



Agenda
LDO Steering Committee
Thursday, February 18, 2021
12:00 PM

Item	Topic
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Join Zoom Meeting

<https://us02web.zoom.us/j/85752868510?pwd=Mm8yMU9HY3NuV3hzSUZlcnRRUkFvdz09>

Meeting ID: 857 5286 8510 Passcode: 013898

1. Call to order
2. Approve Minutes
 - a. January 21, 2021
 - b. February 4, 2021
3. Review Sections
 - a. Section 1 – Introduction
 - b. Section 4 – Overlays
 - c. Section 7 – Special Standards
 - d. Section 10 – Nonconformities
 - e. Section 11 - Definitions
4. Next scheduled meeting date: March 18, 2021
5. Adjournment

The Town of Rolesville is committed to providing accessible facilities, programs and services for all people in compliance with the American with Disabilities Act. Should you need assistance or a particular accommodation for this meeting please contact the ADA Coordinator.



Steering Committee Meeting Minutes

Date: Thursday, January 21, 2021

Time: 12:00 p.m.

In Attendance

Mayor Ronnie Currin

Town Commissioner Jacky Wilson

Planning Board Vice-Chair Mike Moss

Econ. Dev. Mgr. Mical McFarland

Planner II Julie Spriggs

Kimley Horn Consultant James Ehrmann

Rolesville Chamber Member Brad Walker

Mayor Pro Tem Michelle Medley

Town Manager Kelly Arnold

Planning Board Member Davion Cross

Planning Director Danny Johnson

Andy Ammons

Kimley Horn Consultant Kelly Klepper

Parks & Rec Advisory Board Derek Versteegen

Absent

Plan. Dev. Spc. Shelly Raby

Call to order

Town Manager Kelly Arnold welcomed everyone and reiterated the importance of these meetings, not just in meeting the statutory requirements being enacted on July 1, 2021, but also the goal the town board set over a year ago to modernize the UDO creating a more modern, urban and simplified LDO pursuant to Rolesville.

Meeting Minutes

The meeting minutes from December 17, 2020, no corrections were heard.

Review of Sections

a. Section 2- Administration

Mr. Arnold pointed out this section is different from a procedures manual. Ms. Spriggs confirmed the policy manual to be written later will need to be approved by the town board, however will not need a public hearing to make changes to it. There will be a meeting on February 28, to decide the name and format of the policy/procedure manual. This manual will tell us who does what, when they do it, who makes the final decision and what the process will be whether legislative or if it will require an evidentiary hearing. All provisions will be in the LDO.

Mayor Currin raised the question of a sunset clause. Ms. Spriggs read that under the vested rights in this section, building permits are set for six months and any other local development approvals are set for one year. Site- specific vested plans if proven are up to five years under 160D. Mayor Pro Tem

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Medley asked for clarification. Ms. Spriggs explained the applicant would need to be making progress or forward movement on the site. Commission Wilson questioned if roadwork and curb and gutter work would be considered an improvement? Ms. Spriggs replied yes. Mr. Arnold noted a multi-phase development could take up to seven years to complete. Mr. Walker asked if there will be a chart added of approved uses. Ms. Spriggs noted that chart is in the back of section 5. Mr. Arnold questioned if the projects currently ongoing will be grandfathered in? Ms. Spriggs explained that they will continue under the current UDO standards. The new LDO section on vested rights will only apply to projects brought after July 1, 2021 when the LDO is approved. Anyone who chooses the permit choice rule may opt to change to the new rules while the LDO is being approved. Mr. Johnson pointed out 160D does not allow old ordinances to run indefinitely. Ms. Spriggs will raise the question of sunset clauses with our Town Attorney, Mr. Neill.

b. Section 5- Uses

Mr. Arnold requested to review the possibility of adding agricultural conservation subdivision districts in our watershed. Mayor Pro Tem Medley stated she has had people ask her about mobile homes. Mr. Johnson noted we currently have two districts, 1. The rural manufactured home district and 2. The urban manufactured home district. The zoning must be for either district, whether on an individual lot or in a mobile home park. Mr. Nau questioned cottages and bungalow courts. Will they have to have right-of-way frontage, or can you have a private street? Ms. Spriggs noted our current UDO does not allow for this type of situation but can be discussed further. Mr. Johnson noted alleys are not considered frontage. Currently townhomes are the only allowance for a dedicated private street.

Mayor Currin noted he would like to see pop-ups (strawberry stands, etc.) allowed by right with a simple administrative permit approval, and not have to wait months for a special use permit approval. Mayor Pro Tem Medley questioned if that would be the same for Farmer's Markets? Noting this could be an issue in the future.

Mr. Cross suggested a legend on the use table in section 5 to make it easier to read and readily see "TC" stands for Town Center district. Commissioner Wilson asked for a table in this section that states what business would not be allowed in each district. Mr. Johnson noted state law states you cannot prohibit a business in all districts. You cannot exclude a business completely from town, and must provide a district that allows a process to obtain a permit in at least one district. Tattoo parlors are not listed as adult businesses under the general statutes. Vaping and CBD are retail uses. Ms. Spriggs will send Mr. Neill her notes to discuss this section. Mr. Arnold would like to better understand what is and could be allowed in the Industrial district going forward with a special use permit. Further discussion will follow.

Mr. Arnold noted Home Occupations may need to be added as a review after July 1. Mr. Johnson will look into a helipad option to add to the LDO.

Next Meeting: Thursday, February 4, 2021, 12:00 pm. - 2:00 pm.

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Steering Committee Meeting Minutes

Date: Thursday, February 04, 2021

Time: 12:00 p.m.

In Attendance

Mayor Pro Tem Michelle Medley
Planning Board Vice-Chair Mike Moss
Econ. Dev. Mgr. Mical McFarland
Kimley Horn Consultant James Ehrmann
Parks & Rec Advisory Board Derek Versteegen

Town Manager Kelly Arnold
Planning Board Member Davion Cross
Planner II Julie Spriggs
Kimley Horn Consultant Kelly Klepper
Plan. Dev. Spc. Shelly Raby

Absent

Mayor Ronnie Currin
Planning Director Danny Johnson
Timothy Nau

Town Commissioner Jacky Wilson
Andy Ammons
Rolesville Chamber Member Brad Walker

Call to order

Town Manager Kelly Arnold welcomed everyone.

Meeting Minutes

The meeting minutes from January 21, 2021, were not available and will be reviewed at our next meeting.

Review of Sections

a. Section 3- Zoning Districts

Mr. Arnold noted there will be further discussion in the Comp Plan land use discussion. This is just an overview. Mr. Moss suggested keeping the side setback for safety at least the regular side plus an additional five (5) feet, making an average of seventeen (17 feet) for a corner setback. Mr. Arnold asked Mr. Keppler if what Mr. Moss suggested is standard practice? Discussion ensued. The sight triangle is of particular safety concern. Ms. Spriggs will bring this information to the board for discussion. Ms. Spriggs reviewed under lot coverage a place holder is seen for future MS 4 permits for stormwater impervious surface restriction we can go back and update charts. This is not addressed in the current code. Mr. Moss was in favor of leaving it as a place holder. Ms. Spriggs reviewed the Cluster Developments proposal to increase open space this would be consistent with the Conservation Subdivision. Mr. Moss noted if we increase the open space too much, it could have a negative effect. Staff will review. Mr. Cross would like to keep density low and green spaces high.

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Mr. Moss questioned if the setbacks will be reduced in the smaller cluster lots. Ms. Spriggs will make sure that translates over to the table. Mr. Moss also asked if there will be a minimum size for a cluster development and Ms. Spriggs confirmed. Discussion ensued regarding parking. Mr. Cross was open to all options. Mr. Versteegan would like to see larger buildings in the back, smaller in the front parking in between. No storefront, strip mall, or below the grade of the street like Food Lion for example. Mr. Cross stated he is in favor of buildings set back and parking in the front depending on the site. Logistically for trash pick up and fire safety, etc.

c. Section 8- Traffic Impact

Ms. Spriggs jumped ahead to section 8 after section 3 for the purpose of time constraints. Mr. Arnold asked Mr. Ehrmann and Mr. Klepper to review current standards noting the board will want this section reviewed specifically. Mr. Klepper noted yes, this pretty standard and will make sure Mr. Travis Fluitt is available to answer questions of the board. Mr. Arnold asked Ms. Spriggs to point out the client will be the town.

b. Section 6- Design and Development Standards

Ms. Spriggs returned to section 6. This section is still being reviewed for content placement (definitions, calculations, etc.). We may keep the signs language and review after July 1 for an in-depth discussion. Mr. Klepper made a note that we will not see a regulation of content due to the First Amendment and Freedom of Speech.

d. Section 9- Subdivision Regulations

Mr. Moss questioned the final plats, the subdivision plats cannot be recorded until approved by the town board, mayor, and clerk. Ms. Spriggs noted this is a section carried over from our current code and will be changed/ updated in our process manual. Mr. Moss will email Ms. Spriggs his comments and concerns. Mr. Versteegan requested for development review, a plot of just open space and greenways be submitted to PARAB for review. Ms. Spriggs will add that to the process manual. Mr. Arnold asked about residential street widths, his feeling is the streets in town are narrow. Ms. Spriggs noted a local residential street width is 60 feet. Mr. Arnold asked Mr. Moss if that is a normal width? Mr. Moss noted 50 feet is a more common right-of-way width. Mr. Arnold suggested sidewalks be placed on both sides of the street. Mr. Versteegan would like to make greenway widths greater. Mr. Arnold asked Mr. Versteegan to bring that to PARAB first before making any changes in the UDO. Ms. Spriggs confirmed standards conversations are occurring. Mr. Moss noted depending on the size of the development, it may not allow sidewalks on both sides of the street and some builders may push back on this. Mr. Versteegan would like to see our standards be higher than the county for stormwater management. Ms. Spriggs confirmed we are working to make our code stricter than the county and the state.

Next Meeting: Thursday, February 18, 2021, 12:00 pm. – 2:00 pm.

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Memorandum

TO: LDO Steering Committee
FROM: Julie Spriggs, GISP, CFM, CZO, Planner II
DATE: February 12, 2021
RE: Item 3 Review of Sections

The working draft of the Land Development Ordinance (LDO) can be found online at <https://www.rolesvillenc.gov/planning/whats-new-plans-progress>.

The sections we will cover for January's meeting are Sections 1, 4, 7, 10, and 11. As this is a large section to review, I have provided a PowerPoint slide deck to guide our discussion and review the materials before the meetings.

Section 1 is the introduction of the Land Development Ordinance. The section describes general housekeeping of the ordinance, such as the authority granted by state statutes for an LDO, consistency with the Comprehensive Plan, where and how the official zoning map is kept, and how the transition from the current UDO to the new LDO is handled.

Section 4 contains the floodplain and watershed overlays. The state heavily restricts the floodplain overlay language. We have proposed language very similar to the current UDO with minor updates to comply with state regulations. The watershed overlay is introduced with the LDO. Our current UDO has a watershed district for each zoning classification. The overlay will allow the underlying zoning to exist without creating a separate zoning classification for each district, making the district regulations easier to understand and more clearly shown on the zoning map.

Section 7 houses the special standards for telecommunication towers. State legislation regulates this section. The language proposed contains our current standards with updates to comply with state statutes.

Section 10 is the section on nonconformities. Transitioning from the UDO to the LDO may carry over existing nonconformities or create new nonconformities as standards change. This section details how the nonconformities are regulated after the adoption of the LDO.

Section 11 is the section for all definitions. This section will be continuously updated throughout our process as we progress to a final version for adoption.

Our discussions will focus on the differences and significant changes between the current UDO and the proposed LDO. Please refer to the slide deck during your reviews to help guide you through the materials. The expectation is not for you to read every word of the proposed LDO sections. Expectations are as follows:

- ❖ Review the agenda, memo, slide deck, and accompany sections
- ❖ Sections to be discussed should be skimmed through with the four points in mind
 - Is the text easy to follow and understand?
 - Do the charts and graphics match the descriptions, and are they easy to understand what they represent?
 - Is there a topic you expected to see covered in this section that was missing?
 - Is there a topic covered that would be better served from another section of the ordinance?
- ❖ Topics included in the slide deck should be read more carefully, with the intent to discuss during the meeting

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Welcome

*Town of Rolesville
LDO Steering Committee Meeting
Thursday, February 18, 2021*





AGENDA ITEM 3

Section 1 – Introduction

Section 4 – Overlays

Section 7 – Special Standards

Section 10 – Nonconformities

Section 11 - Definitions



SECTION 1 – INTRODUCTION

- Section 1 establishes the Town's authority for the LDO and general house keeping of the ordinances
 - Yellow highlights are placeholders for dates or callouts for discussion

SECTION 4 – OVERLAYS

- Section 4 contains the floodplain and watershed overlays
- Section 4.1 Flood Damage Prevention Overlay
 - Definitions
 - Move all definitions to definitions section?
 - Keep here for easy reference?
 - Specific terminology to Section 4.1

SECTION 4 – OVERLAYS

- Section 4.1 Flood Damage Prevention Overlay
 - Optional language suggested by state. Keep? Remove?
 - Area of Future-Conditions Flood Hazard
 - Non-Conversion Agreement
 - Technical Bulletin and Technical Fact Sheet
 - NAVD 1988 – will need text amendment when changed to GRAVD or GNSS
 - Recommended in state model ordinance as NAVD 1988
 - Current language uses mean sea level
 - Pg 44 State recommends \$3,000 value as criteria

SECTION 4 – OVERLAYS

- Section 4.1 Flood Damage Prevention Overlay
 - Current UDO 7.2.5.6 and 7.2.5.7 are not included in the state template. Do we keep these or go with state recommendation?
 - 7.2.5.6 – Uses permitted in Special Flood Hazard Areas
 - 7.2.5.7 – Uses prohibited in Special Flood Hazard Areas

SECTION 4 – OVERLAYS

- Section 4.2 Watershed Overlay
 - Watershed Review Board changed to Planning Board for consistency with duties
 - 4.2.3 – can keep here or list in use table.
 - Staff recommends here keeping here as overlays can be more restrictive than zoning district

SECTION 7 – SPECIAL STANDARDS

- Section 7 houses the special standards for telecommunication towers
 - If no other subsections are included in Section 7, this will be renamed to “Telecommunication Standards”
 - Electronic gaming may go here if it is a legal use
 - Town attorney to determine
 - Regulated by 160D and consistent with current UDO
 - Updated to include small wireless facilities

SECTION 10 – NONCONFORMITIES

- Section 10 details how nonconformities will be regulated
 - Section 10.4 updated Board of Commissioners as approval authority for special use permits
 - Relies on current UDO language and state statutes



SECTION 11 – DEFINITIONS

- Section 11 contains the definitions used throughout the LDO
 - Continuously updated throughout process

NEXT STEPS



- Next scheduled meeting March 18, 2021 at Noon
 - We will discuss results of Feb 26 Work Session and schedule for adoption of LDO
- Additional comments can be sent to julie.spriggs@Rolesville.nc.gov or call at 919-554-6517
- Working Draft is posted online <https://www.rolesvillenc.gov/planning/whats-new-plans-progress>
- Thank you for your time and participation

1. INTRODUCTION

1.1. AUTHORITY

- A. **Authority.** This ordinance shall be known and cited as the Land Development Ordinance of the Town of Rolesville, North Carolina, and will be referred to as “the Land Development Ordinance”, “this Ordinance”, “LDO” or abbreviated references (“the LDO” or “this LDO”). This LDO is adopted pursuant to the authority contained in G.S. 160D-103 and 160D-913, as amended, and for the purpose of promoting the health, safety, or general welfare of the citizens of the Town of Rolesville. This LDO contains the Town’s zoning, subdivision, flood damage prevention, and supplemental regulations, as authorized by the North Carolina General Statutes. This LDO is adopted in accordance with:
1. North Carolina General Statutes;
 2. Town of Rolesville Charter;
 3. All other relevant laws including the laws of the State of North Carolina and any special legislation enacted by the General Assembly.
- B. **Enactment Date (Effective Date).** This LDO shall be in effect on _____, 2021 and repeals and replaces the LDO previously approved on October 4th, 2004.
- C. **References to State Law.** Whenever this LDO refers to or cites an article or section of North Carolina General Statutes or adopted State Law, and that article or section is amended or superseded, this Ordinance shall be deemed amended to refer to the amended section.

