility inspected annually for three (3) years by the UDO Administrator or his/her designee following the issuance of a Certificate of Occupancy to verify continued compliance with the UDO as applicable.
31. Additional inspections shall be conducted as necessary in the event of complaints and shall not replace the noted inspections outlined in this section.

#### KK. STORAGE, SELF-SERVICE

Where permitted, the following shall apply:

1. All storage compartments within the facility shall front on a private drive having a minimum width of 25 feet to ensure sufficient room for vehicular circulation, loading and parking.
2. Driveways providing ingress and egress to the site shall not permit any parking or loading extending to within 30 feet of the adjoining street right-of-way.
3. If the facility has a locked and keyed entrance, two (2) staging spaces must be provided directly in front of the entrance.
4. All self-storage facilities must have a minimum setback of 100 feet from any adjacent residential zoned property.
5. If the facility is located adjacent to a residential district; hours of operation may be from 8:00 AM to 9:00 PM only.
6. Security lights are to be shielded from all residential zoned property adjacent to mini-warehouses to prevent undo bright lights shining onto/into houses.
7. Accessory outdoor and dry storage may be permitted subject to the required use standards for each.

#### LL. TAXICAB STANDS

Where permitted, taxicab Stands shall be limited to parking spaces to accommodate five (5) or less taxicabs. No use or parking space shall be located on a public right-of-way. Signage shall be non-illuminated and limited to six (6) square feet.

#### MM. TELEPHONE COMMUNICATION FACILITY, UNATTENDED

Where permitted, all structures must be architecturally consistent with adjacent properties. Cell or communication towers will not be permitted. Satellite dishes must be screened from ground level view.

#### NN. TRANSITIONAL HOUSING

Where permitted, the following shall apply:



1. There shall be two parking spaces for each dwelling unit and one (1) parking space for each 300 gross square feet of office area.
2. Transitional Housing Facilities shall be screened from adjacent properties with an eight (8) foot opaque fence where adjacent to residential.
3. Transitional Housing Facilities shall have a maximum of five (5) dwelling units

#### OO. WAREHOUSING, GENERAL

Where permitted, the wholesale of non-durable goods shall not be located within 500 feet of any portion of any residentially used or zoned property.

### 3.9 DIMENSIONAL REQUIREMENTS

#### A. GENERAL

1. The following dimensional standards shall be regarded as the minimum required for each zoning district. The minimum yards, setbacks, or other open spaces required by this ordinance, including those provisions regulating intensity of use, for each and every building hereafter erected or structurally altered shall not be encroached upon, unless specifically authorized by this ordinance, or considered as meeting the yard or open space requirements or the intensity of use provisions for any other building.
2. The location of required front, side, and rear yards on irregularly shaped lots shall be determined by the UDO Administrator. The determination will be based on the spirit and intent of this ordinance to achieve an appropriate spacing and location of buildings and structures on individual lots.

Table 3.2: Dimensional Requirements by Zoning District						
Zoning District	Minimum Lot Size (square feet)	Minimum Lot Width (feet)	Minimum Front Setback (feet)	Minimum Rear Setback (feet)	Minimum Side Setback [1] (feet)	Maximum Height Limit (feet)
R-10	10,000	75	25	20	8	40
R-20	20,000	100	40	25	12	40
MF	13,750	100	25	20	8	40
MH	5,000	50	20	20	4	40
PUD	Section 4.15	Section 4.15	Section 4.15	Section 4.15	Section 4.15	40
O/I	12,000	70	25	15	10	40
CBD	0	0	0	0	0	40
BD	0	0	0	10	0	40
HC	10,000	75	25	20	8	40
LI	10,000	75	25	20	8	50
HI	43,560	100	25	25	15	100
OS	None	None	None	None	None	None

1. Where any side yard is provided, though not required, the same shall be not less than four (4) feet.

#### B. SETBACK EXCEPTIONS AND ENCROACHMENTS

1. Nonconforming lots which are located in the R-10 district may be granted rear and side yard setbacks proportionate to the size of the lot. Example: If a 10,000 square foot lot is required and the lot is 6,000 square feet, a 40 percent reduction is allowed.
2. Reduction of Minimum Front setbacks In Residential Districts Where Lots Along Block Face Have Less Than The Required Minimum. Where the front setbacks of lots along the block face containing a subject lot are less than the minimum front yard setback of the district, the average front yard setbacks of the lots along the block face containing a subject lot shall be the minimum front yard for such lot, with the exception that no house may be constructed over city utility easements, including sidewalks.
3. Docks, piers, boardwalks, and similar water-based appurtenances in compliance with CAMA regulations are not subject to setback requirements.
4. Steps, fire escapes, stairways, balconies and chimneys may project into a minimum setback not more than four (4) feet.
5. Sills, cornices, buttresses, ornamental features, gutters, eaves, heating and air conditioning units and similar items may project into a required setback not more than 30 inches.
6. Elevators, liftavators, and other mechanical devices for elevating people and cargo may encroach into any required setback not more than 30 inches.
7. Carports open on three (3) sides may encroach on a side yard to a distance of not less than five (5) feet from a side lot line, except on the street side yard of a corner lot where the setback shall be one-half ( $\frac{1}{2}$ ) of the distance of the required front yard setback up to a maximum of 20 feet. Storage areas may be constructed across the rear of a carport open on three (3) sides that encroaches on a side yard, provided such storage area shall not contain more than 72 square feet nor constitute more than eighteen percent (18%) of the area contained in the carport, whichever is less.
8. Canopies. Any non-residential land use that incorporates a canopy which is totally or partially supported by a structural pillar (upright support), such as but not limited to canopies over gasoline pumps, said canopy may extend to the street right-of-way line, or property line of a non-residentially used or zoned property if no street right-of-way line is involved, provided that each pillar is located at least 10 feet from a property line and the canopy is open on all four (4) sides. Any side of a canopy may be enclosed provided that side meets the required yard setbacks. The canopy roof shall be located horizontally and vertically at least 12 feet from any electrical conductor (line).
9. Signs. Setbacks for signs shall be as provided in Section 3.19.

#### C. HEIGHT EXCEPTIONS

Attached chimneys, belfries, cupolas, domes, elevator support structures, HVAC units, and similar appurtenances may exceed the maximum height requirement by not more than five (5) feet. All other structures shall comply with the height requirements of this ordinance.

### 3.10 GENERAL DEVELOPMENT STANDARDS

#### A. ONE PRINCIPAL STRUCTURE

Only one (1) principal structure per lot shall be allowed unless specifically authorized by this ordinance. More than one (1) principal structure devoted to a non-residential, multi-family, or manufactured home park use may be located on a lot, provided that access is available from a public street or a 20-foot easement is maintained from a public street to each building for use by service or emergency vehicles.

#### B. FENCES AND WALLS

1. No fence or wall shall be erected without the issuance of a zoning permit.
2. No fence or wall shall impede the visual locating of 911 emergency street addresses.
3. No fence or wall shall block pedestrian access from doors or windows and must have a clearance of at least two (2) feet from building walls, except where perpendicular to a building wall.
4. Fences or walls shall not alter or impede the natural flow of water in any stream, creek, drainage swale, or ditch.
5. The finished side of a fence shall face off-site.
6. The use of chain link fences shall be prohibited along any street right-of way property line. Barb-wire and electrified fences shall be prohibited within the CBD, BD, HC, and all residential zoning districts.
7. Fences and walls not exceeding a height of four (4) feet shall be exempt from the yard and building setback line requirements of this ordinance. Fences not exceeding a height of eight (8) feet to be erected only in side or rear yards shall be exempt from the yard and building setback line requirements of this ordinance, provided that no fence exceeding a height of four (4) feet will be constructed within 15 feet to any street right-of-way line. In all cases, the corner visibility provisions of this ordinance shall be observed.
8. Retaining Walls. The setback and yard requirements of this ordinance shall not apply to a retaining wall not more than five (5) feet high, as measured from the lowest ground elevation to the top of the wall except where such is considered to be a bulkhead directly adjacent to a body of water in which case setbacks shall not apply.
9. The following height limits for fences and walls shall apply:
  - a) Within front yards, or circumstances where the rear or side yard of a newly subdivided parcel of land fronts a pre-existing roadway, street, right-of- way, lot, or parcel frontage the maximum height is (4) feet;
  - b) Within any side or rear yards, the maximum height is eight (8) feet;
  - c) Height limits shall not apply to electric/gas substations, water/sewer treatment plants or facilities, municipal water storage facilities, government facilities, uses within the LI and HI district, or waste treatment facilities;

- d) Height limits shall not apply to chain link fences surrounding tennis courts, ball field backstops, or similar recreational facilities;
  - e) Fence height shall be measured along the grade of the adjacent property.
- 10. Walls shall be constructed of one or a combination of the following materials: stucco over concrete block, exposed aggregate concrete, brick, stone, or architectural block in a structurally safe and attractive condition.
  - 11. No wall shall be located within any required drainage, utility, or similar easement.

#### C. CORNER LOT VISIBILITY – SITE DISTANCE TRIANGLE

On a corner lot, within the area formed by a triangle 25 feet from the intersection of the edges of the roadway surfaces or curbs, there shall be no obstruction to vision between a height of 32 inches and a height of 10 feet above the average centerline of each street.

#### D. UNDERGROUND ELECTRICAL LINES

Electrical, phone, and/or cable utility lines must be installed underground from all utility poles to any building, including residences, accessory/utility buildings, and detached garages.

### 3.11 BUILDING DESIGN STANDARDS

#### A. PURPOSE

The purpose of this section is to ensure architectural compatibility and the establishment and preservation of architectural character throughout the city.

#### B. APPLICABILITY

The requirements of this section shall apply to the CBD and BD zoning districts in the following circumstances:

- 1. All new construction other than single-family or two-family dwellings.
- 2. Communication towers, religious institutions, government buildings, public structures, and uses within the LI and HI district shall be exempt from these requirements.

#### C. DESIGN STANDARDS

- 1. The primary entrance of the structure shall be architecturally and functionally designed on the front facade facing the primary street.
- 2. Except for corner lots, the front facade of the principal structure shall be parallel to the front lot line and street.
- 3. Façade colors shall be of low reflectance earth tone, muted, subtle, or neutral colors. Building trim may feature brighter colors as an accent material. The use of high-intensity, metallic, fluorescent, dayglow, or neon colors shall be prohibited.
- 4. Ground mounted mechanical equipment, solid waste storage, and recycling storage shall be located to the rear or side yard and screened from view of the street.

5. Outparcels shall be designed and integrated with the main project or principal structure.
6. No portion of a building facing a front or side lot line, unless a zero lot line common wall, shall be constructed of unadorned (unfaced) concrete masonry units or corrugated and/or sheet metal.
7. No single facade extending unbroken more than 35 feet in a horizontal plane may be visible from a public roadway. Compliance may be obtained through one of the following:
  - a) The use of projections or recesses. When used, each projection or recess shall have a projection (or depth) dimension of no less than 18 inches and a width of no less than 36 inches; or
  - b) The use of columns or other architectural detail to provide visual interest. Where used, columns should be harmonious with the general design of the structure.
8. At least 25% of the first floor of the street facade(s) shall be transparent (including all sides facing a street right-of-way). Street level windows shall be visually permeable. Mirrorized glass is not permitted in any location. False or display casements are not permitted in lieu of exterior window treatments for the frontage elevation. A window shall be measured as follows:
  - a) Minimum area: 16 square feet
  - b) Minimum width: 3 feet
  - c) Minimum height: 4 feet
9. A pitched roof shall have eaves a minimum of 12 inches from the building face including gutters. This shall not apply to zero lot line structures.

#### D. COMPLIANCE

Compliance with the requirements of this section shall be demonstrated through submittal of architectural drawings in conjunction with the appropriate approval type. Drawings shall include, but not be limited to, a floor plan, roof plan, and all exterior building elevations.

### 3.12 TRANSPORTATION AND STREET ACCESS

#### A. STREET ACCESS

No building shall be erected on a lot which does not abut a street or have access to a public street by means of an unobstructed permanent access easement of record or private street. For the purposes of this ordinance, an easement of record shall mean that the easement is recorded in the county register of deeds office and made a part of the deed for the property it is on.

#### B. DRIVEWAYS

1. General. After the date of passage of this section, only driveways designed, approved, constructed, and surfaced in accordance with the provisions herein shall be allowed to provide motor vehicle access to or from any property upon which a building has been constructed, reconstructed, or physically altered. All driveways shall be paved with either asphalt or concrete, or with alternative paving material (e.g., concrete pavers, brick, "turfstone" or similar pervious

- material) determined to exhibit equivalent wear resistance and load bearing characteristics as asphalt or concrete.
2. Before a zoning permit is issued for the construction, reconstruction, or change in use of any building or land. "Construction, reconstruction, or change in use" refers to those improvements made to the site involving overall structure size or to changes in use which would require the addition of one (1) or more off-street parking spaces; it is not intended to refer to construction activities which merely involve changes to exterior architectural features (e.g., painting, addition of siding, roofing activities, etc.).
  3. No driveway shall conflict with any municipal facility such as traffic signal standards, catch basins, fire hydrants, crosswalks, loading zones, bus stops, utility poles, fire-alarm supports, meter boxes, and sewer clean- outs or other necessary structures, except with the express approval of the Director of Public Works. Any adjustments to municipal facilities to avoid such conflicts shall be at the expense of the driveway applicant.
  4. Driveway Location(s):
    - a) Two (2) driveways entering the same street from a single lot shall be permitted only if the minimum distance between the closest edges of the driveways equals or exceeds 50 feet.
    - b) Three (3) driveways entering the same street from a single lot shall be permitted only if the minimum distance between the closest edges of the driveways equals or exceeds 150 feet.
    - c) Four (4) or more driveways entering the same street from a single lot shall be prohibited.
    - d) In no case may the total width of all driveways exceed 50% of the total property frontage.
    - e) No driveway (nearest edge) shall be located within 10 feet of a side lot property line except in the case of a shared driveway (single curb/access point) utilized by two (2) or more lots.
    - f) No driveway (nearest edge) shall be located within 25 feet of an intersection on a secondary road and 40 feet on a primary road except in the case where no other lot access to a public street or city-approved private road is available.
  5. Brick Driveways. Brick driveways will be allowed consisting of smooth, hard-burned clay bricks with an appropriate concrete base. In the event repairs are required after brick driveways are installed due to utility replacement or other construction work, the driveway applicant shall pay that portion of the repair cost which exceeds the cost of repair using standard concrete six (6) inches in thickness. Normal maintenance or replacement will be the responsibility of the driveway applicant.
  6. Driveway Inspection. Once the driveway is constructed a Public Services representative shall inspect the driveway for compliance with the provisions herein. The inspector or other authorized representative of the city shall have

the authority to require the immediate stoppage of work not performed either in accordance with the approved plans or under the requirements of this section and may order the nonconforming installations be corrected and/or blocked.

7. Compliance with the requirements of this section shall be demonstrated through submittal of scaled drawings prior to the issuance of a zoning permit. A change of use, redevelopment, or addition shall not require compliance with this section.

### 3.13 TRAFFIC IMPACT STUDY

#### A. PURPOSE

A traffic impact study shall be required for any land development, subdivision, or use which will collectively generate more than 500 trips per day as identified by the most recent version of the ITE Trip Generation Manual. This study shall also be required for projects submitted by the same applicant or owner within a six (6) month time period which are adjacent to or located within 500 linear feet of one another which will collectively generate more than 500 trips per day. The study will enable the City of Southport to assess the impact of a proposed permit or development on the highway system when that system is at or near capacity or a safety problem exists. Its purpose is to ensure that proposed developments do not adversely affect the highway network and to identify any traffic problems associated with access from the site to the existing transportation network. The purpose of the study is also to identify solutions to potential problems and to present improvements to be incorporated into the proposed development.

#### B. CONDUCT

A traffic impact study shall be prepared by a qualified professional transportation engineer and/or certified transportation planner with previous traffic study experience.

Prior to the preparation of a traffic impact study, a scoping meeting shall be held, including the planning staff, the applicant, and the preparer of the study. The discussion at this meeting should set the study parameters, including the study area, planned and committed roadway improvements (by NCDOT or others), road links and intersections to be analyzed, preliminary traffic distribution, other planned developments to be considered, traffic growth rate, available data, periods for which analysis is to be performed, and other staff concerns. The qualifications of the preparer may be discussed at or prior to this meeting.

#### C. EXEMPTION

Any land development, subdivision, or use which collectively generates more than 500 trips per day traffic may be exempted from the requirements to prepare and submit a traffic impact study if: (1) a traffic impact study has previously been prepared for this particular project or development, and (2) there is to be no change in land use or density that would increase travel, and (3) there is to be no change in access to the external street system, or (4) material is submitted by and sealed by a licensed professional transportation engineer to demonstrate that traffic created by the proposal when adding to existing traffic will not result in a need for transportation improvements. The Board of Aldermen will review material submitted in support of an exemption and will determine from that material whether or not to grant the exemption.

#### D. TRAFFIC IMPACT STUDY REQUIRED INFORMATION

1. General Site Description. The site description shall include the size, location, proposed land uses, number of units and gross square footage by land use, existing land use and zoning, construction staging, and completion date of the proposed land development to the extent known or able to be described at the time the application is prepared. If the development is residential, types of dwelling units and number of bedrooms shall also be included. A brief description of other major existing and proposed land developments within the study area shall be provided. The general site description shall also include probable socio- economic characteristics of potential site users to the extent that they may affect the transportation needs of the site (i.e., number of senior citizens).
2. Transportation Facilities Description. The description shall contain a full documentation of the proposed internal and existing external transportation system. This description shall include proposed internal vehicular, bicycle, and pedestrian circulation; all proposed ingress and egress locations; all internal roadway widths and rights-of-way, turn lanes, parking conditions, traffic channelization's; and any traffic signals or other intersection control devices at all intersections within the site.
3. The report shall describe the entire external roadway system within the study area. Major intersections in the study area and all intersections or driveways adjacent to or within 800 feet of the site shall be identified and sketched. All existing and proposed public transportation services and facilities within one-mile of the site shall also be documented. Future highway improvements, including proposed construction and traffic signalization, shall be noted.
4. Existing Traffic Conditions. Existing traffic conditions shall be documented for all roadways and intersections in the study area. This shall include documentation of traffic accident counts as recorded by the NC Department of Transportation District Engineers Office, municipal or city law enforcement, and the NC Highway Patrol. Existing traffic volumes for average daily traffic, peak highway hour(s) traffic, and peak development generated hour(s) traffic, if appropriate, shall be recorded. Manual traffic counts at major intersections in the study area shall be conducted, encompassing the peak highway and development generated hour(s), if appropriate, and documentation shall be included in the report. A volume/capacity analysis based upon existing volumes shall be performed during the peak highway hour(s) and the peak development generated hour(s), if appropriate, for all roadways and major intersections expected to be impacted by development traffic. Levels of service shall be determined for each signalized intersection or roadway segment analyzed above.
5. This analysis will determine the adequacy of the existing roadway system to serve the current traffic demand. Roadways and/or intersections experiencing levels of service E or F shall be noted as congestion locations.



6. Transportation Impact of the Development. Estimation of vehicular trips to result from the proposed development shall be completed for the average weekday, the average daily peak hours of highway travel in the study area, and if appropriate, the peak hour of traffic generation by the development. These development-generated traffic movements, as estimated, and the reference source(s) and methodology followed shall be documented. These generated volumes shall be distributed to the study area and assigned to the existing roadways and intersections throughout the study area. Documentation of all assumptions used in the distribution and assignment phase shall be provided. All average daily traffic link volumes within the study area shall be shown graphically. Peak hour turning movement volumes shall be shown for signalized and other major intersections, including all access points to the development. Pedestrian and bicycle volumes at school crossings and as otherwise applicable shall be reported. Any characteristics of the site that will cause trip generation to vary significantly from average rates available in published sources shall be documented, including such factors as diversion of passer-by traffic, internal capture, staggered work hours, or use of transit.
7. Analysis of Transportation Impact. The total traffic demand that will result from construction of the proposed development shall be calculated. This demand shall consist of the combination of the existing traffic, traffic generated by the proposed development, and traffic due to other developments and other growth in traffic that would be expected to use the roadway at the time the proposed development is completed. If staging of the proposed development is anticipated, calculations for each stage of completion shall be made. This analysis shall be performed for average weekday traffic, the peak highway hour(s) and, if appropriate, peak development-generated hour(s) for all roadways and major intersections in the study area. Volume/capacity calculations shall be completed for all major intersections. It is usually at these locations that capacity is most restricted.
8. All access points and pedestrian crossings shall be examined for adequate sight distance and for the necessity of installing traffic signals. The traffic signal evaluation shall compare the projected traffic and pedestrian volumes to the warrants for traffic signal installation.
9. Conclusions and Recommended Improvements. Levels of service for all roadways and signalized intersections serving ten percent (10%) or more of peak-hour project traffic shall be reported. All roadways and/or signalized intersections showing a level of service below D in urban or developed areas or below C in rural areas shall be considered deficient, and specific recommendations for the elimination of these problems shall be listed. This listing of recommended improvements shall include, but not be limited to, the following elements: internal circulation design, site access location and design, external roadway and intersection design and improvements, traffic signal installation, and operation including signal timing, and transit service

#### E. SUBMISSION AND IMPLEMENTATION

1. Time of Submission. The traffic impact study shall be submitted to the UDO Administrator with, and as a part of, the application for the applicable rezoning, development, or subdivision approval permit. In the case of a Planned Unit Development, the traffic impact study shall be submitted and approved prior to the accompanying major subdivision preliminary plat. The traffic impact study shall be approved concurrent with the initial approval of any Conditional Rezoning proposal. The approval authority for the applicable land development, subdivision, or use shall also be responsible for approval of the accompanying traffic impact study.
2. Implementation. For site plans, prior to the issuance of a building permit, all required traffic impact recommendations shall be installed and inspected. For subdivisions, prior to approval of a final plat, all required traffic impact recommendations shall be installed and inspected.

### 3.14 PARKING

#### A. GENERAL

1. Each application for a zoning permit shall include information as to the location and dimensions of off-street parking and the means of ingress and egress to such space. This information shall be in sufficient detail to enable the UDO Administrator to determine whether the requirements of this section are met.

#### B. PARKING LOT DESIGN

1. Surfacing. All parking lots with 10 or more spaces shall provide a dustproof surface with adequate drainage facilities and must comply with the Parking Facility Landscaping requirements contained within this article. Parking facilities containing 25 or more spaces shall be paved with concrete, asphalt material, or with alternative paving material determined to exhibit equivalent water resistance and load bearing characteristics as asphalt or concrete. When parking is proposed in excess of the minimum requirements, alternative pervious surface materials are encouraged.
2. Lighting. Any lighting shall be so arranged as to direct the light and glare away from streets and adjacent property.
3. Setbacks. All parking lots shall observe a minimum front setback of not less than five (5) feet and a side yard on a corner lot of not less than five (5) feet.
4. Curb or Bumpers. The required parking setbacks shall be set off from parking areas by either continuous curb or one (1) noncontinuous stationary bumper for each parking space abutting on a yard, which curb or bumper shall not be less than five (5) inches or more than two (2) feet high.
5. Separation of Bumper and Walkways. In the event any parking stall abuts upon a walkway or sidewalk, there shall be a space of three and a half feet between the wheel bumper or curb and the edge of the walkway.
6. Off-street parking areas shall be designed to facilitate adequate movement and access by sanitation, emergency, and other public service vehicles.

7. Off-street parking areas shall be designed so that parked vehicles do not encroach upon, extend onto, or cause vehicles to back into public rights-of-way, sidewalks, or strike against or damage any wall, vegetation, utility, or other structure.
8. The size of any single surface parking lot area shall be limited to three (3) acres, unless divided by a street, building, or continuous landscaped area. Larger parking lots shall be separated by buildings or landscaped areas.
9. Paved parking areas shall have lines demarcating each parking space.
10. Off-street parking areas shall be properly maintained in all respects. In particular, and without limiting the foregoing, off-street parking area surfaces shall be kept in good condition (free from potholes, etc.) and parking space lines or markings shall be kept clearly visible and distinct.
11. Each off-street automobile parking area shall comply with the following minimum dimensions, compact spaces (eight (8) feet width by 16 feet long) may be utilized to meet 10% of the required parking:

Table 3.3: Parking Lot Dimensional Requirements			
Angle (degrees)	Stall Width (feet)	Stall Depth (feet)	Aisle Width between parking spaces (feet)
0	9	9	12
20	9	14	12
30	9	16-1/2	12
45	9	19-1/6	12
60	9	20-1/2	14-1/2
70	9	20-5/6	23
90	9	18	24

#### C. MINIMUM OFF-STREET PARKING REQUIREMENTS

1. The number of exclusive off-street residential parking spaces required by this section shall be provided on the same lot with the principal use, unless otherwise permitted by this ordinance, and the required number of off-street parking spaces specified for each use shall be considered as the absolute minimum.
2. In the case of mixed uses (an establishment comprised of more than one (1) use; e.g. restaurant and hotel), which may include a principal and accessory use, the total requirements for off-street parking shall be the sum of the requirements of the various uses computed separately and the off-street parking space for one (1) use shall not be considered as providing the required off-street parking for any other use, except as provided for in the shared parking criteria in this article.
3. Handicapped parking spaces shall be in accordance with the regulations set forth by the Americans with Disabilities Act and shall be identified by appropriate signage. The minimum number of spaces shall be provided in accordance with the state building code.
4. Fractional space requirements shall be rounded up to the next whole space.

#### D. MINIMUM OFF-STREET PARKING RATIOS

1. The following table establishes the formulas to be used to calculate the number of parking spaces required for a particular use. For uses that do not correspond to the use types listed in Table 3.4, Minimum Off-Street Parking Spaces Required, the UDO Administrator shall determine the minimum parking space requirement. In such instances, the applicant shall provide adequate information for review, which includes, but is not limited to the type of use(s), number of employees, the occupancy of the building, square feet of sales, service and office area, parking spaces proposed, and hours of operation.
2. Within the CBD zoning district, no off-street parking shall be required for any nonresidential use, whether new construction or change of use/redevelopment. Within the CBD zoning district, all residential uses require full compliance with the off-street parking requirements contained herein.
3. In the BD zoning district, for nonresidential uses, where on-street or public parking facilities are located within 500 linear feet of a proposed use, measured as a straight-line distance from the entrance of the building, the minimum off-street parking requirement may be reduced by 50%.
4. Within any zoning district, if the off-street parking space required by this ordinance cannot be reasonably provided on the same lot on which the principal use is located, such space may be provided on any land within 400 feet of the main entrance to such principal use.

Table 3.4: Minimum Off-Street Parking Spaces Required	
Change of Use or Redevelopment in the BD District	
A change of use or redevelopment whereby the floor area of the building or parcel is not expanded by greater than 25%.	No parking required.
Change of use or redevelopment whereby the floor area of the building or parcel is expanded by greater than 25%.	Additional parking required shall be calculated based on the increase in square footage in floor area, above the 25% threshold, of the expanded building. All other applicable requirements of this section shall apply.
Change of use from a residential to nonresidential use.	50% of the required parking shall be provided. All other applicable requirements of this section shall apply.
Change of use from a nonresidential to residential use or the addition of residential uses.	Full compliance with residential off-street parking space minimum and all other requirements.
Uses	Required Parking
Residential Uses	
DWELLING, SINGLE-FAMILY, MANUFACTURED HOME ON SINGLE LOT, MODULAR HOMES	Two (2) spaces per dwelling unit. Nonconforming lots within the R-10 district are exempt from this requirement.
DWELLING, TWO-FAMILY (DUPLEX), MULTI-FAMILY, TRIPLEX OR QUADRAPLEX	Two (2) spaces on the same lot for each dwelling unit. In addition to this requirement, overflow parking shall be provided as follows: 1- 10 units = 2 spaces, 10- 20 units = 4 spaces, 21- 30

Table 3.4: Minimum Off-Street Parking Spaces Required	
	units = 5 spaces, 31- 40 units = 6 spaces, 41- 50 units = 7 spaces, 51-100 units = 10 spaces.
FAMILY CARE HOME	One (1) space for each attendant in addition to the required two (2) spaces per dwelling unit.
MANUFACTURED HOME PARK	Parking space sufficient to accommodate at least two (2) automobiles shall be located on each manufactured home space.
MIXED USES	One (1) space per dwelling unit in addition to that required by the other uses contained within the development.
Nonresidential Uses	
ADULT ESTABLISHMENT; ELECTRONIC GAMING OPERATIONS; TATTOO AND PIERCING ESTABLISHMENT	One (1) space per 100 square feet of floor area.
ALCOHOLIC BEVERAGES, PACKAGED, RETAIL SALES; LIQUOR STORES	One (1) space per 200 square feet of floor area.
ASSOCIATIONS OR ORGANIZATIONS: CIVIC, SOCIAL & FRATERNAL; CLUBS AND LODGES CATERING EXCLUSIVELY TO MEMBERS AND THEIR GUESTS; CULTURAL ARTS CENTER, INCL. THEATERS, OFFICES, CLASSROOMS, ETC.; AND MUSEUMS, ART GALLERIES	One (1) space per 300 square feet of floor area.
AUTOMOTIVE, MAJOR AND MINOR; SERVICE STATIONS	One (1) space per each 400 square feet of floor area; One (1) space for each service bay; four (4) stacking spaces for each washing stall, plus two (2) drying spaces for each washing stall; and/or 1.5 spaces for each fuel nozzle.
BED & BREAKFAST	One (1) space for every rental room plus one (1) space for every two (2) permanent occupants.
BOTTLE SHOP AND WINE BAR; NIGHTCLUB	One (1) space per 200 square feet of floor area.
BUILDING MATERIAL DEALERS; HARDWARE, LAWN, OR GARDEN STORE; FEED, SEED, AND FERTILIZER SALES, RETAIL; FARM MACHINERY SALE AND SERVICE; FUEL & ICE DEALERS; MANUFACTURED HOME DEALERS	One (1) space per 500 square feet of floor area.
BUSINESS, COMMERCIAL, OR OTHER NON-RESIDENTIAL USE NOT ELSEWHERE CLASSIFIED	One (1) space per 200 square feet of floor area.
BUS TERMINALS AND RAILROAD STATIONS; TAXICAB STANDS	One (1) space per 500 square feet of floor area.
CHURCHES, SYNAGOGUES & RELIGIOUS INSTITUTIONS	One (1) space per every 6 seats, or (1) space per every 100 square feet of seating area in main assembly room, whichever is greater. Note: Churches located within the Southport National Register Historic District are exempt from providing off-street parking.
COMMERCIAL PARKING LOTS	One (1) space per employee; otherwise, none required.
COMMERCIAL RECREATION, INDOOR; SHOOTING RANGE, INDOOR; DANCE STUDIOS	One (1) space per every 200 square feet of floor area, excluding bowling alley lanes, range stalls, and similar areas not utilized by the public.

Table 3.4: Minimum Off-Street Parking Spaces Required	
COMMERCIAL RECREATION, OUTDOOR; RECREATION FACILITY PRIVATE, INCL. CLUBS & RECREATION FACILITIES ASSOC. WITH MULTIPLE FAMILY COMPLEXES, GOLF COURSES, TENNIS FACILITIES, COUNTRY CLUBS, ETC.; GOLF COURSE, PRIVATE OR PUBLIC, W/RELATED SERVICES INCL. PRO SHOP; SHOOTING RANGE, OUTDOOR	One (1) space per every 400 square feet of recreation-related area and/or 25 spaces per nine holes, plus one (1) space per employee on shift of greatest employment.
CONTRACTORS, EQUIPMENT & SUPPLY DEALERS & SERVICE; CONTRACTORS, HEAVY CONSTRUCTION; GRADING, PAVING, MARINE, ETC.	One (1) space per 1,000 square feet of floor area.
DAYCARE, ADULT AND CHILD	One (1) space for each employee and one (1) space for every 10 children/adults or fraction thereof.
DIVERS, COMMERCIAL; FISHING, COMMERCIAL; FURRIERS AND FUR STORAGE; EXTERMINATING SERVICES	One (1) space per 400 square feet of floor area.
DRY CLEANERS; LAUNDRY, COIN-OPERATED	One (1) space for each 200 square feet of floor area used by the general public.
DRY STORAGE	One (1) space per employee, if applicable.
EDUCATIONAL FACILITY	Two (2) spaces per classroom. For high schools or college/post-secondary, one (1) space per 10 students.
FARMERS'S MARKET; FRUIT & VEGETABLE MARKET, WHOLESALE WITH INCIDENTAL RETAIL	One (1) space per 500 square feet of permanent retail area; otherwise none required if a seasonal/temporary market.
FLEA MARKET	One (1) space per 1,000 square feet of floor area.
FUNERAL HOMES	One (1) parking space for each five (5) seats in the chapel or parlor, plus one (1) for each funeral vehicle.
GOVERNMENT USE, CITY OF SOUTHPORT; GOVERNMENT USES WITH BUILDINGS, NON-CITY OF SOUTHPORT	One (1) space per 300 square feet of floor area.
HEALTH SERVICES	One (1) space per 300 square feet of floor area.
HOSPITALS	Two (2) spaces for each bed.
HOTEL, MOTEL, OR INN; HOTEL, RESIDENTIAL OR BOUTIQUE; GUEST LODGING	One (1) space for every rental room.
JAIL	One (1) space per employee on the largest shift.
KENNEL	One (1) space per 400 square feet of floor area.
LIBRARY	One (1) space per 500 square feet of floor area.
MANUFACTURING, ARTISAN	One (1) space per 500 square feet of floor area.
MANUFACTURING, GENERAL, LIMITED, AND INTENSIVE; GAS COMPANIES (LP-BOTTLED & BULK STORAGE); MOTOR FREIGHT COMPANIES, MOVERS, VAN LINES, AND STORAGE; MOTION PICTURE PRODUCTION & DISTRIBUTION; RESEARCH & DEVELOPMENT; SALVAGE OPERATIONS; WELDING, REPAIR; LAUNDRY, INDUSTRIAL; GARBAGE COLLECTION, PRIVATE (NO LANDFILLS)	One (1) space per employee on the largest shift.

Table 3.4: Minimum Off-Street Parking Spaces Required	
MARINA, COMMERCIAL	One (1) parking space for each wet slip, one (1) parking space for every four (4) dry stack boat storage units, and where applicable 25 total 12' x 40' spaces per boat ramp, plus parking required for other uses.
MARITIME SALES, RENTAL, AND SERVICE	One (1) space per each 400 square feet of floor area and/or one (1) space for each service bay
MICROBREWERY OR MICRODISTILLERY	One (1) space per 100 square feet of floor area tasting room area; One (1) per 500 square feet for production and storage areas.
NURSING & PERSONAL CARE FACILITY	One (1) space per three (3) residents, plus one (1) additional space for each employee.
OFFICE, GENERAL; RADIO & TELEVISION STATIONS, STUDIOS, AND OFFICES; MANUFACTURED HOME (INDIVIDUAL) FOR OFFICE AND/OR EXHIBITION	One (1) space per 300 square feet of floor area.
PARKS & RECREATION AREAS, MUNICIPAL	No parking required.
PERSONAL SERVICE ESTABLISHMENT	One (1) space per 300 square feet of floor area.
RECREATIONAL VEHICLE PARK	Two (2) parking spaces at each campsite + 1 per 500 sq. ft. of enclosed area for offices, maintenance facilities, etc. within the park.
RESTAURANT, CARRY-OUT	One (1) space per 200 square feet of floor area.
RESTAURANT, STANDARD & FAST-FOOD	One (1) space per 100 square feet of floor area.
RETAIL SALES, MAJOR; GROCERY STORES; SHOPPING CENTER	One (1) space per 300 square feet of floor area.
RETAIL SALES, MINOR AND MODERATE	One (1) space per 200 square feet of floor area.
SOLAR FARM	One (1) space per facility.
STORAGE, SELF-SERVICE	Minimum five (5) spaces or one (1) space for each 100 storage units, whichever is greater, plus one (1) space for each employee and two (2) spaces for manager's quarters, if present.
TELEPHONE COMMUNICATION FACILITY, UNATTENDED; WIRELESS TELECOMMUNICATION FACILITY OR COMPLEX, FREESTANDING AND SUBSTANTIAL MODIFICATIONS	One (1) space per facility.
US POSTAL SERVICE; PACKAGE DELIVERY SERVICES, COMMERCIAL	One (1) space per 400 square feet of floor area.
UTILITY STATIONS & PLANTS (PUBLIC & PRIVATE) INCL. LIFT STATIONS, SUBSTATIONS, ETC.	One (1) space per employee employed on-site, if applicable; Otherwise, none required.
VETERINARY SERVICES	One (1) space per 500 square feet of floor area
WAREHOUSING, GENERAL; WHOLESALE TRADE, DURABLE AND NON-DURABLE GOODS;	One (1) space per 1,000 square feet of gross floor area
WATER TRANSPORTATION INCL. DOCKS, TUGBOATS, BARGES, AND EXCURSIONS	No parking required.

#### E. SHARED PARKING

The required parking space for any number of separate uses may be combined in one lot but the required space assigned to one use may not be assigned to another use, except that one half (½) of the parking spaces required for churches, theater, or assembly halls whose peak attendance will be at night or on Sundays may be assigned to a use which will be closed at night and on Sundays.

#### F. UTILIZATION OF BOAT SLIPS AS REQUIRED PARKING

1. A boat slip is defined herein as a space designed for the mooring of a single watercraft and usually projecting from a dock. Eating and drinking establishments and water-oriented retail businesses may utilize boat slips to meet off- street parking requirements subject in accordance with the following standards:
  - a) All slips must be under the ownership or long-term control of the subject business.
  - b) Boat slips must be available on a first come, first served basis, with no fee assessed for use.
  - c) Boat slips must be reasonably designed to accommodate customer boats.
  - d) The dock facility must be properly accessible in accordance with the regulations governing the maneuvering of water craft on the adjacent waterway.
  - e) Boat slips must only be used for transient mooring of customers frequenting said establishment and no extended storage of vessels shall be allowed.
  - f) Boat slips are allowed to meet off-street parking requirements strictly on a one parking space per 20' linear dockage.

### 3.15 PEDESTRIAN FACILITIES

- A. These regulations are intended to promote walking and other forms of nonmotorized transportation, allow the citizens to reap significant social, environmental, and health benefits that are often not available in auto-oriented places. This will be achieved by ensuring safe, convenient, and accessible sidewalks to provide opportunities for exercise, help people meet and socialize, and give children and others who do not drive mobility options.
- B. Sidewalks shall be required on at least one (1) side of the street, in all new major subdivisions, multi-family developments, and new construction nonresidential development of a principal use within the BD, CBD, HC, OI, and MF districts. Redevelopment or change of use of existing nonresidential or multi-family structures does not require the installation of sidewalks.
- C. Sidewalks shall be installed within the right-of-way and connect to adjacent facilities where applicable. Where right-of-way widths adjacent to the edge of pavement are in excess of 10 feet, sidewalks shall be separated by a minimum three (3) foot landscaped strip adjacent to the edge of pavement.



- D. In all cases, sidewalks shall extend to the property line.
- E. Sidewalks shall be at least five (5) feet wide and constructed of concrete at least five (5) inches thick. Sidewalks shall consist of a minimum of six (6) inches of concrete at driveway crossings or shall be adequately reinforced otherwise. All sidewalks must meet ADA requirements, including where necessary to serve required cluster mailbox locations within subdivisions or multi-family development.
- F. Sidewalks built adjacent to an NCDOT road facility shall be built to meet NCDOT sidewalk standards.
- G. Pedestrian walkways shall form an on-site circulation system that minimize conflict between pedestrians and traffic at all points of pedestrian access to on-site parking and building entrances. Pedestrian walkways shall connect building entrances to one another and from building entrances to public sidewalk connections. Pedestrian walkways shall be provided to any pedestrian access point or any parking space that is more than 50 feet from the building entrance or principal on-site destination. All developments containing more than one (1) building shall provide walkways between the principal entrances of the buildings.

### 3.16 LIGHTING

#### A. APPLICABILITY

- 1. The requirements of this section shall apply to all new construction nonresidential development, multi-family development, and major subdivisions. Changes of use do not trigger applicability with this section.
- 2. The following activities are exempt from the requirements of this section:
  - a) Outdoor lights used for a temporary event;
  - b) Outdoor lights used exclusively for recreational activities, concerts, plays or other outdoor events that are open to the public, provided that the event or function meets all other applicable ordinance requirements. Such lighting shall be located at least 50 feet from any adjoining residential district or use;
  - c) Outdoor lighting exempt from the section shall only be illuminated while the activity takes place and during high traffic periods immediately before and after the event; or
  - d) One and two-family residential uses.

#### B. FIXTURE HEIGHT

- 1. Lighting fixtures shall be a maximum of 40 feet in height within a parking lot or street right-of-way and shall be a maximum of 15 feet in height within non-vehicular pedestrian areas. Where placed adjacent to sidewalks, light fixtures shall not exceed 15 feet in height. All light fixtures located within 50 feet of any residential use or residential property boundary shall not exceed 15 feet in height.
- 2. The UDO Administrator shall allow fixtures above this height to provide internal lighting for ball fields, recreational facilities, arenas, and similar facilities.

C. LIGHT SOURCE (LAMP)

1. Incandescent, florescent, metal halide, light emitting diodes (LED), fiber optics, or color corrected high-pressure sodium are permitted. The UDO Administrator shall have the authority to deny use of particular lamps based on the color spectrum emitted or the lamp brightness. Non color corrected high pressure sodium lamps are prohibited.
2. The same light source type must be used for the same or similar types of lighting on any one site throughout any development.
3. The light source color temperature for outdoor lighting shall not exceed 3,000 degrees Kelvin.

D. FIXTURE

1. Fixtures shall be mounted in such a manner that the cone of light is contained on-site and does not cross any property line of the site.
2. The light source shall be completely concealed behind an opaque surface and recessed within an opaque housing and shall not be visible from any street right-of-way or adjoining properties. Overhead lighting fixtures shall be designed to prevent light from emitting upwards towards the sky.
3. Under canopy lighting fixtures should be completely recessed within the canopy and shall not create glare off-site.
4. Spotlights are prohibited throughout the City.

### 3.17 LANDSCAPING AND BUFFERS

A. PURPOSE

1. The governing body and advisory boards of the City of Southport recognize the importance of the contribution made to the community by the abundance of native trees and vegetation. It is this vegetation that gives the city an aesthetic appeal that contributes to its growth and economic prosperity. As economic growth occurs, the removal of this valued vegetation sometimes results, contributing to a depletion of a most valuable resource. The city feels it is necessary to both conserve and restore those valuable assets and declares the objective of this section to be as follows:
  - a) To provide visual and spatial buffering between adjoining and competing uses;
  - b) To enhance the beautification of the city;
  - c) To enhance property values and protect public and private investment;
  - d) To provide a habitat for living things that might not otherwise occur in an urban environment; and
  - e) To ensure that planting areas are distributed within developing sites in a manner which will provide shade, buffer noise, and filter glare.

B. APPLICABILITY

1. Landscape installation is required for all new construction non-residential and multi-family uses or a change in use or redevelopment where such change would

result in the addition of 10 or more parking spaces. The following site areas are required to be addressed in accordance with the provisions of this section:

- a) Street yards
- b) Foundation planting
- c) Parking facility landscaping
- d) Bufferyards

#### C. GENERAL PROVISIONS

1. All planted and retained living material, required to meet the provisions of this section, shall be maintained by the owner of the property on which the material is located. Any planted material which becomes damaged or diseased or dies shall be replaced by the owner within 60 days of the occurrence of such condition. If, in the opinion of the UDO Administrator, there are seasonal conditions which will not permit the timely replacement of the vegetation (e.g., too hot or too cool for successful replanting), this requirement may be administratively waived until a time certain.
2. All planted material subject to the provisions of this ordinance shall be of a native species and in accordance with the planting material list as provided in Tables 3.5 through 3.7.
3. Nonliving screening buffers shall be maintained, cleaned, or repaired by the owner of the property on which the buffer is located. Such buffers shall be kept free of litter and advertising.
4. Up to 15% of the area to be landscaped may be covered with surfaces specifically intended to afford intensive use and enjoyment by employees or the public (such as sidewalks, walking paths, bench and table pads, etc.).
5. It is encouraged that stormwater management systems be integrated into landscaping areas.
6. Prior to the issuance of a certificate of occupancy, the property owner shall submit a final planting plan to the UDO Administrator demonstrating compliance with this ordinance.

#### D. LANDSCAPING ON PUBLIC PROPERTY

It shall be unlawful for any person to place or cause to be placed on any public street, road, alley, sidewalk, or other public right-of-way within the city any wall, fence, gate, brick, stone, wood, rock, vegetation, or other structure, material, or substance above the horizontal plane of the existing ground.

#### E. PLANTING MATERIAL SIZE AND SPECIES

1. Where the provisions of this section apply, the plant lists in Tables 3.5 through 3.7 shall be utilized for the selection of required landscape material.
2. The minimum height and diameter at breast height (DBH = 4.5 feet above ground) at planting for the following planting categories/list shall be as follows:
  - a) Canopy Trees. At the time of planting, the tree shall have a minimum three (3) inch DBH with a height of eight (8) to 10 feet. Canopy trees

shall be of a species having an average minimum height of 30 feet and a minimum mature crown spread of 20 feet.

- b) Understory Trees. At the time of planting, the tree shall have a minimum two (2) inch DBH. Understory trees shall be of a species having an average minimum height of 10 feet and a minimum mature crown spread of 12 feet.
- c) Shrubs. Shrubs shall have a minimum mature height of 24 inches and a minimum planting height of 18 inches.

Table 3.5: Canopy Tree Species			
Botanical Name	Common Name	Recommended Varieties	Height/Spread (feet)
<i>Acer rubrum</i>	Red Maple	October Glory, Red Sunset, Brandywine, Sun Valley	40-50/25-35
<i>Betula nigra</i>	River Birch	Heritage, Duraheat	40-70/40-60
<i>Celtis laevigata</i>	Sugarberry		60-80/50-70
<i>Diospyros virginiana</i>	Persimmon		30-60/15-25
<i>Fraxinus pennsylvanica</i>	Green Ash	Patmore	50-60/25-30
<i>Liquidambar styraciflua</i>	Sweetgum		60-80/40-60
<i>Magnolia grandiflora</i>	Southern Magnolia	Little Gem, Brackens Brown Beauty, Alta, Kay Paris, Edith Bogue, Claudia Wannamaker, D.D. Blanchard	25-60/15-30
<i>Morus rubrum</i>	Red Mulberry		35-50/15-30
<i>Nyssa sylvatica</i>	Black Gum		30-50/20-30
<i>Pinus palustris</i>	Longleaf Pine		60-100/20-30
<i>Pinus taeda</i>	Loblolly Pine		60-100/30-60
<i>Prunus serotina</i>	Black Cherry		40-60/30-60
<i>Quercus hemisphaerica</i>	Laurel Oak	Darlington	40-60/30-40
<i>Quercus virginiana</i>	Live Oak		60-80/60-80
<i>Quercus lyrata</i>	Overcup Oak		40-60/30-50
<i>Quercus nigra</i>	Water Oak		50-80/30-60
<i>Quercus nuttallii</i>	Nuttall Oak		40-60/30-50
<i>Quercus phellos</i>	Willow Oak		80-100/40-50
<i>Taxodium ascendens</i>	Pondcypress		60-80/15-20
<i>Taxodium distichum</i>	Baldcypress		50-70/20-30

Table 3.6: Understory Tree Species			
Botanical Name	Common Name	Recommended Varieties	Height/Spread (feet)
<i>Acer barbatum</i>	Southern Sugar Maple		20-25/15/20
<i>Acer buergerianum</i>	Trident Maple		20-25/10-15

Table 3.6: Understory Tree Species			
Botanical Name	Common Name	Recommended Varieties	Height/Spread (feet)
<i>Aesculus pavia</i>	Red Buckeye		10-20/10-15
<i>Amelanchier arborea</i>	Serviceberry	Autumn Brilliance	20-25/10-15
<i>Asimina triloba</i>	Pawpaw		15-20/10-15
<i>Carpinus caroliniana</i>	Ironwood		20-30/15-25
<i>Cercis canadensis</i>	Redbud	Forest Pansy, Oklahoma, Texas White	20-30/20-25
<i>Chamaecyparis thyoides</i>	Atlantic White Cedar		40-60/10-20
<i>Chionanthus virginicus</i>	Fringe Tree		10-20/15-20
<i>Cornus florida</i>	Flowering Dogwood	Cloud 9, Cherokee Chief, Cherokee Princess	15-25/10-20
<i>Crataegus phaenopyrum</i>	Washington Hawthorne		25-30/20-25
<i>Ilex decidua</i>	Possumhaw	Warren's Red, Council Fire	15-20/10-15
<i>Ilex opaca</i>	American Holly		20-30/15-20
<i>Ilex vomitoria</i>	Yaupon Holly	Hoskin's Shadow, Kathy Ann, Katherine	15-20/10-15
<i>Ilex x attenuata</i>	Topel Holly	Savannah, Foster's #2, East Palatka	20-30/10-15
<i>Ilex x</i>	Nellie Stevens Holly	Nellie R. Stevens	15-25/10-15
<i>Ilex hybrids</i>	Red Holly	Oakleaf, Cardinal, Robin, Liberty, Patriot	10-15/8-15
<i>Juniperus virginiana</i>	Eastern Red Cedar		30-50/10-20
<i>Magnolia virginiana</i>	Sweet Bay Magnolia		20-30/10-20
<i>Myrica cerifera</i>	Wax Myrtle		4-20/20-40
<i>Oxydendrum arboretum</i>	Sourwood		20-50/10-25
<i>Persea borbonia</i>	Redbay		30-60/10-25
<i>Prunus angustifolia</i>	Chickasaw Plum		4-20/20-40
<i>Prunus caroliniana</i>	Carolina Cherry Laurel		20-30/15-20
<i>Sabal palmetto</i>	Palmetto Palm		10-30/10-15
<i>Sassafras albidum</i>	Sassafras		30-60/25-40
<i>Zanthoxylum clava-herculis</i>	Prickley Ash		15-30/10-25

Table 3.7: Shrub Species			
Botanical Name	Common Name	Recommended Varieties	Height/Spread (feet)
<i>Aralia spinosa</i>	Devil's Walking Stick		10-20/6-10
<i>Aronia arbutifolia</i>	Chokeberry		6-10/3-6
<i>Bignonia capreolata</i>	Cross Vine	Tangerine Beauty	30' spread
<i>Callicarpa americana</i>	American Beautyberry		5-10/5-10
<i>Calycanthus floridus</i>	Carolina Allspice		5-10/5-10
<i>Cephalanthus occidentalis</i>	Buttonbush		6-12/5-10

Table 3.7: Shrub Species			
Botanical Name	Common Name	Recommended Varieties	Height/Spread (feet)
<i>Clematis armandii</i>	Evergreen Clematis	vine	20' spread
<i>Clematis virginiana</i>	Autumn Clematis Vine		12-36' spread
<i>Clethra alnifolia</i>	Summersweet	Hummingbird, Sixteen Candles, White Doves	2-3/4-6
<i>Cyrilla racemiflora</i>	Swamp Titi		12-36/6-25
<i>Decumaria barbara</i>	Climbing Hydrangea	deciduous vine	20' spread
<i>Euonymus americanus</i>	Strawberry Bush/Hearts-a-bustin'		4-6/4-6
<i>Fothergilla gardenia</i>	Dwarf Fothergilla		2-4/2-4
<i>Gelsemium rankenii</i>	Swamp Jessamine vine		20' spread
<i>Gelsemium Sempervirens</i>	Carolina Jessamine vine		20' spread
<i>Hydrangea Arborescens</i>	Smooth Hydrangea	Annabelle	3-5/3-5
<i>Hydrangea quercifolia</i>	Oakleaf Hydrangea	Alice, Snow Queen	5-10/5-15
<i>Ilex glabra</i>	Inkberry Holly	Shamrock	6-8/8-10
<i>Ilex verticillata</i>	Winterberry	Winter Red, Red Sprite	5-15/5-15
<i>Ilex vomitoria</i>	Yaupon Holly	Hoskin's Shadow Kathy Ann, Katherine	15-20/10-15
<i>Ilex vomitoria 'nana'</i>	Dwarf Yaupon	Bordeaux, Schillings	3-4/4-5
<i>Ilex hybrids</i>	Holly	Emily Brunner, San Jose, Mary Nell	15-25/10-15
<i>Itea virginica</i>	Virginia Sweetspire	Little Henry, Merlot	3-4/3-5
<i>Jasminum nudiflorum</i>	Winter jasmine		3-4/3-4
<i>Lonicera sempervirens</i>	Coral Honeysuckle	native vine	20' spread
<i>Lonicera x heckrottii</i>	Goldflame vine Honeysuckle		20' spread
<i>Myrica cerifera</i>	Southern Wax Myrtle		6-20/6-20
<i>Osmanthus americanus</i>	Devilwood		15-25/10-20
<i>Rhapidophyllum hystrix</i>	Needle Palm		5-8/5-8
<i>Rhododenron atlanticum</i>	Coastal Azaela		2-4/2-4
<i>Rhus copallina</i>	Winged Sumac		6-12/12-36
<i>Sabal minor</i>	Dwarf Palmetto		4-5/4-5
<i>Vaccinium stamineum</i>	Farkleberry/Sparkleberry		12-15/6-12
<i>Viburnum nudum</i>	Possomhaw Viburnum		5-10/5-10
<i>Viburnum obovatum</i>	Walter's Viburnum		4-10/3-8
<i>Viburnum plicatum var. tomentosum</i>	Doublefile Viburnum	Shasta, Mariesii	8-10/8-10
<i>Viburnum prunifolium</i>	Blackhaw Viburnum		10-20/10/15
<i>Viburnum x burkwoodii</i>	Burkwood Viburnum		8-10/5-7
<i>Viburnum rufidulum</i>	Southern Blackhaw		10-20/10-20
<i>Yucca aloifolia</i>	Spanish Dagger Yucca		6-12/6-10
<i>Yucca filamentosa</i>	Adam's Needle Yucca	Color Guard, Garland Gold, Bright Edge	2-4/2-4

#### F. STREET YARDS

1. A street yard shall be provided for applicable development located adjacent to a public street right-of-way, with a minimum depth of 50% of the required front or corner side setback as measured perpendicular to the street right-of-way, provided that no street yard in excess of 10 feet in depth shall be required. Street yards shall not be required in the BD or CBD districts.
2. Planting requirements. One (1) canopy tree per every 50 linear feet; one (1) understory tree per every 20 linear feet of road frontage; 20 shrubs per 100 linear feet of road frontage. Where overhead utility lines are present, the location, height, and selection of tree material shall be established in consultation with the Public Services Director.
3. Property used for a business primarily engaged in the sale and display of motor vehicles, manufactured housing, boats, recreational vehicles, or similar equipment may have the required landscaping within the streetyard installed at a minimum height of 18 inches at planting and not exceeding three (3) feet at maturity.

#### G. PARKING FACILITY LANDSCAPING

1. All parking facility areas containing more than 10 spaces shall be landscaped in accordance with the following minimum standards:
  - a) Minimum standards: At least eight (8) percent of the gross paved area of a parking facility shall be landscaped and located in the interior. For purposes of this section, interior shall mean the area within the parking facility curb or pavement and extensions that create a common geometric shape such as a square, rectangle or triangle.
  - b) Trees and shrubbery planted pursuant to this section shall include at least one (1) canopy tree and six (6) shrubs. At least fifty 50 percent of the trees planted shall be of a canopy tree species as outlined in Table 3.5.
  - c) In support of the above, the following standards shall apply to interior plantings:
    - i) All plantings shall be evenly distributed throughout the parking facility.
    - ii) All interior plantings shall be curbed or otherwise physically protected.
    - iii) Consecutive parking spaces shall incorporate landscape peninsulas no more than 10 spaces apart and at least the ends of all parking rows. Peninsulas shall contain at least 100 square feet in area and at least eight (8) feet in width, measured from back of curb/barrier to back of curb/barrier.
2. The provisions of this section shall not apply to property used for a business primarily engaged in the sale and display of motor vehicles, manufactured housing, boats, recreational vehicles, or similar equipment or for any facility which is limited to periodic or intermittent use for vehicular parking, such as

parking lots for churches or recreational facilities, provided the facility is completely covered by grass or otherwise presents a landscaped effect .

#### H. FOUNDATION PLANTINGS

1. For all portions of buildings, which are adjacent to parking facilities or internal drive aisles, foundation plantings shall be required and located between the buildings face and the parking or drive isle curb. Where sidewalks will be provided, the planting shall be located on the building side of the sidewalk. The following minimum standard shall apply:
  - a) The area of the building face adjacent to the parking area or internal drive isle shall be calculated and multiplied by a minimum of 12%. The resultant total square footage shall be planted as landscaped areas of shrubs, grass, and groundcover. Understory trees are encouraged where ample space is available.
2. Exceptions from these requirements may be granted when the following circumstances exist or when any of the following conditions are proposed on the site:
  - a) For those portions of buildings which have drive up services along any side or rear of the building. Such examples would include but not be limited to pharmacies, banks, fast food restaurants, and dry cleaners.
  - b) On the rear side of a building when less than 10% of the total required parking is located in the rear of the building and the rear is not adjacent to any public right-of-way.

#### I. BUFFERYARDS

1. Where there are competing or conflicting land uses and/or differences in the intensity of the land uses, bufferyards shall be required as provided herein.
2. Perpendicular encroachments by driveways, pedestrian-ways, and utilities are permitted, but should be minimized to the extent feasible.
3. Bufferyards shall not overlap into required street yards.
4. Stormwater BMPs and impoundments may be placed within a required buffer only when the applicant demonstrates that no reasonably practicable alternative exists, and provided that the performance standard of the buffer can be maintained. Bioretention areas may be placed within buffers without additional justification provided the performance standard of the buffer is maintained.
5. All regulated and specimen trees located within required buffers shall be retained and protected.
6. Bufferyards range in width from 10 to 40 feet. The following table illustrates the required bufferyard widths:

Table 3.8 Bufferyard Width						
	Adjacent Property Zoning and Required Buffer Width (feet)					
Applicant Zoning District	#1: OS	#2: R-10, R-20	#3: MF, MH, O&I	#4: BD, CBD	#5: HC	#6: HI, LI
#1: OS	0'	0'	0'	0'	0'	0'



Table 3.8 Bufferyard Width						
	Adjacent Property Zoning and Required Buffer Width (feet)					
#2: R-10, R-20	0'	0'	0'	0'	0'	0'
#3: MF, MH, O&I	20'	20'	0'	20'	20'	20'
#4: BD	10'	10'	10'	0'	0'	0'
#5: CBD	0'	0'	0'	0'	0'	0'
#6: HC	40'	40'	20'	0'	0'	20'
#7: HI, LI	40'	40'	40'	20'	20'	0'

7. Bufferyard types identify the type of vegetation required. The following table outlines the requirements of a Type A and Type B bufferyard:

Table 3.9 Bufferyard Type		
Buffer Type	Type A	Type B
Adjacent Land Uses	One and Two-family Residential	Non-Residential/Multi-family
Minimum # of Trees	2 canopy, 4 understory per 1,000 square feet	1 canopy, 2 understory per 1,000 square feet
Minimum # of Shrubs	12 per 1,000 square feet	8 per 1,000 square feet
Minimum % of Evergreen	75%	50%

8. Alternatives: Fences, Walls, and Earth Berms.

- a) Earthen berms are encouraged as a viable alternative to Type A or B bufferyards. Such berms shall be installed at a minimum height of six (6) feet above the lowest adjacent grade and shall include a minimum of 10 shrubs per 1,000 square feet.
- b) If required landscaping of a bufferyard makes up over 20% of the total square footage of a lot, the use of a solid wall or fence may reduce the yard requirement by one half (½). If the yard requirement is reduced, it shall meet the following:
  - i) A fence or solid wall shall be of material compatible with the principal building in composition and color;
  - ii) Maximum height of a fence or solid wall used in a bufferyard shall be eight (8) feet, the top two (2) feet of which may have up to 50% opacity; and
  - iii) Plantings shall be located between the fence or wall and the adjoining property line.

### 3.18 TREE PROTECTION AND LANDSCAPE PRESERVATION

#### A. GENERAL

The overarching goal of this section is to proactively manage the City of Southport's Urban Maritime Forest and its tree canopy. This management will take the form of tree preservation when at all possible, and mitigation through the replanting of trees when others must be removed.

A healthy and expansive tree canopy provides a wide range of benefits to the citizens of Southport. Aesthetically, the nurturing of trees and tree canopy provides for a pleasant and beautiful community in which both residents and visitors alike benefit from. Economically, a robust tree canopy provides a consistent cooling effect on our community and on individual properties that can significantly reduce cooling costs for homeowners and businesses alike.

Property values on both public and private land are increased when trees form part of the landscape. A healthy tree can increase residential property values by as much as 27 percent.

One large tree can lift up to 100 gallons of water out of the ground and discharge it into the air in a day, helping to filter the air that we breathe and control storm water. In our coastal location, Southport's tree canopy protects our community and helps mitigate the damage caused by wind during tropical storms and hurricanes.

For all these reasons, the City of Southport places great value on our Urban Maritime Forest and the tangible and intangible benefits that it provides. This section provides a plan to ensure that existing trees are protected, in particular our signature heritage Live Oaks, and at the same time provides guidelines for mitigation through the replanting of native species when it is necessary to remove trees.

#### B. PURPOSE

1. The general purpose of this section is to regulate and control the planting maintenance, and removal of trees and vegetation.
2. The specific purposes of this section are:
  - a) To safeguard and enhance property values and to protect public and private investment through the maintenance and protection of significant existing trees.
  - b) To prevent the indiscriminate removal of trees and ensure mitigation when trees are necessarily removed.

#### C. AUTHORITY TO TREAT OR REMOVE TREES ON PRIVATE PROPERTY

1. The UDO Administrator may cause or order the removal of any tree or part thereof on public or private property which is in an unsafe condition, damaging or likely to damage sewers or other public improvements facilities, or which is infested by an injurious fungus, disease, insect or other pest.
2. The UDO Administrator may cause or order necessary treatment for any tree on public or private property which is infested by any injurious fungus, disease, insect or other pest when they determine such action is necessary to prevent the spread of any such injurious condition or pest and to prevent danger therefrom to persons or property or to vegetation planted on adjacent property.
3. Before exercising the authority conferred by this section, the UDO Administrator shall order the owner or occupant of the property to take corrective action. The order shall be in writing and shall state that the action specified therein must be taken within 10 consecutive calendar days after the order is mailed. The order shall be mailed by certified or registered mail, return receipt requested. Failure to comply with the order of the UDO Administrator shall be a violation of this section. If the condition has not been corrected or if action that would lead to a timely correction of the condition has not been taken within the time specified above, the UDO Administrator or their designee may seek an injunction, order of abatement or other equitable remedy in a court of competent jurisdiction

against the property owner to ensure compliance in accordance with NCGS 160A-175.

#### D. HAZARD TREE

1. Every owner of any tree overhanging a street or sidewalk within the city is responsible for pruning the branches so that such branches shall not obstruct vehicles or pedestrians. Provided further, that all property owners within the city are hereby required to cause the removal of any dead or diseased trees on their property whenever such trees constitute a hazard to life and property or harbor insects or diseases which constitute a potential threat to other trees. Failure to take such action shall be a violation of this section.
2. The UDO Administrator or his designated representative shall give written notice to any owner violating the terms of this section of said violation and give said owner no less than 10 days to perform the duties in connection with his or her property as specified in (a). If said owner or occupant shall refuse or neglect to perform the duties hereof, the UDO Administrator or his designee may seek an injunction, order of abatement or other equitable remedy in a court of competent jurisdiction against the property owner to ensure compliance in accordance with NC GS 160A-175.
3. In case the owner(s) of any lot or other real property is unknown or their whereabouts is not known after diligent efforts to identify and locate said person, then a copy of the written notice herein above referred to shall be posted upon the premises. The City Clerk shall make an affidavit setting out the facts and circumstances justifying the posting of said property.

#### E. PROTECTION OF UTILITIES

Public utilities shall exercise reasonable care and utilize best management practices to avoid damage and injury to public trees during the installation and maintenance of its facilities. The City's Public Services Director or their designee will provide assistance on any utility project to see that the public utilities can be installed or repaired with minimal damage to any public tree utilizing standards outlined in the City of Southport Urban Forest Management Plan (2011).

#### F. NOTIFICATION FOR WORK NEAR PUBLIC TREES

1. As part of any new construction project, no person or business shall perform any grading, excavation, place any fill, compact the soil or construct any building structure, street, sidewalk, driveway, pavement or public utility within 25 feet of any public tree without first notifying and consulting with the UDO Administrator. Any such work shall be conducted in accordance with this section.
2. Any public utility constructing or maintaining any overhead wires or underground pipes or conduits within 25 feet of public trees shall consult with the Public Services Director prior to performing work which may cause injury to public trees.

#### G. PRUNING REQUIREMENTS

A permit is not required for the pruning of trees. However, in order to prevent excessive pruning and topping of trees and to prevent pruning that will be hazardous to the health and natural appearance to the tree, compliance with approved pruning standards is required, and failure to meet these standards is a violation of this section. The UDO Administrator shall maintain on file at all times a copy of the current edition of Pruning Standards by the American Society of Consulting Arborists and shall make copies of such standards available for the cost of reproduction upon request.

#### H. DAMAGE TO TREES

1. It shall be unlawful to intentionally damage or destroy trees planted on municipally owned or controlled property except as a part of a city-authorized improvement program.
2. It shall also be a violation of this section to attach or place any rope or wire (other than one to support a young or broken tree), sign, poster, handbill, or anything to any such public tree.
3. A person damaging a tree on public property in violation of this section shall be liable to the city for such damage, including any loss of value. In the event damage is so pervasive as to result in the treatment or removal of the tree, the person damaging such tree shall also be liable for costs of treatment or removal. Values of public trees or the amount of damages thereto will be determined by a certified arborist retained by the City of Southport.
4. The monies collected for damages and loss of value will be placed in the City of Southport Tree Mitigation Fund and are to be used solely for restitution for damages or for other costs incurred by the city for violation of this section.
  - a) Parking or operating construction or passenger vehicles of any type within the critical root zone of any tree.

#### I. TREE PROTECTION DURING CONSTRUCTION

1. A major objective of this section is to encourage the preservation of existing vegetation wherever possible while allowing quality development to take place. As a result, the following measures shall be required for preserved trees during the construction process.
2. Protective fencing not less than four (4) feet high or other construction barrier shall be placed at and completely encompass the critical root zone of all preserved trees.
3. Any tree whose critical root zone will be affected by soil removal shall have roots cut clearly by trenching at a point at least one (1) foot outside the construction barrier installed as required above.
4. The following shall be prohibited within the critical root zone of any preserved tree, except as may be necessary when constructing, repairing or replacing public utilities:
  - a) Grading and excavation which involves cutting or filling to a depth of more than three (3) inches.

- b) Pouring of any material onto ground which is toxic to plants.
- c) Installing, depositing, placing, storing, or maintaining any stone, brick, sand, concrete or other materials which may impede the free unobstructed growth of or passage of water, air, and fertilizer to the roots.
- d) Storing of any construction materials within the critical root zones of the preserved trees.
- e) Attaching any sign, poster, notice or other object, or fastening any guy wire, cable, rope, nail, screw, or other device to any preserved tree for any reason other than that of a protective nature to the tree.
- f) Causing or encouraging any fire or burning of any kind near or around any tree.

#### J. LOT CLEARING AND PREPARATION

1. No alteration of vegetation, trees, or landscape material in excess of three (3) inches DBH shall occur on a lot or building site prior to the issuance of a zoning or tree removal permit. Some clearing of understory trees and shrubs may be required to prepare a site for survey, inspection by governmental agencies as part of any permitting process, or to stake the proposed building site.
2. On densely vegetated lots, a walking access trail not to exceed three (3) feet may be cleared for access purposes. Permission to clear any understory trees and shrubs less than three (3) inches DBH for said walking access trail shall be permitted following consultation with the UDO Administrator; however, clearing shall be kept to an absolute minimum.
3. Violations of the lot clearing and preparation section shall constitute a minimum (1) one-year delay in the issuance of any city issued development approval.
4. In the event that a lot has been cleared without obtaining all proper permits from the city and the UDO Administrator is unable to determine the exact number of trees which have been removed in violation of this ordinance, a civil penalty shall be levied under this subsection as follows:
  - a) If the property is located within a residential district, the offender shall be subject to a civil penalty in the amount of \$5,000 for each 5,000 square feet of the lot or fraction thereof which has been cleared. In addition, the offender shall be required to plant two (2) replacement canopy trees per 10,000 square feet or fraction thereof.
  - b) If the property is located within a nonresidential district, the offender shall be subject to a civil penalty in the amount of \$10,000 for each 10,000 square feet of the lot or fraction thereof which has been cleared. In addition, the offender shall be required to plant four (4) replacement canopy trees per 10,000 square feet or fraction thereof.
  - c) In addition to the civil penalties set forth in subsections 4(a) and 4(b) above, the offender shall be subject to all enforcement provisions of Section 2.15.D of this Unified Development Ordinance.

K. TREE REMOVAL PERMIT

1. For platted residential lots or one and two-family residential uses, a tree removal permit shall be required to remove any regulated tree within any setback; or a specimen tree, located anywhere on the property.
2. For nonresidential, multi-family, or major subdivisions, a tree removal permit shall be required to remove any regulated or specimen tree located anywhere on site.
3. All persons seeking a permit for removal of a regulated or specimen tree as provided above shall make application to the city via the tree removal permit application.

L. EXCEPTIONS

1. The UDO Administrator may waive the requirements of this section during a city declared state of emergency in accordance with NCGS 166A-19.3.
2. If any regulated tree shall be determined to be a hazard tree such that it may:
  - a) Immediately endanger the public health, safety or welfare; or
  - b) Cause an immediate disruption of public services.

M. MITIGATION

1. The removal of any regulated tree located within any setback or the removal of any specimen tree located anywhere on site, must be mitigated in accordance with the following standards:
  - a) The total diameter at breast height (DBH) of all applicable regulated and specimen trees proposed for removal shall be totaled. The resultant number of DBH inches to be removed must be planted back on the site with an appropriate number of trees to replace the equivalent DBH of those trees removed. For example, if 72 inches DBH of specimen trees are proposed for removal from a site, the equivalent number of new trees required to meet the 72 inches of DBH removed shall be planted back on site (24 trees installed at three (3) inches DBH would meet this requirement).
  - b) Existing residentially zoned vacant lots or one and two-family residential uses shall only be required to mitigate 25% of the total DBH of regulated or specimen trees removed. All other development types and/or proposals for any major subdivision shall be subject to the full mitigation replacement ratio requirement provided in subsection 1(a).
  - c) A minimum of one (1) regulated or specimen tree of the same species removed shall be installed through mitigation. Where regulated or specimen Live Oak (*Quercus virginiana*) trees are removed, the replanting requirement shall consist of a minimum of 50% such species.
  - d) Any replanted trees shall be canopy or understory trees as provided in Tables 3.5 or 3.6.

2. Any mitigation trees required as a result of the removal of regulated or specimen trees may be counted to meet the requirements of the street yard, buffer, or parking facility landscaping requirements.

#### N. TREE PLAN

1. A tree plan must be submitted to, reviewed, and approved by the UDO Administrator prior to the issuance of a tree removal permit.
2. For existing residentially zoned vacant lots or one and two-family residential uses, the tree plan to be submitted as part of the permitting process shall include a hand drawn sketch, rendering, or copy of an existing plat or survey of the property indicating the location of those regulated or specimen trees proposed to be removed, as well as any trees proposed to be planted as mitigation (if applicable).
3. For nonresidential, multi-family, or major subdivisions, the tree plan shall be a scaled plan not less than 1"= 30' and shall be prepared by a surveyor, landscape architect, engineer, or architect registered in the State and shall provide the following information:
  - a) Property line with bearings and distances, easements, marsh and wetland delineations and other information necessary to depict the development area;
  - b) All existing and proposed buildings, paving, infrastructure, and utilities;
  - c) All preserved regulated and specimen trees located on the site indicating the diameter, species, and the critical root zone for each preserved tree;
  - d) All regulated and specimen trees located on the site proposed to be removed, including species and size;
  - e) All proposed newly planted trees indicating the DBH and height at planting, and species;
  - f) Tree protection zones, protective fencing details, and tree wall and/or tree well details;
  - g) Maintenance plan identifying the methods to ensure the viability of all trees and the party responsible for continuing maintenance;
  - h) Listing of total number of trees and DBH inches to be removed and the total number of trees and DBH inches to be planted by species; and
  - i) Seal of the design professional with signature and date.
4. Distance from utilities. Any tree required by this section which is placed within 20 feet lateral distance from the centerline of an above ground electric utility line (the line connecting pole centers) should have a maximum expected maturity height as follows:
  - a) Zero (0) to 10 feet lateral distance of the centerline, 15-foot maximum expected maturity height; and
  - b) Greater than 10 feet and up to 20 feet lateral distance from the centerline, 25-foot maximum expected maturity height.
  - c) Outside 20 feet of lateral distance, trees should be placed in the most feasible manner to avoid future conflict with aboveground electric

utilities and violations of the National Electric Safety Code, and to avoid conflict with any belowground utilities and drainage facilities. Variations to such distance requirements may be made with the approval of the Public Services Director.

#### O. CRITERIA FOR ISSUANCE

1. Unless the applicant for a permit under this section is engaged in new construction, no tree removal permit shall be issued unless one (1) or more of the following criteria are met:
  - a) The regulated tree is dead, severely diseased, injured or in danger of falling close to existing or proposed structures.
  - b) The regulated tree is causing disruption of existing utility service or causing drainage or passage problems upon the rights-of-way.
  - c) The regulated tree is posing an identifiable threat to pedestrian or vehicular safety.
  - d) The regulated tree to be removed is located within 15 feet of the principal structure, within five (5) feet of detached buildings (sheds, accessory structures, garages), pools, hardscape patios, and driveways.
  - e) The regulated tree violates state or local safety standards.
  - f) Removal of the regulated tree is necessary to enhance or benefit the health or condition of adjacent trees or property.
2. Notwithstanding the above, any tree removed requiring mitigation shall be mitigated through the planting of new material as provided in this section.

### 3.19 SIGNS

#### A. GENERAL

1. It is the intent of this section to protect public interest, safety and welfare and, to that end, the purposes of this section is specifically declared to be as follows:
  - a) To promote economic development while minimizing the negative impacts that signs may have on the visual appearance of the City of Southport;
  - b) To provide orientation and guidance to our tourists and visitors and identification of public areas, natural resources, historical and cultural landmarks and places of interest and in so doing reduce confusion and traffic congestion;
  - c) To inform and educate visitors and residents of opportunities and events both commercial and noncommercial occurring in the City of Southport; and
  - d) To permit and regulate signs in such a way as to support and compliment land use objectives.
2. Encroachment Into Right-of-Way. No part of any sign shall be located on or extended into a public right-of-way without all applicable permits except as allowed by this section.



3. Visibility. No sign or structure shall be erected or maintained to impede safe and adequate visibility from vehicles or for pedestrians.
4. Illumination. Where permitted, illuminated signs shall be subject to the following conditions:
  - a) Any light used for illumination shall be shielded so that the beams or rays of light will not shine into surrounding areas or on the public roadway.
  - b) Neither direct nor reflected light from any light source shall create a traffic hazard or distraction to operators of motor vehicles on public thoroughfares.
  - c) Sign illumination shall be only at the minimum level required for nighttime readability.
5. Signs for Nonconforming Uses. Signs for nonconforming uses, where such uses may be continued, shall be allowed, but shall comply with all regulations for signs in the zoning district where such signs are located.

#### B. APPLICABILITY

1. Except as otherwise provided in subsection C , it shall be unlawful to erect or maintain any sign without first obtaining a sign permit. No permit shall be required, however, for maintenance of a sign restored back to original condition. Failure to secure a permit shall constitute a violation of this section.
2. A scaled drawing displaying the location of the sign on the associated property, the sign dimensions, construction, height, setbacks from all property lines, lighting, electrical and all other elements associated thereto shall accompany all sign permit applications.
3. If actual work for the permitted sign on the site is not commenced within 60 days from the date of such sign permit or if substantial work for the permitted sign is suspended for a period of 60 consecutive days after issuance of the sign permit, the permit shall automatically become null and void. Provided, however, for new construction, the sign permit shall not become null and void until 60 days after the Certificate of Occupancy has been issued.
4. When any permit has been revoked under the terms of this section, the permit fees shall not be refunded. If a sign permit is denied, however, the permit fee will be refunded.
5. All permanent signs shall be designed and constructed to meet the requirements of the NC Building Code. Depending on the type of sign construction, the building inspector may require engineer certified plans.
6. Any sign proposed to be constructed beyond the mean high-water line requires the issuance of a Conditional Use Permit in accordance with the requirements set forth in Article 2. Any such sign shall not be located off-premise and must comply with applicable sign type provisions provided in this section.

#### C. SIGNS EXEMPT FROM PERMIT REQUIREMENTS

Unless otherwise prohibited hereinafter the following signs are exempt from permit requirements but subject to the provisions provided herein:

1. Signs which are not designed to be visible beyond the boundaries of the lot upon which they are located and/or from any public thoroughfare or right-of-way, except as such signs may be regulated hereinafter.
2. Official governmental notices and notices posted by governmental officers in the performance of their duties; governmental signs or signs installed under governmental authority.
3. Noncommercial Flags, pennants, or insignia of any nation, organization of nations, state, county or city, any religious, civic or fraternal organization, or any educational or cultural facility.
4. Temporary decorations or displays.
5. Temporary or permanent signs to warn of danger or hazardous conditions, including signs indicating the presence of underground cables, gas lines, and similar devices or signs providing directions around such conditions.
6. Merchandise, pictures, or models or products or services which are incorporated as an integral part of a window display.
7. Signs displayed on trucks, buses, trailers or other vehicles which are being operated in the normal course of a business which are affixed or painted onto moving vans, delivery trucks, contractors' vehicles, and equipment and the like provided that, when not being so operated, such vehicles are parked or stored in areas appropriate to their use as vehicles.
8. Trademarks or product names which are displayed as part of vending machines, dispensing machines, automatic teller machines, and gasoline pumps.
9. Signs required for or specifically authorized for a public purpose by any law, statute, or ordinance. These signs may be of any type, number, area, height above grade, location or illumination authorized by law, statute, or ordinance under which such signs are required or authorized.
10. Signs that display information pertinent to the safety or legal responsibilities of the general public with regard to a particular piece of property shall be located on the premises to which the information pertains.
11. Signs attached to buildings (integral sign) which identify buildings and which are permanently integrated by etching, embossing, and/or engraving or which are otherwise permanently made a part of building facades.
12. Special event signs are limited to up to four (4) signs per event. These signs may remain in place for up to 30 days within a calendar year. Signs shall be removed immediately following the event.
13. Signs affixed to windows of vehicles displaying information regarding the sale of said vehicles.
14. Real Estate Signs. Temporary signs advertising the sale, rental, or lease of the property on which said signs are located are allowed, provided such signs are not illuminated.
  - a) Residential zoned property. One (1) double faced sign per street frontage is allowed. Each sign face square footage shall not exceed six (6) square feet (excluding sign support structure).

- b) All other zoned property. One (1) double faced sign per street frontage is allowed. Signs may not exceed 32 square feet per face or eight (8) feet in height.
  - c) Removal. All such signs shall be removed within seven (7) days after the closing of the sale, rental, or lease of the property.
- 15. Directional Signs. Directional signs shall be located on the premises to which directions are indicated. Directional signs shall not exceed four (4) square feet per face, two (2) faces per sign, and shall not exceed three (3) feet in height if freestanding or six (6) feet in height if attached to the principal or an accessory structure. The maximum number of signs allowed per lot shall be four (4). These signs may be internally or externally illuminated.
- 16. Incidental Signs. Incidental signs shall be located on the premises to which the information pertains. These signs shall be single-faced only and wholly attached to a building (including the windows or doors).
- 17. Copy Changes and Maintenance. No permit shall be required for copy changes made to a changeable copy sign, menu board, marquee sign, or off-premise sign; provided any such changes do not change the classification of the sign under this section. No permit shall be required for maintenance where no structural changes are made.
- 18. Political Signs. On private property, one (1) sign shall be permitted per lot, not exceeding eight (8) square feet in area per display face, and two (2) faces per sign. Within NCDOT right-of way, sign placement and duration shall be in accordance with NCGS 136-32 during the period beginning on the 30th day before the beginning date of "one-stop" early voting under NCGS 163-227.2 and ending on the 10th day after the primary or election day, subject to the following provisions. A person must obtain the permission of any property owner of a residence, business, or religious institution fronting the right-of-way where a sign would be erected. Signs must be placed in accordance with the following:
  - a) No sign shall be permitted in the right-of-way of a fully controlled access highway.
  - b) No sign shall be closer than three (3) feet from the edge of the pavement of the road.
  - c) No sign shall obscure motorist visibility at an intersection.
  - d) No sign shall be higher than 42 inches above the edge of the pavement of the road.
  - e) No sign shall be larger than 864 square inches.
  - f) No sign shall obscure or replace another sign.
  - g) No sign shall be located in the city's right-of-way.
- 19. Construction Signs. Construction signs shall be allowed provided such signs do not exceed one (1) sign per street frontage with a maximum of two (2) signs per construction site. Such signs shall not exceed 32 square feet in area display face and no more than 10 feet in height. Construction signs shall not be erected prior

to the issuance of a building permit and shall be removed within seven (7) days of the issuance of a certificate of occupancy.

20. Fence-wrap signs affixed to fences surrounding a construction site may be allowed in accordance with NCGS 160D-908.
21. Temporary Signs. Each lot in a residential zoning district or each establishment within a nonresidential zoning district shall be allowed one (1) temporary sign not exceeding six (6) square feet or four (4) feet in height. Such sign shall not be constructed utilizing wood, cement, steel, or other similar structures of a permanent nature. Such sign shall be easily removed and placement thereof shall not be of a permanent fashion.
22. A-frame Sign. Any premises, including those containing multiple businesses, may place only one (1) A-frame sign per street frontage, per business.
  - a) Placement: The sign must be placed directly in front of the business it promotes. Placement of the sign must be in accord with the Americans with Disabilities Act, which requires four (4) feet of sidewalk clearance in addition to the amount of space occupied by the sign. The sign shall be placed in a manner so as not to impede the line of sight for vehicular and/or pedestrian traffic. Along streets with diagonal or perpendicular parking, the sign may be placed within one (1) foot of the curb, but must not obstruct a pedestrian's pathway from a parked car to the sidewalk. Along streets with parallel parking, the sign must be at least two (2) feet from the curb. No sign may be placed where the unobstructed space for the passageway of pedestrians is reduced to less than four (4) feet. No signs are allowed in driveways or on improved city streets.
  - b) The sign must not exceed 48 inches in height, 24 inches in width and eight (8) square feet per side in area (which includes legs/stand/bracing). The sign must be constructed of materials that present a finished appearance and have locking arms on the sides that enable the sign to withstand high winds.
  - c) The sign must be removed and stored inside the business after business hours or at dusk (whichever comes first) and may not be outside on days when the business is closed. A-frame signs shall not be artificially illuminated.
  - d) Any person erecting an A-frame sign or a portable off-premise sign shall indemnify and hold harmless the city and its officers, agents and employees from any claim arising out of the presence of the sign on city property or rights-of-way. Any person erecting an A-frame sign must sign an indemnification agreement approved by the city attorney prior to the issuance of a permit. The indemnification agreement must be accompanied by proof of insurance covering the liability assumed in this subsection and the agreement.

#### D. SIGNS PROHIBITED IN ALL ZONING DISTRICTS

The following signs and/or sign features shall not be erected or maintained in any zoning district within the planning jurisdiction of the City of Southport.

1. Signs on roadside appurtenances or snipe signs. On- or off-premise signs on city owned roadside appurtenances, including, but not limited to roadside benches, planters, utility poles, trees, and refuse containers.
2. Vehicle/Trailer signs. Signs placed on vehicles or trailers which are parked or located for the primary purpose of displaying said sign.
3. Signs of illusion. Signs with optical illusion of movement by means of a design which presents a pattern capable of reversible perspective, giving the illusion of motion.
4. Signs resembling traffic signals. Signs displaying intermittent light resembling the flashing light customarily used in traffic signals, or used by police, fire, ambulance, or other emergency vehicles, nor shall any sign use the word "stop," "danger," or any other words, phrase, symbol, or character in a manner that might be construed as a public safety warning or traffic sign.
5. Animated signs and flashing signs.
6. Signs obstructing access. Signs which obstruct free ingress to or egress from a driveway or a required door, window, fire escape, or other required exit way.
7. Billboard Signs.
8. Any sign or outdoor advertising display which contains statements, words or pictures of an obscene character as defined in NCGS 14-190.1 such as will offend public morals or decency.
9. Feather flags.
10. Any temporary or permanent off-premise sign unless explicitly permitted by this ordinance.

#### E. ON-PREMISE SIGNS: RESIDENTIAL DISTRICTS R-10, R-20, MF, MH, AND PUD

The following signs may be allowed within residential zoning districts subject to the issuance of a sign permit. Within a PUD, the following signs may only be permitted in the residential portion of the development.

1. Subdivision and multi-family development signs must either be freestanding ground signs or attached wall signs. If the signs are freestanding ground signs, the height shall be limited to six (6) feet from grade and the minimum setback shall be 10 feet. Each entrance may have two (2) signs no more than 32 square feet per face.
2. Nonresidential uses located in residential zoning districts are allowed one (1) freestanding ground sign or attached wall sign, either of which may be only a changeable copy sign, with the total area of the changeable copy sign no greater than 12 square feet per face, with two (2) sign faces per sign and a maximum of six (6) feet in height, with a minimum setback of 10 feet.

F. ON-PREMISE SIGNS: NON-RESIDENTIAL DISTRICTS CBD, BD, HC, O/I, LI, HI AND PUD

The following signs may be allowed within nonresidential zoning districts subject to the issuance of a sign permit. Within a PUD, the following signs may only be permitted in the nonresidential portion of the development.

1. Attached Single Face Wall Sign. Shall be allowed on all sides of a business. The total allowable tenant face signage shall not exceed 25% of the building face of 32 square feet, whichever is greater.
  - a) Single tenant building. Wall area shall be total area of the applicable exterior wall.
  - b) Multi-tenant building. Wall area shall be defined by that area of the exterior wall enclosed by the intersection of the interior floor, ceiling and wall(s) of the tenant's space.
2. Roof Signs. Signs on the surfaces of a mansard roof and on parapets shall be allowed provided the signs do not extend above the roof or parapet to which they are attached. The size of the sign shall be subject to the 25% allowable area for an attached single face wall sign.
3. Projecting Double Face Signs. One (1) projecting sign per street front shall be allowed. Signs shall not project more than three (3) feet from the facade of the building. Clearance over sidewalks shall be at a minimum of nine (9) feet and clearance over streets, alleys or driveways shall be a minimum of 14 feet. Signs shall not project above third story of the building or above the building soffit, eave line, or building parapet.
4. Freestanding Ground Sign. One (1) freestanding ground sign shall be allowed per street front per lot. Such signs may contain signage for each establishment within a multi-tenant building subject to the height and size requirements provided in Table 3.10. See Table 3.10 for height and area requirements based on zoning district in which it is located.