1.2. PURPOSE AND INTENT

This LDO is adopted to protect and promote the public health, safety and general welfare of residents and businesses in the Town of Rolesville and implement the goals and recommendations within the adopted Comprehensive Plan. Specifically, this LDO intends to accomplish the following items:

- A. Provide regulations to support compatible, orderly growth and development

within the Town;

- B. Support and encourage economic development;
- C. Promote the safety and well-being of the citizens of Rolesville;
- D. Ensure there exists the adequate provisions of open space and environmental protection;
- E. Improve the built environment and pedestrian considerations, including a policy of complete streets and emphasis on development which retains a walkable scale;
- F. Encourage development patterns that support a variety of housing stock and community forms;
- G. Allow for a mixture of uses in certain areas of the Town and promote compact urban form and walkability;
- H. Ensure sufficient land availability for public rights-of-way and utilities;
- I. Encourage increased densities in areas which can support higher density development;
- J. Require for safe, compatible development through the use of development regulations;
- K. Lessen congestion in streets;
- L. Secure safety from fire and other dangers;
- M. Manage the Town's stormwater and surface waters; and
- N. Further facilitate adequate provision of water, wastewater, parks, schools, and parks.

1.3. JURISDICTION

The area in which this LDO applies is shown on the zoning map referenced in this LDO, officially titled as the "Rolesville Official Zoning Map" and referred to throughout the LDO as the "Zoning Map". The standards of this LDO shall apply to the development of all land within the Town limits and the Extraterritorial Jurisdiction (ETJ) unless it is expressly exempted by a specific section or subsection of this LDO.

1.4 APPLICABILITY

- A. **General Applicability.** The standards, regulations and provisions defined in this LDO shall apply to all development within the Town limits and Extraterritorial Jurisdiction (ETJ) of the Town of Rolesville, as defined in the adopted Zoning Map.
1. **Land.** No land shall be developed without compliance with this Ordinance and all other applicable Town, state, and federal regulations.
 2. **Use and Occupancy.** No person shall use, occupy, or divide any land or a building or authorize or permit the use without compliance with this Ordinance and all other applicable Town, state, and federal regulations.
 3. **Construction.** No structure or building shall be erected or altered except in conformity with this LDO and all other applicable Town, state, and federal regulations.
- B. **Minimum And Maximum Standards.** All regulations, standards and provisions defined in this LDO are considered as minimum or maximum requirements, as specified in each Section. No component of this LDO shall be deemed to limit, repeal, or hinder other powers or authority granted under the North Carolina General Statutes.

1.5. CONSISTENCY WITH COMPREHENSIVE PLAN

- A. **Comprehensive Plan.** This LDO is intended to conform with all goals, objectives, policies, strategies and actions defined in the Town's official Comprehensive Plan.
- B. **Inconsistency.** If the LDO or Zoning Map becomes inconsistent with the adopted Comprehensive Plan, or should the Comprehensive Plan be amended, the standards, regulations and provisions of this LDO should be amended to remain consistent. Any changes or amendments to this LDO shall maintain consistency to the Town's adopted Comprehensive Plan.
- C. **Amendments.** Any amendments to the LDO shall be considered and adopted in compliance with applicable General Statutes of North Carolina, Chapter 160D.

1.6. ROLESVILLE OFFICIAL ZONING MAP

1.6.1. OFFICIAL ZONING MAP

- A. The boundaries and locations established by this Ordinance shall be designated on a map or maps entitled Official Zoning Map(s) of the Town of Rolesville. The Official Zoning Map, as amended, is hereby incorporated by reference herein and made part of this Ordinance.
- B. No changes shall be made in the Official Zoning Map except in conformity with the procedures set forth in this LDO.
- C. The Official Zoning Map is the final authority as to zoning status of all lands and waters in the Town.
- D. In accordance with G.S. 160D-105, the Official Zoning Map shall be maintained in a digital format and paper copies shall be kept on file in the Planning Department and are available for public inspection during normal business hours.
- E. The paper version of the Official Zoning Map maintained in the offices of the Planning Department shall be the final authority as to the status of the current zoning district classification of land in the Town's jurisdiction.
- F. In the event that any uncertainty exists with regards to intended boundaries as shown on the Official Zoning Map, the Land Development Administrator is authorized to interpret the boundaries. The following rules shall apply:
 - 1. Boundaries shown as approximately following a street, highway alley, road, right-of-way, parkway, utility line, railroad, stream or watercourse, the boundary shall be deemed to be the centerline of such feature.
 - 2. If a street, alley, railroad, or utility easement forming the boundary between two separate zoning districts is abandoned or removed from dedication, the district boundaries shall be construed as following the centerline of the abandoned or vacated roadbed or utility easement.
 - 3. Boundaries indicated as approximately following lot lines, shall be construed as following the lot line as it existed when the boundary was established; provided, however, that, where such boundaries are adjacent to a street or

alley and the zoning status of the street or alley is not indicated, the boundaries shall be construed as running to the middle of the street or alley. If a subsequent minor adjustment (such as from settlement of boundary dispute or overlap) results in the lot line moving 10 feet or less, the zoning boundary shall be interpreted as moving with the lot line.

4. Boundaries indicated as approximately following the boundary of the Town limits shall be construed as following the boundary of municipal corporation.
5. Boundaries indicated as approximately following a river, stream, canal, lake or other watercourse shall be interpreted as following the centerline of the watercourse as it actually exists, and as moving with that centerline to the extent the watercourse moves as a result of natural resources (flooding, erosion, sedimentation, etc.).
6. Boundaries indicated as following physical features other than those mentioned in subsections of this Section shall be construed as following such physical features, except where variation of the actual location from the mapped location would change the zoning status of a lot or parcel, and in such case the boundary shall be interpreted in such manner as to avoid changing the zoning status of any lot or parcel.
7. Boundaries indicated as parallel to or extensions of features indicated in subsections of this Section shall be construed as being parallel to or extensions of such feature.
8. Wherever a single lot is located within two or more different zoning districts, each portion of the lot shall be subject to all the regulations applicable to the zoning district where it is located.
9. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.

1.6.2. PURPOSE AND INTENT OF ZONING MAP

- A. **Purpose.** Under the provisions of this LDO and the Zoning Map, the Town of Rolesville is divided into General Use Districts, Conditional Zoning Districts, Special Districts, and

Mixed-Use Districts. Land zoned under the previous UDO shall be reclassified to one of the zoning districts in Section 3: Zoning Districts.

- B. **Intent.** The LDO provides all district standards in Section 3: Zoning Districts. Specifically, the following specific subsections shall provide all applicable district standards:
1. General Use Districts, as defined in Section 3.1: General Use Districts.
 2. Conditional Districts, as defined in Section 3.2: Conditional Zoning Districts.
 3. Mixed-Use Districts, as defined in Section 3.3: Mixed-Use Districts.

1.7. MEANING OF TERMS

- A. Whenever the context in which words are used in the LDO indicates that such is the intent, words in the singular number shall include the plural and vice versa and words in the masculine gender shall include the feminine and neuter genders and vice versa. All references to “herein”, “hereunder” and words of like import shall refer, unless the context clearly requires otherwise, to this LDO, as distinct from the paragraph or section within which such term is located.
- B. The terms “shall”, “should”, “will”, and “may” are included within the LDO and are understood to be used in the following manner:
- Shall: Provisions or items that are mandatory
- Will: Declares a purpose to accomplish an item in the future
- Should/May: Items that are more flexible in nature and are non-mandatory but encouraged
- C. Any reference to “Town” shall mean “Town of Rolesville”
- D. Any reference to “Comprehensive Plan” shall mean the most current version of the “2017 Rolesville Comprehensive Plan.”
- E. Any reference to “Code” shall mean this LDO.

1.8. GRAPHIC IMAGES

All graphic illustrations, illustrative intents, and any photographic or simulated images used throughout this LDO are intended only to graphically portray the regulatory standards and overall intents established throughout this LDO. These images are considered guidelines as opposed to regulatory standards. Where in conflict, numerical metrics shall take precedence over graphic illustrations.

1.9. CONFLICTING PROVISIONS

- A. Conflicts Between Standards in LDO. If any standard and regulation contains an actual, implied, or apparent conflict with other provisions of this LDO, the more restrictive standard or regulation shall apply.
- B. Conflicts With State or Federal Law. If any standard or regulation is inconsistent with State or Federal law, the more restrictive standard or regulation shall govern, to the extent permitted by law.
- C. Conflicts With Other Town Laws or Codes. If any standard or regulation is inconsistent with another standard or regulation of the Town, the more restrictive standard or regulation shall govern, unless specified otherwise.
- D. Conflicts With Private Agreements. Where any standard or regulation conflicts with private agreements, covenants or deed restrictions and the standard or regulation is more restrictive, the standard or regulation in this LDO shall control.
- E. Vested Rights. Nothing in this LDO shall constitute a taking of vested rights per G.S. 160D.

1.10 TRANSITIONAL REQUIREMENTS

1.10.1. EXISTING NONCONFORMITIES

A legal structure, use, or lot that conformed to previous standards and regulations set forth in the previous LDO prior to the effective date of this LDO, but no longer meets the standards set forth in this LDO, shall be deemed nonconforming and shall meet the provisions set forth in Section 10: Nonconformities.

1.10.2. ILLEGAL STRUCTURES, USES AND LOTS

Any structure, use or lot which has been created or configured illegally prior to the adoption of this LDO, but is subsequently made legal by this LDO, shall be deemed as legal on the effective date of this LDO adoption. Conversely, any structure, use or lot which was illegal prior to the adoption of this LDO, and still does not meet the standards and regulations in the LDO are considered illegal. Illegal structures, uses and lots shall not be considered under this Ordinance as nonconforming.

1.10.3. PRIOR APPROVALS

- A. Any development approvals granted before **July 1st, 2021** shall remain valid until their expiration date.
- B. Developments with valid approvals or permits may be carried out in accordance with the terms and conditions of their approval and the development standards in effect at the time of approval, provided the permit or approvals is valid and has not expired.
- C. If an approval expires or is revoked any subsequent development of the site shall be applied for in accordance with the procedures and standards of this LDO.
- D. An applicant shall be deemed to have initiated an approved development upon the subsequent application and diligent pursuit of other required Town, State, or Federal permits or approvals.
- E. Timelines for the commencement or expiration of development in accordance with an approved application shall be suspended in the event of legal challenge.
- F. To the extent a prior-approved application proposes development that does not comply with this LDO, the subsequent development, although permitted, shall be nonconforming and subject to the provision of Section 10: Nonconformities. Any prior approvals under the previous LDO shall be authorized, unless the applicant fails to perform work before the approval expires.

1.10.4. PENDING APPLICATIONS

An on-going application prior to the effective date of this LDO is deemed to be a pending application and shall meet the following requirements where applicable:

- A. **Complete Applications.** Applications accepted as complete prior to blank date may be determined to be in accordance with either the regulations in effect at the time the application was determined complete or the regulations in this Ordinance, as requested by the applicant.
- B. **Submitted, but Not Complete Applications.** Applications that have been submitted prior to **blank date**, but not determined to be complete by the Land Development Administrator as of that date shall be reviewed and decided in accordance with this Ordinance.

1.10.5. VESTED RIGHTS AND PERMIT CHOICE

Notwithstanding Section 1.10.3 and 1.10.4, Section 2.4: Vested Rights shall permit applicants permit choice in accordance with G.S. 160D-108.

1.11. SEVERABILITY

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

1.12. PRIVATE AGREEMENTS

This LDO is not intended to abolish, repeal or nullify any private agreement for easements, covenants, or similar agreements or restrictions.

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4. OVERLAYS

4.1. FLOOD DAMAGE PREVENTION OVERLAY

4.1.1. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES.

- A. **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 (Effective January 1, 2021) of the North Carolina General Statutes, delegated to local governmental units the authority to adopt regulations designed to promote the public health, safety, and general welfare. Therefore, the Board of Commissioners of the Town of Rolesville, North Carolina, does ordain as follows in this Section.
- B. **Findings of Fact.**
1. The flood prone areas within the jurisdiction of the Town of Rolesville are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
 2. These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities and by the occupancy in flood prone areas of uses vulnerable to floods or other hazards.
- C. **Statement of Purpose.** It is the purpose of this Section to promote public health, safety, and general welfare and to minimize public and private losses due to flood conditions within flood prone areas by provisions designed to:
1. Restrict or prohibit uses that are dangerous to health, safety, and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights or velocities;
 2. Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;
 3. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;

4. Control filling, grading, dredging, and all other development that may increase erosion or flood damage; and
5. Prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or which may increase flood hazards to other lands.

D. **Objectives.** The objectives of this Section are to:

1. Protect human life, safety, and health;
2. Minimize expenditure of public money for costly flood control projects;
3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. Minimize prolonged business losses and interruptions;
5. Minimize damage to public facilities and utilities (i.e. water and gas mains, electric, telephone, cable and sewer lines, streets, and bridges) that are located in flood prone areas;
6. Minimize damage to private and public property due to flooding;
7. Make flood insurance available to the community through the National Flood Insurance Program;
8. Maintain the natural and beneficial functions of floodplains;
9. Help maintain a stable tax base by providing for the sound use and development of flood prone areas; and
10. Ensure that potential buyers are aware that property is in a Special Flood Hazard Area.