Table 3.10 Freestanding Ground Sign Size		
Zoning District	Maximum Height	Maximum Square Footage per Face
CBD	6 ft.	25 sq. ft.
HC	25 ft.	125 sq. ft.
BD/OI/PUD	10 ft.	60 sq. ft.
LI/HI	25 ft.	187.5 sq. ft.

5. Electronic Message Center (EMC) Signs. EMC signs which do not exceed ten (10) square feet per sign face are allowed and shall be included in the allowable sign area, provided, however, if an existing freestanding sign is located on the lot, then the EMC sign must be incorporated into the existing freestanding sign.
  - a) The EMC portion of the sign may not exceed 30% of the permitted sign face. No variations in light intensity are permitted.
  - b) EMC signs shall only be permitted in the HI, LI, and HC zoning districts.
6. Inflatable Sign. One (1) inflatable sign shall be allowed once per calendar year per business.
  - a) Further, inflatable signs shall not be internally illuminated; shall not be higher than 25 feet above grade; and shall not be erected or maintained

on a building parapet or roof. The time allowed for these signs shall not exceed 10 days. These signs shall be located on either an attached, tethered, or freestanding structure. The sign and its structure shall not block or inhibit the visibility of vehicular traffic or in any way pose a danger to pedestrians or vehicular traffic or property.

#### G. MAINTENANCE

1. All signs erected must be properly permitted and inspected for compliance with the applicable codes of the State of North Carolina and the City of Southport and with other parts of this ordinance.
2. Sign in disrepair. Signs that are unsafe, or which no longer can be easily recognized for their intended purpose due to disrepair or fading.
3. The following maintenance requirements must be observed for all signs visible from any public street or highway within the jurisdiction of this article.
  - a) No sign shall have more than 20% of its surface area covered with disfigured, cracked, ripped, or peeling paint or poster paper for a period of more than 30 successive days.
  - b) No sign shall be allowed to stand with bent or broken sign facing, broken supports, loose appendages or struts or be allowed to stand more than 15 degrees away from the perpendicular for a period of more than 30 successive days.
  - c) No sign shall be allowed to have weeds, vines, landscaping, or other vegetation growing upon it and obscuring its view from the street or highway from which it is to be viewed for a period of more than 30 successive days.
  - d) No neon or internally illuminated sign may be allowed to stand with only partial illumination for a period of more than 30 successive days.
  - e) If a sign or sign structure is damaged such that more than 50% of the value is lost, with such determination made by the UDO Administrator, any repair or replacement must be done in conformance with this Section.

#### H. ILLUMINATION

1. Where illuminated signs are permitted, they shall conform to the following requirements:
  - a) All signs illuminated under the provisions of this section shall be constructed to meet the requirements of the National Electrical Code.
  - b) Signs which contain, include, or are lighted by any flashing, intermittent, or moving lights are prohibited, except Electronic Message Center signs.
  - c) Illuminated signs shall be limited to those lighted internally with glass or plastic faces bearing the advertisements and diffusing the direct rays of the light source to prevent any direct line of sight with said light source.
  - d) Neon, argon, or other gas tube lighting or signage shall be prohibited on the external walls of all structures. Neon, argon, or other gas tube logo

signs placed inside the building and not exceeding 25% of the window area or 32 square feet whichever is less shall be permitted.

- e) Flood and display lighting shall be shielded so as to prevent direct rays of light from being cast into a residential area or district and/or on a public right-of-way from any direction. Such lighting shall also be shielded so as to prevent view of the light source from a residence or residential district and/or vehicles approaching on a public right-of-way from any direction. In addition, no sign shall permit light to emit upwards towards the sky.
- f) Flame as a source of lighting is prohibited.
- g) The light source color temperature for outdoor lighting shall not exceed 3,000 degrees Kelvin.

#### I. NONCONFORMING SIGNS

All nonconforming, previously unprohibited signs existing on the date of the adoption of this Ordinance shall be allowed to remain unless structurally altered or damaged greater than 50% of the value of the sign. This does not preclude changing the face of the sign with the applicable permit.

#### J. SIGN ENFORCEMENT

1. Notice of Violation. The UDO Administrator shall have the authority to issue a notice of violation for all violations of this section in accordance with Section 2.15 Enforcement of this ordinance. Where the owner of the sign is indicated on the sign or is otherwise apparent or known to the UDO Administrator, a copy of the notice of violation shall be delivered to the sign owner by hand delivery, or mail, or by attaching a highly visible sticker reading "VIOLATION" to the face of the sign. The letter, and/or sticker shall include the date that it was attached to the sign with instructions of the violation, and to contact the Administrator immediately.
2. Time to Remedy Violation. All sign violations shall be remedied within 15 days
3. Extension of Time for Compliance. The UDO Administrator shall have the authority to grant a single 15-day extension of time within which to remedy the violation of any sign.
4. Remedies for Failure to Comply.
  - a) In addition to or in lieu of the other remedies set forth in this ordinance, the UDO Administrator shall have the authority to issue a remove order for any sign not repaired or in violation by the foregoing provisions. Remove orders shall be issued to and served upon the person(s) described in subsection (1) by the means set forth therein. The sign shall be removed 15 days after the service of the remove order at the expense of the offender. The remove order shall describe with particularity the location of the sign to be removed and all of the reasons for issuance of the remove order, including specific reference to the provisions of this section which have been violated. In the event it is not claimed within 15 days, the administrator shall have authority to dispose of the sign.



- b) The UDO Administrator shall have the authority to remove, without notice, and impound any sign that is hazardous; or attached to trees, utility poles or natural features; or abandoned signs; and/or signs erected without a permit.
5. Removal and Recovery of Expense. In the event of failure to comply with the requirements of a remove order, the UDO Administrator may cause such sign to be removed. The sign owner and property owner may be jointly and severally liable for the expense of removal. Notice of the cost of removal shall be served upon the person(s) described in subsection (1) by the means set forth therein. If said sum is not paid within 30 days thereafter, said sum shall be collected by the city in a civil action in the nature of debt, which shall not subject the offender to the penalty provisions of NCGS 14-4.

### 3.20 NONCONFORMITIES

#### A. GENERAL

There are existing uses of land, structures, lots of record, signs, and site features that were lawfully established before the effective date of this ordinance or a subsequent amendment thereto, that now do not conform to standards and requirements of this ordinance. Such uses, structures, lots, signs, and site features are collectively referred to as “nonconformities.” The purpose and intent of this section is to allow nonconformities to continue to exist, but to regulate their continued existence and limit their expansion so as to bring them into conformity to the extent that is reasonably practicable.

#### B. CONTINUATION – REPAIR AND MAINTENANCE

1. Continuation. Nonconformities are allowed to continue in accordance with the requirements of this section.
2. Maintenance Allowed. Nonconformities are allowed and encouraged to receive minor repairs and routine maintenance that are necessary to maintain the nonconformity and its surroundings in a safe condition and to protect against health hazards.
3. Strengthening Allowed. Nothing in this ordinance shall prevent the strengthening or restoration to a safe or lawful condition of any part of any building or structure declared unsafe or unlawful by the city’s building inspector.
4. Change of ownership/tenancy. No change of title or possession or right to possession of property involved with a nonconformity shall be construed to prevent the continuance of such nonconformity.

#### C. NONCONFORMING LOTS OF RECORD

1. Legal Nonconforming Lot not meeting minimum lot size requirements. Any lot of record existing as of the effective date of this ordinance that has dimensions and area requirements which are less than required by the district in which it is located, may be used as a building site for any permitted use in that district subject to compliance with all required setbacks or applicable dimensional standard exceptions, and all other applicable development standards.

2. Contiguous nonconforming lots owned by the same person, which were legally subdivided and recorded in Brunswick County prior to August of 1973, may be combined for the purpose of re-positioning lot lines as long as all of the net resulting lots are less non-conforming. No additional lots may be created through this process, as the number of lots resulting from the reconfiguration must be equal to or less than the number of lots originally in place. The resulting lots must be more conforming to all city standards than they were prior to undertaking this process. Any structure in existence on any of these contiguous lots at the time of reconfiguration cannot create new non-conformities or increase the extent of existing non-conformities with respect to yard size and setback requirements.

#### D. NONCONFORMING STRUCTURES (DIMENSIONAL NONCONFORMITY)

Where a lawfully established principal structure, accessory structure, fence, wall, pier, dock, deck, staircase, driveway or similar structure exists as of the effective date of this ordinance that could not be built under the terms of this ordinance by reason of restrictions on area, lot coverage, height, yards or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful and compliant with all other state or federal regulations, including substantial damage/improvement flood damage prevention ordinance regulations, subject to the following provisions:

1. Nonconforming structures subject to damage by fire, explosion, tornado, earthquake, hurricane or similar uncontrollable cause may be reconstructed in the same location and with the same footprint as existed prior to damage. In no instance shall replacement of a nonconforming structure increase the nonconformity or result in a larger structure than existed prior to damage.
2. Nonconforming structures with maintenance and repair needs may be replaced in the same location and with the same footprint in accordance with a previously approved site plan or building permit, as applicable; in the same location and up to the same dimensions as originally existed; or in compliance with the current dimensional requirements.

#### E. NONCONFORMING USES

The lawfully established use of building or premises existing as of the effective date of this ordinance may be continued although such use does not conform to the provisions of this ordinance, and nonconforming uses therein changed are subject to the following regulations:

1. A nonconforming use may be extended throughout any portion of a completed building that, when the use was made nonconforming by this ordinance, was manifestly designed or arranged to accommodate such use. However, a nonconforming use may not be extended to additional buildings or to land outside the original building.
2. A nonconforming use of open land may not be extended to cover more land than was occupied by that use when it became nonconforming.

3. Any structure used for single-family residential purposes and maintained as a nonconforming use may be replaced with a similar structure of a larger size, so long as the replacement does not create new nonconformities or increase the extent of existing nonconformities with respect to yard size and setback requirements. In particular, a manufactured home may be replaced with a larger manufactured home, and a "single-wide" manufactured home may be replaced with a "double-wide." This paragraph is subject to the limitations stated in abandonment and discontinuance of nonconforming situations.

F. ABANDONMENT OR DISCONTINUANCE OF NONCONFORMING SITUATIONS

- A. When a nonconforming use is discontinued for a consecutive period of 180 days for any reason other than destruction/repair the property involved may thereafter only be used for conforming purposes.
- B. For purposes of determining whether a right to continue a nonconforming situation is lost pursuant to this subsection, all of the buildings, activities, and operations maintained on a lot are generally to be considered as a whole. For example, the failure to rent one apartment in a nonconforming apartment building or one space in a nonconforming manufactured home park for 180 days shall not result in a loss of the right to rent that apartment or space thereafter so long as the apartment building or manufactured home park as a whole is continuously maintained. But if a nonconforming use is maintained in conjunction with a conforming use, discontinuance of a nonconforming use for the required period shall terminate the right to maintain it thereafter. And so, if a manufactured home is used as a nonconforming use on a residential lot where a conforming residential structure also is located, removal of that manufactured home for 180 days terminates the right to replace it.

## Article 4: Subdivision Regulations

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#### 4.1 GENERAL

- A. The purpose of this article is to support and guide the proper subdivision of land within the jurisdiction of the city in order to promote the public health, safety, and general welfare of the citizens of Southport. This article establishes standards for the division of land and creation of lots. These standards are necessary in order to:
1. Ensure proper legal description, identification, monumentation and recordation of real estate boundaries;
  2. Further the orderly layout and appropriate use of the land;
  3. Provide safe, convenient, and economic circulation of vehicular traffic;
  4. Provide suitable building sites which are readily accessible to emergency vehicles;
  5. Ensure the proper installation of streets and utilities;
  6. Help conserve and protect the physical and economic resources of the city; and
  7. Facilitate adequate provisions for transportation, water, sewerage, and other public requirements.

#### 4.2 APPROVAL

Approval procedures for the division of land and creation of lots are provided in Article 2 of this ordinance.

#### 4.3 LOT STANDARDS

- A. The following standards shall apply to all lots within a proposed subdivision, except where otherwise specified for a Planned Unit Development (PUD):
1. Conformation to Zoning. All lots shall conform to the dimensional requirements of the zoning district in which the subdivision is located.
  2. Minimum Dimensions. In no case shall any lot have a frontage of less than 75 feet. Lots located on the turning circle of a cul-de-sac may have individual minimum frontages of 40 feet per lot provided that the lot shall have a lot width of at least 75 feet measured 50 feet from the front property line.
  3. Flag lots. Flag lots shall not be allowed except to provide access to a body of water, golf course, or similar recreational facility.
  4. Lot size. No new lot shall be created for building purposes that contains an area wholly within the required setbacks of opposing lot sides.
  5. Reserve strips. There shall be no reserve strips platted in any subdivision.
  6. Lots Restricted to Public Streets and Approved Private Streets. Every lot shall front or abut on a public street, approved private street, or duly recorded permanent access easement.

#### 4.4 EASEMENTS

- A. Easements for underground utilities shall be provided, where necessary, across lots or centered on rear or side lot lines and shall be at least 20 feet minimum width for water lines, sanitary sewer lines, and stormwater drainage and as required by the companies involved for telephone, gas, power lines, and cable TV.

- B. Where a subdivision is traversed by a stream or drainage way, an easement shall be provided conforming with the lines of the stream and of sufficient width as will be adequate for the purpose. All easements, including width, shall conform with all state and federal requirements.

#### 4.5 HOMEOWNERS/PROPERTY OWNERS ASSOCIATION

- A. No subdivision final plat for which a homeowners' association (or property owners) will exist shall be approved until all required legal instruments have been reviewed and approved by the city attorney as to legal form and effect.
- B. If streets, stormwater, recreation and open space, or other commonly owned facility is deeded to a homeowners' association, the subdivider shall file a declaration of covenants, conditions, and restrictions that will govern such association. The provisions of such declaration of covenants, conditions, and restrictions shall include, but not be limited to, the following:
  - 1. The homeowners' association must be set up before any property is sold in the subdivision.
  - 2. Membership must be mandatory and automatic when property is purchased in the subdivision.
  - 3. The association must be responsible for liability insurance, local taxes, and maintenance of all common facilities.
  - 4. Property owners must pay their pro rata share of the cost; the assessment levied by the association can become a lien on the property.
  - 5. The association must be able to adjust the assessment to meet changed needs.
  - 6. Covenants for maintenance assessments shall run with the land.
  - 7. All lands so conveyed shall be subject to the right of the grantee or grantees to enforce maintenance and improvement of the common facilities.

#### 4.6 CONSTRUCTION PROCEDURES

- A. No building, zoning, or other permits shall be issued for erection of a structure on any lot not of record at the time of adoption of this ordinance until the final plat has been approved and recorded.
- B. No construction or installation of improvements shall commence in a proposed subdivision until the preliminary plat has been approved, and all plans and specifications have been approved by the Public Services Department. Land disturbing activities associated with a subdivision shall not take place until applicable tree removal or stormwater permits have been approved.
- C. Following approval of the preliminary plat, the subdivider shall submit four (4) sets of detailed utility plans, including water, sewer, and stormwater, and showing connections to existing systems or plans for individual water supply systems and sewage disposal systems. Plans must show line sizes, the location of fire hydrants, blow-offs, manholes, pumps, force mains, gate valves, utility and maintenance easements, and daily estimated sewer flow figures. Type of construction materials and brand of appurtenances may require approval from the City of Southport, Brunswick County Utilities, and/or NCDOT. Plans shall include profiles based on mean sea level datum for gravity sanitary and storm

sewers. Any such plans must be approved by the Public Services Department or by the appropriate utility where applicable. Utility plan review and approval fees shall accompany any such request.

- D. Following approval of all utility plans, the subdivider is authorized to proceed with the installation or arrangement of the required improvements and the preparation of a final plat.
- E. As-Built Drawings Required. Whenever a subdivider installs or causes to be installed any water, sewer, or stormwater system as required by this ordinance, the subdivider shall, as soon as practicable after installation is complete, and before approval of the associated final plat, furnish the city with a copy of a drawing that shows the exact location of such infrastructure. Such drawings must be verified as accurate by the Public Services Department or utility service provider.

## 4.7 REQUIRED IMPROVEMENTS

### A. INSTALLATION OF IMPROVEMENTS

- 1. The cost of all improvements shall be at the subdivider's expense. No financial guarantee or performance bond shall be allowed for installation of required improvements. All required improvements shall be installed prior to final plat approval. Approval of subdivision final plats shall be subject to the installation of the improvements outlined herein, where specified.
- 2. All required improvements shall be completed by the subdivider or his or her agents.

### B. ACCEPTANCE OF PUBLIC IMPROVEMENTS

- 1. At the time of final plat approval, the applicant shall make a formal request in writing to the UDO Administrator for acceptance of any required improvements to be dedicated to the public as indicated on the final plat. An extension may be granted by the UDO Administrator where less than 80 percent of the lots within the final plat have not been conveyed to individual ownership or issued a certificate of occupancy.
- 2. All required offers to dedicate or reserve for future dedication shall be made clear of all liens and encumbrances on the property prior to consideration for acceptance by the city.
- 3. Such acceptance shall be made through the use of a legally recorded deed or transfer of ownership which has been reviewed and approved by the city attorney.

### C. INSPECTION

- 1. Prior to the acceptance of any public infrastructure or approval of a final plat with private infrastructure, including streets, stormwater systems, or water/sewer systems the subdivider is required to have a professional engineer perform a required inspection and prepare an accompanying sealed report demonstrating compliance with the required standards of this ordinance and any

- applicable specifications manual under authority of the Public Services Department or other applicable agency.
2. Prior to the inspection, the subdivider shall contact the Public Services Department to ensure the director or his/her designee shall be present.
  3. The Public Services Department requires a minimum of 48 hours' notice before construction is to begin so that the Public Services Department can schedule construction inspection for the work.
  4. Any inspection report prepared without the presence of an authorized City of Southport staff member shall deem the report null and void.
  5. Streets:
    - a) All streets shall pass a compaction and proof roll test on the sub-grade and the stone base and shall be conducted by a professional engineer with the corresponding sealed inspection report.
    - b) Prior to the final surface course of asphalt, the Public Services Department shall conduct an inspection with the installer of the base course asphalt.
    - c) The subdivider shall be responsible for repairing any damages or failures identified as a result of the inspection to the satisfaction of the Public Services Department.
  6. Stormwater:
    - a) All stormwater infrastructure and facilities shall be designed and installed in accordance with the city's stormwater technical manual, and in accordance with the requirements in all state issued permits for the project.
  7. Water and sewer systems:
    - a) All water, sewer, and pump station infrastructure shall be installed in accordance with city standards, and in accordance with the requirements in all state issued permits for the project.
    - b) Materials will be checked at the site of construction to verify conformance with approved materials. Any materials not in accordance with city standards, will not be assumed for use. The subdivider will be directed to remove these materials from the area before work can proceed. The subdivider may be directed to expose any work suspected of containing inferior materials. Failure by the Public Services Department to notice faulty materials or work does not relieve the subdivider of responsibility to provide a completed final product that meets the requirements of the plans and specifications.
    - c) The materials, methods of manufacture and completed pipes, fittings, valves, and appurtenances shall be subject to inspection and rejection at all times.

#### D. LIST OF REQUIREMENT IMPROVEMENTS

1. Streets within the subdivision per Section 4.8 and improvements to existing streets/road network required for safe and adequate access to the subdivision or



- improvements required in accordance with a Traffic Impact Study per Section 3.13.
2. Street lights per Section 4.9
3. Traffic control devices, street name signs, and cluster mailbox units per Section 4.10.
4. Pedestrian facilities per Section 4.11.
5. Water supply and sewage disposal systems per Section 4.12.
6. Erosion and sedimentation control devices; Drainage facilities and easements, and stormwater management devices per Section 4.13 and Article 6.
7. Recreation and open space facilities per Section 4.14.
8. Any other improvement required as a condition for preliminary plat approval.

## 4.8 STREETS AND ROADWAY NETWORK

### A. GENERAL

1. The purpose of this section is to support the creation of a highly connected transportation system within the city in order to provide choices for drivers, bicyclists, and pedestrians; promote walking and bicycling; connect neighborhoods to each other and to local destinations such as schools, parks, and shopping centers; reduce vehicle miles of travel and travel times; improve air quality; reduce emergency response times; increase effectiveness of municipal service delivery; and free up arterial capacity to better serve regional long distance travel needs.
2. Street Names. Proposed streets which are obviously in alignment with existing streets shall be given the same name. In assigning new names, duplication of existing names shall be avoided, and in no case shall the proposed name be phonetically similar to existing names irrespective of the use of a suffix such as street, road, drive, place, court, etc. Street names shall be subject to the approval of the UDO Administrator after review by the Brunswick County GIS/E-911 Department.
3. Subdivision Street Disclosure Statement. All streets shown on the final plat shall be designated in accordance with NCGS 136-102.6, and designation as public shall be conclusively presumed an offer of dedication to the public. Where streets are dedicated to the public but not accepted into a municipal or the state system, before lots are sold, a statement explaining the status of the street shall be included with the final plat.

### B. STREET DESIGN

1. The design of all streets and roads, including drainage, shall be in accordance with the minimum design and construction criteria for the most recent version of the NCDOT Subdivision Roads Minimum Construction Standards and NCDOT Guidelines for Drainage Studies and Hydraulic Design, unless this ordinance establishes a stricter standard.
2. Coordination and Continuation of Streets. The proposed street layout within a subdivision shall be coordinated with the existing street system of the

surrounding area, and where possible, existing principal streets shall be extended.

3. Street Connectivity Requirements. The Board of Aldermen hereby finds and determines that an interconnected street system is necessary in order to protect the public health, safety, and welfare in order to ensure that streets will function in an interdependent manner, to provide adequate access for emergency and service vehicles, to enhance nonvehicular travel such as pedestrians and bicycles, and to provide continuous and comprehensible traffic routes. All proposed streets shall be continuous and connect to existing or platted streets without offset with the exception of cul-de-sacs as permitted and except as provided below. Whenever practicable, provisions shall be made for the continuation of planned streets into adjoining areas.
4. Cul-de-sacs. Cul-de-sacs shall not exceed 750 feet in length. Turnarounds shall be provided for any dead-end street greater than 150 feet in length. The turnaround shall have a roadway diameter of at least 90 feet and a right-of-way of at least 100 feet. Temporary turnarounds shall be paved or graveled in accordance with the NCDOT Subdivision Roads Minimum Construction Standards.
5. Fire apparatus access roads. Any subdivision of more than 30 residential units or lots, or additions to existing developments such that the total number of units exceeds 30, shall be required to provide two (2) vehicular access/fire apparatus access roads per Appendix D of the NC Building Code. Such fire apparatus access roads shall be placed at a distance apart equal to not less than one-half the length of the maximum overall diagonal dimension of the property to be served, measured in a straight-line distance between accesses.
6. Blocks. Block lengths shall not exceed 1,500 linear feet nor be less than 400 feet unless the subdivision proposed encompasses dimensions less than 400 linear feet. Block size should generally allow for two (2) tiers of lots of minimum depth.
7. Intersections. Street intersections shall be as nearly at right angles as possible and in no cases shall be less than 60 degrees.
8. Alleys. All alleys shall be constructed in accordance NCDOT Subdivision Roads Minimum Construction Standards.
9. Most streets will be constructed in accordance with standards provided for "Residential Local Subdivision Roads" as specified in the NCDOT Subdivision Roads Minimum Construction Standards manual. Alternative street designs may be approved by the UDO Administrator with plans and street specifications prepared by a licensed professional engineer in accordance with the NCDOT Complete Streets Planning and Design Guidelines and for an advisory recommendation by the Technical Review Committee and City Fire Chief. In no case shall right-of-way widths be less than 60 feet and pavement widths less than 26 feet, unless explicitly approved by the City Fire Chief.

#### C. STREET CONSTRUCTION STANDARDS

All streets shall be constructed in accordance with the following minimum standards:

1. The sub-grade must contain a minimum 12 inches of compacted earth.
2. The stone base must contain a minimum eight (8) inches of compacted stone.
3. The base course of asphalt must contain a minimum two (2) inches of b-25-ob.
4. A minimum one and one-half (1-1/2") inches of SF9.5A final surface course shall be applied to all streets

#### D. PRIVATE STREETS

1. Streets designated as private may be allowed in subdivisions when assurance is provided through a legally established homeowners' association, that the street shall be properly maintained. All such streets shall be designated a "Private Street" on the preliminary plats and final plats. Whenever a private street intersects a US or NCDOT roadway an approved NCDOT Driveway Permit, shall be submitted concurrent with the final plat.
2. All private streets must meet the minimum design and construction standards as provided in this ordinance.
3. The final plat for each such subdivision containing private streets shall contain a certificate indicating the book and page number of the homeowners' association covenants, conditions, and restrictions. The covenants, conditions, and restrictions shall specify lot owners' responsibilities for maintenance of private streets and drainage systems, and shall provide for assessments to finance all maintenance activities. Covenants shall provide that the homeowners' association will construct all stub streets prior to offering any connecting for acceptance by NCDOT or the city.
4. The recorded plat of any subdivision that includes a private street shall clearly state that such road is a private street and must be accompanied by a private street maintenance agreement that is also recorded.

### 4.9 STREET LIGHTING

#### A. APPLICABILITY

The subdivider of a major subdivision shall be required to install street lighting via underground distribution, unless an above ground line exists at the time of preliminary plat approval, along all proposed streets within the subdivision. Such street lighting shall be designed and installed in accordance with the city's street light policy.

### 4.10 TRAFFIC CONTROL DEVICES, STREET NAME SIGNS, AND CLUSTER MAILBOX UNITS

#### A. TRAFFIC CONTROL DEVICES

Traffic-control devices such as stop, yield, and speed limit signs, but not including electric or electronic traffic signals, shall be installed on public streets by the subdivider. The construction of all control devices shall be in accordance traffic control standards as designated in the Manuals on Uniform Traffic Control Devices, North Carolina Supplement to the Manual on Uniform Traffic Control Devices, and the North Carolina Highway Design Branch Roadway Standard Drawings.

#### B. STREET NAME SIGNS AND MAILBOXES (CLUSTER BOX UNITS)

Street name signs shall be installed by the subdivider at each street intersection as appropriate to identify all street names. Approved mailboxes will be installed before any residence can be occupied. Street name signs, poles, and brackets and mailboxes shall be subject to approval by the UDO Administrator. Where feasible and practical, street name signs and mailboxes shall be of a common design or theme throughout the subdivision or in individual phases of the subdivision. It is the policy of the U. S. Postal Service that mail delivery to all new subdivisions is centralized delivery, most often using cluster box units (CBU). It is the responsibility of the subdivider to provide the necessary mail receptacle equipment in accordance with the Postal Operations Manual.

### 4.11 PEDESTRIAN FACILITIES

- A. Sidewalks shall be required on at least one (1) side of the street in all new major subdivisions. For subdivisions of 20 or more lots, sidewalks shall be required on both sides of the street.
  - 1. In lieu of placing sidewalks on both sides of the street, the subdivider may install a connected multi-use path/greenway network a minimum width of eight (8) feet along one (1) side of the street and connecting to recreation and open space areas. Such path shall not count towards the required open space requirement.
- B. Sidewalks and multi-use paths shall be installed within the right-of-way and connect to adjacent facilities where applicable. Where right-of-way widths adjacent to the edge of pavement are in excess of 10 feet, sidewalks shall be separated by a minimum three (3) foot landscaped strip adjacent to the edge of pavement.
- C. In all cases, sidewalks shall extend to the property line.
- D. Sidewalks shall be at least five (5) feet wide and constructed of concrete at least five (5) inches thick. Sidewalks shall consist of a minimum of six (6) inches of concrete at driveway crossings or shall be adequately reinforced otherwise. All sidewalks and multi-use paths must meet ADA requirements, including where necessary to serve required cluster mailbox locations.
- E. Sidewalks and multi-use paths built adjacent to an NCDOT road facility shall be built to meet NCDOT standards.

### 4.12 WATER AND SEWER SYSTEMS

- A. All applications for major subdivisions must be accompanied by satisfactory evidence as to the proposed method and system of water supply and sanitary sewage collection and disposal. All proposed subdivisions must comply with the requirements set forth in the by the city's Public Services Department for connection and/or the Brunswick County Utility Department, where applicable.
- B. Where public or community water supply and/or sewerage systems are not required to be provided, a written statement from the county health department or licensed soil scientist shall be submitted with all subdivision applications indicating that each lot has adequate land area and soil conditions suitable to accommodate the proposed methods of water supply and sewage disposal.

#### 4.13 STORMWATER DRAINAGE & SEDIMENTATION/EROSION CONTROL

All major subdivisions shall provide an adequate drainage system for the proper drainage of all surface water. The design of such a system shall be subject to the approval of the Public Services Department in accordance with Article 6 of this ordinance. In order to prevent soil erosion and sedimentation pollution of streams, springs, flat water bodies, or other drainage networks, the subdivider shall comply with all requirements of the North Carolina Sedimentation Pollution Control Act.

#### 4.14 RECREATION AND OPEN SPACE

##### A. APPLICABILITY

Every person, firm, or corporation who subdivides land for residential purposes consisting of 20 or more cumulative lots shall be required to dedicate a portion of such land for the purpose of public recreation/open space, including the preservation of natural and cultural resources, to serve the leisure needs of the residents of the subdivision and the city of Southport (if recreation area is publicly dedicated). In all cases, the Southport Parks and Recreation Director shall review and make recommendations to the Planning Board and Board of Aldermen on the provision or dedication of recreation and/or open space areas.

##### B. EXCLUSIVE PURPOSE OF LAND

The land dedicated in accordance with this section shall be used only for the purpose of providing parks or recreation areas and the location of the land shall bear a reasonable relationship to the use of the area by the future inhabitants of the subdivision or residential development.

##### C. AMOUNT OF LAND DEDICATED

1. The amount of land required to be dedicated shall be computed on the basis of the following formula:
  - a) Area to be dedicated (in acres) = (.02) x (number of dwelling units or lots – whichever is greater)
  - b) All PUDs shall retain a minimum 20% of open space area, exclusive of 404 wetlands. Such open space shall comply with the provisions outlined within this section.

##### D. PUBLIC DEDICATION

1. Land dedicated for public recreation areas shall be designated on both the preliminary and final plat(s) of the subdivision and must be dedicated to an appropriate unit of local government. Determination of the appropriate unit of local government shall be made by the Board of Aldermen, upon recommendation from the City Manager.

##### E. PRIVATE OWNERSHIP

1. Where land for private recreation and open space purposes is provided in a proposed subdivision and such space is to be privately owned and maintained by all of the future residents of the subdivision, such areas shall comply with the following standards:

- a) The private ownership and maintenance of the recreation areas is adequately provided for by written agreement.
- b) The use of the private recreational areas is restricted to recreational purposes by recorded covenants which run with the land in favor of the future owners of property within the tract.
- c) All land set aside for privately controlled recreational areas shall be made available to all residents of the residential development against which the site obligation was originally assumed.

#### F. EFFECT ON PRIVATELY-OWNED OPEN SPACE

Nothing in this division shall be construed to limit the amount of privately controlled open space land which may be included under this agreement, over and above the recreation and open space obligation.

#### G. CRITERIA

1. All land dedicated for recreation and open space areas shall comply with the following criteria:
  - a) Unity. The dedicated land shall form a single parcel of land except where two (2) or more parcels or a connecting corridor of open space would be better serve residents in which case the corridor shall not be less than 30 feet wide for the purpose of accommodating a path or trail. Noncontiguous open space shall not account for greater than 50% of the required allocation of open space.
  - b) Location. The dedicated recreation or park land shall be located so as to reasonably serve the recreation needs of the subdivision for which the dedication was made.
  - c) Access. Public access to the dedicated land shall be provided either by adjoining street frontage of at least 50 feet or public easement at least 20 feet in width.
  - d) Usableness. The dedicated land shall be usable for recreation or passive open space. CAMA Areas of Environmental Concern (AEC), water bodies, or stormwater ponds may not be included in computing dedicated land area unless served by a constructed boardwalk and/or gazebo/lookout facility or similar. In such case, a 30-foot right-of-way must accompany the boardwalk, gazebo, or similar improved facility and no more than 25% of the required open space allocation may be utilized by such lands. The calculation of such space shall be the square footage enclosure of the 30-foot right-of-way. 404 wetlands shall not count towards any required open space even if also considered a CAMA AEC or water body.
    - i) Land provided or dedicated for active recreational purposes shall be of a character, slope, and location suitable for use as play areas, tennis courts, multi-purpose courts, picnic areas, ball fields, and other similar recreation uses. Active recreation areas shall be located on land that is relatively flat (0 to 7.5% slopes),

- free of 404 wetlands, easements for public utility transmission lines, and is otherwise capable of accommodating active recreation uses.
- ii) Land provided or dedicated for passive recreation and open space purposes shall be of a character, slope, and location suitable for use for walking, jogging, reading, and similar quiet activities, and the preservation of natural features and cultural resources such as steep slopes, rock outcrops, native plant life and wildlife cover, mature woodlands, and water resources.
- e) Plans. Municipal and county plans shall be taken into consideration

#### 4.15 PLANNED UNIT DEVELOPMENT

##### A. APPROVAL

Approval procedures for Planned Unit Developments are provided in Article 2 of this ordinance. Following approval of the PUD, an applicant may submit a site plan, subdivision plat, and/or permit for development within the PUD.

##### B. APPLICABILITY

The minimum amount of land (unified control to be planned and developed as a whole) required for a PUD district shall be eight (8) acres of net buildable area within the City corporate limits, on one or more contiguous parcels or 25 acres of net buildable area in the ETJ, on one (1) or more parcels (this may include parcels on both sides of a street).

##### C. REQUIRED IMPROVEMENTS

All PUD development and subsequent subdivision shall comply with Section 4.7 Required Improvements. This shall include provisions for recreation and open space as outlined by Section 4.14.

##### D. MAXIMUM DENSITY REQUIREMENTS

The maximum density shall be six (6) dwelling units per acre.

##### E. MINIMUM DIMENSIONAL STANDARDS

1. Lot area. Not less than 60 percent of the minimum lot area which would normally be required under the single-family standards of the prevailing zoning district.
2. Lot width. 40 feet.
3. Lot frontage. 40 feet, except on the radius of a cul-de-sac where such distance may be reduced to 20 feet.
4. Public or private street setback. No principal or accessory structure shall be closer than 10 feet to a public street right-of-way or private street easement.
5. Side yard setback. Not less than 8 feet. Dwellings which do not utilize zero lot line provisions shall maintain a minimum side setback of not less than six (6) feet.
6. Rear yard setback. Not less than 15 feet.
7. Building separations. No portion of any principal structure shall be located less than 10 feet from any accessory structure as measured to the closest point.

8. Periphery boundary setback. No principal or accessory structure shall be located less than 25 feet from the peripheral boundaries of the development.
9. Maximum height. 40 feet.
10. Detached accessory structure requirements.
  - a) Shall not be located within any front yard setback;
  - b) Shall not be located within five (5) feet of any other accessory structure;
  - c) Shall not cover more than twenty (20) percent of any side or rear yard;  
and
  - d) The side or rear yard requirement for detached accessory structures shall not be less than five (5) feet.
  - e) Shall not be greater than 30 feet in height.



## Article 5: Flood Damage Prevention Ordinance

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## 5.1 STATUTORY AUTHORIZATION

The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Article 8 of Chapter 160A; and Article 7, 9, and 11 of Chapter 160D of NCGS, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry.

Therefore, the Board of Aldermen of the City of Southport, North Carolina, does ordain as follows:

## 5.2 FINDINGS OF FACT

- A. The flood prone areas within the jurisdiction of the City of Southport are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- B. These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities and by the occupancy in flood prone areas of uses vulnerable to floods or other hazards.

## 5.3 STATEMENT OF PURPOSE

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

- A. Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights or velocities;
- B. Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;
- C. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
- D. Control filling, grading, dredging, and all other development which may increase erosion or flood damage.
- E. Prevent or regulate the construction of flood barriers that will unnaturally divert floodwaters or which may increase flood hazards to other lands.

## 5.4 OBJECTIVES

The objectives of this article are to:

- A. Protect human life and health;
- B. Minimize expenditure of public money for costly flood control projects;
- C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. Minimize prolonged business losses and interruptions;

- E. Minimize damage to public facilities and utilities (i.e. water and gas mains, electric, telephone, cable and sewer lines, streets and bridges) that are located in flood prone areas;
- F. Minimize damage to private and public property due to flooding;
- G. Make flood insurance available to the community through the National Flood Insurance Program;
- H. Maintain the natural and beneficial functions of floodplains;
- I. Help maintain a stable tax base by providing for the sound use and development of flood prone areas; and
- J. Ensure that potential buyers are aware that property is in a Special Flood Hazard Area.

## 5.5 DEFINITIONS

Unless specifically defined below, words or phrases used in this article shall be interpreted so as to give them the meaning they have in common usage and to give this article it's most reasonable application in administering the floodplain development provisions provided herein. The definitions provided herein shall apply to this article. Where conflicting terms are found in Article 8, the terms in Section 5.5 shall apply specifically to floodplain development regulations, whereas the definitions in Article 8 shall apply to the UDO in its entirety and to those terms not defined herein.

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

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

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

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

**Area of shallow flooding** means a designated Zone AO or AH 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)".

**Area of future-conditions flood hazard** means the land area that would be inundated by the 1-percent-annual-chance (100-year) flood based on future-conditions hydrology.

**Base flood** means the flood having a 1% chance of being equaled or exceeded in any given year.

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

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

**Breakaway wall** means 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.

**Building** see “Structure”.

**Chemical storage facility** means a building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

**Coastal Area Management Act (CAMA)** means 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).

**Coastal A Zone (CAZ)** means an area within a special flood hazard area, landward of a V zone or landward of an open coast without mapped V zones; in a Coastal A Zone, the principal source of flooding must be astronomical tides, storm surges, seiches, or tsunamis, not riverine flooding. During the base flood conditions, the potential for wave heights shall be greater than or equal to 1.5 feet. Coastal A Zones are not normally designated on FIRMs. (see Limit of Moderate Wave Action (LiMWA))

**Coastal Barrier Resources System (CBRS)** consists of undeveloped portions of coastal and adjoining areas established by the Coastal Barrier Resources Act (CoBRA) of 1982, the Coastal Barrier Improvement Act (CBIA) of 1990, 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 5.24, as Zone VE.

**Design flood** see “Regulatory Flood Protection Elevation.”

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

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

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

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

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

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

**Existing building and existing structure** means any building and/or structure for which the “start of construction” commenced before May 24, 1974, the date the community’s first floodplain management ordinance was adopted.

**Existing manufactured home park or manufactured home subdivision** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before May 24, 1974, the initial effective date of the floodplain management regulations adopted by the community.

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

- A. The overflow of inland or tidal waters; and/or
- B. The unusual and rapid accumulation or runoff of surface waters from any source.

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

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

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

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

**Flood Insurance Study (FIS)** means an examination, evaluation, and determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones, and other flood data in a community issued by the FEMA. 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** means a geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

**Floodplain** means any land area susceptible to being inundated by water from any source.

**Floodplain administrator** is the individual appointed to administer and enforce the floodplain management regulations.

**Floodplain development permit** means any type of permit that is required in conformance with the provisions of this article, prior to the commencement of any development activity.

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

**Floodplain management regulations** means this ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power. This term describes federal, state or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

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

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

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

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

**Freeboard** means the height added to the 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, blockage of bridge or culvert openings, and the hydrological effect of urbanization of the watershed. The BFE plus the freeboard establishes the "Regulatory Flood Protection Elevation."

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

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

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

**Historic structure** means any structure that is:

- A. 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;
- B. 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;
- C. Individually listed on a local inventory of historic landmarks in communities with a "Certified Local Government (CLG) Program"; or
- D. Certified as contributing to the historical significance of a historic district designated by a community with a "Certified Local Government (CLG) Program."

Certified Local Government (CLG) Programs are approved by the US Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.



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

- A. Letter of Map Amendment (LOMA): An official amendment, by letter, to an effective National Flood Insurance Program map. A LOMA is based on technical data showing that a property had been inadvertently mapped as being in the floodplain, but is actually on natural high ground above the base flood elevation. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.
- B. Letter of Map Revision (LOMR): A revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.
- C. Letter of Map Revision Based on Fill (LOMR-F): A determination that a structure or parcel of land has been elevated by fill above the BFE and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.
- D. Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.

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

- A. Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or
- B. Designed primarily for transportation of persons and has a capacity of more than 12 persons; or
- C. Available with special features enabling off-street or off-highway operation and use.

**Limit of Moderate Wave Action (LiMWA)** means the boundary line given by FEMA on coastal map studies marking the extents of Coastal A Zones (CAZ).

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

**Lowest floor** means 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 limited storage in an area other than a basement area is not considered a building's lowest floor, provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

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

**Manufactured home park or subdivision** means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

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

**New construction** means structures for which the “start of construction” commenced on or after the effective date of the initial floodplain management regulations and includes any subsequent improvements to such structures.

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

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

**Otherwise Protected Area (OPA)** see “Coastal Barrier Resources System (CBRS).”

**Post-FIRM** means construction or other development for which the “start of construction” occurred on or after April 15, 1977, the effective date of the initial Flood Insurance Rate Map.

**Pre-FIRM** means construction or other development for which the “start of construction” occurred before April 15, 1977, the effective date of the initial Flood Insurance Rate Map.

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

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

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

- A. Built on a single chassis;
- B. 400 square feet or less when measured at the largest horizontal projection;
- C. Designed to be self-propelled or permanently towable by a light duty truck;

- D. Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use, and
- E. Is fully licensed and ready for highway use.

(For the purpose of this article, “Tiny Homes/Houses” and Park Models that do not meet the items listed above are not considered Recreational Vehicles and should meet the standards of and be permitted as Residential Structures.)

**Reference level** is the top of the lowest floor for structures within Special Flood Hazard Areas designated as Zones A, AE, AH, AO, A99. 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.

(Alternative acceptable language for Reference Level) “Reference Level” is the bottom of the lowest horizontal structural member of the lowest floor for structures within all Special Flood Hazard Areas.

**Regulatory flood protection elevation** means the “Base Flood Elevation” plus the “Freeboard”. In “Special Flood Hazard Areas” where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE plus three (3) feet freeboard. In “Special Flood Hazard Areas” where no BFE has been established, this elevation shall be at least three (3) feet above the highest adjacent grade.

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

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

**Salvage yard** means any nonresidential 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.

**Shear wall** means walls used for structural support but not structurally joined or enclosed at the end (except by breakaway walls). Shear walls are parallel or nearly parallel to the flow of the water.

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

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

**Special Flood Hazard Area (SFHA)** means the land in the floodplain subject to a 1% or greater chance of being flooded in any given year.

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

**Structure** means a walled and roofed building, a manufactured home, or a gas, liquid, or liquefied gas storage tank that is principally above ground.

**Substantial damage** means damage of any origin sustained by a structure during any one (1) year period whereby the cost of restoring the structure to it's before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred. See definition of "substantial improvement".

**Substantial improvement** means any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one-year period for which the cost equals or exceeds 50% 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:

- A. Any correction of existing violations of state or community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or
- B. Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure and the alteration is approved by variance issued pursuant to Section 5.18.

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

It should be noted that Technical Bulletins and Technical Fact Sheets provide guidance on the minimum requirements of the NFIP regulations. State or community requirements that exceed those of the NFIP take precedence. Design professionals should contact the community officials to determine whether more restrictive State or local regulations apply to the building or site in question. All applicable standards of the State or local building code must also be met for any building in a flood hazard area.

**Temperature controlled** means having the temperature regulated by a heating and/or cooling system, built-in or appliance.

**Variance (floodplain development)** is a grant of relief from the requirements of this article.

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

**Water Surface Elevation (WSE)** means the height, in relation to NAVD 1988, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

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

## 5.6 APPLICATION OF ARTICLE

This ordinance shall apply to all Special Flood Hazard Areas within the City of Southport, including the Extra-Territorial Jurisdiction (ETJ), of the City of Southport.

## 5.7 BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS

The Special Flood Hazard Areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its Flood Insurance Study (FIS), dated August 28, 2018 for Brunswick County and associated DFIRM panels, including any digital data developed as part of the FIS, which are adopted by reference and declared a part of this article. Future revisions to the FIS and DFIRM panels that do not change flood hazard data within the jurisdictional authority of the City of Southport are also adopted by reference and declared a part of this article. Subsequent Letter of Map Revisions (LOMRs) and/or Physical Map Revisions (PMRs) shall be adopted within three (3) months.

## 5.8 ESTABLISHMENT OF DEVELOPMENT PERMIT

A Floodplain Development Permit shall be required in conformance with the provisions of this article prior to the commencement of any development activities within Special Flood Hazard Areas determined in accordance with Section 5.6.

## 5.9 COMPLIANCE

No structure or land shall hereafter be located, extended, converted, altered, or developed in any way without full compliance with the terms of this article and other applicable regulations.

## **5.10 ABROGATION AND GREATER RESTRICTIONS**

This article is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this article and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

## **5.11 INTERPRETATION**

In the interpretation and application of this article all provisions shall be:

- A. Considered as minimum requirements;
- B. Liberally construed in favor of the Board of Aldermen; and
- C. Deemed neither to limit nor repeal any other powers granted under State statutes.

## **5.12 WARNING AND DISCLAIMER OF LIABILITY**

The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur. Actual flood heights may be increased by man-made or natural causes. This article does not imply that land outside the Special Flood Hazard Areas or uses permitted within such areas will be free from flooding or flood damages. This article shall not create liability on the part of the City of Southport or by any officer or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made hereunder.

## **5.13 PENALTIES FOR VIOLATION**

Violation of the provisions of this article or failure to comply with any of its requirements shall be subject to Section 2.15.D and Section 5.17 of this article. Nothing herein contained shall prevent the City of Southport from taking such other lawful action as is necessary to prevent or remedy any violation.

## **5.14 DESIGNATION OF FLOODPLAIN ADMINISTRATOR**

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

## **5.15 FLOODPLAIN DEVELOPMENT APPLICATION, PERMIT AND CERTIFICATION REQUIREMENTS**

### **A. APPLICATION REQUIREMENTS**

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

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

- a) The nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;
  - b) The boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in Section 5.7, or a statement that the entire lot is within the Special Flood Hazard Area;
  - c) Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in Section 5.7;
  - d) The boundary of the floodway(s) or non-encroachment area(s) as determined in Section 5.7;
  - e) The Base Flood Elevation (BFE) where provided as set forth in Section 5.7; Section 5.16.K-L; or Section 5.21;
  - f) The old and new location of any watercourse that will be altered or relocated as a result of proposed development;
  - g) The boundary and designation date of the Coastal Barrier Resource System (CBRS) area or Otherwise Protected Areas (OPA), if applicable; and
  - h) Certification of the plot plan by a registered land surveyor or professional engineer.
2. Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to:
  - a) Elevation in relation to NAVD 1988 of the proposed reference level (including basement) of all structures;
  - b) Elevation in relation to NAVD 1988 to which any nonresidential structure in Zone AE, A or AO will be flood-proofed; and
  - c) Elevation in relation to NAVD 1988 to which any proposed utility systems will be elevated or floodproofed;
3. If floodproofing, a Floodproofing Certificate (FEMA Form 086-0-34) with supporting data and an operational plan that includes, but is not limited to, installation, exercise, and maintenance of floodproofing measures.
4. A Foundation Plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this ordinance are met. These details include but are not limited to:
  - a) The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls);
  - b) Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with Section 5.20.D, when solid foundation perimeter walls are used in Zones A, AO, AE, AH and A99;
  - c) The following, in Coastal High Hazard Areas, in accordance with Section 5.20.D and Section 5.24;



- i) V-Zone Certification with accompanying plans and specifications verifying the engineered structure and any breakaway wall designs; In addition, prior to the Certificate of Compliance/Occupancy issuance, a registered professional engineer or architect shall certify the finished construction is compliant with the design, specifications, and plans for VE Zone construction.
  - ii) Plans for open wood latticework or insect screening, if applicable;
  - iii) Plans for non-structural fill, if applicable. If non-structural fill is proposed, it must be demonstrated through coastal engineering analysis that the proposed fill would not result in any increase in the Base Flood Elevation or otherwise cause adverse impacts by wave ramping and deflection on to the subject structure or adjacent properties.
5. Usage details of any enclosed areas below the regulatory flood protection elevation.
6. Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage.
7. Copies of all other Local, State and Federal permits required prior to floodplain development permit issuance (Wetlands, Endangered Species, Erosion and Sedimentation Control, CAMA, Riparian Buffers, Mining, etc.)
8. Documentation for placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure Section 5.20.F-G of this article are met.
9. A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.

#### B. PERMIT REQUIREMENTS

The Floodplain Development Permit shall include, but not be limited to:

1. A complete description of all the development to be permitted under the floodplain development permit (e.g. house, garage, pool, septic, bulkhead, cabana, pier, bridge, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials, etc.).
2. The Special Flood Hazard Area determination for the proposed development per available data specified in Section 5.7.
3. The regulatory flood protection elevation required for the reference level and all attendant utilities.
4. The regulatory flood protection elevation required for the protection of all public utilities.
5. All certification submittal requirements with timelines.



6. A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse, as applicable.
7. The flood openings requirements, if in Zones A, AO, AE AH or A 99.
8. Limitations of use of the enclosures below the lowest floor (if applicable). (i.e., Parking, Building Access and Limited Storage only).
9. A statement, if in Zone VE, that there shall be no alteration of sand dunes which would increase potential flood damage.
10. A statement, if in Zone VE, that there shall be no fill used for structural support.
11. A statement, that all materials below BFE/RFPE must be flood resistant materials.

#### C. CERTIFICATION REQUIREMENTS

1. Elevation Certificates
  - a) An Elevation Certificate (FEMA Form 086-0-33) is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the floodplain administrator a certificate of the elevation of the reference level, in relation to NAVD 1988. The floodplain administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit.
  - b) An Elevation Certificate (FEMA Form 086-0-33) is required after the reference level is established. Within seven (7) calendar days of establishment of the reference level elevation, it shall be the duty of the permit holder to submit to the floodplain administrator a certification of the elevation of the reference level, in relation to mean sea level. Any work done within the seven (7) day calendar period and prior to submission of the certification shall be at the permit holder's risk. The floodplain administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being permitted to proceed. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop-work order for the project.
  - c) A final as-built Elevation Certificate (FEMA Form 086-0-33) is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit to the floodplain administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The floodplain administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Compliance/Occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections

shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.

2. Floodproofing Certificate

a) If nonresidential floodproofing is used to meet the regulatory flood protection elevation requirements, a Floodproofing Certificate (FEMA Form 086-0-34), with supporting data and an operational plan, is required prior to the actual start of any construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data and plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.

b) A final Finished Construction Floodproofing Certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the issuance of a Certificate of Compliance/Occupancy. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing certificate shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to Certificate of Occupancy. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to deny a Certificate of Compliance/Occupancy.

3. If a manufactured home is placed within Zone A, AO, AE, AH or A 99 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required per Section 5.20.C.

4. If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; a professional engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse

alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit. (See also Article 6)

5. Certification Exemptions. The following structures, if located within Zone A, AO, AE, AH or A 99, are exempt from the elevation/floodproofing certification requirements specified in Items 1 and 2 of this subsection:
  - a) Recreational Vehicles meeting requirements of Section 5.20.F.1;
  - b) Temporary Structures meeting requirements of Section 5.20.G; and
  - c) Accessory Structures less than 150 square feet meeting requirements of Section 5.20.H.
6. A V-Zone Certification with accompanying design plans and specifications is required prior to issuance of a Floodplain Development permit within coastal high hazard areas. It shall be the duty of the permit applicant to submit to the floodplain administrator said certification to ensure the design standards of this article are met. A registered professional engineer or architect shall develop or review the structural design, plans, and specifications for construction and certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of this article. This certification is not a substitute for an Elevation Certificate.

#### D. DETERMINATIONS FOR EXISTING BUILDINGS AND STRUCTURES

For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, shall:

- A. Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;
- B. Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;
- C. Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and
- D. Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the NC Building Code and this ordinance is required.

### 5.16 DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR

The Floodplain Administrator shall perform, but not be limited to, the following duties:

- A. Review all floodplain development applications and issue permits for all proposed development within Special Flood Hazard Areas to assure that the requirements of this article have been satisfied.
- B. Advise permittee that additional Federal or State permits (Wetlands, Endangered Species, Erosion and Sedimentation Control, CAMA, Riparian Buffers, Mining, etc.) may be required, and require that copies of such permits be provided and maintained on file with the floodplain development permit.
- C. Notify adjacent communities and the North Carolina Department of Crime Control and Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).
- D. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
- E. Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of Section 5.23 are met.
- F. Obtain actual elevation (in relation to NAVD 1988) of the reference level (including basement) and all attendant utilities of all new or substantially improved structures, in accordance with Section 5.15.C.
- G. Obtain actual elevation (in relation to NAVD 1988) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with Section 5.15.C.
- H. Obtain actual elevation (in relation to NAVD 1988) of all public utilities in accordance with Section 5.15.C.
- I. When flood proofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with Section 5.15.C and Section 5.20.B.
- J. Where interpretation is needed as to the exact location of boundaries of the Special Flood Hazard Areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.
- K. When Base Flood Elevation (BFE) data has not been provided in accordance with Section 5.7, obtain, review, and reasonably utilize any Base Flood Elevation (BFE) data, along with floodway data or non-encroachment area data available from a Federal, State, or other source, including data developed pursuant to Section 5.21.B.2 in order to administer the provisions of this article.
- L. When Base Flood Elevation (BFE) data is provided but no floodway nor non-encroachment area data has been provided in accordance with Section 5.7, obtain, review, and reasonably utilize any floodway data or non-encroachment area data available from a Federal, State, or other source in order to administer the provisions of this article.
- M. When the lowest ground elevation of a parcel or structure in a Special Flood Hazard Area is above the Base Flood Elevation, advise the property owner of the option to apply for a

- Letter of Map Amendment (LOMA) from FEMA. Maintain a copy of the Letter of Map Amendment (LOMA) issued by FEMA in the floodplain development permit file.
- N. Permanently maintain all records that pertain to the administration of this article and make these records available for public inspection.
  - O. Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the floodplain administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the floodplain administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.
  - P. Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this article, the floodplain administrator may order the work to be immediately stopped. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.
  - Q. Revoke floodplain development permits as required. The floodplain administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable State or local law may also be revoked.
  - R. Make periodic inspections throughout all special flood hazard areas within the jurisdiction of this article. The floodplain administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.
  - S. Follow through with corrective procedures of Section 5.17.
  - T. Review, provide input, and make recommendations for variance requests.
  - U. Maintain a current map repository to include, but not limited to, the FIS Report, FIRM and other official flood maps and studies adopted in accordance with Section 5.7 of this ordinance, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify State and FEMA of mapping needs.
  - V. Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-F) and Letters of Map Revisions (LOMR).

## 5.17 CORRECTIVE PROCEDURES

### A. VIOLATIONS TO BE CORRECTED

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

#### B. ACTIONS IN EVENT OF FAILURE TO TAKE CORRECTIVE ACTION

If the owner of a building or property shall fail to take prompt corrective action, the Floodplain Administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:

1. That the building or property is in violation of the Flood Damage Prevention Ordinance;
2. That a hearing will be held before the Floodplain Administrator at a designated place and time, not later than 10 days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and,
3. That following the hearing, the Floodplain Administrator may issue such an order to alter, vacate, or demolish the building; or to remove fill as appears appropriate.

#### C. ORDER TO TAKE CORRECTIVE ACTION

If, upon a hearing held pursuant to the notice prescribed above, the floodplain administrator shall find that the building or development is in violation of the Flood Damage Prevention Ordinance, the administrator shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than 60 calendar days, nor more than 180 calendar days. Where the floodplain administrator finds that there is imminent danger to life or other property, the administrator may order that corrective action be taken in such lesser period as may be feasible.

#### D. APPEAL

Any owner who has received an order to take corrective action may appeal from the order to the Board of Adjustment by giving notice of appeal in writing to the floodplain administrator and the clerk within 10 days following issuance of the final order. In the absence of an appeal, the order of the floodplain administrator shall be final. The Board of Adjustment shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.

#### E. FAILURE TO COMPLY WITH ORDER

If the owner of a building or property fails to comply with an order to take corrective action from which no appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a misdemeanor and shall be punished at the discretion of the court.

### 5.18 FLOODPLAIN DEVELOPMENT VARIANCE PROCEDURES

- A. The Board of Adjustment as established by the Board of Aldermen, shall hear and decide requests for variances from the requirements of this ordinance.
- B. Any person aggrieved by the decision of the Board of Adjustment may appeal such decision to the Superior Court as provided in Section 2.7.D.11.
- C. Variances may be issued for:
  1. The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued

- designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure.
2. Functionally dependent facilities if determined to meet the definition as stated in Section 5.5, provided provisions of Section 5.18.I.2-3;5 have been satisfied, and such facilities are protected by methods that minimize flood damages.
  3. Any other type of development provided it meets the requirements stated in this section.
- D. In passing upon variances, the Board of Adjustment shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:
1. The danger that materials may be swept onto other lands to the injury of others;
  2. The danger to life and property due to flooding or erosion damage;
  3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  4. The importance of the services provided by the proposed facility to the community;
  5. The necessity to the facility of a waterfront location as defined as a functionally dependent facility, where applicable;
  6. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
  7. The compatibility of the proposed use with existing and anticipated development;
  8. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  9. The safety of access to the property in times of flood for ordinary and emergency vehicles;
  10. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
  11. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- E. A written report addressing each of the above factors shall be submitted with the application for a variance.
- F. Upon consideration of the factors listed above and the purposes of this ordinance, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.
- G. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Base Flood Elevation (BFE) and the elevation to which the structure is to be built and that such construction below the Base Flood Elevation increases risks to life and property, and that the issuance of a variance to construct a structure below the Base Flood Elevation will result in increased premium rates for flood insurance up to \$25 per \$100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.



- H. The floodplain administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency (FEMA) and the State of North Carolina upon request.
- I. Conditions for Variances:
  - 1. Variances shall not be issued when the variance will make the structure in violation of other Federal, State, or local laws, regulations, or ordinances.
  - 2. Variances shall not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge.
  - 3. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
  - 4. Variances shall only be issued prior to development permit approval.
  - 5. Variances shall only be issued upon an affirmative vote (by a four-fifths majority) on each of the three (3) findings below. Insofar as practicable, a motion to make an affirmative finding on each of the requirements set forth herein shall include a statement of the specific reasons or findings of fact supporting such motion:
    - a) A showing of good and sufficient cause;
    - b) A determination that failure to grant the variance would result in exceptional hardship; and
    - c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- J. A variance may be issued for solid waste disposal facilities, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in Special Flood Hazard Areas provided that all of the following conditions are met.
  - 1. The use serves a critical need in the community.
  - 2. No feasible location exists for the use outside the Special Flood Hazard Area.
  - 3. The reference level of any structure is elevated or floodproofed to at least the regulatory flood protection elevation.
  - 4. The use complies with all other applicable Federal, State and local laws.
- K. The City of Southport shall notify the Secretary of the North Carolina Department of Crime Control and Public Safety of its intention to grant a variance at least 30 calendar days prior to granting the variance.

## 5.19 GENERAL STANDARDS

### A. SPECIAL FLOOD HAZARD AREAS

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

- 1. All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure.
- 2. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.



3. All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.
4. Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, appliances (washers, dryers, refrigerators, freezers, etc.), hot water heaters, and electric outlets/switches.
  - a) Replacements part of a substantial improvement, electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall also meet the above provisions.
  - b) Replacements that are for maintenance and not part of a substantial improvement may be installed at the original location provided the addition and/or improvements only comply with the standards for new construction consistent with the code and requirements for the original structure.
5. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
6. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into flood waters.
7. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
8. Nothing in this ordinance shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this ordinance and located totally or partially within the floodway, non-encroachment area, or stream setback, provided there is no additional encroachment below the regulatory flood protection elevation in the floodway, non-encroachment area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this ordinance.
9. New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted, except by variance as specified in Section 5.16.J. A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated or floodproofed to at least the regulatory flood protection elevation and certified according to Section 5.13.C of this ordinance.
10. All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.

11. All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
12. All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.
13. All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
14. When a structure is partially located in a Special Flood Hazard Area, the entire structure shall meet the requirements for new construction and substantial improvements.
15. When a structure is in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest BFE shall apply.
16. In "Special Flood Hazard Areas" where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE plus three (3) feet freeboard. In "Special Flood Hazard Areas" where no BFE has been established, this elevation shall be at least three (3) feet above the highest adjacent grade

## 5.20 SPECIFIC STANDARDS

In all Special Flood Hazard Areas where Base Flood Elevation (BFE) data has been provided, as set forth in Section 5.6 or Section 5.16.K-L the following provisions, in addition to Section 5.17, are required:

### A. RESIDENTIAL CONSTRUCTION

New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in Section 5.5.

### B. NONRESIDENTIAL CONSTRUCTION

New construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in Section 5.5.

Structures located in A, AE, AH, AO and A99 Zones may be floodproofed to the Regulatory Flood Protection Elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the regulatory flood protection elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

For AO Zones, the floodproofing elevation shall be in accordance with Section 5.15.C. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator official as set forth in Section 5.15.C along with the operational and maintenance plans.

#### C. MANUFACTURED HOMES

1. New or replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the regulatory flood protection elevation, as defined in Section 5.5.
2. Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by engineer certification, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes, adopted by the Commissioner of Insurance pursuant to NCGS 143-143.15 or a certified engineered foundation. Additionally, when the elevation would be met by an elevation of the chassis 36 inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above 36 inches in height, an engineering certification is required.
3. All enclosures or skirting below the lowest floor shall meet the requirements of Section 5.20.D.1-3.
4. An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the floodplain administrator and the local Emergency Management coordinator.

#### D. ELEVATED BUILDINGS

Fully enclosed areas of new construction and substantially improved structures, which are below the lowest floor:

1. Shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas;
2. Shall be constructed entirely of flood resistant materials, up to the regulatory flood protection elevation;
3. Shall include, in Zones A, AO, AE, AO and A99, flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria;
  - a) A minimum of two (2) flood openings on different sides of each enclosed area subject to flooding;

- b) The total net area of all flood openings must be at least one square inch for each square foot of enclosed area subject to flooding;
  - c) If a building has more than one (1) enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;
  - d) The bottom of all required flood openings shall be no higher than (1) foot above the adjacent grade;
  - e) Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and
  - f) Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.
4. Shall allow, in Coastal High Hazard Areas (Zones VE), either be free of obstruction or constructed with breakaway walls, open wood latticework or insect screening, provided it is not part of the structural support of the building and is designed so as to breakaway, under abnormally high tides or wave action, without causing damage to the structural integrity of the building, provided the following design specifications are met:
- a) Material shall consist of open wood latticework or insect screening; or
  - b) Breakaway walls shall meet the following design specifications:
  - c) Breakaway walls shall have flood openings that allow for the automatic entry and exit of floodwaters to minimize damage caused by hydrostatic loads, per Section 5.20.D.3;
    - i) Design safe loading resistance of each wall shall be not less than 10 nor more than 20 pounds per square foot; or
    - ii) Breakaway walls that exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by State or local codes) shall be certified by a registered professional engineer or architect that the breakaway wall will collapse from a water load less than that which would occur during the base flood event, and the elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and non-structural). The water loading values used shall be those associated with the base flood. The wind loading values

used shall be those required by the North Carolina State Building Code.

- d) Concrete pads, including patios, decks, parking pads, walkways, driveways, pool decks, etc. the following is required:
  - i) Shall be structurally independent of the primary structural foundation system of the structure and shall not adversely affect structures through redirection of floodwaters or debris; and
  - ii) Shall be constructed to breakaway cleanly during design flood conditions, shall be frangible, and shall not produce debris capable of causing damage to any structure. (The installation of concrete in small segments (approximately 4 feet x 4 feet) that will easily break up during the base flood event, or score concrete in 4 feet x 4 feet maximum segments is acceptable to meet this standard); and
  - iii) Reinforcing, including welded wire fabric, shall not be used in order to minimize the potential for concreted pads being a source of debris; and
  - iv) Pad thickness shall not exceed 4 inches; or
  - v) Provide a Design Professional's certification stating the design and method of construction to be used meet the applicable criteria of this section.
- e) Property Owners shall be required to execute and record a non-conversion agreement prior to issuance of a building permit declaring that the area below the lowest floor shall not be improved, finished, or otherwise converted to habitable space. The City of Southport will have the right to inspect the enclosed area.

#### E. ADDITIONS/IMPROVEMENTS

1. Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
  - a) Not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure.
  - b) A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
2. Additions to pre-FIRM or post-FIRM structures that are a substantial improvement with no modifications to the existing structure other than a standard door in the common wall shall require only the addition to comply with the standards for new construction.

3. Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
  - a) Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction.
  - b) A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
4. When an independent perimeter load-bearing wall is provided between the addition and the existing building, the addition(s) shall be considered a separate building and only the addition must comply with the standards for new construction.
5. Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a one (1) year period, the cumulative cost of which equals or exceeds 50% of the market value of the structure before the improvement or repair is started must comply with the standards for new construction. For each building or structure, the one (1) year period begins on the date of the first improvement or repair of that building or structure subsequent to the effective date of this ordinance. Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25% of the market value of the structure before the damage occurred. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The requirement does not, however, include either:
  - a) Any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the building official and that are the minimum necessary to assume safe living conditions.
  - b) Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

#### F. RECREATIONAL VEHICLES

Recreational vehicles shall either:

1. Be on site for fewer than 180 consecutive days and be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions); or
2. Meet all the requirements for new construction.

#### G. TEMPORARY NONRESIDENTIAL STRUCTURES

Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the floodplain administrator a plan for the removal of such structure(s)

in the event of a hurricane, flash flood or other type of flood warning notification. The following information shall be submitted in writing to the floodplain administrator for review and written approval;

1. A specified time period for which the temporary use will be permitted. Time specified should not exceed three (3) months, renewable up to one (1) year;
2. The name, address, and phone number of the individual responsible for the removal of the temporary structure;
3. The time frame prior to the event at which a structure will be removed (i.e., minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);
4. A copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and
5. Designation, accompanied by documentation, of a location outside the Special Flood Hazard Area, to which the temporary structure will be moved.

#### H. ACCESSORY STRUCTURES

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

1. Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking, or restroom areas);
2. Accessory structures shall not be temperature-controlled;
3. Accessory structures shall be designed to have low flood damage potential;
4. Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
5. Accessory structures shall be firmly anchored in accordance with Section 5.19.A;
6. All service facilities such as electrical shall be installed in accordance with Section 5.19.D; and
7. Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below regulatory flood protection elevation in conformance with Section 5.20.D.3.
8. An accessory structure with a footprint less than 150 square feet that satisfied the criteria outlined above does not require an elevation or floodproofing certificate. Elevation or floodproofing certifications are required for all other accessory structures in accordance with Section 5.15.C.

#### I. TANKS

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

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

2. Above-ground tanks, elevated. Above-ground tanks in flood hazard areas shall be elevated to or above the Regulatory Flood Protection Elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area;
3. Above-ground tanks, not elevated. Above-ground tanks that do not meet the elevation requirements of Section 5.20.B of this article shall be permitted in flood hazard areas provided the tanks are designed, constructed, installed, and anchored to resist all flood-related and other loads, including the effects of buoyancy, during conditions of the design flood and without release of contents in the floodwaters or infiltration by floodwaters into the tanks. Tanks shall be designed, constructed, installed, and anchored to resist the potential buoyant and other flood forces acting on an empty tank during design flood conditions.
4. Tank inlets and vents. Tank inlets, fill openings, outlets and vents shall be:
  - a) At or above the Regulatory Flood Protection Elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and
  - b) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

#### J. OTHER DEVELOPMENT

1. Fences in regulated floodways and NEAS that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of Section 5.23 of this article.
2. Roads and watercourse crossings in regulated floodways and NEAS. Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of Section 5.23 of this article.

### 5.21 STANDARDS FOR FLOODPLAINS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS

Within the Special Flood Hazard Areas designated as Approximate Zone A and established in Section 5.7, where no Base Flood Elevation (BFE) data is available, the following provisions, in addition to Section 5.19 and 5.20, shall apply:

- A. No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of 20 feet each side from top of bank or five (5) times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- B. The BFE used in determining the regulatory flood protection elevation shall be determined based on one of the following criteria set in priority order:



1. If Base Flood Elevation (BFE) data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this ordinance and shall be elevated or floodproofed in accordance with standards in Section 5.16.K-L.
2. All subdivision, manufactured home park and other development proposals shall provide Base Flood Elevation (BFE) data if development is greater than (5) acres or has more than 50 lots/manufactured home sites. Such Base Flood Elevation (BFE) data shall be adopted by reference per Section 5.7 to be utilized in implementing this ordinance.
3. When Base Flood Elevation (BFE) data is not available from a Federal, State, or other source as outlined above, the reference level shall be elevated to or above the regulatory flood protection elevation, as defined in Section 5.5.

## 5.22 STANDARDS FOR RIVERINE FLOODPLAINS WITH BFE BUT WITHOUT ESTABLISHED FLOODWAYS OR NON-ENCROACHMENT AREAS

Along rivers and streams where BFE data is provided but neither floodway nor non-encroachment areas are identified for a Special Flood Hazard Area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:

- A. Standards outlined in Sections 5.19 and 5.20; and
- B. Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community.

## 5.23 FLOODWAYS OR NON-ENCROACHMENT AREAS

Areas designated as floodways or non-encroachment areas are located within the Special Flood Hazard Areas established in Section 5.7. The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in Sections 5.19 and 5.20, shall apply to all development within such areas:

- A. No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless:
  1. The proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the floodplain administrator prior to issuance of floodplain development permit, or
  2. A Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained upon completion of the proposed encroachment.

- B. If Section 5.23.A is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this ordinance.
- C. No manufactured homes shall be permitted, except replacement manufactured homes in an existing manufactured home park or subdivision, provided the following provisions are met:
  - 1. The anchoring and the elevation standards of Section 5.20.C; and
  - 2. The no encroachment standard of Section 5.23.A.

#### 5.24 COASTAL HIGH HAZARD AREAS (ZONES VE)

Coastal High Hazard Areas are Special Flood Hazard Areas established in Section 5.7, and designated as Zones VE. These areas have special flood hazards associated with high velocity waters from storm surges or seismic activity and, therefore, in addition to meeting all requirements of this article with the exception of floodway and non-encroachment area provisions (Section 5.23), the following provisions shall apply:

- A. All new construction and substantial improvement shall:
  - 1. Be located landward of the reach of mean high tide;
  - 2. Be located landward of the first line of stable natural vegetation; and
  - 3. Comply with all applicable CAMA setback requirements.
- B. All new construction and substantial improvements shall be elevated so that the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings or columns) is no lower than the regulatory flood protection elevation. Floodproofing shall not be utilized on any structures in Coastal High Hazard Areas to satisfy the regulatory flood protection elevation requirements.
- C. All new construction and substantial improvements shall have the space below the lowest floor free of obstruction so as not to impede the flow of flood waters, with the following exceptions:
  - 1. Open wood latticework or insect screening may be permitted below the regulatory flood protection elevation for aesthetic purposes only and must be designed to wash away in the event of abnormal wave action and in accordance with Section 5.20.D.4.A. Design plans shall be submitted in accordance with Section 5.15.A.4.C; or
  - 2. Breakaway walls may be permitted provided they meet the criteria set forth in Section 5.20.D.2. Design plans shall be submitted in accordance with Section 5.15.A.4.C.
- D. All new construction and substantial improvements shall be securely anchored to pile or column foundations. All pilings and columns and the structures attached thereto shall be anchored to resist flotation, collapse, and lateral movement due to the effect of wind and water loads acting simultaneously on all building components.
  - 1. Water loading values used shall be those associated with the base flood.
  - 2. Wind loading values used shall be those required by the current edition of the North Carolina State Building Code.
- E. For concrete pads, including patios, decks, parking pads, walkways, driveways, pool decks, etc. the following is required:

1. Shall be structurally independent of the primary structural foundation system of the structure and shall not adversely affect structures through redirection of floodwaters or debris; and
  2. Shall be constructed to breakaway cleanly during design flood conditions, shall be frangible, and shall not produce debris capable of damage to any structure. (The installation of concrete in small segments (approximately 4 feet x 4 feet) that will easily break up during the base flood event, or score concrete in 4 feet x 4 feet maximum segments is acceptable to meet this standard); and
  3. Reinforcing, including welded wire fabric, shall not be used in order to minimize the potential for concreted pads being a source of debris; and
  4. Pad thickness shall not exceed four (4) inches; or
  5. Provide a Design Professional's certification stating the design and method of construction to be used meet the applicable criteria of this section.
- F. For swimming pools and spas, the following is required:
1. Be designed to withstand all flood-related loads and load combinations.
  2. Be designed and constructed to break away during design flood conditions without producing debris capable of causing damage to any structure; or
  3. Be elevated so that the lowest horizontal structural member is elevated above the RFPE; or
  4. Be sited to remain in the ground during design flood conditions without obstructing flow that results in damage to any structure
  5. Registered design professionals must certify to local officials that a pool or spa beneath or near a VE Zone building will not be subject to flotation or displacement that will damage building foundations or elevated portions of the building or any nearby buildings during a coastal flood.
  6. Pool equipment must be located above the RFPE whenever practicable. Pool equipment shall not be located beneath an elevated structure.
- G. All elevators, vertical platform lifts, chair lifts, etc. the following is required:
1. Elevator enclosures must be designed to resist hydrodynamic and hydrostatic forces as well as erosion, scour, and waves.
  2. Utility equipment in Coastal High Hazard Areas (VE Zones) must not be mounted on, pass through, or be located along breakaway walls.
  3. The cab, machine/equipment room, hydraulic pump, hydraulic reservoir, counter weight and roller guides, hoist cable, limit switches, electric hoist motor, electrical junction box, circuit panel, and electrical control panel are all required to be above RFPE. When this equipment cannot be located above the RFPE, it must be constructed using flood damage-resistant components.
  4. Elevator shafts/enclosures that extend below the RFPE shall be constructed of reinforced masonry block or reinforced concrete walls and located on the landward side of the building to provide increased protection from flood damage. Drainage must be provided for the elevator pit.
  5. Flood damage-resistant materials can also be used inside and outside the elevator cab to reduce flood damage. Use only stainless steel doors and door frames below the BFE. Grouting in of door frames and sills is recommended.

6. If an elevator is designed to provide access to areas below the BFE, it shall be equipped with a float switch system that will activate during a flood and send the elevator cab to a floor above the RFPE.
- H. Property owners shall be required to execute and record a non-conversion agreement prior to issuance of a building permit declaring that the area below the lowest floor, or the detached accessory building shall not be improved, or otherwise converted; the City of Southport will have the right to inspect the enclosed area. This agreement shall be recorded with the Brunswick County Register of Deeds and shall transfer with the property in perpetuity.
- I. A registered professional engineer or architect shall certify that the design, specifications and plans for construction are in compliance with the provisions contained in Section 5.15; Section 5.23.C.1-2; Section 5.24.D; and Section 5.24.J of this ordinance on the current version of the North Carolina "National Flood Insurance Program V-Zone Certification" form.
- J. Fill shall not be used for structural support. Limited non-compacted and non-stabilized fill may be used around the perimeter of a building for landscaping/aesthetic purposes provided it is demonstrated through coastal engineering analysis that the proposed fill would not result in any increase in the Base Flood Elevation and not cause any adverse impacts by wave ramping and deflection to the subject structure or adjacent properties. In determining the potential for an increase in the Base Flood Elevation, the applicant shall include a quantitative coastal engineering analysis with supporting calculations and information prepared by a licensed and registered North Carolina coastal geologist or engineer demonstrating no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent elevated buildings and structures. The analysis shall be submitted under the applicable professional seal with accompanying third-party review fee.
- K. There shall be no alteration of sand dunes which would increase potential flood damage. In determining the potential for an increase in flood damage, the applicant shall include a quantitative coastal engineering analysis with supporting calculations and information prepared by a licensed and registered North Carolina coastal geologist or engineer demonstrating no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent elevated buildings and structures. The analysis shall be submitted under the applicable professional seal with accompanying third-party review fee.
- L. No manufactured homes shall be permitted except in an existing manufactured home park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring and elevation standards of this section have been satisfied.
- M. Recreational vehicles may be permitted in Coastal High Hazard Areas provided that they meet the Recreational Vehicle criteria of Section 5.20.F and the Temporary Structure provisions of Section 5.20.G.
- N. A deck that is structurally attached to a building or structure shall have the bottom of the lowest horizontal structural member at or above the Regulatory Flood Protection Elevation and any supporting members that extend below the Regulatory Flood

Protection Elevation shall comply with the foundation requirements that apply to the building or structure, which shall be designed to accommodate any increased loads resulting from the attached deck. The increased loads must be considered in the design of the primary structure and included in the V-Zone Certification required under Section 5.15.C.

- O. A deck or patio that is located below the Regulatory Flood Protection Elevation shall be structurally independent from buildings or structures and their foundation systems, and shall be designed and constructed either to remain intact and in place during design flood conditions or to break apart into small pieces to minimize debris during flooding that is capable of causing structural damage to the building or structure or to adjacent buildings and structures.
- P. In coastal high hazard areas, development activities other than buildings and structures shall be permitted only if also authorized by the appropriate state or local authority; if located outside the footprint of, and not structurally attached to, buildings and structures; and if analyses prepared by qualified registered design professionals demonstrate no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent buildings and structures. Such other development activities include but are not limited to:
  - 1. Bulkheads, seawalls, retaining walls, revetments, and similar erosion control structures;
  - 2. Solid fences and privacy walls, and fences prone to trapping debris, unless designed and constructed to fail under flood conditions less than the design flood or otherwise function to avoid obstruction of floodwaters.
- Q. No more than four (4) electrical outlets and no more than four (4) electrical switches may be permitted below RFPE unless required by building code.

## 5.25 STANDARDS FOR COASTAL A ZONES (ZONE CAZ) LIMWA

Structures in CAZs shall be designed and constructed to meet V Zone requirements, including requirements for breakaway walls. However, the NFIP regulations also require flood openings in walls surrounding enclosures below elevated buildings in CAZs (see Technical Bulletin 1, Openings in Foundation Walls and Walls of Enclosures). Breakaway walls used in CAZs must have flood openings that allow for the automatic entry and exit of floodwaters to minimize damage caused by hydrostatic loads. Openings also function during smaller storms or if anticipated wave loading does not occur with the base flood.

- A. All new construction and substantial improvements shall be elevated so that the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings or columns) is no lower than the regulatory flood protection elevation. Floodproofing shall not be utilized on any structures in Coastal A Zones to satisfy the regulatory flood protection elevation requirements
- B. All new construction and substantial improvements shall have the space below the lowest horizontal structural member free of obstruction so as not to impede the flow of flood waters, with the following exceptions:
  - 1. Open wood latticework or insect screening may be permitted below the lowest floor for aesthetic purposes only and must be designed to wash away in the

- event of wave impact and in accordance with the provisions of Section 5.20.D.4. Design plans shall be submitted in accordance with the provisions of Section 5.15.A.4.C; or
2. Breakaway walls may be permitted provided they meet the criteria set forth in Section 5.20.D.4. Design plans shall be submitted in accordance with the provisions of Section 5.15.A.4.C;
- C. All new construction and substantial improvements shall include, in Zones CAZ, flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the design criteria in Section 5.20.D.3.C.
  - D. All new construction and substantial improvements shall meet the provisions of Section 5.24.C.
  - E. A registered professional engineer or architect shall certify that the design, specifications and plans for construction are in compliance with the provisions of Section 5.20 and Section 5.24.C-D, on the current version of the North Carolina V-Zone Certification form or a locally developed V-Zone Certification form.
  - F. Recreational vehicles may be permitted in Coastal A Zones provided that they meet the Recreational Vehicle criteria Section 5.20.F.
  - G. Fill/Grading must meet the provisions of Section 5.24.J.
  - H. Decks and patios must meet the provisions of Section 5.24.N-O.
  - I. In coastal high hazard areas, development activities other than buildings and structures must meet the provisions of Section 5.24.M.

## 5.26 STANDARDS FOR AREAS OF SHALLOW FLOODING (ZONE AO)

Located within the Special Flood Hazard Areas established in Section 5.7, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to Section 5.19, all new construction and substantial improvements shall meet the following requirements:

- A. The reference level shall be elevated at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, plus a freeboard of three (3) feet, above the highest adjacent grade; or at least two (2) feet above the highest adjacent grade plus a freeboard of three (3) feet if no depth number is specified.
- B. Nonresidential structures may, in lieu of elevation, be floodproofed to the same level as required in Section 5.25.A so that the structure, together with attendant utility and sanitary facilities, below that level shall be watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required as per Sections 5.15.C and 5.20.B.
- C. Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

## **5.27 EFFECTS ON RIGHTS AND LIABILITIES UNDER THE EXISTING FLOOD DAMAGE PREVENTION ORDINANCE**

This article in part comes forward by re-enactment of some of the provisions of the flood damage prevention ordinance enacted May 24, 1974 as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued there under are reserved and may be enforced. The enactment of this article shall not affect any action, suit or proceeding instituted or pending. All provisions of the flood damage prevention ordinance of the City of Southport enacted on May 24, 1974, as amended, which are not reenacted herein are repealed.

## **5.28 EFFECT UPON OUTSTANDING FLOODPLAIN DEVELOPMENT PERMITS**

Nothing herein contained shall require any change in the plans, construction, size, or designated use of any development or any part thereof for which a floodplain development permit has been granted by the floodplain administrator or his or her authorized agents before the time of passage of this article; provided, however, that when construction is not begun under such outstanding permit within a period of six (6) months subsequent to the date of issuance of the outstanding permit, construction or use shall be in conformity with the provisions of this article.

## **5.29 EFFECTIVE DATE**

This article shall become effective August 28, 2018.

## **5.30 ADOPTION CERTIFICATION**

This is a true and correct copy of the flood damage prevention ordinance (Article 5 of the Southport Unified Development Ordinance) as adopted by the Board of Aldermen of the City of Southport, North Carolina, on the 10th day of May, 2018.

## Article 6: Stormwater Regulations

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## 6.1 GENERAL PROVISIONS

### A. TITLE, PURPOSE

1. This article shall constitute and be known, and may be cited as the “Stormwater Discharge Control Regulations of the City of Southport, North Carolina.”
2. The purpose of this article is to protect, maintain, and enhance the public health, safety, and general welfare by establishing minimum requirements and procedures to control the adverse effects of increased stormwater associated with future land development within the City of Southport. Proper management of stormwater runoff will include the following beneficial effects: (a) will minimize damage to public and private property; (b) ensure a functional drainage system; (c) reduce the effects of development on land and stream channel erosion; (d) assist in the attainment and maintenance of water quality standards; (e) reduce local flooding and drainage problems; (f) maintain as nearly as possible the pre- developed runoff characteristics of the area; and (g) facilitate economic development by mitigating associated flooding and drainage impacts.
3. The application of this article and the provisions expressed herein shall be the minimum stormwater discharge control requirements and shall not be deemed a limitation or repeal of any other obligations imposed by state statute or judicial decisions. The City Public Services Director or designee shall be responsible for the coordination and enforcement of the provisions of this article.

### B. SCOPE OF ARTICLE

1. No person shall develop any land without having provided for appropriate stormwater discharge control measures to control or manage stormwater runoff, in compliance with this ordinance and North Carolina Department of Environmental Quality (NCDEQ) requirements, unless included in the exemptions of Section C below.
2. No land owner or land operator shall receive any of the building, grading, or other land development permits required for land disturbance activities without first meeting the requirements of this ordinance prior to commencing the proposed activity.

### C. EXEMPTIONS FROM REQUIREMENTS

The following activities shall be exempt from these stormwater performance criteria:

1. Any logging and bona fide farm activity which is consistent with an approved soil conservation plan or timber management plan approved by the City, as applicable.
2. Additions or modifications to existing single-family or duplex structures that cumulatively propose to add less than 10,000 square feet of impervious surfaces.
3. Residential development of a single-family dwelling or a duplex on a single existing lot, provided the issuance of a state stormwater permit is not required (i.e. less than 10,000 square feet of impervious surfaces or not more than one (1) acre of land disturbance).

4. Repairs to any stormwater treatment practice deemed necessary by the City of Southport.

#### D. PERMITS

1. Except where provided elsewhere, development shall not commence without obtaining a Stormwater Permit pursuant to the provisions of this article.
2. The Stormwater Permit Application shall be made by, or on behalf of, the owner(s) or developer(s) of the site for which the permit is sought. The application shall be filed with the City on a form supplied by the City and shall be accompanied with the information identified in the Stormwater Technical Manual.
3. A Stormwater Permit shall not be issued until the following conditions are met:
  - a) Approval by the UDO Administrator of the supporting information.
  - b) Submission and approval of any required easements.
  - c) Submission and approval of any required inspection and maintenance agreements.
  - d) Payment of all fees.
4. If the development requires a Sediment and Erosion Control Permit, the Stormwater Permit will be conditional upon the owner receiving such sediment and erosion permit and upon the filing of a copy of the approved Sediment and Erosion Control Plan and associated Permit to the UDO Administrator.
5. The Stormwater Permit will be valid for one (1) year from the date of issuance or if significant changes in the development are made that change the intent of the permit. Significant changes shall be determined by the UDO Administrator. If significant changes are made, the original Stormwater Permit shall not be valid and a new permit shall be required.

#### E. REGULATORY CONSISTENCY

This article shall be construed to assure consistency with the requirements of the Clean Water Act and acts amendatory thereof or supplementary thereto, or any applicable implementing regulations.

#### F. ILLEGAL DISCHARGES

No person shall cause or allow the discharge, emission, disposal, pouring or pumping directly or indirectly to any stormwater conveyance, the waters of the State or upon the land in manner and amount that the substance is likely to reach a stormwater conveyance or the waters of the State or, any liquid, solid, gas, or other substance, other than stormwater; provided that non-stormwater discharges associated with the following activities are allowed on the condition that they do not contain potential pollutants, create erosion, cause sedimentation or impact the existing water quality of the conveyance or of the waters of the State:

1. Potable water line flushing;
2. Landscape irrigation and lawn watering;
3. Uncontaminated pumped groundwater (not including construction dewatering);
4. Diverted stream flows;

5. Naturally rising groundwater and springs;
6. Discharges from potable water sources;
7. Air conditioning condensation;
8. Uncontaminated foundation and footing drains;
9. Uncontaminated water from crawl space pumps;
10. Flows from riparian habitats and wetlands;
11. Dechlorinated (less than 1 ppm total chlorine) swimming pool discharges;
12. Street wash waters;
13. Flows from fire-fighting;
14. Other non-stormwater discharges for which a valid NPDES discharge permit has been approved and issued by the State of North Carolina, provided that any such discharges to the municipal waste water system shall be authorized by the City of Southport.
15. Discharges of hazardous materials released, or having the potential to reach a stormwater conveyance system, shall be contained, controlled, collected and properly disposed. All affected areas shall be restored to their condition pre-existing the discharge event.
16. Persons in control of the hazardous materials immediately prior to their release or discharge, and persons owning the property on which the materials were released or discharged, shall immediately notify the City Fire Chief of the release or discharge, as well as making any required notifications under State and federal law. Notification shall not relieve any person of any expenses related to the restoration, loss, damage, or any other liability which may be incurred as a result of said release, nor shall such notification relieve any person from other liability which may be imposed by State or federal law.