4.1.2. DEFINITIONS

- A. Unless specifically defined below, words or phrases used in this Section shall be interpreted so as to give them the meaning they have in common usage and to give this Section it's most reasonable application. Due to the unique nature of flood damage prevention standards, the interpretation of the words or phrases in this Section are

applicable only within the standards of this Section and do not apply throughout the entire LDO. Definitions applicable to this Section include below:

1. “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.
2. “Addition (to an existing building)” means an extension or increase in the floor area or height of a building or structure.
3. “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.
4. “Appeal” means a request for a review of the Land Development Administrator’s interpretation of any provision of this Section.
5. “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.
6. “Area of Special Flood Hazard” see “Special Flood Hazard Area (SFHA)”.
7. “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 (OPTIONAL).
8. “Base Flood” means the flood having a one (1) percent chance of being equaled or exceeded in any given year based on current conditions hydrology.
9. “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”.
10. “Basement” means any area of the building having its floor subgrade (below ground level) on all sides.
 11. “Building” see “Structure”.
 12. “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.
 13. “Current Conditions Hydrology” means the flood discharges associated with the land-use conditions existing within the drainage area of a watercourse at the time a flood study of the watercourse was conducted. Current conditions flood discharges and historical flood study information are published in the Flood Insurance Study.
 14. “Design Flood”: See “Regulatory Flood Protection Elevation.”
 15. “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.
 16. “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.
 17. “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.
 18. “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.

19. “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.
20. “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.
21. “Existing building and existing structure” means any building and/or structure for which the “start of construction” commenced before the effective date of the floodplain management regulations of this Section.
22. “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) is completed before the effective date of this Section.
23. “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.
24. “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).
25. “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.
26. “Flood Insurance” means the insurance coverage provided under the National Flood Insurance Program.
27. “Flood Insurance Rate Map (FIRM)” means an official map of a community, issued by FEMA, on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated. (see also DFIRM)

28. “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.
29. “Flood Prone Area” see “Floodplain”.
30. “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.
31. “Floodplain” means any land area susceptible to being inundated by water from any source.
32. “Floodplain Administrator” is the individual appointed to administer and enforce the floodplain management regulations. The floodplain administrator shall be the land development administrator of this LDO.
33. “Floodplain Development Permit” means any type of permit that is required in conformance with the provisions of this Section, prior to the commencement of any development activity.
34. “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.
35. “Floodplain Management Regulations” means this Section 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.
36. “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.

37. “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.
38. “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.
39. “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 hydraulic models meeting the minimum requirements of the National Flood Insurance Program.
40. “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, precipitation exceeding the base flood, and the hydrological effect of urbanization of the watershed. The BFE plus the freeboard establishes the “Regulatory Flood Protection Elevation”.
41. “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.

42. “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.
43. “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.
44. “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.”

Note: 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.

45. “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 Town'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.

46. "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;
- 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.

47. “Lowest Adjacent Grade (LAG)” means the elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.
48. “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 Section.
49. “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”.
50. “Manufactured Home Park or Subdivision” means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
51. “Map Repository” means the location of the official flood hazard data to be applied for floodplain management. It is a central location in which flood data is stored and managed; in North Carolina, FEMA has recognized that the application of digital flood hazard data products carry the same authority as hard copy products. Therefore, the NCEM’s Floodplain Mapping Program websites house current and historical flood hazard data. For effective flood hazard data the NC FRIS website (<http://FRIS.NC.GOV/FRIS>) is the map repository, and for historical flood hazard data the FloodNC website (<http://FLOOD.NC.GOV/NCFLOOD/>) is the map repository.
52. “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.
53. “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.

54. “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 Section 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.

(OPTIONAL)

55. “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.

56. “Post-FIRM” means construction or other development for which the “start of construction” occurred on or after the effective date of the initial Flood Insurance Rate Map for the area.

57. “Pre-FIRM” means construction or other development for which the “start of construction” occurred before the effective date of the initial Flood Insurance Rate Map for the area.

58. “Principally Above Ground” means that at least 51% of the actual cash value of the structure is above ground.

59. “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.

60. “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.

61. “Reference Level” is the bottom of the lowest horizontal structural member of the lowest floor for structures within all Special Flood Hazard Areas .
62. “Regulatory Flood Protection Elevation” means the “Base Flood Elevation” plus the “Freeboard”.
- a. In “Special Flood Hazard Areas” where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE plus 2 feet freeboard.
 - b. In “Special Flood Hazard Areas” where no BFE has been established, this elevation shall be at least 2 feet above the highest adjacent grade.
 - c. In Future Conditions Flood Hazard Areas this elevation shall be the Future Conditions Flood Elevation plus 2 feet of freeboard.
63. “Remedy a Violation” means to bring the structure or other development into compliance with state and Town 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 Section or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.
64. “Riverine” means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.
65. “Salvage Yard” means any non-residential property used for the storage, collection, and/or recycling of any type of equipment, and including but not limited to vehicles, appliances and related machinery.
66. “Solid Waste Disposal Facility” means any facility involved in the disposal of solid waste, as defined in NCGS 130A-290(a)(35).
67. “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.
68. “Special Flood Hazard Area (SFHA)” means the land in the floodplain subject to a one percent (1%) or greater chance of being flooded in any given year, as determined in 4.1.3.B of this Section.
69. “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.

70. "Structure" means a walled and roofed building, a manufactured home, or a gas, liquid, or liquefied gas storage tank that is principally above ground.
71. "Substantial Damage" means damage of any origin sustained by a structure during any one-year period whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. See definition of "substantial improvement". Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.
72. "Substantial Improvement" means any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one-year period for which the cost equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:
 - (a) Any correction of existing violations of state or community health, sanitary, or safety code specifications which have been identified by the

Town's 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 4.1.4.E of this Section.

73. "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.

Note: It should be noted that Technical Bulletins and Technical Fact Sheets provide guidance on the minimum requirements of the NFIP regulations. State or Town requirements that exceed those of the NFIP take precedence. Design professionals should contact the Town 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.

74. "Temperature Controlled" means having the temperature regulated by a heating and/or cooling system, built-in or appliance.
75. "Variance" is a grant of relief from the requirements of this Section.
76. "Violation" means the failure of a structure or other development to be fully compliant with the Town's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 4.1.4 and 4.1.5 is presumed to be in violation until such time as that documentation is provided.
77. "Water Surface Elevation (WSE)" means the height, in relation to **NAVD 1988**, of floods of various magnitudes and frequencies in the floodplains of riverine areas.

78. “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.

4.1.3. GENERAL PROVISIONS

- A. **Lands to Which This Section Applies.** This Section shall apply to all Special Flood Hazard Areas within the jurisdiction, including Extra-Territorial Jurisdictions (ETJs), as allowed by law, of the Town of Rolesville.
- B. **Basis for Establishing The Special Flood Areas.** The Special Flood Hazard Areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its FIS dated May 2, 2006 for Wake 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 Section, and all revisions thereto after January 1, 2021. Future revisions to the FIS and DFIRM panels that do not change flood hazard data within the jurisdictional authority of the Town of Rolesville are also adopted by reference and declared a part of this Section. Subsequent Letter of Map Revisions (LOMRs) and/or Physical Map Revisions (PMRs) shall be adopted within 3 months.
- C. **Establishment of Floodplain Development Permit.** A Floodplain Development Permit shall be required in conformance with the provisions of this Section prior to the commencement of any development activities within Special Flood Hazard Areas determined in accordance with the provisions of 4.1.3.B of this Section.
- D. **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 Section and other applicable regulations.
- E. **Abrogation and Greater Restrictions.** This Section is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Section and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
- F. **Interpretation.** In the interpretation and application of this Section, all provisions shall be:

1. Considered as minimum requirements;
2. Liberally construed in favor of the governing body; and
3. Deemed neither to limit nor repeal any other powers granted under State statutes.

G. Warning and Disclaimer of Liability. The degree of flood protection required by this Section 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 Section 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 Section shall not create liability on the part of the Town of Rolesville or by any officer, employee, or administrative decision for any flood damages that result from reliance on this Section.

H. Penalties for Violation. Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$50.00 or imprisoned for not more than 30 days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Town of Rolesville from taking such other lawful action as is necessary to prevent or remedy any violation.

4.1.4. ADMINISTRATION

A. Designation of Floodplain Administrator (Land Development Administrator). The Land Development Administrator (LDA) of this LDO, or their designee, is hereby appointed to administer and implement the provisions of this Section.

B. Floodplain Development Application, Permit and Certification

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

- a. A site plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:
 - i. The nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;
 - ii. The boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in 4.1.3.B, or a statement that the entire lot is within the Special Flood Hazard Area;
 - iii. Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in 4.1.3.B;
 - iv. The boundary of the floodway(s) or non-encroachment area(s) as determined in 4.1.3.B;
 - v. The Base Flood Elevation (BFE) where provided as set forth in 4.1.3.B; 4.1.4.C; or 4.1.5.D;
 - vi. The old and new location of any watercourse that will be altered or relocated as a result of proposed development; and
 - vii. The certification of the plot plan by a registered land surveyor or professional engineer.
- b. Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to:
 - i. Elevation in relation to NAVD 1988 of the proposed reference level (including basement) of all structures;
 - ii. Elevation in relation to NAVD 1988 to which any non-residential structure in Zones A, AE, AH, AO, A99 will be floodproofed; and
 - iii. Elevation in relation to NAVD 1988 to which any proposed utility systems will be elevated or floodproofed.

- c. If floodproofing, a Floodproofing Certificate (FEMA Form 086-0-34) with supporting data, an operational plan, and an inspection and maintenance plan that include, but are not limited to, installation, exercise, and maintenance of floodproofing measures.
 - d. A Foundation Plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this Section are met. These details include but are not limited to:
 - i. The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls); and
 - ii. Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with 4.1.5.B(4)(d) when solid foundation perimeter walls are used in Zones A, AE, AH, AO, A99.
 - e. Usage details of any enclosed areas below the lowest floor.
 - f. Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage.
 - g. Certification that all other Local, State and Federal permits required prior to floodplain development permit issuance have been received.
 - h. Documentation for placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure that the provisions of 4.1.5.B, subsections (6) and (7) of this Section are met.
 - i. A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.
2. Permit Requirements. The Floodplain Development Permit shall include, but not be limited to:

- a. A complete description of 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.).
- b. The Special Flood Hazard Area determination for the proposed development in accordance with available data specified in 4.1.3.B.
- c. The Regulatory Flood Protection Elevation required for the reference level and all attendant utilities.
- d. The Regulatory Flood Protection Elevation required for the protection of all public utilities.
- e. All certification submittal requirements with timelines.
- f. A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse unless the requirements of 4.1.5.F have been met.
- g. The flood openings requirements.
- h. Limitations of below BFE enclosure uses (if applicable). (i.e., parking, building access and limited storage only).
- i. A statement, that all materials below BFE/RFPE must be flood resistant materials.

3. Certification Requirements.

- a. Elevation Certificates
 - i. 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 LDA a certification of the elevation of the reference level, in relation to NAVD 1988. The LDA shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the

certification or failure to make required corrections shall be cause to deny a floodplain development permit.

- ii. 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 LDA a certification of the elevation of the reference level, in relation to NAVD 1988. 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 LDA 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.
- iii. A final Finished Construction 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 LDA a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The LDA 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. **The Finished Construction Elevation Certificate certifier shall provide at least 2 photographs showing the front and rear of the building taken within 90 days from the date of certification. To the extent possible, these photographs should show the entire building including**

foundation. If the building has split-level or multi-level areas, provide at least 2 additional photographs showing side views of the building. In addition, when applicable, provide a photograph of the foundation showing a representative example of the flood openings or vents. All photographs must be in color and measure at least 3" × 3". Digital photographs are acceptable.

b. Floodproofing Certificate

- i. If non-residential floodproofing is used to meet the Regulatory Flood Protection Elevation requirements, a Floodproofing Certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the LDA 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 LDA shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.
- ii. 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 LDA 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 LDA 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.

- c. If a manufactured home is placed within Zones A, AE, AH, AO, A99 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required in accordance with the provisions of 4.1.5.B(3)(b).
- d. 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.
- e. Certification Exemptions. The following structures, if located within Zones A, AE, AH, AO, A99, are exempt from the elevation/floodproofing certification requirements specified in items 4.1.4.3(a) and (b) of this subsection:
 - i. Recreational Vehicles meeting requirements of 4.1.5.B(6)(a);
 - ii. Temporary Structures meeting requirements of 4.1.5.B(7); and
 - iii. Accessory Structures less than 150 square feet meeting requirements of 4.1.5.B(6)

4. 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 LDA (or designee) 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 Section is required.

C. Duties and Responsibilities of the Floodplain Administrator. The Floodplain Administrator (the Land Development Administrator of this LDO) shall perform, but not be limited to, the following duties:

1. Review all floodplain development applications and issue permits for all proposed development within Special Flood Hazard Areas to assure that the requirements of this Section have been satisfied.
2. Review all proposed development within Special Flood Hazard Areas to assure that all necessary local, state and federal permits have been received.

3. Notify adjacent communities and the North Carolina Department of Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).
4. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained.
5. Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of 4.1.5.F are met.
6. Obtain actual elevation (in relation to NAVD 1988) of the reference level (including basement) and all attendant utilities of all new and substantially improved structures, in accordance with the provisions of 4.1.4.B(3).
7. Obtain actual elevation (in relation to NAVD 1988) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with the provisions of 4.1.4.B(3).
8. Obtain actual elevation (in relation to NAVD 1988) of all public utilities in accordance with the provisions of 4.1.4.B(3).
9. When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the provisions of 4.1.4.B(3) and 4.1.5.B(2).
10. Where interpretation is needed as to the exact location of boundaries of the Special Flood Hazard Areas, floodways, or non-encroachment areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this Section.
11. When BFE data has not been provided in accordance with the provisions of 4.1.3.B, obtain, review, and reasonably utilize any BFE data, along with floodway data or non-encroachment area data available 4.1.5.D(2)(c), in order to administer the provisions of this Section.

12. When BFE data is provided but no floodway or non-encroachment area data has been provided in accordance with the provisions of 4.1.3.B, 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 Section.
13. When the lowest floor and the lowest adjacent grade of a structure or the lowest ground elevation of a parcel in a Special Flood Hazard Area is above the BFE, advise the property owner of the option to apply for a Letter of Map Amendment (LOMA) from FEMA. Maintain a copy of the LOMA issued by FEMA in the floodplain development permit file.
14. Permanently maintain all records that pertain to the administration of this Section and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.
15. Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the LDA 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 Section and the terms of the permit. In exercising this power, the LDA has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the Town at any reasonable hour for the purposes of inspection or other enforcement action.
16. Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this Section, the LDA may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing or in charge of the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.
17. Revoke floodplain development permits as required. The LDA may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be

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

18. Make periodic inspections throughout the Special Flood Hazard Areas within the jurisdiction of the Town. The LDA and each member of his or her department staff shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.
19. Follow through with corrective procedures of 4.1.4.D.
20. Review, provide input, and make recommendations for variance requests.
21. Maintain a current map repository to include, but not limited to, historical and effective FIS Report, historical and effective FIRM and other official flood maps and studies adopted in accordance with the provisions of 4.1.3.B of this Section, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify State and FEMA of mapping needs.
22. Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-Fs) and Letters of Map Revision (LOMRs).