#### G. ILLICIT CONNECTIONS

1. Any drain or conveyance, whether surface or subsurface, which allows an illegal discharge to enter the storm water conveyance system, is unlawful. Prohibited connections include, but are not limited to, any conveyances which allow any storm water discharge containing sewage, process waste water, commercial washing machine wastewater including commercial vehicle washing, to enter the storm water conveyance system. Any connection thereto from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by a governmental agency is prohibited. Any drain or conveyance from a commercial, residential or industrial land use to the storm water conveyance system which has not been documented in plans, maps or equivalent records and approved by the City is prohibited. The construction, use, maintenance or continued existence of illicit connections to the storm water conveyance system is prohibited.
2. Where such connections exist in violation of this section and said connections were made prior to the adoption of this provision or any other ordinance prohibiting such connections, the property owner or the person using said connection shall remove the connection within one (1) year following the

effective date of this ordinance. However, the one (1) year grace period shall not apply to connections which may result in the discharge of hazardous materials or other discharges which may pose an immediate threat to health and safety, or are likely to result in an immediate injury and harm to real or personal property, natural resources, wildlife, or habitat.

3. Where it is determined that said connection:
  - a) May result in the discharge of hazardous materials, or may pose an immediate threat to health and safety, or is likely to result in immediate injury and harm to real and personal property, natural resources, wildlife, or habitat, or
  - b) Was made in violation of any applicable regulation or ordinance other than this article, the Public Services Director shall designate the time within which the connection shall be removed. In setting the time limit for compliance, the
    - i) The quantity and complexity of the work,
    - ii) The consequences of delay,
    - iii) The potential harm to the environment, to the public health, and to public and private property, and
    - iv) The cost of remedying the damage.

## 6.2 STORMWATER DISCHARGE CONTROL PRELIMINARY AND DESIGN PLANS

### A. STORMWATER DISCHARGE CONTROL PRELIMINARY AND DESIGN PLANS

1. A permit application on the form provided in the Technical Manual accompanied by a Preliminary Stormwater Discharge Control Plan, a maintenance agreement, and a non-refundable permit review fee for each development shall be submitted to the Public Services Director and the UDO Administrator for review and approval by the City of Southport prior to preliminary plan or subdivision approval, unless exempted by Section 6.1.C above. The preliminary stormwater discharge control plan shall contain information as required by the City of Southport Stormwater Management Plan Technical Manual (see Appendix II). Where applicable, the plan must also be submitted to NCDEQ prior to submission to the City.
2. The purpose of the preliminary stormwater discharge control plan is to provide enough information, including engineering calculations, to determine if stormwater discharge control facilities will be needed to control runoff from the proposed development.
3. The City of Southport shall review the preliminary stormwater discharge plan within 45 days after receipt of the plan, and shall recommend:
  - a) Approval of the preliminary stormwater discharge control plan as submitted which calls for construction of stormwater discharge control facilities that comply with this ordinance, or
  - b) Disapproval of the preliminary stormwater discharge control plan.

4. If the preliminary stormwater discharge control plan is disapproved, the City of Southport shall instruct the applicant on the resubmission of a revised plan, and the applicant may make such changes and resubmit same for reconsideration. The City shall review the revised plan within 30 days after receipt of the plan and recommend approval of the changes in the plan or maintenance agreement.
5. Upon approval of the preliminary stormwater discharge control plan, the applicant shall submit a final stormwater discharge control plan (as part of the construction plans) to the City of Southport for review and approval, if stormwater discharge control facilities will be required. If the stormwater discharge control preliminary plan is submitted in sufficient detail and identifies the location and type of facilities needed, the City of Southport can accept the preliminary plan as the final stormwater discharge control design plan.

#### B. MINIMUM RUNOFF CONTROL REQUIREMENTS AND WAIVER OF REQUIREMENTS

1. The minimum stormwater control requirements shall provide measures necessary to control velocities of flow from stormwater discharge control facilities to a level which will comply with both the North Carolina Soil Erosion Act and North Carolina Administrative Code Section 15A NCAC 2H.1000, Stormwater Management.
2. In addition, stormwater discharge control measures shall be provided to limit the 25-year developed peak discharge rates to existing peak discharge rates for unimproved land (land not having been improved) such as pasture, grassland, meadow, brush, secondary (old field) growth or forest.
3. Improved property (property that has the soil surface exposed or a disturbance to the vegetative cover or topography) that is proposed for redevelopment, whether or not to be paved, containing or to contain structures, or be regraded, shall include stormwater discharge control measures to limit the two-year, ten-year and 25-year design storm discharge rates from exceeding that amount discharged in an unimproved state.
4. For the purposes of this ordinance, the design storm is the storm of 3-hour duration as shown on Chart E-6 in the City of Southport Stormwater Management Plan Technical Manual. The design of these facilities shall be based on procedures contained in the City of Southport Stormwater Management Technical Manual or procedures approved by the City of Southport. The Stormwater Best Management Practices by the NC Department of Environmental Quality (NCDEQ) should also be complied with where applicable.

#### C. STORMWATER DISCHARGE CONTROL FACILITIES

1. Stormwater discharge control facilities may include both structural and nonstructural elements. Natural swales and other natural runoff conduits shall be retained where practicable.
2. Where additional stormwater discharge control facilities are required to satisfy the minimum control requirements, the following measures are examples of what may be used:

- a) Stormwater detention structures (dry ponds).
  - b) Facilities designed to encourage overland flow, slow velocities of flow, and flow through buffer zones.
  - c) On-site infiltration practices used to control runoff from small areas.
  - d) Reduction of impervious surfaces directly connected to the drainage system.
  - e) Off-site channel improvements designed to contain a 25-year design storm under developed land use conditions (the analysis for the channel improvement shall extend downstream to where the proposed development represents 10 % of the total watershed).
  - f) Other methods acceptable to the City of Southport which assure no harm to downstream properties.
3. Where detention and retention structures are used, designs which consolidate these facilities into a limited number of large structures will be preferred over designs which utilize a large number of small structures.
  4. The stormwater discharge control facilities within the City (including both public and private facilities) will be designed to the same engineering and technical criteria and standards. The City's review will be the same whether the facilities will be under public or private control or ownership.
  5. All stormwater discharge control facilities shall be designed using the Stormwater Best Management Practices developed by the NC Department of Environment and Natural Resources, and in accordance with the design criteria contained in the City of Southport Stormwater Management Technical Manual, or other procedures approved by the City of Southport.
  6. The post-development discharge for the two-year, ten-year and 25-year design storm shall not exceed pre-development discharge including runoff from all upstream flows entering the site under existing conditions.

#### D. STORMWATER DISCHARGE CONTROL DESIGN PLAN REQUIREMENTS

Stormwater discharge control design plans shall include the following:

1. A determination that no proposed stormwater discharge control facility will create flooding or drainage problems for the 25- and 100-year flood events.
2. Stormwater discharge control design plans shall include designation of all easements needed for inspection and maintenance of the stormwater discharge control facilities. The location of all stormwater management facilities shall be specified prior to recording of easements.
3. A plan for maintenance of all stormwater discharge control facilities shall be included as part of the stormwater discharge control design plan. Maintenance must be the responsibility of the developer, and ultimately, the development owners or homeowners' association. The maintenance plan should be signed and notarized by the developer and/or owner, and a copy provided to the City Public Services Director and UDO Administrator. This agreement will include any and all maintenance easements required to access and inspect the stormwater

discharge practices, and to perform routine maintenance as necessary to ensure proper functioning of the stormwater discharge practice.

4. In determining downstream effects from stormwater discharge control structures and the development, hydrologic-hydraulic engineering studies using the 25-year design storm shall extend downstream to a point where the proposed development represents 10 % of the total watershed. If the discharge calculations indicate that adjacent properties, between the exit of the proposed development and the "10 % downstream point," might be adversely impacted by the proposed development, then the City will require backwater calculations and the determination of flood elevations for the areas impacted.

#### E. PLAN CRITERIA FOR THE STORMWATER DISCHARGE CONTROL PRELIMINARY PLAN AND THE STORMWATER DISCHARGE CONTROL DESIGN PLAN

The hydrologic criteria to be used for the stormwater discharge control preliminary and stormwater discharge control design plans shall be as follows:

1. 25-year design storms for all detention and retention basins, and
2. All stormwater discharge control designs shall be checked to ensure that no increase in local flooding and flood hazards to adjacent structures and/or property occurs, using the 100-year storm.

#### F. CITY PARTICIPATION

When the City of Southport determines that additional storage capacity beyond that required by the applicant for on-site stormwater discharge control is desirable to correct unacceptable or undesirable existing conditions or to provide protection in a more desirable fashion for future development, the City, with approval from Board of Aldermen, may:

1. Develop an agreement with the applicant to enlarge the required stormwater discharge control facility, and
2. Participate financially in the construction of such a facility to the extent that such a facility exceeds the required on-site stormwater discharge control required of this ordinance.

#### G. PERMIT REQUIREMENTS

No building or zoning permits for improvements or plat recordation for a subdivision, for which a stormwater discharge control plan is required, shall be approved or modified by the City without the approval of the following discharge control regulatory items.

1. Right of entry for emergency maintenance.
2. Any recorded off-site easements needed.
3. An approved stormwater discharge control design plan.
4. A maintenance agreement.
5. Recorded easements for stormwater discharge control facilities.



#### H. PERMIT SUSPENSION AND REVOCATION

1. Notice of Violation. When the City determines that an activity is not being carried out in accordance with the requirements of this ordinance, it shall issue a written notice of violation to the owner of the property. The notice of violation shall contain:
  - a) The name and address of the owner or applicant.
  - b) The address when available or a description of the building, structure, or land upon which the violation is occurring.
  - c) A statement specifying the nature of the violation.
  - d) A description of the remedial measures necessary to bring the development activity into compliance with this ordinance and a time schedule for the completion of such remedial action.
  - e) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed.
2. Stop Work Orders. Persons receiving a notice of violation will be required to halt all construction activities. This “stop work order” will be in effect until the City confirms that the development activity is in compliance and the violation has been satisfactorily addressed. Failure to address a notice of violation in a timely manner can result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this ordinance.
3. Restoration of Lands. Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the City may take necessary corrective action, the cost of which shall become a lien upon the property until paid.

#### I. PROFESSIONAL REGISTRATION REQUIREMENTS

1. Stormwater discharge control preliminary and discharge control design plans that are incidental to the design of a residential subdivision shall be prepared by a qualified registered North Carolina Professional Engineer, Surveyor, or Landscape Architect, using acceptable engineering standards and practices. All other stormwater discharge control preliminary and design plans shall be prepared by a qualified registered North Carolina Professional Engineer, using acceptable engineering standards and practices.
2. The engineer, surveyor, or landscape architect shall perform services only in areas of his/her competence, shall undertake to perform engineering, landscape architecture, or land surveying assignments only when qualified by education and/or experience in the specific technical field.

### 6.3 OWNERSHIP, INSPECTION, AND MAINTENANCE

#### A. OWNERSHIP AND MAINTENANCE OF STORMWATER DISCHARGE CONTROL FACILITIES

1. Any stormwater discharge control facility required by this article shall be privately-owned and maintained; provided, however, the owner thereof shall grant to the City, a perpetual, nonexclusive easement which allows for public

- inspection and emergency repair, in accordance with the terms of the maintenance agreement set forth in Section 6.3.C.
2. Stormwater discharge control facilities shall be publicly owned and/or maintained only if accepted for maintenance by the City. If a stormwater discharge control facility is not accepted by the City, the property owner has the maintenance responsibility for this facility.
  3. Private maintenance requirements shall be a part of the deed to the affected property.
  4. Should be in compliance with Section K of the City of Southport Stormwater Management Technical Manual.

#### B. INSPECTION SCHEDULE

1. Prior to the approval of the stormwater discharge control design plan, the applicant shall submit a proposed inspection schedule. The stormwater discharge control design plan shall indicate a phase line for approval otherwise the inspection schedule will be for the entire development. The City may make additional inspections during and after construction if deemed necessary by the City.
2. If a responsible party fails or refuses to meet the requirements of the maintenance covenant, the City, after reasonable notice, may correct a violation of the design standards or the maintenance needs by performing all necessary work to place the facility in proper working condition. If, after an inspection, the condition of a facility presents an immediate danger to the public health, safety, or general welfare due to unsafe conditions or improper maintenance, the City shall have the right, but not the duty, to take such action as may be necessary to protect the public and make the facility safe. Any cost incurred by the City shall be paid by the owner. In addition, the City shall notify the owner(s) in writing of the facility of any violation, deficiency, or failure to comply with this article within 10 days of the discovery of the violation. Upon a failure to correct violations requiring maintenance work within 10 days after, notice thereof, the City may provide for all necessary work to place the facility in proper working condition. The owner(s) of the facility shall be assessed the costs of the work performed by the City.
3. The permittee shall provide the City of Southport actual "as-built" plans for any stormwater management practice or facility located on the site after final construction certified by a professional engineer (as outlined in Section 6.3.I).
4. The professional engineer shall certify to the City that:
  - a) The facility has been constructed as shown on the as-built plan, and
  - b) The facility meets the approved stormwater discharge control design plan and specifications or achieves the function for which it was designed.

C. MAINTENANCE AGREEMENT (PRIVATELY-OWNED FACILITIES ONLY)

1. A proposed maintenance agreement shall be submitted to the City for all private on-site stormwater discharge control facilities prior to the approval of the stormwater discharge control design plan and recordation of lots in a subdivision to be served by the discharge control facility. Such agreement shall be in a form and content acceptable to the City and shall be the responsibility of the private owner. The agreement shall identify who will have the maintenance responsibility and shall be recorded by the landowner in the Brunswick County Register of Deeds prior to subdivision recording and/or building permit, and shall be binding on all subsequent owners of land served by the discharge control facility.
2. The maintenance agreement shall specify how proper maintenance of the facilities will be accomplished, and identify a financial arrangement which will assure the long-term financial capability to implement perpetual maintenance procedures. The agreement shall specify the type of security that will be used within the financial arrangement (escrow, letter of credit, etc.).
3. The maintenance agreement shall provide for access to the facility by virtue of a non-exclusive perpetual easement in favor of the City, at reasonable times for inspection by the City to ensure that the discharge control facilities are maintained in proper design working condition.

D. ACCEPTANCE OF CERTIFICATION IN LIEU OF INSPECTIONS

The City of Southport, at its sole discretion, may accept the certification of a registered engineer in lieu of any inspection required by this article.

E. MAINTENANCE RECORDS

The parties responsible for the operation and maintenance of the stormwater facilities should make records of the installation and of all maintenance and repairs of the facility. Such records shall be maintained for a period of five (5) years and shall be made available to the City during inspection of the facilities and upon request at other times.

## 6.4 MISCELLANEOUS PROVISIONS

A. STORMWATER MANAGEMENT VARIANCE

1. Every applicant shall provide for stormwater management, unless they file a written request to waive this requirement through a formal variance procedure. Request to for a variance from the stormwater management plan requirements shall be submitted to the UDO Administrator for consideration by the Board of Adjustment in accordance with Section 2.7.D.
2. The minimum requirements for stormwater management may be waived in whole or in part upon written request of the applicant, provided that the applicant must demonstrate through a sealed certification by a professional engineer that the immediately downstream waterways will not be subject to: deterioration of existing culverts, bridges, dams, and other structures; deterioration of biological functions or habitat; accelerated streambank or

streambed erosion or siltation; or increased threat of flood damage to public health, life, and property and a finding that at least one (1) of the following conditions applies after satisfaction of the minimum criteria for issuance of a variance as provided in Section 2.7.D.3:

- a) It can be demonstrated that the proposed development is not likely to impair attainment of the objectives of this ordinance.
- b) Alternative minimum requirements for on-site management of stormwater discharges have been established in a stormwater management plan that has been approved by the City of Southport and that is required to be implemented by local ordinance.
- c) Provisions are made to manage stormwater by an off-site facility. The off-site facility is required to be in place, to be designed, and adequately sized to provide a level of stormwater control that is equal to or greater than that which would be afforded by on-site practices and has a legally obligated entity responsible for long-term operation and maintenance of the stormwater practice.
- d) It can be demonstrated that meeting the minimum on-site management requirements is not feasible due to the natural or existing physical characteristics of a site.
- e) Non-structural practices are provided that reduce the generation of stormwater from the site, the size and cost of stormwater storage and provide partial removal of many pollutants are to be used at the site.

3. .

#### B. FEE IN LIEU OF STORMWATER MANAGEMENT PRACTICES

1. The City may waive all or part of the minimum stormwater management requirements, in lieu of receipt of a fee in an amount as determined by the City. When an applicant obtains a waiver of the required stormwater management, the monetary contribution required shall be in accordance with a fee schedule (unless the developer and the City agree on a greater alternate contribution) established by the City, and based on the cubic feet of storage required for stormwater management of the development in question. All of the monetary contributions shall be credited to an appropriate capital improvements program project and shall be made by the developer prior to the issuance of any building permit for the development.

#### C. DEDICATION OF LAND

1. In lieu of a monetary contribution, an applicant may obtain a waiver of the required stormwater management by entering into an agreement with the City for the granting of an easement or the dedication of land by the applicant, to be used for the construction of an off-site stormwater management facility. The agreement shall be entered into by the applicant and the City prior to the recording of plats or, if no record plat is required, prior to the issuance of the building permit.

#### D. APPEALS

The disapproval or required modification of any proposed preliminary stormwater discharge control plans or design plans or the determination of noncompliance or failure to maintain by the City shall entitle the aggrieved person to appeal this decision or lack of action to the Board of Adjustment in accordance with Section 2.7.E. Such appeal must be made in writing to the city clerk and the UDO Administrator within 30 days of written notice of disapproval, or modification of a preliminary or design stormwater discharge control plan, or determination of noncompliance or failure to maintain.

#### E. PENALTIES

Civil penalties imposed for illegal discharge shall be as follows:

1. First time offenders will be assessed a civil penalty of \$100 per violation or per day for a continuing violation if the quantity of the discharge is less than or equal to five (5) gallons and consists of domestic or household products. If the quantity of the discharge is greater than five (5) gallons or contains non-domestic substances, the offending party shall be assessed a civil penalty of \$1,000 per violation or per day for a continuing violation.
2. Penalties imposed upon repeat offenders will fully committing violations which are identical or substantially similar to previous violations shall be double the amount assessed for the prior violation or per day for a continuing violation, but shall in no event exceed \$10,000 per violation or per day for a continuing violation.
3. All other acts or conditions constituting a violation of this article shall subject the offender to a civil penalty of \$500 per violation or per day for any continuing violation.

### 6.5 STORMWATER DRAINAGE

Applicants for a major subdivision shall provide an adequate drainage system for the proper drainage of all surface water. The design of such a system shall be subject to the approval of the proposed subdivision in accordance with the procedures outlined in Article 2 in addition to the following:

- A. No surface water shall be channeled or directed into a sanitary sewer.
- B. Where feasible, the subdivider shall connect to an existing storm drainage system.
- C. Where an existing storm drainage system cannot feasibly be extended to the subdivision, a surface drainage system shall be designed to protect the proposed development from water damage.
- D. Surface drainage courses shall have side slopes of at least three (3) feet of horizontal distance for each one (1) foot of vertical distance, and courses shall be of sufficient size to accommodate the drainage area without flooding, and designed to comply with the current State of North Carolina standards and specifications for erosion control, and any locally adopted erosion and sedimentation control ordinances.
- E. Unless necessitated by exceptional topography, and subject to the approval of the Planning Board, street grades shall be not more than 8% nor less than 0.5 %. Grades

approaching intersections shall not exceed 5% for a distance of not less than 100 feet from the centerline of said intersection.

- F. Stream banks and channels downstream from any land disturbing activity shall be protected from increased degradation by accelerated erosion caused by increased velocity of runoff from the land disturbing activity in accordance with current State of North Carolina sedimentation pollution control requirements.
- G. Anyone constructing a dam or impoundment within the subdivision must comply with current State of North Carolina dam construction standards.
- H. In all areas of special flood hazards, all subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

## 6.6 RETENTION POND OR SUBSURFACE FACILITY REQUIREMENTS

Within areas zoned for commercial, industrial, or multi-family uses (CBD, BD, HC, LI, HI, MF, PUD, and O/I), retention pond facilities or subsurface drainage facilities shall be required as follows:

- A. For all development which exceeds 40% impervious surface coverage on a parcel or tract of land whose land area is less than one (1) acre in size.
- B. For all development which exceeds 25% impervious surface coverage on parcels or tracts of land whose land area is one (1) acre or more in size.

NOTE: The designer should refer to the NCDEQ, "Erosion and Sediment Control Planning and Design Manual" for supplemental information.

## 6.7 DETENTION AND WET RETENTION FACILITIES

The City encourages the use of innovative techniques and designs which will provide the necessary protection for the receiving watercourse. These facilities shall be designed for the run-off produced by the 25-year storm and checked for the 100-year storm. The 100-year storm check is to verify that no structures become flooded. Detailed drawings, substantiating data, calculations, and specifications shall be submitted for designs of this nature. The use of open ponds has been utilized most frequently for stormwater control and, therefore, design standards and procedures for this approach have been included in this design guide. However, the City suggests that the developer or owner incorporate stormwater controls into the overall site as an amenity and/or visual enhancement. The following are minimum requirements for detention/retention facilities:

### A. MINIMUM SLOPES

Side slopes where vegetation is used for stabilization shall be 2.5 (horizontal) to 1 (vertical) or flatter. The side slopes should be a minimum of 3 to 1 where mowing will be necessary. Where the side slopes are protected with riprap, fabric form, or other approved armoring, side slopes of 2 to 1 will be permitted. Steeper slopes may be approved by the City on a case-by-case basis.

### B. VEGETATION

- 1. Vegetation for stabilization of side slopes shall be a hearty ground cover such as the following, listed in order of best overall suitability:

- a) Tall Fescue
  - b) Bermuda Grass
  - c) Pensacola Bahia grass
  - d) Reed Canary Grass
2. All of these are well suited for flooding tolerance and waterways and channels. The bahia grass is excellent for sandy sites. The others spread by rootstocks, making a well anchored and stable ground covering.
3. The designer shall consult with the Public Services Department regarding landscape standards such as selection, spacing, location, and planting requirements of all grasses and plants which are to be incorporated in the system. Approval of a landscaping plan by the Public Services Department will be required prior to issuance of a construction permit.

#### C. RISERS

Risers shall be a minimum of 12 inches in diameter and pipes shall be a minimum of 12 inches in diameter to reduce the potential for clogging the outlet system. A trash rack with 4-inch maximum openings shall be provided to avoid pipe clogging. The design shall include consideration of anti-vortex measures were deemed necessary for stability of the outlet structure.

#### D. DRAIN

The design of the pond should incorporate a method of draining all water by use of a valve assembly. Where this is determined not possible by the reviewing engineer, a well-defined low point shall be constructed to allow for pumping out the facility.

#### E. OVERFLOW

An emergency outlet or overflow designed for the 100-year storm shall be provided for all detention/retention facilities. This overflow should be designed assuming the principal spillway is obstructed and cannot convey any water.

#### F. OTHER UTILITIES

No other utilities shall be constructed within five (5) feet of the stormwater detention/retention pond unless specifically approved by the City.

#### G. LANDSCAPING

Open basins shall be provided with a minimum 5-foot landscaped zone around the periphery of the ponds which have a surface area up to 0.5 acres as measured at the top bank. A minimum 10-foot landscaped zone as measured outward from the top of the bank shall be provided for ponds larger than 0.5 acres.

#### H. ACCESS

A stable access and maintenance shoulder with a minimum width of 10 feet measured from the top of bank shall be provided, sufficient to allow the periodic removal of sediment from the system. This access shall be coordinated with the landscaping zone around the basin. The landscaping zone shall not be incorporated into the access/maintenance way.

I. FENCING

Fencing for private facilities shall be at the option of the developer.



## Article 7: Wireless Communication

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## 7.1 PURPOSE AND LEGISLATIVE INTENT

- A. The Telecommunications Act of 1996 affirmed the city of Southport's authority concerning the placement, construction and modification of Wireless Telecommunications Facilities. This ordinance provides for the safe and efficient integration of Wireless Facilities. Necessary for the provision of advanced wireless telecommunications services throughout the community and to ensure the ready availability of reliable wireless services to the public, government agencies and first responders, with the intention of furthering the public safety and general welfare.
- B. The City of Southport finds that Wireless Telecommunications Facilities (Facilities) and Complexes may pose significant concerns to the health, safety, public welfare, character and environment of the city and its inhabitants. The city also recognizes that facilitating the development of wireless service technology can be an economic development asset to the city and of significant benefit to the city and its residents. To assure that the placement, construction or modification of a facility is consistent with the city's land use policies, the city is adopting a single, comprehensive, Wireless Telecommunications facility application and permitting process. The intent of this article is to minimize the physical impact of Wireless Telecommunications Facilities on the community, protect the character of the community to the extent reasonably possible, establish a fair and efficient process for review and approval of applications, assure an integrated, comprehensive review of environmental impacts of such facilities, and protect the health, safety and welfare of the city.

## 7.2 SEVERABILITY

- A. If any word, phrase, sentence, part, section, subsection, or other portion of this article or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the proscribed application thereof, shall be severable, and the remaining provisions of this article, and all applications thereof, not having been declared void, unconstitutional, or invalid, shall remain in full force and effect.
- B. Any special use permit issued under this article shall be comprehensive and not severable. If part of a permit is deemed or ruled to be invalid or unenforceable in any material respect, by a competent authority, or is overturned by a competent authority, the permit shall be void in total.

## 7.3 DEFINITIONS

Unless specifically defined below, words or phrases used in this article shall be interpreted so as to give them the meaning they have in common usage and to give this article it's most reasonable application in administering the wireless communication provisions provided herein. The definitions provided herein shall apply to this article. Where conflicting terms are found in Article 8, the terms in Section 7.3 shall apply specifically to wireless communication facility regulations, whereas the definitions in Article 8 shall apply to the UDO in its entirety and to those terms not defined herein.

**Accessory facility or structure** means an accessory facility or structure serving or being used in conjunction with wireless telecommunication facilities and located on the same property or lot

as the wireless telecommunications facilities, including but not limited to utility or transmission equipment storage sheds or cabinets.

**Applicable codes** means The North Carolina State Building Code and any other uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization together with State or local amendments to those codes enacted solely to address imminent threats of destruction of property or injury to persons

**Antenna** means a system of electrical conductors that transmit or receive electromagnetic waves or radio frequency or other wireless signals.

**applicant** means any wireless service provider submitting an application for a special use permit for wireless telecommunications facilities.

**Application** means all necessary and appropriate documentation that an applicant submits in order to receive a special use permit for a wireless telecommunications facility.

**Base station** means a station at a specific site authorized to communicate with mobile stations, generally consisting of radio receivers, antennas, coaxial cables, power supplies, and other associated electronics.

**Building permit** means an official administrative authorization issued by the city prior to beginning construction consistent with the provisions of G.S. 160D-1110.

**City** means the City of Southport, North Carolina.

**City right of way** means a right of way owned, leased, or operated by a city, including any public street or alley that is not a part of the State highway system.

**City utility pole** means a pole owned by a town in the City right of way that provides lighting, traffic control, or a similar function.

**Collocation** means the placement, installation, maintenance, modification, operation, or replacement of wireless facilities on, under, within, or on the surface of the earth adjacent to existing structures, including utility poles, city utility poles, water towers, buildings, and other structures capable of structurally supporting the attachment of wireless facilities in compliance with applicable codes. The term "collocation" does not include the installation of new utility poles, city utility poles, or wireless support structures.

**Commercial impracticability or commercially impracticable** means the inability to perform an act on terms that are reasonable in commerce; the cause or occurrence of which could not have been reasonably anticipated or foreseen and that jeopardizes the financial efficacy of the project. The inability to achieve a satisfactory financial return on investment or profit, standing alone, shall not deem a situation to be commercial impracticable and shall not render an act or the terms of an agreement commercially impracticable.

**Communications facility** means the set of equipment and network components, including wires and cables and associated facilities used by a communications service provider to provide communications service.

**Communications service** means cable service as defined in 47 U.S.C. § 522(6), information service as defined in 47 U.S.C. § 153(24), telecommunications service as defined in 47 U.S.C. § 153(53), or wireless services.

**Communications service provider** means cable operator as defined in 47 U.S.C. § 522(5); a provider of information service, as defined in 47 U.S.C. § 153(24); a telecommunications carrier, as defined in 47 U.S.C. § 153(51); or a wireless provider.

**Completed application** means an application that contains all information and/or data necessary to enable an informed decision to be made with respect to an application.

**DAS or distributive access system** means a technique using antenna combining that allows for multiple carriers or wireless service providers to use the same set of antennas.

**Eligible facilities request** means a request for modification of an existing wireless tower or base station that involves collocation of new transmission equipment or replacement of transmission equipment and does not include a substantial modification or new tower. This includes a small wireless facility.

**Facilities**, unless the term is otherwise modified or limited in context of a particular provision in which the term appears in this article, means all and any forms of wireless telecommunications-related equipment, devices, buildings, structures and accessories in the broad sense of those terms and includes and is not necessarily limited to the terms "wireless telecommunications facility," "accessory facility or structure" and "wireless facility" and "wireless support structure" as defined in NCGS 160D-931.

**FAA** means the Federal Aviation Administration, or its duly designated and authorized successor agency.

**FCC** means the Federal Communications Commission, or its duly designated and authorized successor agency.

**Height** means, when referring to a tower or structure, the distance measured from the pre-existing grade level to the highest point on the tower or structure, even if said highest point is an antenna or lightning protection device.

**Micro wireless facility** means a small wireless facility that is no larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height and that has an exterior antenna, if any, no longer than 11 inches.

**Modification or modify** means the addition, removal or change of any of the physical and visually discernable components or aspects of a wireless facility, such as antennas, cabling, equipment shelters, landscaping, fencing, utility feeds, changing the color or materials of any visually discernable components, vehicular access, parking and/or an upgrade or change-out of equipment for better or more modern equipment. Adding a new wireless carrier or service provider to a telecommunications tower or telecommunications site as a collocation is a modification. A modification shall not include the replacement of any components of a wireless facility where the replacement is identical to the component being replaced or for any matters

that involve the normal repair and maintenance of a wireless facility without adding, removing or changing anything.

**Need** means anything that is technically required for the wireless service to be provided primarily and essentially within the city and creates the least physical and visual impact. This does not necessarily mean the internal design standards of the applicant, as companies' standards can vary greatly and normally reflect preferences. Rather, the term "need" relates to the ability of the user-equipment to function as designed.

**NIER** means non-ionizing electromagnetic radiation.

**Person** means any individual, corporation, estate, trust, partnership, joint stock company, association of two or more persons having a joint common interest, or any other entity.

**Personal wireless services** or *PWS* or *personal telecommunications service* or *PTS* shall have the same meaning as defined and used in the 1996 Telecommunications Act.

**Repairs and maintenance** means the repair or replacement of any component of a wireless facility where the component is effectively identical to the component being replaced or for any matters that involve the normal repair and maintenance of a wireless facility without the addition, removal or change of any of the physical or visually discernable components or aspects of a wireless facility that will add to the visible appearance of the facility as originally permitted.

**Search ring** means the area within which a wireless support facility or wireless facility must be located in order to meet service objectives of the wireless service provider using the wireless facility or wireless support structure.

**Small wireless facility** means a wireless facility that meets both of the following qualifications:

- A. Each antenna is located inside an enclosure of no more than six (6) cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements, if enclosed, could fit within an enclosure of no more than six (6) cubic feet.
- B. All other wireless equipment associated with the facility has a cumulative volume of no more than 28 cubic feet. For purposes of this sub-subdivision, the following types of ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation boxes, ground-based enclosures, grounding equipment, power transfer switches, cut-off switches, vertical cable runs for the connection of power and other services, or other support structures.

**Special use permit** means the official document or permit by which an applicant is allowed to file for a building permit to construct and use wireless telecommunications facilities as granted or issued by the city in the course of the city's quasi-judicial process.

**State** means the State of North Carolina.

**Stealth** or **stealth techniques** means to minimize adverse aesthetic and visual impacts on the land, property, buildings and other facilities adjacent to, surrounding, and in generally the same area as the requested location of a wireless telecommunications facility, which shall mean using

the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances. The term "stealth techniques" expressly includes such techniques as DAS or its functional equivalent.

**Substantial modification** means the mounting of a proposed wireless facility on a wireless support structure that substantially changes the physical dimensions of the support structure. A mounting is presumed to be a substantial modification if it meets any one or more of the criteria listed below. The burden is on the local government to demonstrate that a mounting that does not meet the listed criteria constitutes a substantial change to the physical dimensions of the wireless support structure.

- A. Increasing the existing vertical height of the structure by the greater of (i) more than 10% or (ii) the height of one (1) additional antenna array with separation from the nearest existing antenna not to exceed 20 feet.
- B. Except where necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable, adding an appurtenance to the body of a wireless support structure that protrudes horizontally from the edge of the wireless support structure the greater of (i) more than 20 feet or (ii) more than the width of the wireless support structure at the level of the appurtenance.
- C. Increasing the square footage of the existing equipment compound by more than 2,500 square feet.

**Telecommunications** means the transmission and/or reception of audio, video, data, and other information by wire, radio frequency, light, and other electronic or electromagnetic systems.

**Temporary** means temporary in relation to all aspects and components of this article, something intended to, or that does, exist for fewer than 90 days.

**Tower** means any monopole or self-supporting structure designed primarily to support an antenna for receiving and/or transmitting a wireless signal. Guyed towers shall not be permitted anywhere in the city.

**Utility pole** means a structure that is designed for and used to carry lines, cables, wires, lighting facilities, or small wireless facilities for telephone, cable television, or electricity, lighting, or wireless services.

**Wireless facility** means equipment at a fixed location that enables wireless communications between user equipment and a communications network, including (i) equipment associated with wireless communications and (ii) radio transceivers, antennas, wires, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. The term includes small wireless facilities. The term shall not include any of the following:

- A. The structure or improvements on, under, within, or adjacent to which the equipment is collocated.
- B. Wireline backhaul facilities.

- C. Coaxial or fiber-optic cable that is between wireless structures or utility poles or city utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna.

**Wireless infrastructure provider** means any person with a certificate to provide telecommunications service in the State who builds or installs wireless communication transmission equipment, wireless facilities, or wireless support structures for small wireless facilities but that does not provide wireless services.

**Wireless provider** means a wireless infrastructure provider or a wireless services provider.

**Wireless services** means any services, using licensed or unlicensed wireless spectrum, including the use of Wi-Fi, whether at a fixed location or mobile, provided to the public using wireless facilities.

**Wireless services provider** means a person who provides wireless services.

**Wireless support structure** means a new or existing structure, such as a monopole, lattice tower, or guyed tower that is designed to support or capable of supporting wireless facilities. A utility pole or a city utility pole is not a wireless support structure.

**Wireless telecommunications facilities** means and includes without limitation the following in connection with wireless telecommunications:

- A. A telecommunications site;
- B. A personal wireless facility and any facility in connection with personal wireless services or PWS or personal telecommunications service (PTS);
- C. A primary or accessory structure, facility or location of all types and kinds designed, or intended to be used as, or used to support antennas or other transmitting or receiving devices, including, but not limited to towers, buildings, church steeples, silos, water towers, and signs.

## 7.4 GENERAL POLICIES AND PROCEDURES FOR APPLICATIONS UNDER THIS ORDINANCE

- A. In order to ensure that the location, placement, construction and modification of a facility or the components of a Complex do not endanger or jeopardize the city's health, safety, public welfare, environmental features, the nature and character of the community or neighborhood and other aspects of the quality of life specifically listed elsewhere in this ordinance, the city hereby adopts an overall policy and related procedures with respect to the submittal, review, approval and issuance of permits or administrative approval granted authority for Wireless Facilities for the express purpose of achieving the following outcomes:
  - 1. The city shall not be required to issue a permit for a carrier to achieve its goal from a single location and facility only, and instead may require that multiple smaller and less intrusive facilities be used to achieve the applicant's goal.
  - 2. Requiring a special use permit for any new complex, facility or any substantial modification of a facility;

3. Requiring administrative approval and a properly issued building permit for any collocation or modification of a facility that is not a substantial modification or substantial collocation.
4. Implementing an application process and requirements;
5. Establishing a policy for examining an application and issuing a special use permit or administrative approval that are fair and consistent;
6. Promoting, and requiring wherever possible, the sharing and/or collocation of support structures among service providers;
7. Requiring, promoting and encouraging, wherever possible, the placement, height and quantity of attachments to a facility in such a manner as to minimize the physical and visual impact on the community, including but not limited to the use of stealth siting techniques.
8. Requiring that the facility and complex shall be the least visually intrusive among those options that are not technologically impracticable given the facts and circumstances.
9. If the proposed site is within one half (1/2) mile of another jurisdiction, written notification of the application shall be provided to the legislative body of all such adjacent jurisdictions as applicable and/or requested.
10. The owner(s) of the support structure to which antennas or related equipment are to be attached must be an official applicant of record, unless the owner is the city, in which case, to prevent a conflict of interest, the city shall not be a party to the application.
11. Within 30 days of the date of submission of an application the applicant shall be notified in writing of any deficiencies related to the completeness of the application. Remediation of deficiencies in an application shall be deemed an amendment of the application that was received.
12. No work of any kind on or at a facility shall be started until the application is reviewed and approved and the special use permit or administrative approval, as applicable, has been issued, and a building permit has been issued in accordance with the city's code.
13. Other than to remediate non-compliant situations related to matters of safety or the conditions of a permit, no permits for work at a facility shall be issued where the facility is not in full compliance with all applicable local, state and federal laws, rules, regulations and orders. A facility not in full compliance with this ordinance shall be required to be brought into full compliance before any permit of any kind will be issued.
14. Where a certification is called for in this ordinance, such certification shall bear the signature and seal of a professional engineer licensed in the state.
15. A support structure and any and all accessory or associated structures shall maximize the use of building materials, colors and textures designed to blend with the structure to which it may be affixed and to harmonize with the natural surroundings. This shall include the utilization of stealth or camouflage or concealment technique as may be required by the city.



16. At a facility needing vehicular access, an access road, parking and turn around space for emergency vehicles shall be provided to assure adequate emergency and service access. The use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and the cutting of vegetation. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion. If the current access road or turn around space is deemed in disrepair or in need of remedial work to make it serviceable and safe and in compliance with any applicable regulations as determined at a site visit, the Application shall contain a commitment to remedy or restore the road or turn around space so that it is serviceable and safe and in compliance with applicable regulations.
17. All work at a facility shall be done in strict compliance with all current applicable technical, safety and safety-related codes adopted by the city, state, or United States, including but not limited to the most recent edition of the TIA ANSI Code, National Electric Safety Code, the National Electrical Code, the Occupational and Safety and Health Administration (OSHA) regulations, recommended practices of the National Association of Tower Erectors and accepted and responsible workmanlike industry practices. The codes referred to are codes that include, but are not limited to, construction, building, electrical, fire, safety, health, and land use codes. In the event of a conflict between or among any of the preceding the more stringent shall apply.
18. Unless such is proven to be technologically impracticable, the city requires the collocation of new antenna arrays on existing structures, as opposed to the construction of a new complex or support structure or increasing the height, footprint or profile of a facility beyond the conditions of the approved special use permit for an existing facility. In instances not qualifying as an eligible facility, the applicant shall submit a comprehensive report inventorying all existing structures more than 50 feet in height within one-half (1/2) mile of the location of any proposed new facility.
19. Collocated equipment shall consist only of the minimum antenna array technologically needed to provide service primarily and essentially within the city, to the extent practicable, unless good cause is shown in the form of clear and convincing evidence.
20. A DAS system that is owned or operated by a commercial carrier and is part of a commercial wireless system, or are used for commercial purposes, is expressly included in the context of this ordinance, regardless of the location or whether the facility or any of its components is located inside or outside a structure or building.
21. The existence of a lease or an option to lease shall not be deemed justification for not complying with the siting priorities set forth in this ordinance, as well as other applicable land use and zoning regulations. An applicant may not by-pass sites of higher siting priority than the priority chosen solely because the site proposed is under lease or an option to lease exists. If a site other than the number one (1) priority, or attaching to an existing structure is proposed, the

applicant must demonstrate and explain to the reasonable satisfaction of the city why collocation is technically or commercially impracticable. Contractual or build-to-suit agreements between carriers and a proposed tower owner shall not be a valid basis for any claim of exemption, exception or waiver from compliance with the siting priorities.

22. All costs associated with the preparation and submission of an application and/or necessitated by the requirements for obtaining and maintaining any and all city permits shall be borne by the applicant or permittee.
23. Any new wireless facility shall be designed and constructed so as to be the least visually intrusive, create the least visual impact reasonably possible and have the least negative impact on nearby property values, provided that pursuant to 47 U.S.C. 332(c)(7)(B)(II) compliance with this requirement does prohibit or effectively serve to prohibit the provision of the intended service from one or more facilities.
24. No new facility or antenna array shall be identifiable, recognizable or discernable as a wireless facility or antenna by a typical lay-person from a distance of 250 feet or more.
25. Vegetative buffering of the site shall be installed to screen and/or mitigate the impacts of the wireless facility on surrounding areas, properties, or rights-of-way. In order to provide spatial separation and create a visual block from adjacent properties and streets, a vegetative buffer shall be installed around the outside of all improvements on the site, including the tower, any ground buildings or equipment, and security fencing. Depending upon the specific situation for the location involved and the impact of such, ground-mounted equipment cabinets and buildings may be located outside the buffered area if they are constructed so the exterior appearance of the equipment cabinet or building has the appearance of surrounding structures. The applicant shall submit scaled elevations of such buildings to assist in the evaluation of compliance with this appearance criteria. For situations involving new support structures and/or above ground equipment in the public rights-of-way, if above-ground location is allowed, the screening requirements shall be determined at the time of the pre-application meeting or site visit and determined as appropriate for the situation at the location.
26. Given that wireless service is deemed primarily an essential service, all new towers or other vertical support structures containing wireless antennas shall be designed to an EIA-TIA 222 G Class III standard or any subsequently adopted more stringent standard.

## 7.5 RESPONSIBLE PARTY(S)

With the exception of the city itself, the owner(s) of a facility, any support structure used to accommodate wireless facilities, and of the land upon which a facility support structure is located, shall at all times be jointly and individually responsible for:

1. The clean, neat, non-littered and safe condition of the facility, support structure and all components on the site related to the facility;

2. Assuring that all activities of owners, users, or lessees occurring on the site, and all components on the site related to the facility, are at all times in compliance with all applicable laws, ordinances, rules, regulations, orders, and permits related to the facility; and
3. Assuring the proper permitting as required by this article and other city regulations by all lessees and users of the facility, including but not limited to any upgrades and/or modifications of equipment. Said owner(s) shall regularly and diligently monitor activities at the site to assure that the facility is operated in compliance with this ordinance, other city regulations and any special use permit.

## 7.6 FEES

- A. All fees and charges, including but not limited to application fees, expert assistance fees, inspection fees and permit fees, shall be as set forth in the city's schedule of fees and charges. For new towers or other support structures or for substantial modifications, the expert assistance fee shall be as set forth in the city's fee schedule. The city may choose to waive their application fee if the applicant locates on city-owned property, not including in the city's public rights-of-ways.
- B. For collocated small wireless facilities, the city may charge an application fee that shall not exceed the lesser of
  1. The actual, direct, and reasonable costs to process
  2. The amount charged by the city for permitting of any similar activity; or
  3. \$100 per facility for the first five (5) small wireless facilities addressed in an application, plus \$50 for each additional small wireless facility addressed in the application. In any dispute concerning the appropriateness of a fee, the city has the burden of proving that the fee meets the requirements of this subsection.

## 7.7 EXISTING FACILITIES AND COMPLEXES

- A. Any legally permitted facility, tower or other support structure that exists on the effective date of this ordinance of the city's codes shall be allowed to continue as it presently exists, provided that
  1. All work was properly permitted;
  2. The facility is in compliance with all applicable local, state and federal laws, rules regulations, orders and permit conditions; and
  3. The site is in compliance with the latest version of TIA ANSI 222 as regards the physical condition of the site.
- B. Any work not properly previously permitted prior to the adoption of this ordinance must be properly permitted within 90 days of the effective date of this ordinance or prior to any modification of, on or at the site or facility.
- C. Any new collocation and/or modification of a facility, Tower or other support structure or a carrier's equipment located on the tower or facility, must be permitted under this ordinance and the entire facility and any new collocation or modification shall comply with all applicable laws, rules and regulations, including obtaining a valid COC.

## 7.8 CERTIFICATE OF COMPLETION

No work shall be allowed to be done at or on any facility, excepting normal repair and maintenance work as defined in this ordinance, for which the owner cannot produce the COC for the most recent work, until a final inspection has been conducted and a COC has been issued. The owner of the facility, tower or other support structure shall pay for the actual cost of the required final inspection prior to the inspection being conducted. If the facility does not pass the initial final inspection, the owner shall be required to pay for any subsequent re-inspection prior to the re-inspection being conducted. A passing final inspection is required prior to the issuance of a COC.

## 7.9 EXCLUSIONS

- A. The following shall be exempt from this ordinance:
  - 1. Any facilities expressly exempt from the city's zoning, land use, siting, building and permitting authority.
  - 2. Any reception or transmission devices expressly exempted under the Telecommunications Act of 1996.
  - 3. A facility used exclusively for private, non-commercial radio and television reception and private citizen's bands, licensed amateur radio and other similar non-commercial Telecommunications that is less than 50 feet above ground level.
  - 4. Facilities used exclusively for providing wireless service(s) or technologies where
    - a) There is no charge for the use of the wireless service;
    - b) The facility does not require a new tower or increase the height or profile of the structure being attached to; and
    - c) The service is not intended to be useable more than 75 feet from the antenna.

## 7.10 NEW TOWER, NEW SUPPORT STRUCTURE, OR SUBSTANTIAL MODIFICATION - APPLICATION REQUIREMENTS

- A. All applicants for a special use permit for a new wireless facility, including for a new tower or other new support structure or that constitutes a substantial modification, shall comply with the requirements set forth in this section. In addition to the required information set forth in this section, all applications involving the construction of a new support structure or a substantial modification shall contain the information hereinafter set forth prior to the issuance of a building permit. Any technical information must be provided in such a manner, form and with such content that it is able to be verified by a third party using the information used and provided by the applicant. The requirements for submission of a special use permit as provided in Appendix A shall be met in addition to the following:
  - 1. Ownership and Management.
    - a) The name, address, phone number and e-mail address of the property owner and the applicant, including the legal name of the applicant. If the owner of the structure is different than the applicant, the name, e-mail address and all necessary contact information shall be provided;

- b) A copy of the FCC license(s) applicable for the intended use(s) of the Wireless Telecommunications Facilities, including all FCC licensed frequency bands to be used;
  - c) The applicant shall disclose in writing any agreement in existence that would limit or preclude the ability of the applicant to share any new telecommunication tower or support structure that it constructs or has constructed for it;
- 2. Zoning and Planning.
  - a) The location, size of the footprint and height of all existing and proposed structures, enclosures and cabinets on the property on which the structure is located and that are related to the subject of the application;
  - b) A site plan to scale, not a hand drawn sketch, showing the footprint of the support structure and the type, location and dimensions of access drives, proposed landscaping and buffers in compliance with the city's building or development code, including but not limited to fencing and any other requirements of site plans;
  - c) Elevation drawings showing the profile or the vertical rendition of the tower or support structure at the facility and identifying all existing and proposed attachments, including the height above the existing grade of each attachment and the owner or operator of each, as well as all lighting;
  - d) The type of tower or support structure, the number of antenna arrays proposed to be able to be accommodated and the basis for the calculations of the tower's or support structure's capability to accommodate the required number of antenna arrays for which the structure must be designed;
  - e) Pre-construction photos of the existing facility and post construction landscaped photo simulations, both as directed at the time of pre-application meeting.
  - f) Disclosure in writing of any agreement in existence prior to the submission of the application that would limit or preclude the ability of the applicant to share any new telecommunication tower that it constructs.
  - g) A certified statement of i) the total cost of construction for the work associated with the application; and ii) the total cost of all equipment of the applicant at the facility. To verify the accuracy of the information, the city reserves the right to require copies of applicable invoices or other clear and convincing corroborating evidence.
- 3. Safety.
  - a) The age of the tower or support structure and complex stated in years, including the date of the grant of the original permit;
  - b) A description of the type of tower, e.g. guyed, self-supporting lattice or monopole, or other type of support structure;

- c) For a tower, the make, model, type and manufacturer of the tower and the structural design analysis and report, including the calculations, certified by a professional engineer licensed in the state, proving the tower or support structure's capability to safely accommodate the facilities of the applicant without change or modification.
- d) If a substantial modification of a facility is needed, a detailed narrative explaining what changes are needed and why they are needed;
- e) A complete, unredacted copy of the foundation design and report for the Tower or other structure, including a geotechnical sub-surface soils investigation report and foundation design for the facility;
- f) If substantially modifying an existing tower or other support structure, a complete, unredacted and certified TIA ANSI 222 Report regarding the physical condition of the complex and all of its components done within the previous six (6) months. If such report has not been done within the previous six (6) months, one shall be done and submitted as part of the application. No building permit shall be issued for any wireless facility or related equipment where the structure being attached to is in need of remediation to comply with the requirements of this subsection and other adopted standards of the city regarding the physical condition and/or safety of the facility, unless and until all remediation work that is deemed needed has been completed, or a schedule for the remediation work has been approved by the UDO Administrator;
- g) In an instance involving a tower with only a single array of antennas, or for the first antenna array to be attached to a tower where the array will be 33 feet or more above ground level, and not within 100 feet of areas to which the public has or could reasonably have or gain access to, in lieu of a full RF emissions study, if deemed appropriate by the city, signed documentation in the form of the FCC's "Checklist to Determine whether a facility may be Categorically Excluded" may in certain cases be allowed to be used and shall be provided to verify that the facility and complex with the proposed installation will be in full compliance with the current FCC's RF Emissions regulations;
- h) In certain instances, the city may deem it appropriate to have a post-construction on-site RF survey of the facility done after the construction or modification and activation of the facility, such to be done under the direction of the city or its designee, and an un-redacted copy of the survey results provided, along with all calculations, prior to issuance of a Certificate of Compliance. Such study shall reflect the cumulative effects, readings or levels of all active RF equipment at the Site;
- i) In the event the city deems it necessary to determine compliance with the FCC's Maximum Permitted Exposure (MPE) rules, and in lieu of the procedure contained in the preceding Subsection g of this section, the city expressly reserves the right to request the involvement of the FCC and/or OSHA (Occupational Safety and Health Administration) to

- determine or verify compliance with federal standards and guidelines that the city, itself, may be prohibited from determining.
- j) If not submitted in a previous application, a signed statement that the applicant will expeditiously remedy any physical or RF interference with other telecommunications or wireless devices or services.
4. A written copy of an analysis completed by a qualified individual or organization to determine if the proposed wireless telecommunications facility is in compliance with Federal Aviation Administration Regulation Part 77, and if it requires lighting, including any facility where the application proposes to increase the height of the existing tower or support structure.
  5. New towers shall be prohibited in areas deemed to be visual or sensitive scenic areas within the city's corporate limits. The burden of proof in determining the town shall not obstruct visual or sensitive scenic areas within the city shall be on the applicant.
  6. All applications for a proposed facility applicable to this section shall contain clear and convincing evidence that the facility is sited and designed so as to create the least visual intrusiveness reasonably possible given the facts and circumstances involved. To achieve this goal the city expressly reserves the right to require the use of stealth or camouflage siting techniques such as, but not limited to, DAS (Distributive Antenna System), a small cell facility or a functional equivalent as regards size, and such shall be subject to approval by the city.
  7. If proposing a new tower or support structure, or a substantial collocation or modification of an existing structure, the applicant shall be required to submit clear and convincing evidence that there is no alternative solution within the search ring of the proposed site that would be less visually intrusive and that not to permit the proposed new tower or support structure, or a substantial collocation or modification would result in the prohibition of service or the perpetuation of a significant gap in service.
  8. An applicant proposing a new tower or support structure shall use the largest search ring technically possible and may be required to prove with certified technical/engineering documentation that the search ring used is the largest that could be used.
  9. In order to better inform the public, in the case of a new tower or support structure or substantial modification, the applicant shall hold a "balloon test" prior to the initial public hearing on the application. The applicant shall arrange to fly, or raise upon a temporary mast, a minimum of a 10 foot in length brightly colored balloon with horizontal stabilizers, at the maximum height of the proposed new tower or support structure or substantial modification. Unless conditions at the time preclude it for reasons of instability vis-à-vis wind speed, the use of spherical balloons shall not be permitted.
  10. At least 14 days prior to the conduct of the balloon test, a sign shall be erected so as to be clearly visible from the road nearest the proposed site and shall be removed no later than 14 days after the conduct of the balloon test. The sign



shall be at least four feet (4) by eight feet (8) in size and shall be readable from the road by a person with 20/20 vision.

- a) Such sign shall be placed off, but as near to, the public right-of-way as is possible.
- b) Such sign shall contain the times and date(s) of the balloon test and contact information.
- c) The dates, (including a second date, in case of poor visibility or wind in excess of 15 mph on the initial date) times and location of this balloon test shall be advertised by the applicant seven (7) and 14 days in advance of the first test date in a newspaper with a general circulation in the city and as agreed to by the city. The applicant shall inform the city in writing, of the dates and times of the test, at least 14 days in advance. The balloon shall be flown for at least four (4) consecutive hours between 10:00 am and 2:00 p.m. on the dates chosen. The primary date shall be on a week-end, but the second date, in case of poor visibility on the initial date, may be on a week day. A report with pictures from various locations of the balloon shall be provided with the application.
- d) The applicant shall notify all property owners and residents located within 1,500 feet of the nearest property line of the subject property of the proposed construction of the tower and facility and of the date(s) and time(s) of the balloon test. Such notice shall be provided at least 14 days prior to the conduct of the balloon test and shall be delivered by first-class mail. The UDO Administrator shall be provided an attested copy of the list of addresses to which notification is provided. The wireless telecommunications facility shall be structurally designed to accommodate at least four (4) antenna arrays, with each array to be flush mounted or as close to flush-mounted as is reasonable possible.

- 11. The applicant shall provide certified documentation in the form of a structural analysis and report certified by a licensed professional engineer, including all calculations, showing that the facility will be constructed to meet all local, state and federal structural requirements for loads, including wind and ice loads and including, but not limited to all applicable ANSI (American National Standards Institute) TIA 222 guidelines. In the event of a conflict the more stringent standards shall apply.
- 12. The applicant shall furnish a Visual Impact Assessment, which may be required to include:
  - a) A computer generated "Zone of Visibility Map" at a minimum of a one (1) mile radius from the proposed structure shall be provided to illustrate locations from which the proposed installation may be seen, with and without foliage; and
  - b) To-scale photo simulations of "before and after" views from key viewpoints inside of the city as may be appropriate and required, including but not limited to state highways and other major roads, state and local parks, other public lands, historic districts, preserves and



historic sites normally open to the public, and from any other location where the site is visible to a large number of visitors, travelers or residents. Guidance will be provided concerning the appropriate key viewpoints at the pre-application meeting. In addition to photographic simulations to scale showing the visual impact, the applicant shall provide a map showing the locations of where the pictures were taken and the distance(s) of each location from the proposed structure;

13. The applicant shall provide a written description and a visual rendering demonstrating how it shall effectively screen from view at least the bottom 15 feet of the facility and all related equipment and structures associated with the facility not located in the public rights-of-way. For situations involving new support structures and/or above ground equipment in the public rights-of-way, if above-ground location is allowed, the screening requirements shall be determined at the time of the pre-application site visit and determined based on the situation at any given location.
14. A building permit shall not be issued for the construction of a new tower or other support structure until i) there is an application filed for or by a specific carrier that documents with verifiable technical evidence that the facility is necessary for that carrier to serve the community and that collocation on an existing structure is not feasible, or ii) that no owner of an existing structure within the applicant's search ring will allow attachment to the owner's building or other type of structure.

## 7.11 SMALL FACILITIES - ELIGIBLE FACILITIES AND OTHER SMALL FACILITY INSTALLATIONS OR MODIFICATIONS – APPLICATION REQUIREMENTS

- A. For a wireless facility that qualifies as an Eligible Facilities request under applicable law, the following information shall be contained in an application. Any technical information must be provided in such a manner, form and with such content that it is able to be verified by a third party using the information used and provided by the applicant.
  1. Safety.
    - a) Pre-construction photos of the existing facility from at least two (2) directions, and post construction landscaped photo simulations from at least two (2) directions from a distance no further than 50 feet;
    - b) the age of the Tower or other non-utility pole support structure in years, including the date of the grant of the original permit;
    - c) a description of the type of tower, e.g. guyed, self-supporting lattice or monopole, or a description of another other type of support structure;
    - d) if attaching to a tower or any type of non-utility pole structure, certified documentation in the form of a structural analysis and report done by a professional engineer licensed in the State of North Carolina. Said analysis and report shall include all supporting calculations, showing that the facility, as it exists, will meet all local, state and federal structural requirements for loads, including wind and ice loads and including, but not limited to, the North Carolina Building Code and all applicable ANSI

(American National Standards Institute) TIA 222 guidelines. In the event of a conflict, the more stringent shall apply.

- e) If attaching to a utility pole in the public right-of-way, written evidence or certification by the pole owner that the pole is structurally rated to accommodate the new loading;
- f) a copy of i) the installed foundation design, including a geotechnical sub-surface soils investigation report; and if necessary ii) a foundation remediation design and recommendation for the tower or other structure;
- g) for an existing wireless facility, a certified, unredacted report and supporting documentation, including photographs, regarding the physical situation and physical condition of all equipment and facilities at the site in the form of a report based on an on-site inspection done pursuant to and in compliance with the latest version of TIA/ANSI 222. The inspection shall be done by a qualified individual experienced in performing such inspections and the report shall be signed by an individual with authority to order any needed remediation or resolution of issues.
- h) a copy of the FCC licenses for each frequency band applicable for the intended use of the wireless telecommunications transmission and/or receive equipment;
- i) a list of all frequencies, to be used at the facility;
- j) the number, type and model of the antenna(s) proposed, along with a copy of the manufacturer's specification sheet(s), i.e. cut sheet(s), for the antennas;
- k) certification from the owner of the facility certifying that the facility and all attachments thereto are currently in compliance with the conditions of the approved special use permit or administrative approval or identifying any non-compliant situation.

2. Ownership and Management.

- a) the name, address and phone number of the person preparing the application;
- b) the name, address, and phone number of the property owner and of the applicant, including the legal name of the applicant. If the owner of the structure is different than the applicant, the name and all necessary contact information shall be provided;
- c) the postal address and tax map parcel number of the property;
- d) a copy of the FCC license(s) applicable for the intended use of the Wireless Telecommunications Facilities.

3. Construction.

- a) A certified statement of i) the total cost of construction for the work associated with the application; and ii) the total cost of all labor and equipment of the applicant at the facility. To verify the accuracy of the

- information, the city reserves the right to require copies of applicable invoices or other clear and convincing corroborating evidence.
4. In certain instances, the city may deem it appropriate to have an on-site RF survey of the facility performed after the construction and activation or modification and activation of the facility, such to be done under the observation and supervision of the city or its designee, and an un-redacted copy of the survey results provided, along with all calculations, prior to issuance of a Certificate of Compliance. Such study shall reflect the cumulative effects, readings or levels of all active RF equipment at the site;
  5. In the event the city deems it necessary to determine compliance with the FCC's Maximum Permitted Exposure (MPE) rules, the city expressly reserves the right to seek the involvement of the FCC and/or OSHA (Occupational Safety and Health Administration) to determine or verify compliance with federal standards and guidelines that the city, itself, may be prohibited from determining.
  6. Attachments to Existing Structures Other Than Towers
    - a) Attachments to Buildings: To preserve and protect the nature and character of the area and create the least visually intrusive impact reasonably possible under the facts and circumstances, any attachment to a building or other structure with a facade, the antennas shall be mounted on the facade without increasing the height of the building or other structure, unless it can be proven that such will prohibit or have the effect of prohibiting the provision of service, and all such attachments and exposed cabling shall use camouflage or stealth techniques to match as closely as possible the color and texture of the structure.
    - b) Utility poles and light standards: If attaching to a utility pole or light standard, no equipment may extend more than 10% of the existing height beyond the top of the structure as originally permitted and no equipment other than cabling shall be lower than 15 feet above the ground. Only one (1) increase of the height of a utility pole or light standard shall be allowed.
    - c) Attachments to Water Tanks: If attaching to a water tank, in order to maintain the current profile and height, mounting on the top of the tank or the use of a corral shall only be permitted if the applicant can prove that to locate elsewhere less visually intrusive on the tank will prohibit or have the effect of prohibiting the provision of service or that to do so would be technologically impracticable.
    - d) Profile: So as to be the least visually intrusive and create the smallest profile reasonably possible under the facts and circumstances involved, and thereby have the least adverse visual effect, all antennas attached shall be flush mounted or as near to flush mounted as is possible, unless it can be proven that such would prohibit or serve to prohibit the provision of service or be technologically impracticable.

## 7.12 LOCATION OF WIRELESS TELECOMMUNICATIONS FACILITIES

- A. For structures not located in the public right-of-way, no new tower or other new support structure taller than 50 feet shall be permitted in any existing or planned (i.e. platted) residential neighborhood, nor within one-half mile of any existing or planned (i.e. platted) residential neighborhood. Said height limit shall not be as-of-right and shall be the maximum permissible height subject to the independently verifiable proof of technical need for height information submitted.
- B. If a new telecommunications support structure is proposed to be located within one-half mile of an existing or planned residential neighborhood and is proven by verifiable clear and convincing technical information to be a technical necessity for the applicant's service to be provided in the intended service area of the proposed facility, the support structure shall not be taller than the shorter of i) 10 feet above the tallest obstruction between the proposed support structure and a residential neighborhood; or ii) the shortest height that will not effectively serve to prohibit the provision of service to a substantial portion of the intended area.
- C. applicants shall locate, site and erect all facilities and associated equipment in accordance with the following order of priority:
  - 1. On existing structures outside the public right-of-way without increasing the dimensions or size of the structure;
  - 2. On existing structures, more than 1,000 feet from the nearest boundary of the public right-of-way without increasing the height or size of the profile of the tower or structure by more than is allowed for an eligible facility.
  - 3. On existing structures in the public right-of-way;
  - 4. On existing structures outside the public right-of-way without increasing the height of the structure by more than is technically needed, as such need can be proven by clear and convincing verifiable technical evidence using information provided by the applicant.
  - 5. On properties in areas zoned for commercial use.
  - 6. In historic districts or sensitive viewshed areas in the public right-of-way without increasing the height or size of the profile of the support structure, and if camouflaged or stealthed to the satisfaction of the UDO Administrator.
  - 7. In areas zoned for residential use in the public right-of-way, but without increasing the height of the size or dimensions of the support structure, and only if camouflaged or stealthed to the satisfaction of the UDO Administrator.
  - 8. In areas zoned for residential use, in the public right-of-way if camouflaged or stealthed to the satisfaction of the city.
- D. Notwithstanding that a potential site may be situated in an area of highest priority or highest available priority, the city may disapprove an application for any of the following reasons:
  - 1. Conflict with safety and safety-related codes and requirements, including but not limited to setback and fall zone requirements;
  - 2. Non-compliance with zoning, land use or safety regulations;

3. The placement and location of a facility would create an unacceptable risk, or the reasonable possibility of such, for physical or financial damage to any person or entity, or of trespass on private property;
  4. The placement and location of a facility would not be harmonious with or would result in a negative change in the nature or character of the adjacent and surrounding area, expressly including but not limited to loss in value of property as measured over the 12 months preceding the application having been filed;
- E. Notwithstanding anything to the contrary in this ordinance, for good cause shown such as the ability to utilize one or more shorter, smaller or less intrusive facilities elsewhere and still serve a substantial portion of the intended service area, the city may require the relocation of a proposed site if relocation could result in a less intrusive facility singly or in combination with other locations, including allowing for the fact that relocating the site chosen by the applicant may require the use of more than one (1) facility to serve substantially the same area.

### 7.13 TYPE AND HEIGHT OF TOWERS

- A. No new towers of a lattice or guyed type shall be permitted.
- B. Except in the public rights-of-way and in residentially zoned areas, the maximum permitted total height of a new tower or other proposed support structure, shall be 50 feet above pre-construction ground level, unless it can be shown by clear and convincing verifiable technical evidence from a carrier who has committed to use the tower that such height would prohibit or have the effect of prohibiting the provision of service to at least a substantial portion of the intended service area within the city. The maximum permitted height is permissive and is expressly not as-of-right.
- C. If the applicant chooses to provide evidence in the form of propagation studies, to enable verification of the need for the requested height or location, such must include all modeling information and support data used to produce the studies at the requested height and at a minimum of 10 feet lower.
- D. The city reserves the right to require a drive test to be conducted under the supervision of the city or its designee to verify the technical need for what is requested.
- E. At no time shall a tower or other support structure be of a height that requires lighting by the FAA.
- F. The height can be increased if needed, towers shall be structurally designed to support a minimum of four (4) carriers using functionally equivalent equipment to that used by the first carrier attaching to a tower or other support structure.
- G. New Structures within Rights-of-Ways – Required Design Characteristics. The following shall govern new poles and other support structures in the rights-of-way.
  1. Wireless installations shall be consistent throughout the city limits and any extraterritorial jurisdiction (ETJ);
  2. Wireless installations shall be on non-conductive poles or structures;
  3. All antennas shall be unrecognizable as such by an average person;
  4. Wireless installations shall utilize a “concealed” design, including all cabling being inside a hollow pole;

5. All radios, network equipment and batteries will be enclosed in a pedestal cabinet near the pole, in a pole-mounted cabinet or under a pole-mounted shroud;
6. Cabinets should be consistent in size and no larger than standard DOT streetlight signal cabinets;
7. Unless proven unfeasible by clear and convincing evidence, in lieu of installing new additional poles, any wireless installation in the public right-of-way shall replace a pre-existing utility pole or light standard;
8. Wireless installations in the public right-of-way shall be on poles that meet or exceed current NESC standards and wind and ice loading requirements of the latest version of ANSI 222;
9. Any new poles installed shall be environmentally “green” and not leach any volatile organic compounds or toxic materials into the ground; and
10. To avoid unsightly rust and corrosion, any new or replacement pole installed shall not be of a corrodible type of metal or concrete.

#### 7.14 VISIBILITY AND AESTHETICS

- A. No tower, nor any support structure that is not a building and is constructed after the effective date of this section, shall be tall enough to require lighting by the Federal Aviation Agency (FAA).
- B. Stealth: All new facilities, including but not limited to towers, shall utilize stealth or camouflage siting techniques that are acceptable to the city, unless such can be shown to be either commercially or technologically impracticable.
- C. Finish/Color: Towers and other non-building support structures shall be of an appropriate color to harmonize with the surroundings.
- D. Lighting: Notwithstanding the prohibition against lighting, in the event lighting is subsequently required by the Federal Aviation Agency (FAA), the applicant shall provide a detailed plan for lighting of as unobtrusive and inoffensive an effect as is permissible under State and federal regulations. For any facility for which lighting is required under the FAA’s regulations, or that for any reason has lights attached, all such lighting shall be of the minimum wattage needed, and if required to be lighted by the FAA shall be affixed with equipment that enables the light to be seen as intended from the air, but that minimizes the ground scatter effect so that it is not able to be seen from the ground to a height of at least 20 degrees vertical for a distance of at least one (1) mile in a level terrain situation. Such device shall be compliant with or not expressly in conflict with FAA regulations. A physical shield may be used, as long as the light is able to be seen from the air, as intended by the FAA.
- E. Retrofitting: In the event a tower or other support structure that is lighted as of the effective date of this ordinance is modified, at the time of the first modification of the facility the city reserves the right to require that the tower be retrofitted so as to comply with the lighting requirements of the preceding Subsection D of this section or be reduced to a height that does not require lighting.
- F. Flush Mounting: Except for omni-directional antennas, all new or replacement antennas, shall be flush-mounted, or as close to flush-mounted on the support structure as is

functionally possible, unless it can be demonstrated by clear and convincing technical evidence that such would have the effect of prohibiting the provision of service to a substantial portion of the intended service area alone or in combination with another site(s), or unless the applicant can prove that it is technologically impracticable.

- G. Placement on Building: If attached to a building, all antennas shall be mounted on the fascia of the building, camouflaged to match the color and, if possible, the texture of the building, or in a manner that makes the antennas as visually innocuous and undetectable as is reasonably possible given the facts and circumstances involved. A false façade on the roof that is acceptable to the city may be used to camouflage roof-mounted antennas and equipment.

## 7.15 SECURITY

- A. All facilities shall be located, fenced or otherwise secured in a manner that prevents unauthorized access. Specifically:
  - 1. All facilities, including antennas, towers and other supporting structures, such as guy anchor points and guy wires, shall be made inaccessible to unauthorized individuals and shall be constructed or shielded in such a manner that they cannot be easily climbed or collided with and shall expressly include removing the climbing steps for the first 10 feet from the ground on a monopole; and
  - 2. Transmitters and telecommunications control points shall be installed so that they are readily accessible only to persons authorized to operate or service them.

## 7.16 SIGNAGE

- A. Facilities shall contain a sign no larger than four (4) square feet and no smaller than one (1) foot square in order to provide adequate warning to persons in the immediate area of the presence of RF radiation. A sign of at least two (2) square feet shall also to be installed bearing the name(s) of the owner(s) and operator(s) of the antenna(s) as well as emergency phone number(s).
- B. The contact information sign shall be located on the equipment shelter or cabinet of the applicant, must be visible from the access point of the facility and must identify the equipment owner of the shelter or cabinet and contain a 24 hour/365 day emergency contact phone number. On tower sites, an FCC registration sign, as applicable, is also to be present. The signs shall not be lighted, unless applicable law, rule or regulation requires lighting. No other signage, including advertising, shall be permitted.
- C. For wireless facilities in the public rights-of-way the RF Radiation Warning sign may be
  - 1. The standard warning symbol for RF Radiation;
  - 2. Be of a size no smaller than 6" x 6" and
  - 3. Placed no less than four feet (4) nor more than six feet (6) from ground level.

## 7.17 SETBACK AND FALL ZONE

- A. All proposed towers and any other proposed wireless support structures not located in the public rights-of-way shall be set back from abutting parcels, recorded rights-of-way and roads and streets by the greater of the following distances:



1. A distance equal to the height of the proposed tower or support structure plus 10%, otherwise known as the fall zone; or
  2. The existing setback requirement of the underlying zoning district.
- B. For new support structures in the public right-of-way, the setback shall be determined at the time of the pre-application site visit and determined based on the situation at the location.
- C. For any facility located within a fenced compound, any accessory structure shall be located within the compound as approved in the special use permit and so as to comply with the applicable minimum setback requirements for the property on which it is situated. The fall zone or setback shall be measured from the nearest portion of the tower to the nearest portion of the public right-of-way and any occupied building or domicile and any property boundary lines.
- D. The nearest portion of any private access road leading to a facility shall be no less than 10 feet from the nearest property line.
- E. There shall be no development of habitable buildings within the setback area or fall zone.

#### **7.18 RETENTION OF EXPERT ASSISTANCE COST TO BE BORNE BY APPLICANT**

- A. The city may hire any consultant of its choice to assist the city in reviewing and evaluating applications and negotiating leases, provided the consultant has at least five (5) years of experience working exclusively for the public sector regulating towers and wireless facilities and negotiating leases, and has not had a recommendation successfully legally challenged.
- B. Since retail subscriber rates reflect all capital costs, including costs of permitting such as but not limited to payment of the cost of the city's expert assistance, and to prevent taxpayers from having to bear the cost related to the issue of permitting and regulating a commercially used wireless telecommunications facilities or negotiating agreements to lease or amend or modify a lease for any city-owned property or structure, an applicant shall pay to the city fees as set forth in the city's fee schedule. The fees are intended to cover all reasonable costs of the expert assistance needed by the city in connection with the review of any application, including both the technical and non-technical review, and the permitting, inspection, construction or modification requested, any application pre-approval evaluation requested by the applicant and any lease negotiations. The payment of the expert assistance fees to the city shall precede any work being done that is related to the intended application or lease, including a pre-application meeting or site visit.
- C. The total amount of the funds needed for expert assistance for substantial modifications and new support structures may vary with the scope and complexity of the application, the completeness of the application and other information as may be needed to complete the necessary technical and non-technical reviews, analysis and inspection of any construction or modification or the amount of time spent responding to an applicant's requests, questions, assertions or arguments as regards its application with respect to the requirements of this ordinance or applicable state or federal law, rule or regulation.



- D. For a new tower or other support structure or a substantial modification, to prevent taxpayer subsidization, the expert assistance fee shall be no less than \$7,500. For eligible facilities, the consulting fee shall not exceed \$500 per application.
- E. The city will maintain an accounting record for the expenditure of all such funds.
- F. If an application is amended, or a waiver or relief is requested from any regulations at any time prior to the grant of the Certificate of Completion required under this ordinance, the city reserves the right to require additional payment for the review and analysis equal to, but not exceeding, the cost created for the city by the applicant or its application. Such amount shall be paid to the city prior to the issuance of the special use permit or administrative approval or the Certificate of Completion, whichever is procedurally needed next.

#### 7.19 PROCEDURAL REQUIREMENTS FOR A GRANTING A SPECIAL USE PERMIT

- A. Prior to issuance of a special use permit, all requirements and procedures as provided in Section 2.7.C shall be met in addition to all applicable provisions of this article.
- B. The city shall schedule any required hearing(s) once it finds the application is complete and there are no issues of non-compliance or conflict with applicable law, rule or regulation. The city shall not be required to set a date for a hearing if the application is not complete or if there are unresolved issues of non-compliance by the applicant or a party to the application. The city may, at any stage prior to issuing a special use permit, require such additional information as it deems necessary and that is not expressly prohibited from being required by applicable law as relates to the issues of the siting, construction or modification of or at a wireless telecommunications facility.
- C. Upon Board of Adjustment approval, a special use permit shall be issued for a new tower or substantially modified facility. Notwithstanding the preceding, the building permit for such shall not be issued until an applicant has provided clear and convincing substantiating documentation governing the placement of the first antenna array of a carrier who has committed to use the structure prior to its construction and that carrier has been properly permitted under this ordinance.

#### 7.20 ACTION ON AN APPLICATION

- A. The city will undertake, or have undertaken, a review of an application pursuant to this article in a timely fashion, consistent with its responsibilities and applicable law, and shall act within the time required by applicable law.
- B. The city may refer any application or part thereof to any advisory committee and/or consultant for a non-binding recommendation.
- C. Either after the public hearing if a hearing is required, or after administrative review for a non-substantial modification or an eligible facility application, the city may
  - 1. Approve;
  - 2. Approve with conditions; or
  - 3. Deny for cause a permit or administrative approval application. Any decision shall be in writing. Throughout the application and permitting process, the burden of proof with respect to compliance with this article shall always be upon the applicant.

## 7.21 TRANSFER OR ASSIGNMENT

- A. The extent and parameters of a special use permit or administrative authorization for a facility shall be as follows:
  - 1. Such special use permit or administrative authorization shall not be assigned, transferred or conveyed without the express prior written notification to the city, such notice to be not fewer than 60 business days prior to the intended assignment, transfer or conveyance.
  - 2. A transfer, assignment or other conveyance of the special use permit or administrative authorization shall require the written commitment of the proposed new holder of the special use permit or administrative authorization to abide by all applicable laws, rules and regulations, including but not limited to this ordinance.

## 7.22 VIOLATIONS

Violations of this article shall be subject to Section 2.15.

## 7.23 REMOVAL AND PERFORMANCE SECURITY

- A. Removal and Performance: The applicant and the owner of record of any proposed new tower or other support structure shall, at its sole cost and expense, be required to execute and file with the city a bond or other form of security that is acceptable to the city as to the type of security and the form and manner of execution, in an amount of at least \$75,000.00 for a tower or other support structure and with such sureties as are deemed adequate by the city to assure the faithful performance of the terms and conditions of this ordinance and the conditions of any special use permit issued pursuant to this ordinance. The full amount of the bond or security shall remain in full force and effect throughout the term of the special use permit and/or, if abandoned, until any necessary site restoration is completed to restore the site to a condition comparable to that, which existed prior to the issuance of the original special use permit. The amount of the bond is, in part, determined by the current cost of demolition, removal and site restoration multiplied by the compounding or cumulative effect of a 3% annual cost escalator over a 30-year projected useful life of the structure.
- B. Performance: The owner of any equipment attached to a support structure or located in a complex shall be required to execute and file with the city a performance bond or other form of performance security that is acceptable to the city as to the type of security and the form and manner of execution, in the amount of \$25,000.

## 7.24 RESERVATION OF AUTHORITY TO INSPECT WIRELESS TELECOMMUNICATIONS FACILITIES

- A. In order to verify that the holder of a special use permit for a facility and any and all lessees, renters, and/or licensees of wireless telecommunications facilities, places, constructs and maintains such facility in accordance with all applicable technical, safety, fire, building codes, zoning codes, laws, ordinances and regulations and conditions of any permit granted under this ordinance, the city or its designee shall have the right to inspect all facets of said permit holder's, renter's, lessee's or licensee's placement, construction, modification and maintenance of such facilities, including, but not limited

to, towers, antennas, buildings and equipment and connections contained therein, or other structures constructed or located on the permitted site.

- B. Refusal to allow or grant access to the city's representative upon reasonable notice shall be deemed a violation of this ordinance.

## 7.25 LIABILITY INSURANCE

- A. A holder of a special use permit for a wireless telecommunications support structure shall secure and at all times maintain public liability insurance for personal injuries, death and property damage, and umbrella insurance coverage, for the duration of the special use permit in amounts as set forth below:
  - 1. Commercial General Liability covering personal injuries, death and property damage: \$2,000,000 per occurrence/\$5,000,000 aggregate; and
  - 2. Automobile Coverage: \$1,000,000.00 per occurrence/ \$3,000,000 aggregate; and
  - 3. A \$5,000,000 Umbrella coverage; and
  - 4. Workers Compensation and Disability: Statutory amounts.
- B. For a facility located on city property, the Commercial General Liability insurance policy shall specifically name the City and its officers, Boards, employees, committee members, attorneys, agents and consultants as additional insureds.
- C. The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the state and with an AM Best's rating of at least A.
- D. The insurance policies shall contain an endorsement obligating the insurance company to furnish the city with at least 30 days prior written notice in advance of the cancellation of the insurance.
- E. Renewal or replacement policies or certificates shall be delivered to the city at least 15 days prior to the expiration of the insurance that such policies are intended to renew or replace.
- F. Before construction of a permitted wireless telecommunications facility is initiated, but in no case later than 15 days prior to the grant of the building permit, the holder of the special use permit shall deliver to the city a copy of each of the policies or certificates representing the required insurance in the required amounts.
- G. A Certificate of Insurance that states that it is for informational purposes only and does not confer rights upon the city shall not be deemed to comply with this section.

## 7.26 INDEMNIFICATION

- A. Any application for wireless telecommunication facilities that is proposed to be located on city property or in the city-owned or managed right-of-way shall contain a signed statement fully and completely indemnifying the city and to at all times defend, indemnify, protect, save, hold harmless and exempt the city and its officers, Boards, employees, committee members, attorneys, agents, and consultants from any and all penalties, damages, costs, or charges arising out of any and all claims, suits, demands, causes of action, or award of damages, whether compensatory or punitive, or expenses arising there from, either at law or in equity, which might arise out of, or are caused by, the placement, construction, erection, modification, location, product performance, use, operation, maintenance, repair, installation, replacement, removal, or restoration of said facility. Notwithstanding the preceding, there shall be no claim of indemnification with

respect to any act attributable to the negligent or intentional acts or omissions of the city, or its servants or agents. With respect to the penalties, damages or charges referenced herein, reasonable attorneys' fees, consultants' fees, and expert witness fees are included in those costs that are recoverable by the city.

- B. Notwithstanding the requirements noted in Subsection A of this section, an indemnification provision will not be required in those instances where the city itself, or an agency or department of the city, applies for and secures a special use permit for a wireless telecommunications facility.

## 7.27 MOVING OR REMOVAL OF COLLOCATED FACILITIES AND EQUIPMENT

- A. If attached to an existing tower or other support structure, unless the city deems doing so to be in the public interest, it shall be impermissible for a wireless service provider's or carrier's equipment to be relocated from one structure to another without verifiable clear and convincing evidence that not to do so would, for technical reasons, prohibit or serve to prohibit the provision of service in a substantial portion of the intended service area.
- B. If the lease for the existing attachment and use expires and is not renewed, thereby forcing the facility to be moved, such move shall be allowed upon i) the provision of clear and convincing evidence satisfactory to the city of the need to move or relocate the facility; and ii) clear and convincing evidence satisfactory to the city of the lack of impact on the neighborhood or area of the intended new location. Cancellation or abandonment of a lease by a lessee or refusal to agree to terms of a lease that are not commercially impracticable shall not be deemed a permissible reason for relocating.
- C. The owner of any facility shall be required to provide a minimum of 30 days written notice to the city clerk prior to abandoning any facility.
- D. Under the following circumstances, the city may determine that the health, safety, and welfare interests of the city warrant and require the removal of facilities.
  - 1. A facility that has been abandoned (i.e. not used as wireless telecommunications facilities) for a period exceeding 90 consecutive days or a cumulative total of 180 non-consecutive days in any 365 day period, except for periods caused by force majeure or Acts of God, in which case, repair or removal shall be completed within 90 days of abandonment;
  - 2. A support structure, facility falls into such a state of disrepair that it creates a health or safety hazard or is deemed an attractive nuisance or a visual blight;
  - 3. A support structure or facility has been located, constructed, or modified without first obtaining, or in a manner not authorized by, the required special use permit, or administrative approval, and the special permit or administrative approval may be revoked.
- E. If the city makes a determination as noted in Subsection D.2 or D.3 of this section, then the city shall notify the holder of the permit for the facility that said facility is to be removed.
- F. The holder of the special use permit or administrative approval, or its successors or assigns, shall dismantle and remove the facility and all associated structures and equipment from the site and restore the site to as close to its original condition as is

reasonably possible, such restoration being limited only by physical or commercial impracticability. Restoration shall be completed within 90 days of the receipt of a written notice from the city. However, if the owner of the property upon which the facility is located wishes to retain any access roadway to the facility, the owner may do so with the approval of the city.

- G. If a facility has not been removed, or substantial progress has not been made to remove the facility, within 90 days after the permit holder has received notice, then the city may order officials or representatives of the city to remove or have removed the facility at the sole expense of the owner or special use permit holder.
- H. If the city removes, or causes a facility to be removed, and the owner of the facility does not claim and remove it from the site to a lawful location within 10 days, the city may take steps to declare the facility abandoned and sell all remaining equipment and materials.
- I. Notwithstanding anything in this section to the contrary, the city may approve a temporary use permit/agreement for the facility, but for no more than 90 days duration, during which time a suitable plan for removal, conversion, or re-location of the affected facility shall be developed by the holder of the special use permit, subject to the approval of the city, and an agreement to such plan shall be executed by the holder of the special use permit or administrative approval and the city. If such a plan is not developed, approved and executed within the 90 day time period, then the city may take possession and dispose of the affected facility in the manner provided in this section and may utilize the bond in Section 7.23 of this ordinance.

## 7.28 RF EMISSIONS

- A. As may be deemed appropriate from time to time, to assure the protection of the public health and safety, the city expressly reserves the right under its police powers to require
  - i) that a user of a facility or the owner of the facility, verify compliance with the FCC's regulations regarding cumulative RF emissions at the site under the observation of a qualified staff member or the city's consultant; and
  - ii) that all users of the facility cooperate in a prompt and timely manner with the party responsible for such testing or verification. Failure to cooperate shall be deemed a violation of this section and subject the non-cooperating party to all applicable and permissible fines and penalties.
- B. In the event the city deems it necessary to determine compliance with the FCC's Maximum Permitted Exposure (MPE) rules, and in lieu of the procedure contained in the preceding Subsection A of this section, the city expressly reserves the right to request the involvement of the FCC and/or OSHA (Occupational Safety and Health Administration) to determine or verify compliance with federal standards and guidelines that the city, itself, may be prohibited from determining.
- C. With respect to support structures other than towers, if any section or portion of the structure attached to or to be attached to is not in compliance with the FCC's regulations regarding RF radiation, that section or portion must be barricaded with a suitable barrier to discourage approaching into the area in excess of the FCC's regulations, and be marked off with brightly colored plastic chain or striped warning tape, as appropriate, as well as placing RF Radiation signs as needed and appropriate to warn individuals of the

potential danger. As deemed warranted by the city at any time, the right of the city is expressly reserved to do itself, or order done, an on-site RF emissions survey.

## 7.29 ADHERENCE TO STATE AND/OR FEDERAL RULES AND REGULATIONS

- A. To the extent that applicable rules, regulations, standards, and provisions of any state or federal agency, including but not limited to, the FAA and the FCC, and specifically including any rules and regulations regarding height, lighting, and security are changed and/or are modified during the duration of a special use permit or administrative approval for wireless telecommunications facilities, then the holder of such a special use permit or administrative approval shall conform the permitted facility to the applicable changed and/or modified rule, regulation, standard, or provision within a maximum of 24 months of the effective date of the applicable changed and/or modified rule, regulation, standard, or provision, or sooner as may be required by the issuing entity.

## 7.30 CONFLICT WITH OTHER LAWS

Where this article differs or conflicts with other local Laws, rules and regulations, unless the right to do so is preempted or prohibited by the City, state or federal government, the more stringent shall apply.

## ARTICLE 8: DEFINITIONS AND MEASUREMENT

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## Section 8.1 Rules of Measurement

**Straight Lines.** Unless otherwise stated in this ordinance, distances specified in this ordinance are to be measured as the length of an imaginary straight line joining two points.

**Rounding.** All calculations that result in part of a whole number shall be rounded up to the next highest whole number, unless otherwise provided in this section or elsewhere in this ordinance.

**Irregular Shapes.** In cases where an irregular shape complicates the application of these standards, the UDO Administrator shall determine the applicable dimensional, setback, or bulk standards.

## Section 8.2 Word Interpretation

For the purposes of this ordinance, certain words shall be interpreted as follows. If a term used in this ordinance is not defined, the UDO Administrator is to interpret the term in accordance with professionally accepted sources.

- A. As used in this ordinance, words importing the masculine gender include the feminine and neuter.
- B. Words used in the singular in this ordinance include the plural and words used in the plural include the singular.
- C. Words used in the present tense include future tense.
- D. The word “person” includes a firm, association, organization, corporation, company, trust, and partnership as well as an individual.
- E. The words “may” and “should” are permissive.
- F. The words “shall” and “will” are always mandatory and not merely directive.
- G. The word “used for” shall include the meaning “designed for.”
- H. The words “used” or “occupied” shall mean “intended, designed, and arranged to be used or occupied.”
- I. The word “lot” shall include the words “plot,” “parcel,” and “tract.”
- J. The word “structure” shall include the word “building.”
- K. The word “street” includes the word “alley,” “road,” “cul-de-sac,” “highway” or “thoroughfare,” whether designated as public or private.
- L. The word “includes” shall not limit the term to specified examples, but is intended to extend its meaning to all other instances or circumstances of like kind or character.
- M. The word “City Aldermen” shall include “Board of Aldermen” of the City of Southport, North Carolina.
- N. The words “Planning Board,” “Zoning Commission,” or “Planning Commission” shall mean the “City of Southport Planning Board.”
- O. The word “city” shall mean the “City of Southport,” a municipal corporation of the State of North Carolina.
- P. The words “map,” “zoning map,” and “Southport Zoning Map” shall mean the “Official Zoning Map for the City of Southport, North Carolina.”
- Q. The words “Board of Adjustment” shall mean the “City of Southport Board of Adjustment.”