D. Corrective Procedures.

1. Violations to be corrected: When the LDA finds violations of applicable state and local laws; it shall be his or her duty to notify the owner of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.
2. Actions in Event of Failure to Take Corrective Action: If the owner of a building or property shall fail to take prompt corrective action, the LDA shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:
 - a. That the building or property is in violation of the floodplain management regulations;

- b. That a hearing will be held before the LDA at a designated place and time, not later than ten (10) days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and
 - c. That following the hearing, the LDA may issue an order to alter, vacate, or demolish the building; or to remove fill as applicable.
 3. Order to Take Corrective Action: If, upon a hearing held pursuant to the notice prescribed above, the LDA shall find that the building or development is in violation of the this Section, they shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than sixty (60) calendar days, nor more than ninety (90) calendar days. Where the LDA finds that there is imminent danger to life or other property, he or she may order that corrective action be taken in such lesser period as may be feasible.
 4. Appeal: Any owner who has received an order to take corrective action may appeal the order to the Board of Adjustment by giving notice of appeal in writing to the LDA and the clerk within ten (10) days following issuance of the final order. In the absence of an appeal, the order of the LDA shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.
 5. Failure to Comply with Order: If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a Class 1 misdemeanor pursuant to NC G.S. § 143-215.58 and shall be punished at the discretion of the court.

E. Variance Procedures.

1. The BOA, shall hear and decide requests for variances from the requirements of this Section.
2. Any person aggrieved by the decision of the BOA may appeal such decision to the Court, as provided in Chapter 7A of the North Carolina General Statutes.

3. Variances may be issued for:
 - a. The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure;
 - b. Functionally dependent facilities if determined to meet the definition as stated in 4.1.2 of this Section, provided provisions of 4.1.4.E(9)(b), (c), and (e) have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety; or
 - c. Any other type of development provided it meets the requirements of this Section.
4. In passing upon variances, the BOA shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this Section, and:
 - a. The danger that materials may be swept onto other lands to the injury of others;
 - b. The danger to life and property due to flooding or erosion damage;
 - c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - d. The importance of the services provided by the proposed facility to the community;
 - e. The necessity to the facility of a waterfront location as defined under 4.1.2 of this Section as a functionally dependent facility, where applicable;
 - f. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 - g. The compatibility of the proposed use with existing and anticipated development;

- h. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - i. The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - j. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
 - k. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.
 - l. The extent that the development limit will deprive the land owner of reasonable use of their property.
5. A written report addressing each of the above factors shall be submitted with the application for a variance.
6. Upon consideration of the factors listed above and the purposes of this Section, the BOA may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this Section.
7. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the BFE and the elevation to which the structure is to be built and that such construction below the BFE increases risks to life and property, and that the issuance of a variance to construct a structure below the **BFE may result in increased premium** rates for flood insurance up to \$25 per \$100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.
8. The LDA shall maintain the records of all appeal actions and report any variances to the FEMA and the State of North Carolina upon request.
9. Conditions for Variances:

- a. Variances shall not be issued when the variance will make the structure in violation of other federal, state, or local laws, regulations, or Sections.
- b. Variances shall not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge.
- c. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- d. Variances shall only be issued prior to development permit approval.
- e. Variances shall only be issued upon:
 - i. A showing of good and sufficient cause;
 - ii. A determination that failure to grant the variance would result in exceptional hardship; and
 - iii. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or Sections.

10. A variance may be issued for solid waste disposal facilities or sites, 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.

- a. The use serves a critical need in the community.
- b. No feasible location exists for the use outside the Special Flood Hazard Area.
- c. The reference level of any structure is elevated or floodproofed to at least the Regulatory Flood Protection Elevation.
- d. The use complies with all other applicable federal, state and local laws.

- e. The Town of Rolesville has notified the Secretary of the North Carolina Department of Public Safety of its intention to grant a variance at least thirty (30) calendar days prior to granting the variance.

4.1.5. PROVISIONS FOR FLOOD HAZARD REDUCTION.

A. **General Standards.** In all Special Flood Hazard Areas the following provisions are required:

1. All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.
2. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage in accordance with the FEMA Technical Bulletin 2, Flood Damage-Resistant Materials Requirements.
3. All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.
4. All new electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall be located at or above the RFPE or designed and installed to prevent water from entering or accumulating within the components during the occurrence of the base flood. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, 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 Section shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this Section 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 Section.
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 4.1.4.E(10). A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated or floodproofed to at least the Regulatory Flood Protection Elevation and certified in accordance with the provisions of 4.1.4.B(3).
10. All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.
11. All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
12. All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.

13. All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
 14. When a structure is partially located in a Special Flood Hazard Area, the entire structure shall meet the requirements for new construction and substantial improvements.
 15. When a structure is located in 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. Buildings and structures that are located in more than one flood hazard area shall comply with the provisions associated with the most restrictive flood hazard area.
 17. Fill is prohibited in the SFHA, including construction of buildings on fill. This includes not approving Conditional Letters or Letters of Map Revision - Based on Fill (CLOMR-F or LOMR-F).
- B. **Specific Standards.** In all Special Flood Hazard Areas where BFE data has been provided, as set forth in 4.1.3.B, or 4.1.5.D, the following provisions, in addition to the provisions of 4.1.5.A, are required:
1. **Residential Construction.** New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the Regulatory Flood Protection Elevation, as defined in 4.1.2 of this Section.
 2. **Non-Residential Construction.** New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the Regulatory Flood Protection Elevation, as defined in 4.1.2 of this Section. Structures located in Zones A, AE, AH, AO, A99 may be floodproofed to the Regulatory Flood Protection Elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the Regulatory Flood

Protection Elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. For AO Zones, the floodproofing elevation shall be in accordance with 4.1.5.G(2). A registered professional engineer or architect shall certify that the floodproofing standards of this subsection are satisfied. Such certification shall be provided to the LDA as set forth in 4.1.4.B(3), along with the operational plan and the inspection and maintenance plan.

3. Manufactured Homes.

- a. New and replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the Regulatory Flood Protection Elevation, as defined in 4.1.2 of this Section.
- b. Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by certified engineered foundation system, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance pursuant to NCGS 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis thirty-six (36) inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above thirty-six (36) inches in height, an engineering certification is required.
- c. All enclosures or skirting below the lowest floor shall meet the requirements of 4.1.5.B(4).
- d. An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the LDA and the local Emergency Management Coordinator.

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

- a. Shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas;
- b. Shall not be temperature-controlled or conditioned;
- c. Shall be constructed entirely of flood resistant materials at least to the Regulatory Flood Protection Elevation; and
- d. Shall include flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria:
 - (i) A minimum of two flood openings on different sides of each enclosed area subject to flooding;
 - (ii) The total net area of all flood openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding;
 - (iii) If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;
 - (iv) The bottom of all required flood openings shall be no higher than one (1) foot above the higher of the interior or exterior adjacent grade;
 - (v) Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and

(vi) Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.

e. Fill/Grading

i. Fill is prohibited in the SFHA

f. 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 (30 CRS points); the Town of Rolesville will have the right to inspect the enclosed area (30 CRS points); the Town of Rolesville will conduct annual inspections (30 CRS points). This agreement shall be recorded with the Town of Rolesville County Register of Deeds and shall transfer with the property in perpetuity.

g. Release of restrictive covenant. If a property which is bound by a non-conversion agreement is modified to remove enclosed areas below BFE, then the owner may request release of restrictive covenant after staff inspection and submittal of confirming documentation.

5. Additions/Improvements.

a. Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

i. Not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure.

ii. A substantial improvement, with modifications/rehabilitations/improvements to the existing structure or the common wall is structurally modified more than

installing a doorway, both the existing structure and the addition must comply with the standards for new construction.

- b. Additions to pre-FIRM or post-FIRM structures that are a substantial improvement with no modifications/rehabilitations/improvements to the existing structure other than a standard door in the common wall, shall require only the addition to comply with the standards for new construction.
- c. Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
 - i. Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction consistent with the code and requirements for the original structure.
 - ii. A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
- d. Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a 1 year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started must comply with the standards for new construction. For each building or structure, the 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 Section. Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred. If the structure has sustained substantial damage, any repairs are considered

substantial improvement regardless of the actual repair work performed. The requirement does not, however, include either:

- i. Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assume safe living conditions.
- ii. Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

6. Recreational Vehicles. Recreational vehicles shall either:

a. Temporary Placement

- i. Be on site for fewer than 180 consecutive days; or
- ii. Be fully licensed and ready for highway use. (A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and has no permanently attached additions.)

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

7. Temporary Non-Residential Structures. Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the LDA 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 LDA for review and written approval:

- a. A specified time period for which the temporary use will be permitted. Time specified may not exceed three (3) months, renewable up to one (1) year;
- b. The name, address, and phone number of the individual responsible for the removal of the temporary structure;

- c. The time frame prior to the event at which a structure will be removed (i.e., minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);
 - d. A copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and
 - e. Designation, accompanied by documentation, of a location outside the Special Flood Hazard Area, to which the temporary structure will be moved.
8. Accessory Structures. When accessory structures (sheds, detached garages, etc.) are to be placed within a Special Flood Hazard Area, the following criteria shall be met:
- a. Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);
 - b. Accessory structures shall not be temperature-controlled;
 - c. Accessory structures shall be designed to have low flood damage potential;
 - d. Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
 - e. Accessory structures shall be firmly anchored in accordance with the provisions of 4.1.5.A(1);
 - f. All service facilities such as electrical shall be installed in accordance with the provisions of 4.1.5.A(4); and
 - g. Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below Regulatory Flood Protection Elevation in conformance with the provisions of 4.1.5.B(4)(d).
 - h. An accessory structure with a footprint less than 150 square feet or **that is a minimal investment of \$3,000 or less and satisfies the criteria outlined above** is not required to meet the elevation or floodproofing

standards of 4.1.5.B(2). Elevation or floodproofing certifications are required for all other accessory structures in accordance with 4.1.4.B(3).

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

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

10. Other Development.

- a. Fences in regulated floodways and NEAs (Non-Encroachment Areas) that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of 4.1.5.F of this Section.
- b. Retaining walls, sidewalks and driveways in regulated floodways and NEAs. Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of 4.1.5.F of this Section.
- c. Roads and watercourse crossings in regulated floodways and NEAs. Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of 4.1.5.F of this Section.
- d. Commercial storage facilities are not considered “limited storage” as noted in this Section and shall be protected to the Regulatory Flood Protection Elevation as required for commercial structures.

C. Reserved.

- D. Standards for Floodplains Without Established Base Flood Elevations.** Within the Special Flood Hazard Areas designated as Approximate Zone A and established in 4.1.3.B, where no BFE data has been provided by FEMA, the following provisions, in addition to the provisions of 4.1.5.A, shall apply:

1. No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of twenty (20) feet each side from top of bank or five times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional

engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

2. The BFE used in determining the Regulatory Flood Protection Elevation shall be determined based on the following criteria:
 - a. When 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 Section and shall be elevated or floodproofed in accordance with standards in 4.1.5.A and B.
 - b. When floodway or non-encroachment data is available from a Federal, State, or other source, all new construction and substantial improvements within floodway and non-encroachment areas shall also comply with the requirements of 4.1.5B and F.
 - c. All subdivision, manufactured home park and other development proposals shall provide BFE data if development is greater than five (5) acres or has more than fifty (50) lots/manufactured home sites. Such BFE data shall be adopted by reference in accordance with 4.1.3.B and utilized in implementing this Section.
 - d. When BFE data is not available from a Federal, State, or other source as outlined above, the reference level shall be elevated or floodproofed (nonresidential) to or above the Regulatory Flood Protection Elevation, as defined in 4.1.2. All other applicable provisions of 4.1.5.B shall also apply.
- E. **Standards for Riverine Floodplains With Base Flood Elevations But Without Established Floodways or Non-Encroachment Areas (NEAs).** Along rivers and streams where BFE data is provided by FEMA or is available from another source but neither floodway nor non-encroachment areas are identified for a Special Flood Hazard Area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:
 1. Standards of 4.1.5.A and B; and
 2. Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or

other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point.

- F. Floodways And Non-Encroachment Areas.** Areas designated as floodways or non-encroachment areas are located within the Special Flood Hazard Areas established in 4.1.3.B. 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 4.1.5.A and B, shall apply to all development within such areas:
1. No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless:
 - a. It is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood discharge, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the LDA prior to issuance of floodplain development permit; or
 - b. A Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained within six months of completion of the proposed encroachment.
 2. If 4.1.5.F(1) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this Section.
 3. Manufactured homes may be permitted provided the following provisions are met:
 - a. The anchoring and the elevation standards of 4.1.5.B(3); and
 - b. The encroachment standards of 4.1.5.F(1).

- G. Standards For Areas of Shallow Flooding (ZONE AO).** Located within the Special Flood Hazard Areas established in 4.1.3.B, 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 4.1.5.A and B, all new construction and substantial improvements shall meet the following requirements:

1. The reference level shall be elevated at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, plus a freeboard of 2 feet, above the highest adjacent grade; or at least 2 feet above the highest adjacent grade if no depth number is specified.
2. Non-residential structures may, in lieu of elevation, be floodproofed to the same level as required in 4.1.5.I(1) so that the structure, together with attendant utility and sanitary facilities, below that level shall be watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required in accordance with 4.1.4.B(3) and 4.1.5.B(2).
3. Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

H. Standards For Areas of Shallow Flooding (ZONE AH). Located within the Special Flood Hazard Areas established in 4.1.3.B, are areas designated as shallow flooding areas. These areas are subject to inundation by 1-percent-annual-chance shallow flooding (usually areas of ponding) where average depths are one (1) to three (3) feet. Base Flood Elevations are derived from detailed hydraulic analyses are shown in this zone. In addition to 4.1.5. A and B, all new construction and substantial improvements shall meet the following requirements:

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

Editorial Note: Section 7.2.5.6 and 7.2.5.7 of the current UDO are not included in the most recent template ordinance from the State. Does the Town wish to retain those sections? Each lists “uses permitted in special flood hazard areas” and “uses prohibited in special flood hazard areas.”