## Section 8.3 Definitions of Basic Terms

Unless otherwise specifically provided, or unless clearly required by the context, the words and phrases defined in this section shall have the meaning indicated when used in this ordinance. Specific



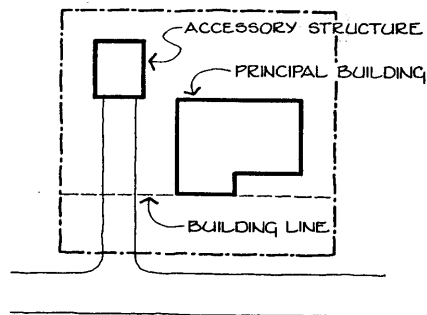
definitions relating to floodplain development and wireless communication are included in Articles 5 and 7 of this ordinance, respectively.

**Abandoned vehicle.** A motor vehicle that:

- A. Has been left upon a street or highway in violation of a law or ordinance prohibiting parking; or
- B. Is left on property owned or operated by the city for longer than 24 hours; or
- C. Is left on private property without the consent of the owner, occupant, or lessee thereof longer than two hours; or
- D. Is left on any public street or highway for longer than seven (7) days.

**Accessory dwelling.** A dwelling unit either added within an existing single family detached dwelling or in a separate accessory structure on the same lot as the principal dwelling, or within a commercial building for use as a complete, independent living facility with provision within the accessory dwelling unit for cooking, eating, sanitation and sleeping.

**Accessory 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.



**Accessory use.** A use incidental to, and the same lot as, a principal use.

**Addition (to an existing building).** Any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a fire wall. Any walled and roofed addition which is connected by a fire wall or is separated by independent perimeter load-bearing walls is new construction. Any extension or increase in the floor area or height of a building or structure.

**Administrative decision.** Decisions made in the implementation, administration, or enforcement of development regulations that involve the determination of facts and the application of objective standards set forth in this UDO. These are sometimes referred to as ministerial decisions or administrative determinations.

**Adult Establishment.** Retail or service establishments as defined per NCGS 14-202.10 and/or those which are characterized by an emphasis on sexual activity and/or specified anatomical areas, including, but not limited to:

- A. Any bookstore, video store or other establishment in which a substantial portion of its stock in trade is devoted to printed matter or visual representation of specified sexual activities or specified anatomical areas;
- B. Any movie theater offering movies or other displays or any establishments offering coin-operated devices, which emphasize specified sexual activities or specified anatomical areas;
- C. Any cabaret, club, tavern, theater or other establishment which offers entertainment emphasizing specified sexual activities or specified anatomical areas; or
- D. Any establishment offering massage or similar manipulation of the human body, unless such manipulation is administered by a medical practitioner, chiropractor, acupuncturist, physical therapist or similar professional licensed by the state.
- E. The term "adult entertainment" does not include massages or similar manipulation offered at an athletic club, health club, school, gymnasium, spa or similar establishments.

**Agriculture.** The use of land for agricultural purposes, including farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture, forestry, and animal and poultry husbandry and the necessary accessory uses for packing, treating, or storing the produce; provided, however, that the operation of any such accessory uses shall be secondary to that of normal agricultural activities and provided further that the above uses shall not include the commercial feeding of garbage or offal to swine or other animals.

**Alley.** A strip of land, owned publicly or privately, set aside only for secondary vehicular service access to the back or side of properties otherwise abutting on a street.

**Alterations.** The word "alteration" shall include any of the following:

- A. Any addition to the height or depth of a building or structure;
- B. Any change in the location of any of the exterior walls of a building or structure;
- C. Any increase in the interior accommodations of a building or structure.

**Antenna.** Equipment designed to transmit or receive electronic signals.

**Apartment.** A room or suite of one (1) or more rooms, each of which has kitchen facilities and is designed or intended to be used, as an independent unit, on a rental basis.

**Appeal.** A request for review of the final decision of any provision of this ordinance.

**Approval Authority.** The Board of Aldermen of the City of Southport, the Board of Adjustment or other board or official designated by ordinance as authorized to grant the specific zoning or land use permit or approval in accordance with the provisions of this ordinance.

**Arborist.** An arborist shall be an individual trained in arboriculture, horticulture, forestry, ornamental horticulture or urban forestry, who possesses the technical competence through demonstrated experience to provide plans for and supervise the protection, maintenance and

management of trees and other woody plants in relation to land development and construction. In addition, the arborist shall hold current certification and membership in good standing with the ISA (International Society of Arboriculture) or ASCA (American Society of Consulting Arborists).

**Articulation.** An emphasis given to architectural elements (including windows, balconies, porches, entries, etc.) to create a complementary rhythm or pattern; modulation of building facades, massing and detail to create variety.

**As-built Plan.** Plans reflecting actual field conditions which may include the construction plans with any changes identified and shown on the plan.

**Assembly.** A joining together of completely fabricated parts to create a finished product.

**Automotive, Major.** Establishments engaged in vehicle sales (including motorcycles, RVs, and other consumer motor vehicles), rental, towing, and major repair such as transmission, engine repair, bodywork, and repainting.

**Automotive, Minor.** Establishments that are primarily engaged in washing cars, tire sales, gasoline sales, minor repair such as diagnostic work, lubricating, wheel alignment and inspections, but no vehicle sales or rental.

**Bed and Breakfast.** A house, or portion thereof, where short-term lodging rooms and meals are provided. The operator of the inn shall live on the premises or in adjacent premises.

**Block.** A piece of land bounded on one (1) or more sides by streets or roads.

**Board of Adjustment.** A quasi-judicial body, composed of representatives from the City of Southport, which is given certain powers under and relative to this ordinance.

**Board of Aldermen.** The Board of Aldermen of the City of Southport.

**Bona Fide Farm.** A property that is located in the city's extraterritorial jurisdiction that is used for bona fide farm purposes in accordance with G.S. 160D-903(a) and is exempt from zoning regulation to the same extent bona fide farming activities are exempt from county zoning pursuant to G.S. 160D-903A.

**Bottle Shop or Wine Bar.** An establishment primarily devoted to the sale of alcoholic beverages for on-site consumption, where the sale of food is incidental or does not take place. Sale of spiritous liquor or mixed beverages not permitted.

**Buffer.** Any visual buffer or screening required by this ordinance.

**Building Envelope.** The portion of a lot remaining after required yards have been made and setbacks met.

**Building.** Any structure built for support, shelter, or enclosure for any occupancy or

storage.

**Building, Accessory.** See accessory structure.

**Building, Detached.** A building having no party or common wall with another building except an accessory building or structure.

**Building Inspector.** The person, officer, and his authorized representatives, whom the City Manager has designated as their agent for the administration and enforcement of the City building codes and minimum housing code.

**Building Line Minimum.** A line parallel to the property line which establishes the minimum allowable distance between the nearest portion of any building.

**Building Permit.** An official administrative authorization issued by the city prior to beginning construction consistent with the provisions of NCGS 160D-1110.

**Building, Principal.** A building in which the principal use of the lot on which the building is situated is conducted.

**Building Site.** Any lot, or portion thereof, or two (2) or more contiguous lots, or portions thereof, of a parcel of land upon which a building or buildings may be erected in conformance with the requirements of this ordinance.

**Bulk Storage System.** A facility containing storage tanks, pipe network, power, and control systems which allow dry bulk materials to be aerated and handled as required. Normally used to store materials which are consumed in relatively large quantities (i.e., barite, bentonite, and cement).

**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 Environmental Quality (NCDEQ) Division of Coastal Management (DCM).

**Certificate of Occupancy.** Official certification that a premises conforms to provisions of this ordinance and the Building Code and may be used or occupied. Such a certificate is granted for new construction or for alterations or additions to existing structures or a change in use. Unless such a certificate is issued, a structure cannot be occupied.

**Certiorari.** An appellate proceeding which brings into Superior Court or other appropriate forum the record of administrative, judicial, or quasi-judicial actions for the purposes of either reexamining the action taken by the inferior body to determine the appropriateness of said action or to obtain further information in the pending case.

**Certify.** Whenever this ordinance requires that some agency certify the existence of some fact or circumstance to the City, the City may require that such certification be made in any manner that provides reasonable assurance of the accuracy of the certification. By way of illustration, and without limiting the foregoing, the City may accept certification by telephone

from some agency when the circumstances warrant it, or the City may require that the certification be in the form of a letter or other document.

**Change of Use.** A lot, structure, or property where the zoning use has been modified or altered in accordance with the uses permitted in this ordinance.

**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.

**Church or Place of Religious Worship.** An institution that people regularly attend to participate in or hold religious services, meetings, and other activities. The term “church” shall not carry a secular connotation and shall include buildings in which the religious services of any denomination are held in addition to other associated activities and offices.

**Circulation Area.** That portion of the vehicle accommodation area used for access to parking or loading areas or other facilities on the lot. Essentially, driveways and other maneuvering areas (other than parking aisles) comprise the circulation area.

**City.** The City of Southport, North Carolina.

**Club or Lodge.** An incorporated or unincorporated association for civic, social, cultural, fraternal, literary, political, recreational or like activities operated on a nonprofit basis for the exclusive benefit of its members, and recognized as a nonprofit organization by the State of North Carolina.

**Coastal Barrier Resources System (CBRS).** Undeveloped portions of coastal and adjoining areas established by the Coastal Barrier Resources Act (CBRA) of 1982, the Coastal Barrier Improvement Act (CBIA) of 1990, and subsequent revisions, and includes areas owned by federal or state governments or private conservation organizations identified as Otherwise Protected Areas (OPA).

**Commercial Parking Lot.** Any building or premises, except a building or premises described as a private garage, used for the storage of motor vehicles for the public or private businesses.

**Commercial Recreation, Indoor.** A commercial use that is typically indoors and that provides recreational, amusement, and entertainment opportunities. Examples include billiards, bowling, dinner theaters, fortune tellers, skating rinks, pickleball, and coin-operated games.

**Commercial Recreation, Outdoor.** A commercial facility that is typically outdoors and that provides entertainment, recreational, and amusement opportunities. Examples include water parks, mazes, and miniature golf.

**Communications Tower.** A tower, pole, or similar structure which supports a telecommunications antenna operated for commercial purposes above ground in a fixed location, free standing, guyed, or on another structure.

**Condominium.** A dwelling unit in which the ownership of the occupancy rights to the dwelling unit is individually owned or for sale to an individual and such ownership is not

inclusive of any land.

**County Commission.** The Board of Commissioners of Brunswick County, North Carolina.

**Critical Root Zone.** The minimum area surrounding a tree that is considered essential to support the viability of the tree and is equal to a radius of one and one-half foot per inch of trunk diameter (Diameter at Breast Height).

**Crown.** The totality of branches, twigs, and leaves extending from the trunk or main stem(s).

**Curb.** A structural element at the edge of an existing or proposed street or other way, generally at a higher elevation than the adjacent edge of roadway, installed to deter vehicles and water from leaving the roadway, to otherwise control drainage, to delineate the edge of existing or future roadways or driveways, to present a more finished appearance to the street, to assist in the orderly development of the roadside, and to contribute to the stability and structural integrity of the pavement.

**Curtain Wall.** A continuous, uniform foundation enclosure constructed of brick or concrete blocks and that is unpierced except for required ventilation and access.

**Daycare, Child.** Any child care arrangement that provides day care on a regular basis for more than four (4) hours per day for more than five (5) children of preschool age.

**Daycare, Adult.** The provision of group care and supervision on a less than 24-hour basis to adults who may be physically or mentally disabled. The following are exempt from this definition: (1) those that care for three (3) people or less; (2) those that care for two (2) or more persons, all of whom are related by blood or marriage to the operator of the facility; and (3) those that are required by other statutes to be licensed by the Department of Health and Human Services.

**Dedication.** A gift by the owner, or a right to use of land for a specified purpose or purposes. Because a transfer of property rights is entailed, dedication must be made by written instrument, and is completed with an acceptance.

**Designated Responsible Party.** The local contact person responsible for responding to complaints or issues stemming from the use of the dwelling unit as a short-term rental.

**Detention Facility.** A structure designed and constructed for the collection and storage of surface water for subsequent gradual discharge.

**Determination.** A written, final, and binding order, requirement, or determination regarding an administrative decision of the UDO Administrator. Such determinations shall be provided to interested parties in accordance with NCGS 160D-403(b).

**Developed Peak Discharge Rates.** The peak discharge rates, in cubic feet per second, calculated using developed land use conditions.

**Developer.** A person, including a governmental agency or redevelopment authority, who

undertakes any development and who is the landowner of the property to be developed or who has been authorized by the landowner to undertake development on that property.

**Development.** Unless the context clearly indicates otherwise, the term means any of the following:

- A. The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure.
- B. The excavation, grading, filling, clearing, or alteration of land.
- C. The subdivision of land as defined in NCGS 160D-802.
- D. The initiation or substantial change in the use of land or the intensity of use of land.

**Development approval.** An administrative or quasi-judicial approval made pursuant to this UDO that is written and that is required prior to commencing development or undertaking a specific activity, project, or development proposal. Development approvals include, but are not limited to, zoning permits, site plan approvals, special use permits, and variances. The term also includes all other regulatory approvals required by regulations adopted pursuant to this UDO, including plat approvals, permits issued, and building permits issued. Unless provided otherwise by law, all rights, privileges, benefits, burdens, and obligations created by development approvals made pursuant to this UDO attach to and run with the land.

**Diameter at Breast Height (DBH).** The diameter or width of the main stem of a tree as measured 4.5 feet above the natural grade at its base. Whenever a branch, limb, defect or abnormal swelling of the trunk occurs at this height, the DBH shall be measured at the nearest point above or below 4.5 feet at which a normal diameter occurs. Trees consisting of two (2) or more stems in which the fork is below DBH are considered as separate trees and the diameter is measured for each stem separately. If a fork occurs exactly at DBH, the diameter measurement is taken immediately below the enlargement caused by the fork.

**Dimensional Nonconformity.** A nonconforming situation that occurs when the height, size, or minimum floor space of a structure or the relationship between an existing building or buildings and other buildings or lot lines does not conform to the regulations applicable to the district in which the property is located.

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

**Dock.** A structure, typically comprised of wood, that extends alongshore or outwards from the shore into a body of water that allows access to the water or to moored boats or watercraft. A dock may include the placing of piling, dolphins of any type, fender, ramp, floating dock, boat lift, gazebo, or other structure occupying the area beyond the high-water line. Docks may be utilized as a principal or accessory structure where permitted.

**Drainage facilities.** See storm drainage facilities.

**Drip Line.** A vertical line running through the outermost portion of the crown of a tree and extending to the ground.

**Drive-in Facility.** An establishment at which employees provide curb service to customers and at which the customer does not customarily leave his vehicle; or accommodations through special equipment or construction from which a person may receive a service or place an order. Self-service gas pumps are excluded from this definition.

**Driveway.** That portion of the vehicle accommodation area that consists of a travel lane bounded on either side by an area that is not part of the vehicle accommodation area.

**Dwelling.** Any building, structure, or part thereof, used and occupied for human habitation or intended to be so used. This term does not include a manufactured home, mobile home, recreational vehicle, or travel trailer.

**Dwelling, Multi-family.** A single structure comprised of three (3) or more dwelling units, with the number of families in residence not exceeding the number of dwelling units provided.

**Dwelling, Single-family.** A detached building designed for or occupied exclusively by one (1) family.

**Dwelling, Two-family (duplex).**

A detached residential building containing two (2) dwelling units, designed for occupancy by not more than two families. Units must share a common wall. A duplex dwelling structure shall be located on a single lot and dwelling units may be sold separately from the land they are located on provided that each unit possess a separate entrance.

**Dwelling Unit.** A room or group of rooms within a dwelling forming a single, independent, habitable unit; containing an independent kitchen, sanitary, and sleeping facilities; and provided such dwelling unit complies with local minimum housing standards.

**Easement.** A grant by the property owner of a strip of land for a specified purpose and use by the public, a corporation, or persons.

**Electronic Gaming Operations.** Any business or enterprise where persons utilize electronic machines, including but not limited to computers and gaming terminals, to conduct games of chance, including but not limited to sweepstakes, and where cash, merchandise or other items of value are redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played or by predetermined odds. Such businesses or enterprises have as a part of its operation the running of one or more games or processes with any of the following characteristics: (1) payment, directly or as an intended addition to the purchase of a product, whereby the customer receives one or more electronic sweepstakes tickets, cards, tokens or similar items entitling or empowering the customer to enter a sweepstakes, and without which item the customer would be unable to enter the sweepstakes; or, (2) payment, directly or an intended addition to the purchase of a product, whereby the customer can request a no purchase necessary free entry of one or more



sweepstakes tickets or other item entitling the customer to enter a sweepstakes. The term electronic gaming operations includes, but is not limited to, cyber-gaming establishments, internet cafes, internet sweepstakes, beach sweepstakes, video sweepstakes or cyber-cafes, who have a finite pool of winners. This does not include any lottery endorsed or permitted by the State of North Carolina.

**Erect.** Build, construct, rebuild, or reconstruct, as the same are commonly defined.

**Essential Site Improvements.** Any construction or reconstruction of site development feature required by local, state, or federal regulations, ordinances, or laws, such as underground drainage, off-street parking, driveways, retention areas or similar improvements required for the intended use of the site.

**Existing Land Use Conditions.** The land use conditions existing at the time the design plans are submitted for approval, including previously approved upstream developments.

**Expansion to an Existing Manufactured Home Park.** The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete slabs).

**Extraterritorial Jurisdiction.** The area beyond the corporate limits within which the planning and zoning regulations of the city apply in accordance with state law. Such area is delineated on the official zoning map for the City of Southport.

**Fabrication.** The process and/or assemblage of various components into a complete or partially completed commodity. Fabrication relates to stamping, cutting or otherwise shaping the processed materials into useful objects. The refining aspects of manufacturing and other initial processing of basic raw material such as metal ores, lumber and rubber, etc., are excluded.

**Familial Relationship.** For purposes of conflicts of interest, a "close familial relationship" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.

**Family.** One (1) or more persons occupying a dwelling unit and living as a single, nonprofit housekeeping unit; provided that a group of five (5) or more persons who are not within the second degree of kinship shall not be deemed to constitute a family.

**Family Care Home.** An adult care home having two (2) to six (6) residents. The structure of a family care home may be no more than two (2) stories high and none of the aged or physically disabled persons being served there may be housed in the upper story without provision for two (2) direct exterior ground level accesses to the upper story.

**Farmers Market.** An establishment primarily engaged in the retail sale of fresh fruits and vegetables. Such uses are typically found in public or municipal markets.

**FAR (Floor Area Ratio).** The maximum square foot amount of total floor area including all

stories and all uses permitted for each square foot of land area.

**Fence.** A continuous barrier constructed of wood, stone, steel, or wire or other similar material.

**Fishing Pier and Docks.** The placing of piling, dolphins of any type, fender, ramp, floating dock, boat lift or other structure occupying the area beyond the high-water line.

**Flag.** Sign of flexible materials such as cloth, paper, or plastic and typically displayed on a flagpole, or structure. Windsocks are interpreted to represent permitted flagging.

**Patriotic and/or decorative flags.** Flags and insignia of governmental subdivisions, agencies, or bodies when displayed for patriotic purposes and/or flags with designs that are not promoting commercial businesses.

**Commercial flags.** Flags intended for commercial promotion and/or advertisement.

**Fill.** Any material used to raise the elevation of the surface of the land, excluding a grade base and paving.

**Flea Market.** A commercial operation held on a regular periodic basis and patronized by individual entrepreneurs who transport a variety of merchandise to a common geographical area for the purpose of sale or trade to the general public. This definition does not include sporadic and infrequent yard sales held in residential areas. Flea markets differ from traditional retail operations due to the open-air retailing of goods.

**Floor.** The top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.

**Floor Area (for determining off-street parking).** The term "floor area" means the sum of the gross horizontal areas of the several floors of the building, or portion thereof, devoted to such use, including outdoor seating or retail areas. Where multiple uses occupy a structure each applicable parking ratio shall apply. However, the term "floor area," for the purposes of measurement for off-street parking spaces, shall not include:

1. Floor area devoted to primarily storage purposes (except for those uses principally involved in the storage of goods); or
2. Basement floors other than area devoted to retailing activities, to the production or processing of goods, or to business or professional offices.

**Floor area, gross.** The sum of the enclosed area on all floors of a building measured from the outside faces of the exterior walls. It includes any below grade floor areas used for habitation or storage.

**Food Truck.** A motorized or trailered vehicle with power on board, refrigeration, food preparation facilities, and usually room for two (2) or four (4) employees. Food trucks shall also be considered a mobile vendor for the purposes of this ordinance.

**Forestry.** A woodland area where all of the following occur:

- A. the growing of trees;
- B. the harvesting of timber, leaves, or seeds;
- C. the regeneration of either timely replanting of trees or natural generation in accordance with a forest management plan acceptable to the Division of North Carolina Forest Resources;
- D. the application of "Best Management Practices," including the NC Department of Environment and Natural Resources, "Forest Practice Guidelines Related to Water Quality," and all successor documents.

**Frontage.** All property abutting on one side of a street measured along the street line.

**Fuel Pump Island.** Any device or group of devices used for dispensing motor fuel or similar petroleum products to the general public.

**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 or seafood processing facilities. The term does not include long-term storage, manufacture, sales, or service facilities.

**Funeral Home.** An establishment that provides human funeral services, including embalming and memorial services. Crematories are permitted accessory uses to a funeral home.

**Furrier and Fur Storage.** A person who prepares or deals in furs. Tannery operations not included.

**G.S.** North Carolina General Statute.

**Garage, Private.** A building or space used as an accessory to or a part of the main building permitted in any residential district, that provides storage space for motor vehicles and in which no business, occupation or service for profit is in any way conducted.

**Gate.** A door or other device attached to a fence which, when opened, provides a means of ingress and egress of persons and things for which it was intended, and which, when closed, forms a continuous barrier and screen as a part of the fence in which it is attached.

**Grading.** Altering the shape of the ground surface to a predetermined condition; this includes stripping, cutting, filling, stockpiling and shaping or any combination thereof and shall include the land in its cut or filled condition.

**Gross Site Area.** The total square footage of the proposed development as determined by actual on-site survey.

**Guest room.** An individually secured sleeping room or a suite, with or without sanitation

facilities, but does not contain a kitchen.

**Guideline.** An objective.

**Habitable Floor.** Any floor for living purposes, which includes working, sleeping, eating, cooking, or recreation, or any combination thereof. A floor used only for storage is not a habitable floor.

**Half Street.** A street whose centerline coincides with a subdivision plat boundary, with one-half (½) the street right-of-way width being contained within the subdivision plat. Also, any existing street to which the parcel of land to be subdivided abuts on only one side.

**Handicapped Person.** A person with a temporary or permanent physical, emotional or mental disability including but not limited to mental retardation, cerebral palsy, epilepsy, autism, hearing and sight impairments, emotional disturbances, or orthopedic impairments, but not including mentally ill persons who are dangerous to others as defined in G.S. Section 122-58.2(1)b.

**Hazard Tree.** A tree can be considered a potential hazard if it is situated in an area frequented by people or is located adjacent to valuable facilities and has structural defects which predispose it to mechanical failure in whole, or in part, that may result in property damage, personal injury or death, and the likelihood of this failure exceeds an acceptable level of risk as determined by the UDO Administrator or certified arborist.

**Hazard Waste Facility.** As defined in NCGS 130, Article 9, a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.

**Health Services.** This use type provides medical or surgical care and treatment to patients as well as laboratory services. Accessory uses may include offices, laboratories, laundry facilities, teaching facilities, and meeting areas. Hospitals are not included.

**Height.** The vertical distance from the average finished grade (prior to the addition of any fill) of the lot to the highest point of the structure. The average grade will be based on the condition of the lot prior to the date of adoption of this ordinance.

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

**Historic Structure.** Means any structure that is:

- A. 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;
- B. 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;
- C. individually listed on a local inventory of historic landmarks in communities with a

- “Certified Local Government (CLG) Program;” or
- D. certified as contributing to the historical significance of a historic district designated by a community with a “Certified Local Government (CLG) Program”
- E. Certified Local Government (CLG) Programs are approved by the US Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.

**Home Occupation.** A business, profession, occupation, or trade conducted for gain or support and located entirely within a residential building or a structure accessory thereto, which use is accessory, incidental and secondary to the use of the building for dwelling purposes and does not change the essential residential character or appearance of such building.

**Homestay.** A private, resident-occupied dwelling unit, with up to two guest rooms where overnight lodging accommodations are provided to transients for compensation and where the use is subordinate and incidental to the primary residential use of the building. A homestay is considered an accessory "Lodging" use under this UDO. The permanent resident is present during the rental stay.

**Homestay and short-term vacation rental property owner.** The person, persons, or entity whose name appears on the recorded deed of the property or unit being used as a homestay or short-term vacation rental.

**Homestay permit.** The required zoning permit to allow the rental of up to two (2) guest rooms within a home as a homestay rental. The City of Southport issues the homestay permit to the applicant after successfully completing the homestay permit application requirements. Generally, the permit is valid from January 1 thru December 31 in the year of issue and must be renewed annually.

**Hotel, Motel or Inn.** A building providing sleeping accommodations commonly available on a daily basis for pay to transient or permanent guests or tenants, in six (6) or more rooms. Dining rooms, restaurants or cafes, if existing, shall be conducted in the same building or buildings in connection therewith.

**Hotel, Residential or Boutique.** A building or group of buildings, limited to a maximum of 10 rooms total, providing lodging for persons, with or without meals, and intended and use for the accommodation of transient lodgers in suites designed in such a fashion that reflects the intended use for transient lodgers and not for permanent residential accommodation. Suites may have one or more rooms in addition to bathrooms, water closet compartments, laundry, pantry, foyer, communicating corridor, closets, or any dining alcove. Kitchen area separate from the living or sleeping areas may be provided and cooking may be done only in the kitchen area. The definition of residential or boutique hotels shall not include dwelling units as defined in this ordinance, but may include services ordinarily provided by hotels, such as maid, desk, and laundry services. These hotels may differentiate themselves from larger chain/branded hotels and motels by providing personalized accommodation and services/facilities. Sometimes known as “design hotels” or “lifestyle hotels”.

**Hospital Emergency Air Ambulance Helipad.** The word helipad is short for helicopter

landing pad, a landing area for helicopters. While helicopters are able to operate on a variety of relatively flat surfaces, a fabricated helipad provides a clearly marked hard surface away from obstacles where a helicopter can land. Helipads are usually constructed out of concrete and are marked with a circle and/or a letter "H", so as to be visible from the air. A helipad does not have fuel and service facilities and does not maintain an air traffic controller. A helipad is for the sole purpose of facilitating emergency medical transport via air ambulance.

**Impervious Surface.** Any material that significantly reduces and prevents natural infiltration of water into the soil. Impervious surfaces include, but are not limited to, roof, patios, balconies, decks, streets, parking areas, driveways, sidewalks, and any concrete, stone, brick, asphalt, or compacted gravel surface. Soils compacted by urban development are also highly impervious. Unwashed crushed stone containing fines is impervious. Impervious surface does not include a slatted deck; the water area of a swimming pool; a surface of number 57 stone, as designated by the American Society for Testing and Materials, laid at least four (4) inches thick over a geotextile fabric; or a trail as defined in NCGS 113A-85 that is either unpaved or paved as long as the pavement is porous with a hydraulic conductivity greater than 0.001 centimeters per second (1.41 inches per hour).

**Impervious Surface Ratio.** The ratio of the total area of impervious surface as defined in definition.

**Infiltration.** The passage or movement of water into the soil sub-surface.

**Improved Landscape.** Gardens, parks, parking lots, or any other proposed outside improvements including any planned vegetation, public street furniture, masonry walls, fences, light fixtures, steps and pavements, or other appurtenant features.

**Improvements.** The addition of any building, accessory building, parking area, loading area, fence, wall, hedge, lawn or mass planting (except to prevent soil erosion) to a lot or parcel of property.

**Inspector.** The building inspector for the City of Southport.

**Institutional Care Facility, Adult.** A home for not more than nine (9) persons who have demonstrated a tendency toward alcoholism, drug abuse, mental illness, or antisocial or criminal conduct, together with not more than two (2) persons providing supervision and other services to such persons, 11 of whom live together as a single housing unit.

**Institutional Care Facility, Child and Handicapped.** An institutional facility housing more than nine (9) orphaned, abandoned, dependent, abused, or neglected children. An institutional facility housing and providing care or assistance for more than nine (9) persons who are physically or mentally handicapped or infirm.

**Intensive Livestock Operations.** Any enclosure, pen, feedlot, building, or group of buildings intended to be used or actually used to feed, confine, maintain or stable cattle, horses, sheep, goats, turkeys, chickens, swine, or any combination thereof, with at any time a total of 100 animal units or more present, where their dietary needs are met primarily by means other

than grazing.

**Introduced Tree.** Any non-existing tree that is planted during the development of a property.

**Jail.** A municipal or county operated facility designed for the holding of individuals for trial, contempt, or punishment when the period is not to exceed 180 days.

**Junk.** Pre-used or unusable metallic parts and other nonmetallic manufactured products that are worn, deteriorated or obsolete, making them unusable in their existing condition, but are subject to being dismantled and salvaged.

**Junk Yard.** Any land or area used, in whole or in part, for commercial storage and/or sale of waste paper, rags, scrap metal, or other junk, and including storage of scrapped vehicles or machinery and dismantling of such vehicles or machinery.

**Junked Vehicle.** A motor vehicle that (1) is partially dismantled or wrecked; (2) cannot be self-propelled or moved in the manner in which it was originally intended to move; (3) is more than five (5) years-old and appears to be worth less than \$500.00; or (4) does not display a current license plate, unless stored within an enclosed structure.

**Kennel.** A commercial operation that: (a) provides food and shelter and care of animals for purposes not primarily related to medical care (a kennel may or may not be run by or associated with a veterinarian), or (b) engages in the breeding of animals for sale.

**Levee.** A manmade structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

**Levee System.** A flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound and engineering practices.

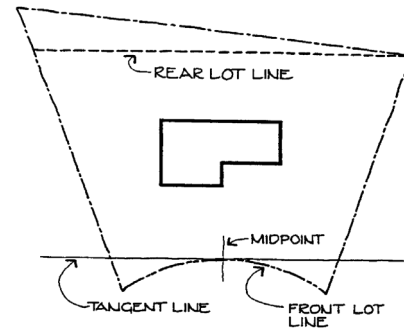
**Loading and Unloading Area.** That portion of the vehicle accommodation area used for bulk pickups and deliveries, scaled to delivery vehicles and accessible to such vehicles at all times even when required off-street parking spaces are filled. Off-street loading space is not to be included as off-street parking space in computation of required off-street parking space.

**Lodging.** A premises available for short-term human habitation, including daily and weekly rentals for intervals of less than 30 days.

**Lot.** A legally described piece of contiguous land that has been or may be developed as a unit. The term lot include the words plot, parcel, and tract.

**Lot, Area.** The parcel of land enclosed within the boundaries formed by the property lines.

**Lot, Corner.** A parcel of land having frontage on more than one (1) street (road) which abuts an intersection of those streets (roads). For a corner lot adjoining a side lot line, there shall be a side yard on the street side of a corner lot, which shall have a width of not less than fifty percent (50%) of the front yard depth required for the adjacent lot to the rear of such corner lot when such adjacent lot fronts on the side street of the corner lot. No such side yard shall be less than eight (8) feet, except on lots having a width of less than 50 feet, for which lots the minimum side yard on the street side of the lot shall be four (4) feet.



**Lot, Coverage.** That portion of a lot occupied by a structure or impervious surface, either at ground level or the equivalent thereto when a structure is elevated on pilings.

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

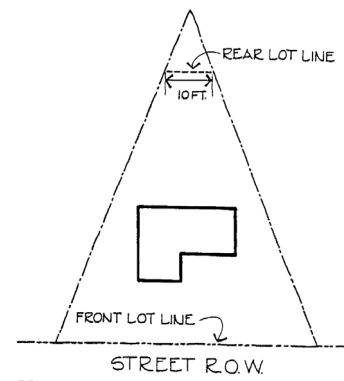
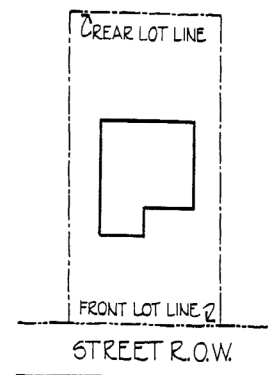
**Lot, Flag.** Lots or parcels with less frontage on a public street than is normally required. The panhandle is an access corridor to lots or parcels located behind lots or parcels with normally required street frontage.

**Lot, interior.** A lot other than a corner lot with only one (1) frontage on a street.

**Lot line.** Any boundary of a parcel of land.

**Lot Line, Front.**

- A. If a lot has one property line which is coterminous with a street right-of-way line, such line shall constitute the front lot line;
- B. If a lot has two (2) property lines which are also street right-of-way lines abutting different streets and those two (2) property (street right-of-way) lines form an angle between 80 degrees and 100 degrees, then the shorter of those two (2) lines shall constitute the front property line; if both lines are equal, the front property line shall be determined by the property owner if a front property line has not been designated on the final plat (minimum building lines are construed to designate the front lot line);
- C. If a lot is not encompassed by Provision A or B and no front property line is designated on the final plat, the front property line shall be designated by UDO Administrator.

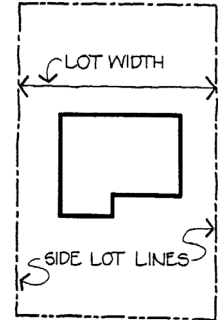




**Lot line, Rear.** The property line(s) which is (are) opposite the front property line. If no property line is deemed to be opposite the front property line and no minimum building line exists on the final plat to establish a rear lot line, then there shall be no rear lot line; however, the rear yard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

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

**Lot, Nonconforming.** A lot or parcel of land that has less than the required minimum lot size or width as established by the zone in which it is located and provided that such lot or parcel was of record as a legally created lot on the effective date of this ordinance.



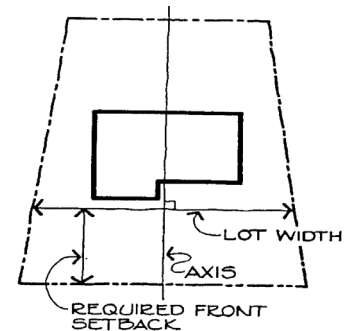
**Lot of Record.** A lot which has been recorded in the office of the Registrar of Deeds of Brunswick County, or a lot described by metes and bounds, the description of which has been recorded in the aforementioned office.

**Lot, Single-tier.** A lot which backs upon a limited access highway, a railroad, a physical barrier, or another type of land use and to which access from the rear is usually prohibited.

**Lot, Through or Double Frontage.** A lot other than a corner lot with frontage on one (1) or more streets. Through lots abutting two (2) streets may be referred to as double frontage lots.

**Lot Width.** The straight-line distance between the points where the building front yard setback line intersects the two side lot lines.

**Low Impact Development (LID).** LID is an ecologically friendly approach to site development and storm water management that aims to mitigate development impacts to land, water, and air. The approach emphasizes the integration of site design and planning techniques that conserve natural systems and hydrologic functions on a site. Specifically, LID aims to:



- A. Preserve Open Space and Minimize Land Disturbance;
- B. Protect Natural Systems and Processes (drainage ways, vegetation, soils, sensitive areas);
- C. Reexamine the Use and Sizing of Traditional Site Infrastructure (lots, streets, curbs, gutters, sidewalks) and Customize Site Design to Each Site;
- D. Incorporate Natural Site Considerations/Concerns (wetlands, stream corridors, mature forests) as Design Elements; and
- E. Decentralize and Micromanage Storm Water at its Source.

**Manufactured Home.** A structure, transportable in one (1) or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities and meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development. The term manufactured home does not include a recreational vehicle or travel trailer and satisfies each of the following criteria:

- A. The home has a length not exceeding four (4) times its width;
- B. The pitch of the home's roof has a minimum vertical rise of one (1) foot for each five (5) feet of horizontal run, and the roof is finished with a type of shingle that is commonly used in standard residential construction;
- C. The exterior siding consists of wood, hardboard, or aluminum (vinyl covered or painted, but in no case exceeding the reflectivity of gloss white paint) comparable in composition, appearance, and durability to the exterior siding commonly used in standard residential construction;
- D. A continuous, permanent masonry foundation, unpierced except for required ventilation and access, is installed under the home; and
- E. The tongue, axles, transporting lights, and removable towing apparatus are removed after placement on the lot and before occupancy.

**Manufactured Home Lot.** A manufactured home lot is a piece of land within a manufactured home park whose boundaries are delineated in accordance with the requirements of the ordinance.

**Manufactured Housing Park.** A parcel (or contiguous parcels) of land consisting of two (2) or more manufactured home lots for rent or sale.

**Manufacturing, Artisan.** On-site production of goods by hand manufacturing involving the use of hand tools and small-scale light mechanical equipment. Typical uses include woodworking and cabinet shops, ceramic studios, jewelry manufacturing and similar types of arts and crafts or very small-scale manufacturing uses that have very limited, if any, negative external impacts on surrounding properties, water resources, air quality and/or public health.

**Manufacturing, General.** Manufacturing, bulk storage, and/or handling of finished or unfinished products primarily from extracted, raw, recycled, or secondary materials. Typical uses include boiler shops, textile mills; textile product mills; apparel manufacturing; leather and allied product manufacturing; wood product manufacturing; nonmetallic mineral product manufacturing; transportation equipment manufacturing; and food packing, canning, and manufacturing. Industrial service firms engaged in the repair or servicing of industrial or commercial machinery, equipment, products, or by-products.

**Manufacturing, Intensive.** Manufacturing and processing of products and chemicals including but not limited to: gypsum or plaster-of-Paris, stone, clay, glass, cement, concrete, fertilizer, insecticides, disinfectants, petroleum products, coal, and synthetic resins. This group also includes primary metal manufacturing, fabricated metal product manufacturing, smelting, paper manufacturing, oil refining, fuel bulk storage facilities, and electricity generating facilities, as well as any manufacturing or processing facility which has a high

potential for significant negative external impacts on surrounding properties, water resources, air quality and/or public health.

**Manufacturing, Limited.** Manufacturing of finished parts or products, primarily from previously prepared materials. Typical uses include: printing and related support activities; machinery manufacturing; computer and electronic product manufacturing; electrical equipment, appliance, component manufacturing/assembly; furniture and related product manufacturing/assembly; and other manufacturing and production establishments.

**Marina, commercial.** Any waterfront structure or development commercially providing permanent or temporary harboring or storing for two (2) or more boats (pleasure and/or commercial) and providing marina sales including but not limited to retail sales for fuel, repairs, convenient foodstuffs, boats, engines, and accessories. Commercial marina includes dry stack boat storage facilities with vertical storage of boats in a rack system, to be accessed by a high-capacity forklift and stashed on a rack, ready for quick retrieval.

**Maritime Sales, Rental, and Service.** Uses involved in the sales, rental, service, repair, cleaning, and temporary storage of boats, watercraft (including non-motorized watercraft), and trailering devices.

**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.

**Mean sea level.** For purposes of this ordinance, the National Geodetic Vertical Datum (NGVD) as corrected in 1929, the North American Vertical Datum (NAVD) as corrected in 1988, or other vertical control datum used as a reference for establishing various 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.

**Microbrewery.** A microbrewery as permitted by NCGS 18B-1104 is an enterprise which engages in one or more of the following: (1) Manufacture, purchase, import, possess and transport ingredients and equipment used in the manufacturing of malt beverages; (2) Sell, deliver and ship malt beverages in closed containers at wholesale to exporters and local boards within the State, and, subject to the laws of other jurisdictions, at wholesale or retail to private or public agencies or establishments of other states or nations; (3) Give its products to its employees and guests for consumption on its premises.

**Microdistillery.** A distillery as permitted by NCGS 18B-1105 is an enterprise which engages in one or more of the following: (1) Manufacture, purchase, import, possess and transport ingredients and equipment used in the distillation of spirituous liquor; (2) Sell, deliver and ship spirituous liquor in closed containers at wholesale to exporters and local boards within the State, and, subject to the laws of other jurisdictions, at wholesale or retail to private or public agencies or establishments of other states or nations; (3) Transport into or out of the distillery the maximum amount of liquor allowed under federal law, if the transportation is related to the distilling process.

**Mixed-use.** One or more dwellings located on an upper floor over a non-residential use(s) located on a lower floor or ground level.

**Mobile Vendor.** A readily movable trailer or motorized wheeled vehicle, currently registered with the NC Division of Motor Vehicles, designed and equipped to serve food and/or sell merchandise.

**Modular Home.** A factory-built structure that is designed to be used as a dwelling, is manufactured in accordance with the specifications for modular homes under the North Carolina State Residential Building Code, bears a seal or label issued by the Department of Insurance pursuant to NCGS 143- 139.1, and is placed on a permanent foundation and used for residential purposes.

**Modular Unit.** A factory-built structure that is designed and built in one (1) or more components or sections that are transported to a site. Plans and specifications shall bear an engineer's seal and a third-party inspection certification and/or meet any successor regulations as may be established under the State Building Code.

**More Intensive Use.** A use that will have a greater impact on the surrounding area than the previous use, including activities which generate more traffic, require more employees or service deliveries, or utilize more square footage than the previous use existing on the site.

**Motor Vehicle.** All machines designed or intended to travel over land or water by self-propulsion or while attached to any self-propelled vehicle.

**Multi-phased development.** A development containing 25 acres or more that is submitted for development permit approval to occur in more than one phase and subject to a master development plan with committed elements showing the type and intensity of use of each phase.

**NAICS Code.** The North American Industry Classification System (NAICS) is the standard used by Federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy. For the purposes of the UDO, the NAICS code may assist the UDO Administrator in interpretation of particular uses in accordance with other professionally accepted sources.

**National Geodetic Vertical Datum (NGVD).** As corrected in 1929, a vertical control used as a reference for establishing varying elevations within the floodplain.

**Natural feature.** Any outside landscape feature on the site such as trees, shrubs, or rock formations.

**NCGS.** North Carolina General Statute.

**Net Buildable Area.** The total area within the project property boundary less:

- A. sediment basins and water retention ponds wetlands (404/jurisdictional), defined by CAMA and/or US Corps of Engineers;

- B. water and wastewater treatment facilities;
- C. local or state designated historic sites; and
- D. water areas including seasonal ponds.

**New Construction.** Structures and development activity that occurs on a previously vacant lot. For the purposes of this ordinance, new construction does not include redevelopment except where otherwise defined within Article 5.

**Nightclub.** An establishment in which alcoholic beverages are served for on-site consumption and which may offer recorded or live music performance.

**Nonconforming Structure or Use.** Any legally existing structure or use which fails to comply with the provisions of the ordinance.

**Nonresidential Use or District.** When referring to a use, it shall be those uses in the “nonresidential” section of the Table of uses. When referring to a zoning district or “district,” it shall be the following zoning districts: O-I, CBD, BD, HC, LI, and HI. However, it should be noted that within a PUD nonresidential uses may be included.

**Nursing and Personal Care Facility.** A facility, however named, which is advertised, announced, or maintained for the express or implied purpose of providing nursing or convalescent care for three (3) or more persons unrelated to the licensee. A nursing home is a home for chronic or convalescent patients, who, on admission, are not as a rule, acutely ill and who do not usually require special facilities such as an operating room, X-ray facilities, laboratory facilities, and obstetrical facilities. A nursing home provides care for persons who have remedial ailments or other ailments, for which medical and nursing care are indicated; who, however, are not sick enough to require general hospital care. Nursing care is their primary need, but they will require continuing medical supervision. The term nursing and personal care facility includes an assisted living residence and multiunit assisted housing with services as defined in NCGS 131D-2.1.

**Office, General.** Use types that provide for activities that are conducted in an office setting and generally focus on business, professional, or financial services. Examples include offices for conducting the affairs of a general business establishment, financial services or sales of real estate or other personal property, banking, stock brokerage, investment services, real estate sales, offices for lawyers, accountants, engineers, and similar professions. Accessory uses may include cafeterias, day care facilities, recreational or fitness facilities, parking, or other amenities primarily for the use of employees in the office.

**Official Maps or Plans.** Any maps or plans officially adopted by the City of Southport Board of Aldermen.

**Outdoor Display.** The placement of products or materials and associated appurtenances for sale or rent outside the entrance of a retail establishment.

**Outdoor Vending Machine.** A machine or other mechanical device or container that dispenses a product or service through a self-service method of payment, but not including a news rack; a

machine dispensing fuel, compressed air, or water at an automobile service station; or a public telephone. Self-service ice vending machines shall not be included within this definition.

**Overhead Canopy.** Any structure placed over, around, or near a fuel pump island, drive-up bank teller facility, or similar use, and intended to provide lighting and/or protection from the elements for facility users.

**Parking Area, Aisles.** A portion of the vehicle accommodation area consisting of lanes providing access to parking spaces.

**Parking Lot.** An open area, outside of the public right-of-way, for the storage of a vehicle or vehicles. The term “parking area” shall be included in this definition. Each parking lot shall have an approved means of ingress and egress.

**Parking Space, Off-street.** For the purpose of this ordinance, an off-street parking space shall consist of a space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room. No required off- street parking shall be located on any public right-of-way.

**Parks and Recreation Area, Municipal.** Government established community parks and recreation areas.

**Permanent resident.** A person who resides year-round in the dwelling unit and has declared the dwelling as their permanent residence. Only one dwelling unit at a time may be identified as a permanent residence.

**Permeable Paving.** Any paving which, due to its inherent nature or construction, allows fluids and gases to penetrate through it in at least some areas.

**Personal Property.** Property owned, utilized, and maintained by an individual or members of his or her residence, and acquired in the normal course of living in or maintaining a residence. It does not include merchandise which was purchased for resale or obtained on consignment.

**Personal Service Establishment.** Use types related to the provision of services or product repair for consumers. Personal services use types meet frequent or recurrent service needs of a personal nature, including the repair of small personal items such as shoes, watches, jewelry, and clothing. Examples include banks, credit unions, print shops, massage therapy and day spas, gymnasiums, fitness centers, photography studios, photocopy services, barber/beauty shops, and tanning and nail salons.

**Planned Unit Development (PUD).** A development constructed, planned, and developed as an integral unit.

**Planning Board.** A commission appointed by the City Board of Aldermen and by the Brunswick County Board of Commissioners.

**Planting Strip or Area.** A ground surface free of concrete, asphalt, stone, gravel, brick, or other paving material, aside from walkways, which is required or used for landscaping purposes.

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

**Portable Storage Containers.** A container designed to store personal property which are typically rented and intended to be delivered and removed by truck. Portable storage containers shall not be used as a 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.

**Pre-construction Activity.** Any action taken to disturb land or vegetation for a site prior to the completion of application review, or other site preparation, including but not limited to the storage of construction materials, stockpiles, containers, vehicles or similar items prior to the start of construction permitted thereunder.

**Predevelopment.** The conditions that existed prior to the proposed project, site plan, or subdivision being in place.

**Preserved Tree(s).** Any tree or groups of trees existing prior to development of a property that is protected so that it remains after the development has been completed.

**Private Driveway.** A roadway serving two (2) or fewer lots, building sites, or other division of land, and not intended to be public ingress or egress.

**Processing.** Any operation changing the nature of material or material's chemical composition or physical properties; does not include operations described as fabrication.

**Pruning.** The elimination of part of the branching structure of a tree's crown to improve tree structure, enhance vigor and/or maintain safety.

**Pruning Standards.** Generally accepted standards for pruning as defined in the current edition of Pruning Standards by the American Society of Consulting Arborists.

**Public Tree.** Any tree on public lands, which are City-owned property and/or located within City right of way (ROW).

**Quasi-judicial Decision.** A decision involving the finding of facts regarding a specific application of a development regulation and that requires the exercise of discretion when applying the standards of the regulation. The term includes, but is not limited to, decisions involving variances, special use permits, and appeals of administrative determinations.

**Quasi-judicial Hearing.** A hearing to gather competent, material, and substantial evidence in order to make findings for a quasi-judicial decision required by a development regulation adopted under this UDO.



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

- A. built on a single chassis;
- B. 400 square feet or less when measured at the largest horizontal projection;
- C. designed to be self-propelled or permanently towable by a light duty truck; and
- D. designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational camping, travel, or seasonal use.

**Recreational Vehicle Parks.** Any single parcel of land upon which two (2) or more recreational vehicles, occupied for sleeping purposes, are located regardless of whether or not a charge is made for such purposes.

**Redevelopment.** Any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure or lot, including demolition and replacement of a structure, taking place during any one-year period. Redevelopment may also be associated with a change of use.

**Regulated Tree.** The subsurface roots, crown and trunk of any self-supporting woody perennial plant such as a large shade tree, which usually has one (1) main stem or trunk, and has a measured DBH as follows:

- A. A hardwood tree, having a single trunk at least eight (8) inches in DBH. Trees may have single or multiple trunks but at least one trunk must measure eight (8) inches in diameter.
- B. A coniferous tree, having a single trunk at least 12 inches in DBH.
- C. Any tree, of any species, with a DBH of 30" or more. (Specimen tree)

**Remove (including removing and removal).** The cutting down of any live or dead regulated tree and all other acts which cause the death or destruction of any regulated tree.

**Reservation.** A reservation of land does not involve any transfer of property rights. It simply constitutes an obligation to keep property free from development for a stated period of time.

**Reserve Strip.** A strip of land created for the purpose of controlling the access to streets or other public rights-of-way from adjoining property.

**Residential Care.** Establishments primarily engaged in the provision of residential, social, and personal care for children, the aged, and special categories of persons with some limits on ability for self-care, but where medical care is not a major element; such as adult day care facility, home for the aged and infirm, and other similar residential care uses not otherwise defined in this section.

**Residential Use or District.** When referring to a use, it shall be those uses in the "residential" section of the Table of uses. When referring to a zoning district or "district," it shall be the following zoning districts: R-10, R-20, MF, PUD, and OS.



**Restaurant.** An establishment whose principal business is the sale of foods, frozen desserts, or beverages to a customer in a ready-to-consume state, and whose design and principal method of operation determines its classification as follows:

- A. Carry-out: (a) Foods and/or beverages are usually served in edible containers or in paper, plastic, or other disposable containers by an employee at a standing counter or drive-in window; and (b) consumption is normally off the premises, but may be allowed within a motor vehicle parked on the premises, or at other facilities on the premises outside the principal building.
- B. Fast Food: Same as “carry-out,” but includes allowing consumption within the principal building.
- C. Standard: Customers are provided with an individual menu and served by an employee at the same table or counter at which their food and/or beverages generally are consumed within the restaurant.

**Retail sales.** Use types involved in the sale or lease of new or used products to the general public. Accessory uses may include offices, display of goods, limited assembly, processing, or repackaging of goods for on-site sale. Retail sales does not include the following:

- A. Repair and service establishments.
- B. Bars, nightclubs, restaurants, and similar eating establishments.
- C. An establishment that provides financial, professional, or business services in an office setting.
- D. An establishment that involves the sale, distribution, or presentation of materials or activities emphasizing sexually explicit content.

**Retail Sales, Major.** A retail sales establishment that has more than 5,000 square feet of floor area.

**Retail Sales, Minor.** A retail sales establishment that does not include a drive-through and is less than 3,000 square feet in floor area.

**Retail Sales, Moderate.** A retail sales establishment that is between 3,000 and 5,000 square feet in floor area.

**Retention Pond Facilities.** A permanent structure that provides for the storage of runoff and is designed to maintain a permanent pool of water.

**Right-of-Way.** The property located within and adjoining the streets, roads, and highways within the city which rights-of-way are owned by the city or state or otherwise maintained by the city or the state. Right-of-way may be in an improved or unimproved state.

**Sales Office, Temporary.** An office established within the boundaries of a subdivision or development which is used for the promotion and sales of real property solely within that subdivision or development.

**Salvage operations.** 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.

**Screening.** The method by which a view of one site from another adjacent site is shielded, concealed, or hidden. Screening techniques include fences, walls, hedges, berms, vegetation, or other natural or man-made visual barriers.

**Self-service Ice Vending Machine.** A stand-alone ice production machine that may operate without full time service personnel. These units are activated by the insertion of money, credit cards, check cards, token, or similar means; ice is bagged automatically or dispensed in bulk outside to the consumer. Such vending machines and similar detached accessory uses are larger in scale and footprint than an outdoor vending machine, which is typically accessible to a pedestrian rather than a vehicle.

**Setback.** The required distance between a structure and the lot lines of the lot on which it is located.

**Setback, Front.** The setback measured from the front lot line(s).

**Setback, Rear.** A setback from an interior lot line lying or rear lot line on the opposite side of the lot from the front setback.

**Setback, Side.** The side yard setback shall extend from the required front yard setback line(s) to the required rear yard setback line and shall be measured from the side lot line.

**Short-term vacation rental.** A dwelling unit with up to six guest rooms that is used and/or advertised through an online platform, or other media, for transient occupancy for a period of less than 30 days. A short-term vacation rental is considered a non-residential "Lodging" use under this UDO. The owner is not required to be present during the rental stay.

**Short-term vacation rental operator/manager.** Any agency or individual other than the property owner that is operating or managing a short-term vacation rental.

**Short-term vacation rental permit.** The required zoning permit to rent a dwelling unit or guest rooms within a dwelling unit as a short-term vacation rental. The City of Southport issues the short-term vacation rental permit to the property owner after the successful completion of the short-term vacation rental application requirements. Generally, the permit is valid from January 1 thru December 31 in the year of issue and must be renewed annually. See additional standards and regulations that apply to different zoning districts.

**Shopping Center.** A total of three (3) or more commercial establishments, planned and constructed as a single unit, with off-street parking and loading facilities provided on the property. Shopping centers are related in location, size, and type of use to the trade area which they serve and are considered as such at the owner's discretion. This definition includes malls, commercial plazas, and community shopping areas.

**Sign.** Any surface, fabric, device, or display which bears lettered, pictorial, or sculptured matter, including forms shaped to resemble any human, animal, or product, designed to

convey information visually and which is exposed to public view. The term “sign” shall include all structural members. A sign shall be constructed to be a display surface or device containing organized and related elements composed to form a single unit.

**Sign, “A” Frame.** Sign consisting of two (2) sign faces attached back-to-back by top hinges.

**Sign, Animated.** Sign that uses movement or change of lighting to depict action or create a special effect or scene.

**Sign, Area.** The surface area of a sign shall be computed as including the entire area visible from any one point, within a regular geometric form or combinations of regular geometric forms comprising all of the display area of the sign including lattice work, wall work, and individual letters and spaces between letters comprising part(s) of the sign. Computations of sign area shall include only one side of a double-faced sign structure. If a sign has two (2) sides joined at an angle of greater than 60 degrees, the surface of both sides of the sign shall be included in the computation of area.

**Sign, Attached.** Sign painted on, attached to and erected parallel to the face of, or erected and confined within the limits of, the outside facade of any building and supported by such building facade.

**Sign, Billboard.** Sign that is greater than 32 square feet and which is located off-premises from the place of the information contained on the sign.

**Sign, Business Identification.** Any sign which contains information regarding the premises where such sign is located.

**Sign, Changeable Copy.** Sign on which informational content can be changed or altered by manual or electronic means.

**Sign, Construction.** Sign that is on-premise and associated with a site with an active building permit.

**Sign, Directional.** Sign for public direction or information. Typically, these signs consist of directional arrows, business names or logos, the words “entrance”, “exit”, “parking”, etc.

**Sign, Electronic Message Center.** An electrically activated changeable sign whose variable message and/or graphic presentation capability can be electronically programmed by computer from a remote location. Also known as an EMC. EMCs typically use light emitting diodes (LEDs) as a lighting source.

**Sign, Feather Flag.** A narrow, tall, flag-like banner sign often made of flexible material that moves with wind. These signs have different names such as flutter flags, swooper flags, blade flags, and teardrop flags.

**Sign, Flashing.** Sign, which contains or uses, for illustration, any lights or lighting devices, which change color, flashes or alternates, shows movement or motion, or changes the

appearance of said sign or part thereof automatically.

**Sign, Freestanding.** Sign supported by structures or supports that are anchored in the ground and that is independent from any building or other structure(s).

**Sign, Governmental.** Sign provided and erected by a governmental entity.

**Sign, Height.** Sign height shall be computed as the distance from the base ground level to the top of the highest vertical attached component of the sign prior to the placement of any fill.

**Sign, Incidental.** Sign containing information necessary or convenient for persons coming onto a premises such as “hours of operation,” location of restrooms, etc.

**Sign, Integral.** Memorial signs or tablets, names of buildings, and date of erection when cut into any masonry surface or when constructed of bronze or other incombustible materials mounted on the face of a building.

**Sign, Legal Nonconforming.** A sign that met all legal requirements when constructed, but that is not in compliance with this ordinance. An illegal sign is not a legal nonconforming sign.

**Sign, Nonconforming.** Sign that does not conform to the regulations of this ordinance.

**Sign, Noncommercial.** Sign associated with noncommercial institutions.

**Sign, Off-premises.** Sign containing information which does not occur on the site at which the sign is located.

**Sign, Open.** Sign with a specific designated purpose of stating that a business is open or closed.

**Sign, Outdoor Advertising.** Any sign which contains information about an establishment other than that on which such sign is located.

**Sign, Permanent.** Sign not designated as temporary.

**Sign, Political.** Sign displaying political candidacy and/or messages as related to an election date.

**Sign, Portable.** Sign attached on a moveable support frame without lighting.

**Sign, Projecting.** Sign attached and placed at a right angle to the facade of the associated structure.

**Sign, Real Estate.** Sign utilized by properties for sale, lease, or rent located on the property upon which it is placed.

**Sign, Snipe.** Sign of any material whatsoever that is attached in any way to a utility pole, tree, street sign or pole.

**Sign, Subdivision Entrance.** Sign located on- site and at the major entrance point(s) to such development.

**Sign, Special Event.** Sign advertising a community-wide event.

**Sign, Temporary.** Sign that is not permanently affixed, placed, attached or erected, and may have time limitations.

**Sign, Vehicle/trailer.** Sign mounted on a vehicle, boat, or trailer.

**Sign, Wind.** Signs composed of nylon, canvas, or plastic material which are decorative. These signs may include wind socks, wind vanes, banners, pennants, and flags.

**Site Plan, Major.** A plan for residential development of four (4) or more dwelling units on a lot; nonresidential development whereby 10,000 square feet or more of impervious surfaces are proposed; or all other development not subject to minor site plan approval.

**Site Plan, Minor.** A plan prepared for single-family residential uses, duplexes, and attached residential units consisting of three (3) or fewer dwelling units or for renovation/rehabilitation projects that will modify an existing structure's footprint. A minor site plan is not required for changes of use whereby no increase in impervious square footage or an enlargement in an existing structure's footprint is proposed. Nonresidential development projects whereby less than 10,000 square feet of impervious surfaces are proposed and accessory structures, construction/installation of fences/walls, piers, docks, decks, stairs, signs, and driveways must prepare a minor site plan.

**Site-specific Vesting Plan.** A plan of development submitted to the city to obtain one (1) of the following approvals for statutory vested rights in accordance with the procedures outlined in this ordinance:

- A. Final Subdivision Plat,
- B. Special Use Permit, or
- C. Planned Unit Development Plan.

Notwithstanding the foregoing, a document that fails to describe with reasonable certainty the type and intensity of use for a specified parcel or parcels of property shall not constitute a site-specific development plan.

**Skirting.** A continuous, uniform foundation enclosure constructed of vinyl, or metal fabricated for such purpose and that is unpierced except for required ventilation or access.

**Solar Farm.** The components and subsystems required to convert solar energy into electric or thermal energy suitable for use. The area of the system includes all the land inside the perimeter of the system, which extends to any fencing. The term applies, but is not limited to, solar photovoltaic (PV) systems, solar thermal systems, and solar hot water systems.

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

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

**Special Use.** A use permitted in a particular zoning district in a specified location that complies with certain findings of fact and other conditions as specified in this ordinance.

**Special Use Permit.** A permit issued to authorize development or land uses in a particular zoning district upon presentation of competent, material, and substantial evidence establishing compliance with one or more general standards requiring that judgment and discretion be exercised as well as compliance with specific standards. This term includes permits previously referred to as conditional use permits.

**Specimen Tree.** Any tree, of any species, with a DBH of 30" or trunk circumference of 8' or more. A tree which grows to such maturity provides significant aesthetic as well as practical benefits to the community at large.

**Spotlight.** An unshielded artificial light source or lamp designed to produce a narrow, well directed beam of light upon a small area.

**Standard.** A mandatory requirement.

**Start of Construction.** The date the building permit was issued.

**Storage.** A deposition of commodities or items for the purpose of future use or safekeeping.

**Storage, Dry.** The keeping of boats, watercraft, and other recreational vehicles to be accessed by the owner.

**Storage, Outdoor.** The keeping, in an unroofed area, of any goods, junk, material, or merchandise in the same place for more than 24 hours.

**Storage, Self-service.** A building consisting of individual, small, self-contained units that are leased or owned for the storage of goods and wares. No outdoor or dry storage shall be allowed in conjunction with the facility with the following exceptions: boats, cars; motorcycles; trailers; motor homes, pick-up trucks and similar-type and size vehicles; and building materials, which shall be an accessory to the principal use of self-service storage and subject to the required use standards.

**Storm Drainage Facilities.** The man-made system of inlets, conduits, or other such facilities, and appurtenances which collect, store, and convey stormwater.

**Stormwater Discharge Control Design Plan.** The set of drawings and other documents that comprise all of the information and specifications for the drainage systems, structures, concepts, and techniques that will be used to control stormwater discharges as required by

the City of Southport Stormwater Management Technical Manual. Also included are the supporting engineering calculations, input data for any computer analysis, and results of any computer analysis.

**Stormwater Discharge Control Facilities, Off-site.** The design and construction of a facility necessary to control stormwater runoff for multiple sites.

**Stormwater Discharge Control Facilities, On-site.** The design and construction of a facilities necessary to control stormwater runoff within and for a single development.

**Stormwater Discharge Control Plan, Preliminary.** The overall proposal to control discharges from the proposed development. Also included are the supporting engineering calculations, input data for any computer analysis, and results of any computer analysis needed for preliminary design of any stormwater discharge control facilities. This plan shall be in enough detail to determine if stormwater discharge control facilities will be needed.

**Stormwater Management Technical Manual, City of Southport.** Manual approved by the Board of Aldermen, which presents recommended design procedures and criteria for conducting hydrologic and hydraulic evaluations.

**Story.** That portion of a building between the surface of any floor and the floor or roof above it.

**Street.** A right-of-way which affords access to abutting property and constructed in accordance with the requirements of this ordinance.

**Street Line.** The right-of-way boundary of a street.

**Street Types.**

- A. **Public Street.** A right-of-way for vehicular traffic dedicated and accepted by the North Carolina Department of Transportation or the City of Southport for public use.
- B. **Private Street.** A right-of-way for vehicular traffic which is constructed to the Technical Standards and Specifications of the City of Southport Subdivision Regulations and dedicated to a select portion of the public. The responsibility for the maintenance of a private street shall be by an established owners' association or other private property owner legal agreements.

**Street Yard.** The area of a parcel immediately adjacent to a street right-of- way and reserved for planting.

**Structure.** Anything constructed or erected, the use of which requires location in or on the land, or attachment to something having a permanent location in or on the land. For floodplain purposes, a walled and roofed building, a manufactured home, or a gas, liquid, or liquefied gas storage tank that is principally above ground, or other manmade facilities or infrastructures.

**Subdivider.** Any person, firm, or corporation who proposes to subdivide or create a new lot.

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

- A. the combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards contained herein;
- B. the divisions of land into parcels greater than 10 acres where no street right-of-way dedication is involved;
- C. the public acquisition by purchase of strips of land for the widening or openings of streets or for public transportation system corridors;
- D. the division of a tract in single ownership whose entire area is no greater than two (2) acres into not more than three (3) lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of this ordinance.
- E. The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the General Statutes.

**Subdivision, Major.** All subdivisions shall be considered major subdivision except those defined as minor subdivisions.

**Subdivision, Minor.** A minor subdivision is a tract to be subdivided which is five (5) acres or less in size or meets the criteria as provided in NCGS 160D-802(c):

- A. Fronts on an existing approved street;
- B. Does not involve any new public streets, right-of-way dedication, or prospectively requiring any new street for access to interior property;
- C. Does not require drainage improvements or easements to serve the applicant's property or interior properties;
- D. Does not involve any utility extensions; and
- E. Does not require any easements, other than rear and side lot line easements.
- F. However, if the subdivider owns, leases, holds an option on, or holds any legal or equitable interest in any property adjacent to or located directly across a street, easement, road, or right-of-way from the property to be subdivided, the subdivision shall not qualify under the minor subdivision procedure. Furthermore, the minor subdivision procedure may not be used a second time within three (3) years on any property less than 1,500 feet from the original property boundaries by anyone who owned, had an option on, or any legal interest in the original subdivision at the time the subdivision received preliminary or final plat approval.

**Substantially Improved Existing Manufactured Home Park.** Repair, reconstruction, rehabilitation, or improvement of the streets, utilities, and pads which equals or exceeds 50%



of the value of the streets, utilities, and pads before the repair, construction, or improvement commenced.

**Tattoo and Piercing Establishment.** An establishment whose principal business activity is the inserting of permanent markings or coloration, or the producing of scars, upon or under human skin or the creation of an opening in the body of a person so as to create a permanent hole for the purpose of inserting jewelry or other decoration.

**Temporary Healthcare Structure.** A temporary structure no more than 300 gross square feet that will house a single mentally or physically impaired person. Structure must be assembled off-site and meet the standards of the State Building Code. It must not be placed on a permanent foundation and may be required to connect to water, sewer and electric utilities. Only one such structure is permitted per lot. Subject to all requirements of North Carolina General Statute 160D-915.

**Telephone Communication Facility, Unattended.** A windowless structure containing electronic telephone equipment that does not require regular employee attendance for operating.

**Ten (10)-year, 25-year, 50-year, and 100-year Storms.** Rainfall intensity with a probability of being equaled or exceeded, on the average, in any given year 10%, 4%, 2%, and 1% of the time, respectively. The selected duration should produce the maximum peak rate of runoff for the watershed of interest, under average antecedent wetness conditions.

**Tower.** Any structure whose principal function is to support antenna.

**Towing Service, Automotive or Truck.** A commercial enterprise, business or company established to tow or remove motor vehicles from one location to another. A towing service includes the temporary storage of motor vehicles at its site, but under no circumstances shall any motor vehicle remain on the premises of a towing service for more than 24 hours unless stored within an enclosed structure or the tow service is located in an industrial district. Such establishments are considered a Major Automotive use.

**Townhouse.** A principal structure containing three (3) or more single-family attached dwelling units with each unit on its own individual lot. All townhouse developments shall be subject to multiple family dwelling provisions of this ordinance, with the following exceptions:

- A. All townhouse developments shall comply with the multi-family density requirements of this ordinance; this standard can be met by individual lot area, by provision of common open space, or by a combination of lot area and common open space.
- B. No unit shall be connected on more than two (2) sides by common walls.
- C. All yard dimensional requirements shall apply to the property lines of the entire development. No individual unit shall be required to meet the yard dimensions.

**Tract.** A tract is a piece of land whose boundaries have been described or delineated by a

legal instrument or map recorded in the office of the Brunswick County Registrar of Deeds.

**Tract Area.** The total acreage/square footage of the entire tract being developed.

**Transitional Housing Facility.** A facility configured as a multifamily development but operated and funded by a nonprofit, charitable, religious, or governmental organization to provide temporary housing and appropriate supportive services to families or individuals to facilitate movement to independent living over a 3 to 24-month period. A transitional housing facility may provide social services, counseling, and other programs to assist residents in the transition to permanent housing. This classification shall not be construed to include uses licensed or supervised by any federal, state, or county health/welfare agency, such as group homes, halfway houses, boarding homes for children, and convalescent nursing homes.

**Travel Trailer.** A recreational vehicle designed to be towed by a light duty truck.

**Tree.** Any species of self-supporting, perennial, woody plant normally capable of attaining a height of twenty (20) feet at maturity.

**Tree Mitigation Fund.** A fund established to receive money for compensation for damage to or removal of public trees, or for fees-in-lieu of preservation or replanting on a construction site. The funds will be utilized specifically to replant, maintain, or improve the health of the City's urban forest. Expenditure of these funds will be incorporated into the annual city budgeting process and follow the guidelines outlined in the City of Southport Urban Forest Management Plan (2011).

**Tree Plan.** A scaled site plan and other documentation that identifies preserved trees, newly planted trees, and other information as required by this ordinance.

**Tree Value.** The value of a Regulated tree that is unlawfully removed, destroyed, or altered in such a way that it has a deleterious effect on continued viability shall be determined at a rate of like kind replacement by a certified arborist retained by the City.

**UDO Administrator.** A person, or his or her designee, appointed by the City Manager to administer the regulations contained in this ordinance.

**Use.** The purpose for which land or structure thereon is designed, arranged or intended to be occupied or used, or for which it is occupied, maintained, rented or leased.

**Use, Nonconforming.** A use of building or land that does not conform with the regulations of the district in which the building or land is situated.

**Utility Plan.** Detailed plans for the construction of utilities, including water, sewer, and stormwater, and showing connections to existing systems or plans for individual water supply systems and sewage disposal systems. Plans must show line sizes, the location of fire hydrants, blow-offs, manholes, pumps, force mains, gate valves, utility and maintenance easements, and daily estimated sewer flow figures. The type of construction materials and brand of

appurtenances may require approval from the City of Southport, Brunswick County Utilities, and/or NCDOT. Plans shall include profiles based on mean sea level datum for gravity sanitary and storm sewers.

**Variance.** A grant of relief from the requirements of this ordinance that permits construction in a manner otherwise prohibited by this ordinance.

**Violation.** Failure of a structure, use, lot, situation, or other development to be fully compliant with the requirements of this ordinance.

**Visible.** Capable of being seen without visual aid by a person of normal visual acuity.

**Warehousing, General.** A building or compartment in a building used and appropriated by the occupant for the deposit and safekeeping or selling of his own goods at wholesale and/or for the purpose of storing the goods of others placed there in the regular course of commercial dealing and trade to be again removed or reshipped. General warehousing includes the wholesale of durable and non-durable goods.

**Water Transportation.** Water dependent uses such as docks, wharves, fishing piers, ferries, tugboats, barges, charter operations, and excursions. Such facilities may be used for nonresidential, residential, or public purposes.

**Wholesale.** Sale of a commodity for resale to the public for direct consumption, whether durable or non-durable. Non-durable goods include products that are consumed or are only usable for a short period, such as food, apparel, or fabrics.

**Yard.** A required open space unoccupied and unobstructed by a structure or portion of a structure; provided, however, that fences, walls, poles, posts, and other customary yard accessories, ornaments, and furniture may be permitted in any yard subject to height limitations and requirements limiting obstruction of visibility.

**Yard, Front.** The space on the same lot with the principal building between the building and the front property or street right-of-way line and extending across the full width of the lot.

**Yard, Rear.** An area extending across the full width of the lot and lying between the rear lot line and a line parallel thereto at a distance therefrom as required in the applicable district.

**Yard, Side.** An area extending along the length of the lot between the required front yard and the required rear yard, and between the side lot line and a line parallel thereto and a distance therefrom as required in the various districts.

**Yard Sale.** The sporadic and infrequent sale of used personal items within residential areas. Such sales shall be temporary and limited to not more than twice per calendar year per property.

**Zero Lot Line Structure.** A structure placed on a lot such that a windowless common wall

is placed on one side property line with no side setback and the remaining dimensional requirements of the zoning district are complied with.

**Zoning Permit.** A permit issued by the City conferring the right to undertake and complete the development or the use of property subject to the provisions outlined in this ordinance.

**Zoning Vested Right.** A right pursuant to NCGS 160D-108 or 160D-108.1 to undertake and complete the development and use of property under the terms and conditions of an approved site-specific vesting plan in accordance with the procedures outlined by this ordinance.

## Appendix A: Submission Requirements

### A.1 SUBMISSION REQUIREMENTS

Applications submitted to the City of Southport for the following approval types shall include the required information as provided in Table A.1 where marked by an “x”.

Table A.1: Submission Requirements						
Information Required	Minor Site Plan	Major Site Plan or Conditional Use Permit	Minor Final Plat	Major Subdivision Preliminary	Major Subdivision Final Plat	Master Development Plan
Proposed or approved name of development, project, subdivision, and/or phase.	x	x	x	x	x	x
Developer/applicant name(s), including mailing address(es) and telephone number(s). (If Applicable).	x	x	x	x	x	x
Property owner name(s), including mailing address(es) and telephone number(s).	x	x	x	x	x	x
Name, registration number, and seal of a professional Land Surveyor, Engineer, Landscape Architect, and/or Architect. (If Applicable).	x	x	x	x	x	x
Date of plat/plan preparation and of surveys; North arrow and orientation; Map scale, denoted graphically and numerically.	x	x	x	x	x	x
Sketch vicinity map showing the relationship between the proposed property or properties and the surrounding area.		x	x	x		x
Tax parcel numbers, owners, zoning classifications, and book and page numbers of the site tract and adjacent tracts.	x	x	x	x	x	x
Exact existing and proposed or pending property boundary lines by bearings and distances and the location of intersecting boundary lines of adjacent lands.			x		x	
Lots numbered consecutively throughout the subdivision.			x	x	x	
Boundaries of any proposed or pending zoning districts on site. Boundaries must be described by bearing and distance where they do not follow described boundaries.		x				x
Sufficient engineering data to determine readily, and to be reproducible on the ground, every straight or curved boundary line, street line, lot line, right-of-way line, easement line, and setback line, including dimensions, bearings or deflection angles, radii, central angles, and tangent distances for the center line of curved streets and curved property lines that are not the boundary of curved streets. All dimensions shall be measured to the nearest one-tenth of a foot and all angles to the nearest minute.	x[1]	x	x	x	x	

Table A.1: Submission Requirements						
Information Required	Minor Site Plan	Major Site Plan or Conditional Use Permit	Minor Final Plat	Major Subdivision Preliminary	Major Subdivision Final Plat	Master Development Plan
Accurate locations and descriptions of all monuments, markers, and control points.			x	x	x	
Location, dimensions, density, and description of proposed land use(s) on each tract or parcel, including single-family residential, multi-family residential, commercial, office, institutional, industrial, and recreational. Recreational uses shall specify type and future ownership.	x	x				x[2]
Location and dimensions of existing and proposed buildings or structures on the site and all adjacent tracts, including existing buildings or structures to be removed. Total number of stories of all multi-story buildings and height of all building must be indicated.	x	x				x[3]
Location, direction, dimensions, name, and surface type of existing or proposed rights-of-way and easements, including those being vacated and those on adjacent properties.	x	x	x	x	x	x[2]
Location of roads appearing on officially adopted plans.	x	x	x	x	x	x
Location of roads, streets, and circulation patterns; including any proposed or required bicycle or pedestrian facilities.	x	x		x		x[2]
Total square footage of existing and proposed impervious surfaces.	x	x		x		x[2]
Names, cross sections, approximate grades, and pavement widths of proposed road rights-of-way, including design engineering data for all corners and curves.		x		x		
Type of street dedication, either public or private.			x	x	x	
Location and dimensions of parking and loading spaces and drive aisles, including handicapped parking.	x	x				x[3]
Location and dimensions of existing and proposed sidewalks and accessible accessways.	x	x		x		x[3]
Location and dimensions of all trash containers and required screening.	x	x		x		x[3]
FEMA-designated flood hazard areas, including flood zone designations and map panels.	x	x	x	x	x	x
Location and description of CAMA Areas of Environmental Concern, including 404 wetland areas as determined by the Army Corps of Engineers and coastal wetlands as determined by NCDEQ.	x	x	x	x	x	x

Table A.1: Submission Requirements						
Information Required	Minor Site Plan	Major Site Plan or Conditional Use Permit	Minor Final Plat	Major Subdivision Preliminary	Major Subdivision Final Plat	Master Development Plan
Location and description of environmental features such as wooded areas, marshes, swamps, rock outcrops, ponds or lakes, streams or streambeds, and any other natural features affecting the site.	x	x	x	x	x	x
Existing and proposed topography.	x	x		x		
Location, dimensions, and description of all areas to be dedicated to the public or to a property owners association.			x	x	x	
Location, size, and flow direction of existing and proposed drainage courses within or immediately adjacent to the site, including culverts and storm drains.	x	x		x		x[3]
Location and size of stormwater basins or other comparable stormwater management mechanisms.	x	x		x		x[3]
Location and labeling of minimum building setback lines.	x	x	x	x	x	x[3]
Detailed utility plans, including water, sewer, and stormwater, and showing connections to existing systems or plans for individual water supply systems and sewage disposal systems. Plans must show line sizes, the location of fire hydrants, blow- offs, manholes, pumps, force mains, gate valves, utility and maintenance easements, and daily estimated sewer flow figures. Type of construction materials and brand of appurtenances may require approval from the City of Southport, Brunswick County Utilities, and/or NCDOT. Plans shall include profiles based on mean sea level datum for gravity sanitary and storm sewers.  NOTE: Detailed plans may be submitted after site plan or preliminary plat are approved and must be approved by the City's Public Services Department prior to construction of improvements or the issuance of building permits or approval of a final plat.		x		x		
Total number and type of dwelling units, by development phase.	x	x				x[2]
For residential uses, the number of units, heights and a generalized location. For non-residential uses, the height, approximate footprint and location of all structures.						x[3]
Signage.	x	x		x		x[3]
Outdoor Lighting Plan.	x	x		x		x[3]
Locations, dimensions, and size of required buffers, street yards, foundation planting, parking facility planting areas.	x	x		x		x[3]

Table A.1: Submission Requirements						
Information Required	Minor Site Plan	Major Site Plan or Conditional Use Permit	Minor Final Plat	Major Subdivision Preliminary	Major Subdivision Final Plat	Master Development Plan
Location, species, and size of all regulated and specimen trees as defined by this ordinance.	x	x		x		x[3]
Location and size of all groves of trees to be protected, including the approximate number and species of protected trees.	x	x		x		x[3]
Location, species, dimensions, and spacing of all required landscaping materials clearly labeled and numbered and a legend.	x	x		x		x[3]
Note on plan stating that prior to any clearing, grading, or construction activity tree protection fencing will be installed around protected plants, trees or groves of trees. No construction workers, tools, materials, or vehicles are permitted within the tree protection fencing.	x	x		x		x
Any other information considered pertinent by the applicant, UDO Administrator, Planning Board, or Board of Aldermen.	x	x	x	x	x	x

[1] Only required where prepared by a licensed professional.

[2] Approximation acceptable.

[3] Conditional rezoning only, not applicable to Planned Unit Development proposal.

## A.2 CERTIFICATES REQUIRED

Plats submitted to the City of Southport shall include the required certificates in accordance with Table A.2 where marked by an “x”.

Table A.2 Required Certificates				
Certificate	Exempt Division Plat	Minor Final Plat	Major Preliminary Plat	Major Final Plat
Certificate of Ownership (A)	x	x		
Certificate of Ownership and Dedication (B)				x
Certificate of Survey and Accuracy (C)	x	x	x	x
Certification of Board of Aldermen Approval (D)			x	x
Certificate of Approval of the Design and Installation of Streets, Utilities, and Other Required Improvements (E)				x



Table A.2 Required Certificates				
Certificate	Exempt Division Plat	Minor Final Plat	Major Preliminary Plat	Major Final Plat
Certification of Septic and Water Supplies (F)	x	x		x
Certificate of Disclosure; 404 Wetlands (G)	x	x		x
Certificate of Disclosure; City of Southport Floodplain Management Regulations (H)	x	x		x
Acknowledgment of Compliance (Private Developments) (I)		x		x
Certificate of Purpose of Plat (J)	x	x	x	x
Certificate of Approval for Recording (K)	x	x		x

A. Certificate of Ownership

I hereby certify that I am the owner of the property shown and described hereon, which is located in the subdivision jurisdiction of the City of Southport and that I hereby adopt this plan of subdivision with my free consent and establish minimum building setback lines as noted.

\_\_\_\_\_  
Owner

\_\_\_\_\_  
Date

B. Certificate of Ownership and Dedication

I hereby certify that I am the owner of the property shown and described hereon, which is located in the subdivision jurisdiction of the City of Southport and that I hereby adopt this plat of subdivision with my free consent, establish minimum building setback lines, and dedicate all streets, alleys, walks, parks, open space, utilities, and other sites and easements to public or private use as noted.

\_\_\_\_\_  
Owner

\_\_\_\_\_  
Date

C. Certificate of Survey and Accuracy.

In accordance with NCGS 47-30: There shall appear on each plat a certificate by the person under whose supervision such survey or such plat was made, stating the origin of the information shown on the plat, including recorded deed and plat references shown thereon. The ratio of precision as calculated by latitudes and departures before any adjustments must be shown. Any lines on the plat that were not actually surveyed must be clearly indicated

and a statement included revealing the source of information. The execution of such certificate shall be acknowledged before any officer authorized to take acknowledgments by the registered land surveyor preparing the plat. All plats to be recorded shall be probated as required by law for the registration of deeds. Where a plat consists of more than one sheet, only the first sheet must contain the certification and all subsequent sheets must be signed and sealed.

The certificate shall include the source of information for the survey and data indicating the accuracy of closure of the plat before adjustments, and shall be in substantially the following form:

I, \_\_\_\_\_, certify that this plat was drawn under my supervision from an actual survey made under my supervision (deed description recorded in Book\_\_\_\_, Page\_\_\_\_, etc.) (other); that the boundaries not surveyed are clearly indicated as drawn from information found in Book\_\_\_\_, Page\_\_\_\_; that the ratio of precision as calculated is 1:\_\_\_\_; that this plat was prepared in accordance with NCGS 47-30 as amended. Witness my original signature, registration number and seal this\_\_\_\_ day of\_\_\_\_, A.D. 20\_\_\_\_.

\_\_\_\_\_  
Surveyor

Seal or Stamp

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

D. Certification of Approval of the Preliminary/Final Plat by the Southport Board of Aldermen

The Southport Board of Aldermen hereby approves or approves conditionally the (preliminary or final plat) of \_\_\_\_\_ Subdivision. If approved conditionally, the specific conditions shall be listed.

\_\_\_\_\_  
Mayor, City of Southport

\_\_\_\_\_  
Date

E. Certificate of Approval of the Design and Installation of Streets, Utilities, and Other Required Improvements, if applicable, to be signed by owner and City:

The undersigned hereby certifies that the required improvements (list all improvements that have been installed and approved by appropriate agency)

(\_\_\_\_\_) have been installed in an acceptable manner and in accordance with the regulations of the City of Southport Unified Development Ordinance.

\_\_\_\_\_  
Developer or Authorized Agent Signature(s)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Professional Engineer(s) [seal included]

\_\_\_\_\_  
Date

\_\_\_\_\_  
UDO Administrator

\_\_\_\_\_  
Date

- F. Certification of Suitability for Septic Tank Systems and Water Supplies, if applicable, to be signed by appropriate authority/representative:

I hereby certify that this subdivision, entitled \_\_\_\_\_, is generally suitable for individual septic tank systems and individual water supplies. However, this certification does not constitute "blanket issued subject to the approval of each individual lot by the Brunswick County Health Department and the issuance of an improvements permit for each lot as required by the General Statutes of North Carolina." Any artificial drainage measures installed or proposed for installation in this subdivision to control water table must be properly maintained. Lots must be properly landscaped to control surface water in order to decrease the changes in septic tank system malfunctions.

\_\_\_\_\_  
Brunswick County Health Director or Licensed  
Soil Scientist

\_\_\_\_\_  
Date

- G. Certificate of Disclosure, 404 Wetlands, if applicable, to be signed by owner:

This tract is not subject to 404 wetlands.

\_\_\_\_\_  
Owner's Signature

\_\_\_\_\_  
Date

- Or -

Wetlands Caution: Prospective buyers are cautioned that portions of the lots shown on this plat are restricted in use by wetlands and waters jurisdiction pursuant to the US Army Corps of Engineers Section 404 regulations. Individual lot reviews to ensure compliance with their Federal laws and regulations are encouraged. Verification of location and restrictions should be made prior to individual lot development.

\_\_\_\_\_  
Owner's Signature

\_\_\_\_\_  
Date

- H. Certificate of Disclosure, City of Southport Floodplain Management Regulations, if applicable, to be signed by owner:

I (we) hereby certify that prior to entering any agreement or any conveyance with a prospective buyer, I (we) shall prepare and sign, and the buyer of the subject real estate shall receive and sign a statement which fully and accurately discloses that the subject real estate, or a portion of the subject real estate, is located within a flood hazard area and that the buyer must satisfy the requirements of City of Southport floodplain management regulations prior to the issuance of building permits.

\_\_\_\_\_  
Owner's Signature

\_\_\_\_\_  
Date

- I. Acknowledgment of Compliance (Private Developments), if applicable, to be signed by owner:

I, \_\_\_\_\_, (name of developer and/or seller) hereby certify that the streets, parks, open space, or other areas delineated hereon and dedicated to private use, and all maintenance and upkeep of private facilities, including traffic marking and control devices, shall not be the responsibility of the public or the municipality, acting on behalf of the public, to maintain. Furthermore, prior to entering any agreement or any conveyance with any prospective buyer, I shall prepare and sign, and the buyer of the subject real estate shall receive and sign, an acknowledgment of receipt of a disclosure statement. The disclosure statement shall fully and completely disclose the private areas and include an examination of the consequences and responsibility as to the maintenance of the private areas, and shall fully and accurately disclose the party or parties upon whom the responsibility for construction and maintenance of such private areas shall rest.

\_\_\_\_\_  
Signature of Developer and/or Seller

\_\_\_\_\_  
Date

- J. Certificate of Purpose of Plat. Notwithstanding any other provision contained in this section, it is the duty of the surveyor, by a certificate on the face of the plat, to certify to one of the following:

- 1) This survey creates a subdivision of land within the area of a county or municipality that has an ordinance that regulates parcels of land;
- 2) This survey is of an existing parcel or parcels of land and does not create a new road or change an existing road;
- 3) This survey is of any existing building, or other structure, or natural feature, such as a water course;
- 4) This survey is a control survey;
- 5) That the survey is of another category, such as the recombination of existing parcels, a court-ordered survey, or other exception to the definition of a subdivision; or
- 6) That the information available to the surveyor is such that the surveyor is unable to make a determination to the best of his or her professional ability as to provisions contained in items (1) through (6) above.

*Note: Certain activities may be eligible for an exemption/waiver from the subdivision standards. If the activity being submitted meets one of the activities eligible for an exemption/waiver, item 5 above should be the selected certification.*

- K. Certificate of Approval for Recording.

I hereby certify that the subdivision plat shown hereon has been found to comply with the

Subdivision Regulations of the City of Southport, North Carolina, and that this plat has been approved by an authorized representative of the Southport for recording in the Office of the Register of Deeds of Brunswick County.

\_\_\_\_\_  
UDO Administrator

\_\_\_\_\_  
Date

Seal or Stamp