4.1.6. LEGAL STATUS PROVISIONS.

- A. **Effect On Rights and Liabilities Under The Existing Flood Damage Section.** This Section in part comes forward by re-enactment of some of the provisions of the Flood Damage Prevention Section enacted Dec 19th, 2000, as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this Section shall not affect any action, suit or proceeding instituted or pending. All provisions of the Flood Damage Prevention Section of the Town of Rolesville enacted on Dec 19th, 2000, as amended, which are not reenacted herein are repealed.
- B. **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 LDA or authorized agents before the time of passage of this Section; 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 Section.
- C. **Severability.** If any section, clause, sentence, or phrase of the Section is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Section.

4.2. WATERSHED OVERLAY

Notes:

2-8-2021: EDITORIAL NOTE: This section has reorganized all the previous watershed districts into a single “Watershed Overlay”. Instead of having a different district which allowed for different uses, we’ve consolidated and combined these and created an approach where standards will differ based upon proposed use of development (i.e. residential, nonresidential). Please review and if we need to discuss this different approach further before taking to the Steering Committee, we may set up a time to go through this approach.

4.2.1. INTRODUCTORY PROVISIONS

- A. **Purpose.** The Watershed Overlay shall cover the WS-II Balance of Watershed Area for the Little River Watershed within Rolesville's zoning jurisdiction.

In order to maintain a predominantly undeveloped land use intensity pattern, single-family residential uses shall be allowed at a maximum of one dwelling unit per 40,000 square feet. All other residential and non-residential development if allowed in the shall be allowed a maximum of 12 percent built-upon area. Exceptions to the density and built-upon area requirements for residential and non-residential uses may be made for those uses permitted as a Special Intensity Allocation (SIA) as defined in Section 4.2.2 below.

The Rolesville Planning Board is to assure compliance with this Section. General duties of the Planning Board are stated in the Section 2.1.2: Planning Board, of this LDO.

Variances to this Section are to be considered and decided upon by the Rolesville Board of Adjustment. Duties and responsibilities of the Board of Adjustment are defined in Section 2.1.3: Board of Adjustment, of this LDO.

There shall be no development or filling in the 100-year floodplain, with the exception of utilities and infrastructure, as determined by the Town. Roads in the 100-year floodplain are to be elevated to the 100-year flood elevation.

4.2.2. SPECIAL INTENSITY AREAS

- A. In the Watershed Overlay, new and expansions to existing residential and non-residential permitted uses may occupy up to ten percent of the balance of the watershed areas in Rolesville's jurisdiction as delineated on July 1, 1993, with a 70 percent built upon area when approved by the Board of Commissioners as a Special Intensity Allocation (SIA). The Rolesville Board of Commissioners is authorized to approve SIAs consistent with the provisions of this section. Projects must minimize built-upon surface area, direct stormwater away from surface waters and incorporate Best Management Practices to minimize water quality impacts. Non-discharging landfills and residual application sites if allowed are allowed in the WS-II Balance of Watershed.

4.2.3. PERMITTED AND SPECIAL USES IN WATERSHED OVERLAY.

- A. **Watershed Overlay:** Only the following uses are allowed in the Watershed Overlay:
1. Agriculture.
 2. Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 11.6101 - .0209) and all successor documents.
 3. Single-family dwellings.
 4. Churches and other places of worship.
 5. Club facilities, civic and fraternal.
 6. Family care homes as defined in G.S. § 168-21; for a disabled person as defined in G.S. 168, Article 3.
 7. Home occupations
 8. Kindergartens, nursery schools, and day care establishments.
 9. Lodging or boarding of non-transients provided not more than 50 percent of the gross floor area in one dwelling is devoted to such occupancies.
 10. Medical clinics.

11. Public recreation facilities, including community centers, parks, ballpark playgrounds, assembly halls, swimming pools, athletic courts, and other such facilities.
12. Public utility substations, fire stations, water and sewerage pumping stations, and water storage tanks.
13. Recreation facilities which are part of a subdivision and controlled by the homeowner's association.
14. Rest homes and nursing homes.
15. Schools, public and private.
16. Signs, in accordance with this LDO.
17. Uses and buildings customarily accessory to the above-permitted uses in accordance with Section 5.5 of this Section.
18. Special Intensity Allocations (SIAs), containing those residential or nonresidential uses allowed as permitted or special uses in the residential districts, are special uses in this overlay.
19. Market and sales of produce and seasonal goods is permitted as a special use.
20. Those uses listed as permitted or special uses in O&P zoning district in Section 5.1: Uses, of this LDO.
21. Those uses listed as permitted or special uses in NC and CH districts in Section 5.1: Uses, of this LDO.
22. Special Intensity Allocations (SIAs) are special use permits in this overlay. SIAs in may contain those uses listed as permitted or special uses in the NC and CH districts.
23. Those uses listed as permitted or special uses in the GI and BIT districts in Section 5.1: Uses, of this LDO.
24. Special Intensity Allocations (SIAs) are special uses in this overlay. SIAs may contain those uses which are permitted or special uses in the GI and BIT districts in Section 5.1: Uses, of this LDO.

25. Those uses listed as permitted or special uses in the RuMH district in Section 5.1: Uses, of this LDO.

4.2.4. PROHIBITED USES

- A. All uses not listed above in 4.2.3 of this Section are prohibited in all the Watershed Overlay. Discharging landfills are explicitly prohibited.

4.2.5. SUBDIVISION APPLICATION AND REVIEW PROCESS

- A. As a minimum, all proposed subdivision shall be processed and reviewed as specified in this LDO. For subdivision with the Watershed Overlay, the Land Development Administrator (LDA) will review the proposed subdivision to assure compliance with provisions of this Section prior to forwarding the preliminary plat to the Planning Board.
- B. If the Board of Commissioners approves the subdivision application following review by the Planning Board, such approval shall be indicated on all copies of the preliminary and final plat, consistent with typical subdivision certificate procedure.
- C. If the subdivision is disapproved or approved conditionally, the reasons for such action shall be stated in writing for the applicant and entered in the minutes. The owner/developer may make changes and submit a revised plan that shall constitute a separate request for the purposes of review.
- D. The plat shall be recorded within 30 days of final approval. The owner/developer shall provide the LDA with evidence the plat has been recorded with the Register of Deeds within five working days.

4.2.6. DENSITY AND BUILT-UPON LIMITS

- A. **Single Family Residential Non-Special Intensity Allocation (SIA).** Development shall not exceed one dwelling unit per 40,000 square feet in the Watershed Overlay. No residential lot shall be less than 40,000 square feet in the Watershed Overlay, unless located in a conservation subdivision.
- B. **Single Family Residential Special Intensity Allocation (SIA).** Ten (10) percent of the balance of the watershed may be developed for residential uses to seventy (70) percent built-upon area on a project by project basis. For the purpose of calculating built-upon

area, total project area shall include total acreage in the tract upon which the project is to be developed.

- C. Non-single family residential and non-residential development shall not exceed twelve (12) percent built-upon area on a project by project basis except that up to ten percent of the balance of the watershed may be developed for nonresidential uses to seventy (70) percent built-upon area on a project by project basis. For the purpose of calculating built-upon area, total project area shall include total acreage in the tract upon which the project is to be developed.

4.2.7. DIMENSIONAL REQUIREMENTS

Table 4.2.7.1 Residential Uses in the Watershed Overlay

Residential Uses in the Watershed Overlay	
Minimum lot area in square feet: 40,000	In SIA: 15,000
Minimum lot width in feet: 110	In SIA: 85
Minimum lot depth in feet: 150	In SIA: 110
Minimum required yards in feet:	In SIA:
Front: 50	Front: 30
Side: 20*	Side: 12*
Rear: 30	Rear: 25
Maximum height in feet: 35	In SIA: 35
Maximum lot coverage in percent	
-36 for single-family residential	
*Side yard setbacks fronting a public street will be extended an additional 10 feet.	

Table 4.2.7.2. Nonresidential Uses in the Watershed Overlay

Nonresidential Uses in the Watershed Overlay	
Minimum lot area in square feet	40,000
Minimum lot width in feet:	100
Minimum lot depth in feet:	150
Minimum required yards in feet:	
Front:	30
Side:	15
Rear:	20*
*Side yard setbacks fronting a public street will be extended an additional 10 feet.	

Table 4.2.7.3. Manufactured Homes in the Watershed Overlay

Manufactured Homes in the Watershed Overlay	
Minimum lot area in square feet	40,000
Minimum lot width in feet:	11
Minimum lot depth in feet:	150
Minimum required yards in feet:	
Front:	50
Side:	20*
Rear:	30
Maximum lot coverage in percent	36 for a total of the mobile home and all accessory structures
*Side yard setbacks fronting a public street will be extended an additional 10 feet.	

4.2.8. CONSERVATION SUBDIVISIONS

- A. Conservation subdivisions are permitted in accordance with the provisions of Section 9: Subdivision Regulations. Lot standards may differ in conservation subdivisions.

4.2.9. STREAM PROTECTION BUFFERS AND RIPARIAN BUFFER AREAS REQUIRED

- A. **Applicability.** Stream protection buffers and riparian protection buffers are required in accordance with the requirements in this Section. Any activities allowed in the buffer should minimize built-upon surface area, direct runoff from the surface water and maximize the utilization of stormwater Best Management Practices.
- B. **Purpose and Intent.** Stream Protection Buffers provide strips of natural vegetation that remove pollutants from stormwater runoff before they reach streams or watercourses that eventually drain into a water supply water source. They do so by allowing infiltration of runoff and filtration of pollutants through the ground and soil, slowing runoff flow to allow settling and deposition of pollutants, and providing vegetation that absorbs pollutants through root systems. In addition, these natural buffers preserve habitat for both prolific and endangered wildlife and plant species. Plant and wildlife preservation ensures a diverse ecosystem. Finally, stream protection buffers provide scenic areas for human recreation and enjoyment. The provision of vegetated, undisturbed buffers serve to preserve and protect the quality of our streams and watercourses; to preserve and protect the drinking water sources for our downstream neighbors; to preserve and protect habitat to wildlife and plants; and to preserve and protect natural areas for the human recreation and stress relief
- C. **Standards.** Along each side of a stream shown as a blue line on the most recent edition of USGS 1:24,000 (7.5) minute scale topographic maps, a 100-foot wide buffer area shall be provided. The 100-foot wide buffer shall be measured perpendicular to the river, stream or watercourse bank. The buffer shall be divided into two sections, as follows:
 - 1. **Stream Protection Buffer, Section 1.** Section 1 shall be defined as that area that begins at the stream bank and extends outward 50 feet. Stream Protection Buffer, Section 1 shall be undisturbed except for the following activities, which shall be allowed:

- a. Archeological activities, provided any vegetation removed is restored with vegetation of comparable assimilative capacity;
- b. Bridges, provided no alternative to their location in the buffer exists;
- c. Dam Maintenance activities;
- d. Drainage ditches roadside ditches and stormwater outfalls, provided that:
 - i. No reasonable alternative to their location in the buffer exists; and
 - ii. Stormwater management is installed to control nitrogen and attenuate flow before the conveyance discharges through the buffer;
- e. Driveway and road (public and private) crossings provided:
 - i. No reasonable alternative to their location in the buffer (including opportunities for shared driveways) exists; and
 - ii. The driveway crosses the buffer at an angle as close to 90 degrees as possible; and
 - iii. Side slopes do not exceed a 2:1 (horizontal to vertical) ratio (bridging and/or retaining walls may be used to meet this and the disturbance width standard); and
 - iv. All culverts are designed and constructed for the 25-year storm event
- f. Utility lines, provided:
 - i. No reasonable alternative to their location in the buffer; and
 - ii. A line crossing the buffer is combined with other permitted buffer crossings, where practicable;
 - iii. Vegetative root systems and stumps from cut trees are retained;
 - iv. No rip-rap rock is used unless necessary to stabilize a pole or tower; and
 - v. Active measurements are taken after construction and during routine maintenance to ensure diffuse flow of stormwater through the buffer; and
 - vi. Mats are used to minimize soil disturbance; and

- vii. Construction activities minimize the removal of woody vegetation, the extent of disturbed area and the duration during which areas remain in a disturbed state; and
 - viii. Cables are installed by vibratory plow or trenching; and
 - ix. Trenches are backfilled with the excavated material immediately following the installation.
- g. Removal of previously installed debris or filled, provided:
- i. Diffuse flow is maintained; and
 - ii. Any vegetation removed is restored with vegetation of comparable assimilative capacity.
- h. Scientific studies and stream gauging;
- i. Stormwater management ponds, provided:
- i. No alternative to their location in the buffer exists; and
 - ii. A new vegetated buffer meeting the purpose and requirements of this ordinance, as determined by the Town Manager on a case by case basis, is installed around the pond.
- j. Stream Restoration;
- k. Stream bank stabilization;
- l. Temporary in-stream sediment and erosion control measures for work within a stream channel;
- m. Wetland Restoration.
2. **Stream Protection Buffer, Section 2.** Section 2 shall be defined as the area that begins at the outer-edge of the 100 foot buffer and extends toward the stream for a distance of 50 feet. Stream Protection Buffer, Section 2 shall be undisturbed except as is necessary to install or preserve stable vegetated area that may be graded and revegetated for use as a lawn or landscaped area. Stream Protection Buffer, Section 2 may be disturbed as follows:
- a. Lawn and landscaped areas;
 - b. (Archeological activities, provided any vegetation removed is restored with vegetation of comparable assimilative capacity;

- c. Bridges, provided no alternative to their location in the buffer exists;
- d. Dam Maintenance activities;
- e. Drainage ditches roadside ditches and stormwater outfalls, provided that:
 - i. No reasonable alternative to their location in the buffer exists; and
 - ii. Stormwater management is installed to control nitrogen and attenuate flow before the conveyance discharges through the buffer;
- f. Driveway and road (public and private) crossings provided:
 - i. No reasonable alternative to their location in the buffer (including opportunities for shared driveways) exists; and
 - ii. The driveway crosses the buffer at an angle as close to 90 degrees as possible; and
 - iii. Side slopes do not exceed a 2:1 (horizontal to vertical) ratio (bridging and/or retaining walls may be used to meet this and the disturbance width standard); and
 - iv. All culverts are designed and constructed for the 25-year storm event
- g. Utility lines, provided:
 - i. No reasonable alternative to their location in the buffer; and
 - ii. A line crossing the buffer is combined with other permitted buffer crossings, where practicable; and
 - iii. Woody vegetation is removed by hand (no land grubbing or grading); and
 - iv. Vegetative root systems and stumps from cut trees are retained; and
 - v. No rip-rap rock is used unless necessary to stabilize a pole or tower; and
 - vi. Active measurements are taken after construction and during routine maintenance to ensure diffuse flow of stormwater through the buffer; and

- vii. Mats are used to minimize soil disturbance; and
 - viii. Construction activities minimize the removal of woody vegetation, the extent of disturbed area and the during which areas remain in a disturbed state; and
 - ix. Cables are installed by vibratory plow or trenching; and
 - x. Trenches are backfilled with the excavated material immediately following the installation.
- h. Removal of previously installed debris or filled, provided:
- i. Diffuse flow is maintained; and
 - ii. Any vegetation removed is restored with vegetation of comparable assimilative capacity.
- i. Scientific studies and stream gauging;
- j. Stormwater management ponds, provided:
- i. No alternative to their location in the buffer exists; and
 - ii. A new vegetated buffer meeting the purpose and requirements of this ordinance, as determined by the Town Manager on a case by case basis, is installed around the pond.
- k. Stream Restoration;
- l. Stream bank stabilization;
- m. Temporary in-stream sediment and erosion control measures for work within a stream channel;
- n. Wetland Restoration;
- o. Pedestrian, bikeway, equestrian, golf cart, and other recreation trails (public or private) provided:
- i. A trail crossing the buffer is combined with another permitted buffer crossing where practical; and
 - ii. A trail crossing the buffer does so at an angle as close to 90 degrees as possible; and
 - iii. Trails running linearly within the buffer shall be located where possible in the outer 20 feet of the buffer and in no instance shall

be closer than 50 feet to the edge of a river, stream or watercourse.

3. Buffer areas may be included in recorded lots and used to satisfy minimum lot sizes, provided that stream buffers are clearly delineated on the plat and that a note is included on each plat that contains a lot which includes any portion of a Stream Buffer as follows:

WARNING! DO NOT DISTURB STREAM PROTECTION BUFFERS: This lot includes a stream buffer. Disturbance within the buffer area is regulated by the Town of Rolesville. Contact the Town of Rolesville Planning Department before entering or disturbing the buffer area in any manner. Unauthorized disturbance of the buffer area will result in financial penalties. In addition, this buffer may be governed by the State of North Carolina under the Neuse River Rules. Please contact the North Carolina Department of Environmental Quality (DEQ) for additional information.

- D. **Conflict with Other Applicable Laws or Regulations.** In the event of conflict with other applicable laws or regulations, the more restrictive regulation shall govern. Note: streams may require both Stream Buffers and Neuse River Riparian Buffers. Stream Buffers and Neuse River Buffers may exist concurrently in the same location.
- E. **Previously Approved Projects.** The Town recognizes that some property owners have already expended substantial funds in submitting for site plan, subdivisions, special use permits and other Town approvals. Projects that were in the review process as evidenced by the submittal of at least a completed application accepted by the Planning Department for a site plan, subdivision, special use permit or building permit, before March 16, 2004 will be exempt from the requirements of this section.

4.2.10. RULES GOVERNING THE INTERPRETATION OF WATERSHED OVERLAY AREA BOUNDARIES.

- A. Where uncertainty exists as to the boundaries of the watershed area as shown on the zoning or watershed map, the standards of this Section shall apply.

- B. Where area boundaries are indicated as approximately following either street, alley, railroad or highway lines, or center-lines thereof, such lines shall be construed to be such boundaries.
- C. Where area boundaries are indicated as approximately following lot lines, such lot lines shall be construed to be such boundaries. However, a surveyed plat prepared by a registered land surveyor may be submitted to the Town as evidence that one or more properties along these boundaries do not lie within the watershed area.
- D. Where the watershed area boundaries lie at a scaled distance more than 25 feet from any parallel lot line, the location of watershed area boundaries shall be determined by use of the scale appearing on the watershed map.
- E. Where the watershed area boundaries lie at a scaled distance of 25 feet or less from any parallel lot line, the location of the watershed area boundaries shall be construed to be the lot line.
- F. Where other uncertainty exists, the zoning administrator shall interpret the map as to the location of such boundaries. This decision may be appealed to the Board of Adjustment (BOA).

4.2.11 EXISTING DEVELOPMENT

- A. **Exception to Applicability.** Existing development, as defined in this Section, is not subject to the watershed requirements of this Section. Expansions to structures classified as existing development must meet the requirements of this Section. However, the built upon area of the existing development is not required to be included in the density and/or built upon calculations.
- B. If a non-conforming lot of record is not contiguous to any other lot owned by the same party, then that lot of record shall not be subject to the development restrictions of the water supply watershed provisions of this Section if it is developed for single-family residential purposes.
- C. Any existing development as defined in this Section may be continued and maintained subject to the provisions of this Section. Expansion to structures classified as existing development must meet the requirements of Section 4.2.2. However, the built-upon area of existing development is not required to be included in the density calculations. No lot may exceed 36 percent lot coverage in the Watershed Overlay when new

development is added to existing development or 70 percent in Special Intensity Allocations (SIAs).

- D. **Reconstruction of Buildings or Built-upon Areas.** Any existing building or built-upon area not in conformance with the restrictions of this subsection that has been damaged or removed may, if otherwise in conformance with this Section, be reconstructed if the total amount of space devoted to the built-upon area is not increased.

4.2.12. PUBLIC HEALTH REGULATIONS

- A. **Public Health in General** No activity, situation, structure or land use shall be allowed within the watershed which poses a threat to water quality and the public health, safety, and welfare. Such conditions may arise from inadequate on-site sewage systems which utilize ground absorption; inadequate sedimentation and erosion control measures; the improper storage or disposal of junk, trash or other refuse within a buffer area; the absence or improper implementation of a spill containment plan for toxic and hazardous materials; the improper management of stormwater runoff; or any other situation found to pose a threat to water quality.

B. **Abatement**

1. The LDA shall monitor land use activities within the watershed areas that may pose a threat to water quality.
2. The LDA shall report all findings to the Town Manager. The LDA may consult with any public agency or official and request recommendation.
3. When the LDA finds a threat to water quality and public health, safety, and welfare, he shall institute any appropriate action or proceeding to restrain, correct, or abate the condition and/or violation.

4.2.13. RECORD AND NOTIFICATION

- A. The LDA shall keep records of all amendments to this subsection and shall provide copies of all such amendments upon adoption to the Division of Water Resources.
- B. The LDA shall keep records of the jurisdiction's utilization of Special Intensity Allocations (SIAs). Records shall include the total acres of non-critical watershed area, total acres eligible to be developed under this option, (212 acres), [NOTE: per letter received from N.C. Division of Water Quality] total acres approved for this development option, and individual records for each project with the following information: location, acres, site plan, use, stormwater management plan as applicable and inventory of hazardous substances as applicable.
- C. The LDA shall keep a record of variances to this subsection. This record shall be submitted to the Local Government Assistance Unit of the NC Division of Water Quality on an annual basis, on or before January 1st of each year, and shall provide a description of each project receiving a variance and the reason for granting the variance.

4.2.14. AMENDMENTS

- A. Amendments to this Section must be processed in accordance with the process for zoning amendments, including the holding of public hearings. Under no circumstances shall the Rolesville Board of Commissioners adopt such amendments, supplements or watershed protection rules as adopted by the N.C. Environmental Management Commission. All amendments to the watershed provisions of this Section must be filed with N.C. Division of Water Resources, Environmental Health Section of the Division of Public Health, and N.C. Division of Community Assistance.

4.2.15. VARIANCES

- A. The Board of Adjustment shall have the power to authorize, in specific cases, minor variances from the terms of the watershed provisions of this Section and hold hearings on major variances to the terms of the watershed provisions of this Section. In addition to the normal variance requirements, the following provisions shall apply:
 - 1. A site plan, drawn to a scale of at least one inch to forty (40) feet, shall be submitted, indicating the property lines of the parcel upon which the use is proposed; any existing or proposed structures; parking areas and other built-upon

- areas; surface water drainage. The site plan shall be neatly drawn and indicate a north point, name and address of the person who prepared the plan, date of the original drawing, and an accurate record of any later revisions.
2. A complete and detailed description of the proposed variance, together with any other pertinent information which the applicant feels would be helpful to the board of adjustment in considering the application.
 3. The zoning administrator shall at least ten (10) days before the hearing mail by first class mail notification in writing to each local government having jurisdiction in the watershed and any entity using the water supply for consumption. Such notice shall include a description of the variance being requested and the date of the hearing. Local governments receiving notice of the variance request may submit comments to the zoning administrator prior to the hearing. Such comments shall become part of the record of the proceedings of the hearing.
 4. If the application calls for the granting of a major variance, and if the board of adjustment decides in favor of granting the variance, the board of adjustment shall propose a preliminary record of the hearing within thirty (30) days which shall include:
 - a. The variance application;
 - b. The hearing notice;
 - c. The evidence presented;
 - d. Motions offers of proof, objections to evidence, and rulings on them;
 - e. Proposed findings and exceptions;
 - f. The proposed decision, including all conditions proposed to be added to the permit.
 5. The preliminary record shall be sent to the Environmental Management Commission for its review as follows:
 - a. If the Commission concludes from the preliminary record that the variance qualifies as a major variance and that (1) the property owner can secure no reasonable return from, nor make any practical use of the property unless the proposed variance is granted, and (2) the variance, if granted, will not result in a serious threat to the water supply, then the Commission shall approve the variance as proposed or approve the

proposed variance with conditions and stipulations. The Commission shall prepare a Commission decision and send it to the Board of Adjustment. If the Commission approves the variance as proposed, the Board shall prepare a final decision granting the proposed variance. If the Commission approves the variance with conditions and stipulations, the Board shall prepare a final decision including such conditions and stipulations, granting the proposed variance.

- b. If the Commission concludes from the preliminary record that the variance qualifies as a major variance and that (1) the property owner can secure a reasonable return from or make a practical use of the property without the variance or (2) the variance, if granted, will result in a serious threat to the water supply, then the Commission shall deny approval of the variance as proposed. The Commission shall prepare a Commission decision and send it to the Board of Adjustment. The Board shall prepare a final decision denying the variance as proposed.
6. Appeals from the Board of Adjustment must be filed with the Superior Court within thirty (30) days from the date of the decision. The decision of the Superior Court will be in the manner of certiorari.

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7. SPECIAL STANDARDS AND SPECIFIC CONDITIONS

7.1. TELECOMMUNICATION

7.1.1. DEFINITIONS

- A. **Definitions.** Due to the unique nature of telecommunication, for the purpose of administrating the standards of this Section, all definitions in G.S. 160D-931, as amended, shall apply.

7.1.2. PURPOSE AND INTENT

- A. **Purpose and Intent.** Consistent with G.S. 160D-930, the purpose of this Section is to ensure the safe and efficient integration of facilities necessary for the provision of advanced mobile broadband and wireless telecommunications services throughout the Town and to ensure the ready availability of reliable wireless service to the public, government agencies, and first responders, with the intention of furthering the public safety and general welfare.

7.1.3. APPLICABILITY

- A. **Applicability.** The provisions of this Section and G.S. 160D Part 3 Wireless Telecommunication Facilities shall apply to all wireless telecommunication facilities, unless specifically exempted in this Section. All wireless telecommunication facilities, support structures (i.e. telecommunication tower) and small wireless facilities shall comply with this LDO, applicable Federal Aviation Administration (FAA) regulations, Federal Communications Commission (FCC) regulations, and any other state or federal government regulations.

7.1.4. COLLOCATION

- A. **Intent.** Consistent with G.S. 160D-934, the intent of this Section is to provide for proper location, height, and size of antennas so as not to impose unreasonable limitations on or prevent the quality of signals of telecommunications antennas, and to comply with state and federal laws regarding the siting and permitting of telecommunications facilities. A wireless provider, shall, whenever possible, enter into joint use agreements with the


Town and other parties, for collocation, provided that the terms of such agreements are satisfactory to the wireless provider.

1. Nothing shall mandate that the wireless provider enter into joint use agreements with parties other than the Town or an agency of the Town. However, prior to placement of any new or additional wireless facilities in the public rights-of-way, a wireless provider is required to certify in writing to the Town that it has made appropriate inquiry to all existing utilities and other entities possessing a right to occupy the public rights-of-way as to the availability of right-of-way that it could reasonably utilize to meet its needs, and that no such facility is available or planned at a reasonable cost by any other entity on the time schedule reasonably needed.
2. The wireless provider shall not be permitted to perform any placement or maintenance of wireless facilities in those segments of the public rights-of-way where there exists vacant or available collocation of facilities.
3. Collocations shall require a completed Zoning Permit Application (see 7.1.4.B). Decisions on these applications must be made within forty-five days of receipt of a completed application. Notice of any deficiencies in a collocation application must be provided within forty-five days of submission of an application.

B. Collocation Standards.

1. **General Standards.** A completed Zoning Permit Application, the contents of which shall include the following items in addition to that information requested on the face of the Zoning Permit Application:
 - a. Elevation of the tower or other support structure showing the proposed location and profile of the antennas;
 - b. Explanation as to the location of equipment cabinets, unless not housed in an existing structure, then in such event a plot plan showing the location of the proposed structure to house the equipment cabinet for the collocation and an elevation showing the profile location of the proposed structure to house the equipment cabinet for the collocation;

- c. Evidence that the proposed collocation will comply with federal, state and local safety requirements, including, but not limited to, evidence that the telecommunication tower (or other support structure) is engineered and constructed to, as currently equipped, accommodate the impacts of weight and location of the proposed antennas;
- d. Evidence that the proposed collocation will not interfere with the operation of other antenna existing on the telecommunications tower (or other support structure), nor interfere with radio or television or similar reception for adjoining properties. In certain instances the Town may deem it appropriate to have an on-site RF survey done after the construction and activation of the improvement, such to be done under the direction of the Town or its designee, and a copy of the survey results provided, along with all calculations, prior to issuance of a Certificate of Compliance.
- e. For 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 façade, the antennas shall be flush-mounted on the façade 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.
- f. For Attachments to Towers: So as to be the least visually intrusive reasonably possible given the facts and circumstances involved, and thereby have the least adverse visual effect, all antennas attached to a tower or other structure shall be flush mounted or as near to flush mounted as is possible so as to create the smallest profile reasonably possible under the facts and circumstances, unless it can be proven that such would prohibit or serve to prohibit the provision of service or be technologically impracticable.

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- g. For 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.
 - h. Structural Analysis and Report: The Applicant shall provide a certification by a Professional Engineer licensed in the State, along with documentation in the form of a structural analysis, including calculations and a geotechnical sub-surface soils investigation report and foundation design, that prove that the support structure and its foundation as proposed to be utilized are designed and were constructed to meet all local, Town, State, Federal and TIA ANSI 222 structural requirements for loads, including wind and ice loads, and the placement of any equipment on the roof a building after the addition of the proposed new equipment.
 - i. ANSI Inspection: A complete, un-redacted TIA ANSI 222 Report regarding the physical condition of the Facility or Complex and its components done within the previous six months. If such report has not been done within the previous six 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 Town, 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 Town Planning Department.
 - j. Compliance: 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 or Complex shall be issued for any work related to an Eligible Facility where the Facility and Complex are not in full compliance with all applicable local, State and federal laws, rules, regulations and orders. A Facility and Complex not in full compliance shall be required to be

brought into full compliance before a Building Permit will be issued for work related to an Eligible Facility request or application.

2. **Timing Requirements.**

- a. Within thirty (30) days of application submittal, the Land Development Administrator shall either deem the application a Completed Application or notify the applicant in writing of the deficiencies in the application.
- b. Within (45) days from the date the application is deemed a Completed Application, the Land Development Administrator shall take action to approve or deny the request.

3. **Consultant Fees.** The Applicant may be charged a fee to cover the cost to the Town of outside consultants needed to review applications associated with telecommunication tower. These fees shall be subject to the limitations set forth in G.S. 160D-934.

7.1.5. USE OF PUBLIC RIGHT-OF-WAY

- A. **Generally.** Consistent with G.S. 160D-936, the Town shall not enter into an exclusive arrangement with any person for use of rights-of-way for the construction, operation, marketing, or maintenance of wireless facilities or wireless support structures or the collocation of small wireless facilities. Additional standards are required for use of public right-of-way for small wireless facilities (See Section 7.1.7.).

7.1.6. REQUIREMENTS FOR SUPPORT STRUCTURES (TELECOMMUNICATION TOWER)

- A. **Support Structure Defined.** Any telecommunication structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers or monopole towers that are less than two-hundred and fifty (250) feet in height. Does not include any structure erected solely for a residential, noncommercial individual use, such as television antennas, satellite dishes or amateur radio antennas.
- B. **Application Requirements.** A completed Special Use Permit Application, the contents of which shall include the following items in addition to that information requested on the face of the Special Use Permit Application:

1. Elevation of the tower or other support structure showing the proposed location and profile of the antennas;
2. Explanation as to the location of equipment cabinets, unless not housed in an existing structure, then in such event a plot plan showing the location of the proposed structure to house the equipment cabinet for the collocation and an elevation showing the profile location of the proposed structure to house the equipment cabinet for the collocation;
3. Evidence that the proposed collocation will comply with federal, state and local safety requirements, including, but not limited to, evidence that the telecommunications tower (or other support structure) is engineered and constructed to, as currently equipped, accommodate the impacts of weight and location of the proposed antennas;
4. Evidence that the proposed collocation will not interfere with the operation of other antenna existing on the telecommunications tower (or other support structure), nor interfere with radio or television or similar reception for adjoining properties. In certain instances the Town may deem it appropriate to have an on-site RF survey done after the construction and activation of the improvement, such to be done under the direction of the Town or its designee, and a copy of the survey results provided, along with all calculations, prior to issuance of a Certificate of Compliance;
5. So as to be the least visually intrusive reasonably possible given the facts and circumstances involved, and thereby have the least adverse visual effect, all antennas attached to a tower or other structure shall be flush mounted or as near to flush mounted as is possible so as to create the smallest profile reasonably possible under the facts and circumstances, unless it can be proven that such would prohibit or serve to prohibit the provision of service or be technologically impracticable;
6. Structural Analysis and Report: The Applicant shall provide a certification by a Professional Engineer licensed in the State, along with documentation in the form of a structural analysis, including calculations and a geotechnical sub-surface soils investigation report and foundation design, that prove that the

support structure and its foundation as proposed to be utilized are designed and will be constructed to meet all local, Town, State, Federal and TIA ANSI 222 structural requirements for loads, including wind and ice loads, and the placement of any equipment on the roof a building after the addition of the proposed new equipment; and

7. Such materials as are necessary to address the use standards listed in subsection C below.

C. **Standards.** All support structure shall comply with the following standards:

1. Radio or television or similar reception for adjoining properties will not be disturbed or diminished.
2. The height of the tower cannot exceed two-hundred and fifty (250) feet.
3. The lighting of the tower cannot exceed the minimum standards of the Federal Aviation Administration for red obstruction lighting system.
4. The minimum setback from the outside dimensions of the tower, not from guy anchors, and not located within a residential district, are as follows:
 - a. Two-hundred (200) percent of the tower height, unless the tower is constructed as a monopole in which case the minimum setback shall be one-hundred and fifty (150) percent of the tower height, but no less than seventy-five (75) feet from the property line of an abutting residential zoning district.
 - b. One-hundred (100) percent of the tower height from the property line of an abutting non-residential zoning district.
 - c. Fifty (50) feet from any public street.
 - d. If a telecommunication tower is located in a Residential District, the setbacks in Section 7.1.6.C.4.a apply, except that in no case shall a tower be located less than two-hundred (200) percent of the tower height to the property line unless a protective yard is preserved or installed adjacent to the property line. The protective yard shall be of a width

equal to the tower height, and shall contain plantings meeting the minimum standards of a Buffer Type 1 (see Section 6.3.2: Buffering).

5. The base of the tower and each guy anchor are surrounded by a fence or wall at least eight (8) feet in height unless the tower and all guy anchors are mounted entirely on a building over eight (8) feet in height. Except for fence and wall entrances, all fences and walls shall be screened with plant material so that no more than one-third of the surface of the fence or wall is visible within three years after erection of the structure from a public street or from any adjoining lot which contains a dwelling, or from any adjoining lot zoned a residential district. Any fence or wall constructed shall conform to the standards of Section 6.5: Fences, Walls and Berms.
6. The area adjoining street rights-of-way shall contain a Buffer Type 1 (see Section 6.3.2: Buffering) installed parallel to the street right-of-way. A Buffer Type 3 (See Section 6.3.2: Buffering) is required along street frontage located a distance from the tower of more than two-hundred (200) percent of the tower height.
7. A protective yard that contains the same plantings required in a Buffer Type 1 (see Section 6.3.2: Buffering) must be installed within all the yard areas. The installation of any fence, wall, planting or berm shall not reduce or lessen this requirement.
8. The output power from the tower shall not exceed federally approved levels for exposure to electronic magnetic force (EMF).
9. If determined by the Town that the proposed tower is situated in a location which will benefit the Town's telecommunication systems, then the tower shall be engineered and constructed to accommodate the additional telecommunication equipment beneficial to the public system.
10. The tower is either less than one-hundred (100) feet in height or located no closer than one-thousand (1,000) feet to a tower greater than one-hundred (100) feet in height (determined by a straight line and not street distance).
11. If the tower is located within an Overlay that restricts height, the tower cannot exceed the maximum building height allowed by the more restrictive standard.

12. No tower shall be approved unless evidence is presented that at least one telecommunication user upon installation will occupy the tower. If the tower is between one-hundred (100) feet and one-hundred and fifty (150) feet in height, the tower shall be engineered and constructed to accommodate a minimum of two telecommunication users. If the tower equals or exceeds one-hundred and fifty (150) feet in height but is less than one-hundred and eighty (180) feet in height, the tower shall be engineered and constructed to accommodate a minimum of three telecommunication users. If the tower equals or exceeds one-hundred and eighty (180) feet in height, but is less than two-hundred (200) feet in height, the tower shall be engineered and constructed to accommodate a minimum of four telecommunication users. If the tower equals or exceeds two-hundred (200) feet in height, the tower shall be engineered and constructed to accommodate a minimum of five telecommunication users.
13. Unless enclosed by a closed fence at least eight (8) feet in height to totally obscure the building from view, the exterior appearance of all buildings located in a Residential District shall look like a residential dwelling, including without limitation, pitched roofs and frame or brick veneer construction. The closed fence shall be the same or compatible in terms of texture and quality with the material and color of the surrounding dwellings. For each potential telecommunication user to occupy the tower, there shall be a minimum of six-hundred (600) square feet reserved on the plans for associated buildings and equipment, unless the applicant provides evidence that less space is necessary.
14. Within six (6) months after approval of a plot plan for the telecommunication tower, the tower must be installed and operational or the plot plan shall be void. No telecommunication tower approved prior to September 1, 2014, which is discontinued, unused or unoccupied by any telecommunication user for a continuous period 365 days or more shall be restarted, resumed or reoccupied without the prior approval of a new plot plan complying with the then applicable provisions.

15. The applicant must provide evidence that the proposed tower meets Federal Aviation Administration requirements and will be in accordance with all the tower requirements and standards of the Raleigh Durham Airport Authority.
16. For any telecommunication tower approved after September 2, 2014, that is discontinued, unused or unoccupied by the telecommunication user for a continuous period of 365 days or more, the tower shall be removed within thirty (30) days of notification of the property owner by the Land Development Administrator.

D. Substantial Modifications to Tower

1. Substantial modifications shall mean modifications described as such G.S. 160D-933.
2. Applications for substantial modifications to an approved tower shall require an amendment to the special use permit.
3. Outside Consultant Fees. The Applicant may be charged a fee to cover the cost to the Town of outside consultants needed to review applications associated with telecommunication towers. These fees shall be subject to the limitations set forth in G.S. 160D-934.

7.1.7. SMALL WIRELESS FACILITIES

- A. **Definition.** Consistent with 160D-931(18), a small wireless facility is defined as a wireless facility that meets both of the following qualifications:
 1. 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.
 2. All other wireless equipment associated with the facility has a cumulative volume of no more than twenty eight (28) cubic feet. 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.

- B. **Applicability.** The placement of small wireless facilities in all cases are subject to the standards of this LDO and G.S. 160D-935.
- C. **Standards.** A small wireless facility shall meet all of the standards below:
1. The small wireless facility shall not extend more than ten (10) feet above the highest point of a structure;
 2. Any antenna shall be capable of fitting in an enclosure a maximum of six (6) cubic feet;
 3. Associated equipment for a small wireless facility shall maintain a maximum volume of twenty eight (28) cubic feet;
 4. The small wireless facility shall not have any type of lighted signal, lights, or illuminations unless required by an applicable federal, state, or local rule, regulation or law;
 5. The small wireless facility shall comply with any applicable FCC emissions standards;
 6. The small wireless facility shall comply with any applicable local building codes in terms of design, construction and installation; and
 7. The small wireless facility shall not contain any commercial advertising.
- D. **Town Utility Poles.** If small wireless facilities are installed on Town utility poles, the Town shall not enter into an exclusive agreement or arrangement with any person for the right to attach equipment to Town utility poles. Any rates or fees for collocations on Town utility poles must be nondiscriminatory regardless of the services provided.
- E. **Small Wireless Facilities In Public Right-of-Way.** If a small wireless facility is placed within the public right-of-way, in addition to a zoning permit, an additional right-of-way use permit shall be required. Consistent with 160D-935(d)(5), the Town may deny a right-of-way use permit for a small wireless facility if the proposed facility:

1. Fails to meet the standards of Town codes;
2. Fails to comply with applicable standards of this LDO;
3. Interferes with the safe operation of traffic control equipment;
4. Interferes with sight visibility lines for transportation or pedestrians; and/or
5. Interferes with compliance of the Americans with Disabilities Act or similar federal or state mandated provisions regarding pedestrian access of movement.

The Town must document the basis for a denial, including specific provisions and send the documentation to the applicant on or before the day the Town denies an application. The applicant may cure the deficiencies identified by the Town and resubmit the application within thirty (30) days of the denial without paying an additional application fee. The Town shall approve or deny the revised application within thirty (30) days of the date on which the application was resubmitted. Any subsequent review shall be limited to the deficiencies listed in the prior denial.

F. Application Review Criteria

1. Applications for small wireless facilities shall be processed and reviewed within forty five (45) days from the date an application is considered to be complete. The applicant and Town may mutually agree to a longer review period.
2. Construction of any approved small wireless facility shall commence within six months of its approval date. The small wireless facility shall be activated for use within one year from the right-of-way use permit issuance date.

Town approval is not required for routine maintenance, replacement of existing small wireless facilities which are substantially similar, or installation or replacement of micro wireless facilities that are suspended on cables strung between existing utility poles.

G. Abandonment

1. As authorized by G.S. 160D-935(g), whenever a small wireless facility ceases to be in active operation for more than one-hundred and eighty (180) days, it shall be considered abandoned and removed by the wireless provider.

- a. For purposes of this subsection, a small wireless facility shall be deemed abandoned at the earlier of the date that the wireless provider indicates that it is abandoning such facility or the date that is one-hundred and eighty (180) days after the date that such facility ceases to transmit a signal, unless the wireless provider gives the Town reasonable evidence that it is diligently working to place such facility back in service.
 - b. The BOC may grant a one-time extension equal to one-hundred and eighty (180) days whenever it finds that such an extension will not compromise the public health, safety, or welfare and that such extension is not solely for the purpose of delaying the cost of removing the small wireless facilities.
2. The wireless provider shall be responsible for the removal of a small wireless facility.
3. Whenever a small wireless facility is abandoned, the wireless provider shall notify the Town within thirty (30) days following abandonment.
4. Should the wireless provider fail to timely remove the abandoned small wireless facility, the Town may cause such wireless facility to be removed and may recover the actual cost of such removal, including legal fees, if any, from the wireless provider.

Editorial Note: Removed Section 7.2: Electronic Gaming Operations based upon advisement from Town attorney and staff.

Editorial Note: Removed Section 7.3 Water Storage Towers. Incorporating water storage towers as a unique use on the use table. Carrying over the standards of this as use standards attached to water storage towers.

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10. NONCONFORMITIES

10.1 PURPOSE AND INTENT

- A. **Purpose and Intent.** Due to the establishment of this LDO, there exists uses of land, structures, lots of record, and site features that were lawfully established prior to the adoption of this LDO that may not be conforming. The purpose and intent of this Section is to allow and regulate the continued existence of such instances that do not conform to the provisions of this LDO as nonconformities.

10.2. APPLICABILITY

A. **Determination of a Nonconformity.**

1. The burden of establishing that a nonconformity lawfully exists shall be the responsibility of the person who owns or rents the property upon which the nonconformity exists, or an authorized agent of the person who owns or rents the property (i.e. the owner, agent or applicant).
2. Evidence that may be used to prove the legal status as a lawful nonconformity may include approved permits, approved construction plans, and/or records of previously approved regulations.

- B. **Ownership Changes.** No change of title or possession of property shall be construed to prevent the continuance of a nonconformity.

- C. **Increases in a Nonconformity.** A nonconformity shall not be expanded, intensified, or enlarged except as provided by this Section.

10.3. NONCONFORMING STRUCTURES

- A. **Nonconforming Structures.** Any lawful nonconforming structures with conforming uses may be added to, enlarged, reconstructed, or moved in accordance with the standards below:

1. Nonconforming structures may be enlarged provided the enlargements comply with the yard, height, parking, loading, access, and all other applicable requirements of this LDO for the district in which such a structure is located.
2. Nonconforming structures shall not be permitted to create any additional dwelling units, create new nonconformities, or increase the extent of existing nonconformities.
3. Minor repairs to, and routine maintenance on, nonconforming structures shall be allowed. Minor repairs and routine maintenance shall mean repairs and maintenance that are necessary to maintain a nonconforming structure in a safe condition and to protect against hazards to the safety of surrounding areas and uses
4. Nonconforming structures which are damaged or destroyed by fire, explosion, flood, or other natural causes, may be reconstructed and shall comply with the yard, height, parking, loading, access, and all other applicable development standards of this LDO for the district in which the structure is located.
5. If the nonconforming structure is situated on a nonconforming lot of record, the provisions concerning nonconforming within Section 10.5: Nonconforming Lots, shall apply.
6. If the nature of the damage would make it more feasible to rebuild in the previous location, the Board of Adjustment (BOA) is authorized to approve a variance in accordance with this LDO and G.S. 160D to allow the reconstruction or replacement.
7. A nonconforming structure may not be moved off the lot (or lots) on which it is located unless when relocated it complies with the regulations for the district in which it is located.

10.4. NONCONFORMING USES

- A. **Nonconforming Uses.** Any lawful nonconforming use of a structure, land, or water existing at the time of the adoption of this LDO may be continued so long as the following standards are met:

1. Only that portion of the land or water in actual use may be so continued and the nonconforming use may not be enlarged or extended, except as provided for in Section 10.4.A.5.
2. No additional structures may be added to be occupied by the nonconforming use, except that existing cemeteries can expand to the boundaries of the property which they owned at the time they became nonconforming, provided that required setbacks are met.
3. Normal maintenance, repair, and incidental alteration of a building occupied by a nonconforming use is permitted provided it does not extend the nonconforming use.
4. A structure occupied by a nonconforming use may be changed to make the structure more in character (i.e. more conforming) with the use permitted in the district in which it is located.
5. If a nonconforming use is damaged by fire, explosion, flood, or other natural cause to the extent of more than seventy five (75) percent of its current assessed value, it shall not be restored except so as to comply with the use provisions of this LDO. However, a nonconforming single and/or two-family dwelling may be restored in accordance with the provisions of Section 10.3 of this LDO.
6. If such nonconforming use is discontinued or terminated for a period of more than one-hundred and eighty (180) days, any future use of the structure, land, or water shall comply with the provisions of this LDO. Operation of the use without a license or permit required by the Town or state for one-hundred and eighty (180) days or more shall constitute a termination of nonconforming use.
7. A nonconforming manufactured home used as a principal residential structure may be replaced with another manufactured home only if:
 - a. The replacement is a manufactured home that bears a valid seal indicating conformance with the current National Manufactured Housing Construction and Safety Standards Act;
 - b. The replacement manufactured home is a Class A manufactured home, as defined in this LDO;

- c. The replacement manufactured home must have been manufactured within five years from the date of a request for a replacement of the existing mobile home;
 - d. It is not in a previously classified Special Use District, was not granted a Special Use Permit to allow its presence at a particular location or zoning district, and it is not in the Mixed-Use District or Town Center district.
 - e. The replacement manufactured home must receive a Certificate of Occupancy no later than one-hundred and eighty (180) days of the removal of the original manufactured home. The manufactured home must meet all zoning district requirements.
8. The Board of Commissioners (BOC) may permit as a special use a change in nonconforming use provided that the requirements of this Section are met. The BOC shall find that such new use would be more in character with the uses permitted in the district than the previous use. In permitting such change, the BOC may require appropriate conditions and safeguards in accordance with the provisions of this LDO.
 9. Once a nonconforming use has been changed or altered to comply with the provisions of this LDO, it shall not revert back to a nonconforming use.
 10. If the BOC has permitted the substitution of a more restrictive nonconforming use for an existing nonconforming use, the substituted use shall lose its status as legal nonconforming use and become subject to all the conditions required by the Board.
 11. If the structure occupied by a nonconforming use is changed so as to be more in character with the uses permitted in the district in which it is located, it shall not subsequently be changed to be less in character.

10.5. NONCONFORMING LOTS

- A. **Nonconforming Lots.** Where the owner of a lawful lot of record, at the time of adoption of this LDO, or their successor in title thereto does not own sufficient land to enable them to conform to the lot area or lot width requirements of this LDO, such a lot may be

used as a building site for a single-family residence in a district in which residences are permitted.

- B. The standards above shall also apply for a mobile home only if the lot is in a district where mobile homes are permitted.
- C. In no situation shall the lot width and lot area be greater than twenty (20) percent below the minimum specified in this ordinance, and further provided that the appropriate county health department approves the reduction if on-site water or wastewater facilities are involved.
- D. In any case where the lot area and lot width are greater than twenty (20) percent below the minimum specified in this ordinance or other requirements cannot be met, the Board of Adjustment (BOA) is authorized to approve as a variance such dimensions as shall conform as closely as possible to the required dimensions if the Wake County Health Department submits a letter of approval if on-site water or wastewater facilities are involved.
- E. If the pre-existing nonconforming lot is not in a district where single-family dwellings or mobile homes are permitted, the BOA may issue a variance to allow some reasonable use.
- F. If two or more adjoining lots of record are in one ownership when this LDO is adopted, or at any time after the adoption of this LDO, and such lots individually do not meet the minimum dimensional requirements of this LDO for the district in which such lots are located, then such group of lots shall be considered as a single lot or several lots of minimum permitted width and area for the district in which located, and therefore, the provisions of 10.5 do not apply. No portion of said lot or structure shall be used or sold in a manner which diminishes compliance with the requirements of this ordinance.

10.6. CONFORMING USES AND STRUCTURES.

- A. **Conforming Uses and Structures.** Any use or structure existing prior to the effective date of this LDO which conforms to the regulations of this LDO for permitted uses and satisfies the development standards and any other applicable regulations of the district in which it is located, may be continued, provided any changes in use or structural or other changes shall comply with the provisions of this LDO.

- B. Any structure or use existing prior to the effective date of this ordinance which would be permitted by this ordinance as a special use in the district in which it is located, may be continued as if a special use permit had been applied for and issued, provided that any changes in use or structural or other changes shall comply with the provisions of this ordinance.

10.7. EFFECT OF AMENDMENTS

- A. **Effect of Amendments.** If subsequent amendments to this LDO or the official zoning map result in the creation of additional non-conformities, such non-conformities shall be governed by the provisions of this Section unless otherwise stated in the amendment.

DRAFT

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11. GENERAL DEFINITIONS (GROUP 3)

12-2-2020 Editorial Note: This Section has been prepared but is an ongoing Section as we continue to build out and finalize the LDO.

11.1. INTRODUCTION

Except where specific definitions are used within a specific Section of the LDO for the purpose of such Sections, the following terms, phrases, words, and their derivations shall have the meaning given herein when not inconsistent with the context. Principal uses, which correspond with the Permitted Principal Use Table, are defined in Section 5: Uses, of this LDO.

11.2. INTERPRETATION

Words used in the present tense include the future tense.

Words used in the singular number include the plural and words used in the plural include the singular, unless the natural construction of the wording indicates otherwise.

Words used in the masculine gender include the feminine gender.

"Person" includes a firm, association, organization, partnership, corporation, trust and company, as well as an individual.

The word "lot" includes the words "plot", "parcel", and "tract".

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

The word "shall" is always mandatory

The word "will" is always mandatory

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

"Map", "zoning map", or "Rolesville Zoning Map" shall mean the Official Zoning Map, Rolesville, North Carolina.

The words "town board", "governing body", and "Rolesville Town Council" "Board of Commissioners" shall refer to the Board of Commissioners of the Town of Rolesville, North Carolina.

The words "planning board" shall refer to the planning board of the Town of Rolesville, North Carolina.

The words "board of adjustment" shall refer to the board of adjustment of the Town of Rolesville, North Carolina, established by this ordinance.

11.3. DEFINITIONS

A

Abandonment : The termination or relinquishment of property or use for a continuous period.

Abutting : means that the property directly touches another piece of property.

Access : The right or ability of pedestrians and vehicles to enter and leave a lot or development.

Accessory building, structure, or use : A building, structure, or use on the same lot with, or of a nature customarily incidental or subordinate to, and of a character related to the principal use or structure. Garages, carports and storage shed are common urban accessory structures. Pole barns, hay shed 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.

Adjacent Properties : A parcel or lot of land that shares part of a common lot line or boundary with another parcel or lot of land (or would abut if not for the presence of a street, waterbody or right-of-way).

Addition (to an existing building) : An extension or increase in the floor area or height of a building or structure. Additions to existing buildings shall comply with the requirements for new construction, unless the addition, renovation or reconstruction to any building that was constructed prior to the initial Flood Insurance Study for that area, and the addition, renovation or reconstruction does not equal 50 percent of the present market value of the structure. Where a fire wall is proved between the addition and the exiting building, the addition(s) shall be considered a separate building and must comply with the standards for new construction.

Agent : A person who has legal, authorized consent to act upon another's behalf.

Agricultural use : The use of waters for stock watering, irrigation, and other farm purposes.

Agriculture : The raising and harvesting of vines, seeds, plants, trees (except silviculture as specified in this section) and crops, as well as the keeping, grazing, or feeding of animals (including fish) for animal products, animal propagation, or value increase.

Alley : A strip of land, owned publicly or privately, set aside primarily for vehicular service access to the back or side of properties otherwise abutting on a street.

Animal Service Facility : Any facility (other than a dedicated animal hospital or veterinary clinic) that may provide services including, but not limited to: training, boarding, grooming, and daycare of animals either for profit or for humane purposes.

Apartments : See "Dwelling, multifamily."

Appeal : A request for a review of the administrator's interpretation of any provision of this ordinance.

Application : A form designed by the Town on which a development review process submission occurs.

Architectural compatibility : Quality of visual agreement, complement and/or balance based on elements of proportion, scale, use of materials and siting between structures or parts of the same structure.

Area of special flood hazard : The land in the floodplain within a community subject to a one percent or greater chance of being flooded in any given year.

Awning : A plastic, canvas or metal shade structure, often foldable, covered over a storefront or doorway.

B

Balance of watershed : That portion of the watershed within the planning jurisdiction of a municipality that has not been identified for a Special Intensity Allocations (SIA).

Bar/Tavern/Nightclub : A business where alcoholic beverages are sold for on-site consumption, which is not part of a larger restaurant, and where any food service is subordinate to the sale of alcoholic beverages. Beer brewing as part of a microbrewery or other similar beverage tasting facilities should be considered as similar uses. Entertainment such as live music, dancing, comedy, etc. may also be permissible, but only in appropriate circumstances.

Base flood : The flood having a one percent chance of being equaled or exceeded in any given year.

Basement : For floodplain management purposes, any area of the building having its floor subgrade (below ground level) on all sides.

Berm : An undulating mound of soil designed to provide visual interest, aid in screening undesirable views and/or reduce noise. The berm must be within four to six feet in height, and approximately double its height in width, and must be planted with sufficient vegetation to meet the opacity desired. The surface of the berm must be covered wither with mulch or pin straw, or landscaped vegetation, including grass, or a combination thereof.

Best Management Practices (BMP) : A structural or nonstructural management based practice used singularly or in combination to reduce non-point source inputs to receiving waters in order to achieve water quality protection goals.

Block : A piece of land bounded on one or more sides by streets or roads.

Bona fide farm : Property used for bona fide farm purposes as defined by G.S. § 160A-36.

Buffer : (also known as a "landscape buffer"): A combination of physical space and vertical elements such as plants, berms, fences or walls, the purpose of which are to separate and screen land uses from each other.

Buffer, base : An area of land with existing vegetation which includes trees with a minimum tree size of two and one-half inch caliper for buffer reforestation. This is the threshold to determine if the existing vegetation is mature enough to be considered as the base buffer. If the buffer is inferior to the base buffer requirements, the buffer may be graded. In either instance, the buffer must be upgraded to meet the opacity requirements specified during site or subdivision plan approval.

Buffer, drainageway : See "Drainageway buffer".

Buffer, riparian (also known as "stream buffer, "vegetative buffer", or "water supply buffer"): An area of natural or planted vegetation through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. The buffer is measured landward from the normal pool elevation of impounded structures and from the bank of each side of streams or rivers.

Buffer, streetfront : See "Streetfront buffer".

Buffer strip : A planted strip of land which shall be a minimum of 16 feet in width, and shall be composed of evergreen bushes, trees, and/or shrubs such that at least two rows are provided from the ground to a height of six feet within six years and foliage overlaps within six years.

Building : Any structure built for support, shelter or enclosure for any occupancy or storage.

Building, height of : The vertical distance measured from the grade to the highest point of the coping of a flat roof; to the deck line of a mansard roof; or to the height level between the eaves and ridge of a gable, hip or gambrel roof.

Building setback line : A line parallel to the front property line in front of which no structure shall be erected. Setbacks shall be figured from the right-of-way line.

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

C

Caliper : The diameter of a tree trunk measured in inches to determine the graded size. The caliper of the trunk is measured six inches above the ground for trees up to and including four inch caliper trees, and 12 inches above the ground for trees larger than four-inch caliper.

Cluster Development : The grouping of buildings in order to conserve land resources and provide for innovation in the design of the project including minimizing storm water runoff impacts. This term includes non-residential development as well as single-family residential and multifamily development. For the purpose of this ordinance, conservation subdivisions, planned unit developments, and mixed use developments are considered cluster development.

Collector street : A street that serves as the connecting street between local residential subdivision streets and the thoroughfare system. Collector streets carry traffic between neighborhoods. (Note: Consider revising this definition with the above changes included in the Rolesville Transportation Plan.)

Commercial Commissary : A nonresidential facility used by food trucks, mobile food units, and food carts in accordance with any and all applicable Wake County Environmental Health regulations of the same. Commercial commissary uses include, but are not limited to,

refrigerator, freezer, dry storage, potable water, dishwashing, and wastewater facilities used in association with a food truck or mobile food unit.

Compatible uses : Land uses that are not substantially different and are to be used for activities that are not extremely dissimilar in nature.

Condominium : A project meeting the requirements of the North Carolina General Statutes, Chapter 47A. The type of structure and use rather than the condominium form of ownership shall be the determining factor in deciding whether a use is permitted in a district.

Corner lot : A lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than 135 degrees.

Critical area : The area adjacent to a water intake of reservoir where risk associated with pollution is greater than from remaining portions of the watershed. The critical area is defined as extending either one-half mile from the normal pool elevation of the reservoir in which the intake is located or to the ridge line of the watershed (whichever comes first); or one-half mile upstream from the intake located directly in the stream or river (run-of-the-river), or the ridge line of the watershed (whichever comes first). Local governments may extend the critical area as needed. Major landmarks such as highways or property lines may be used to delineate the outer boundary of the critical area if these landmarks are immediately adjacent to the appropriate outer boundary of one-half mile.

Cul-de-sac : A short street having but one end open to traffic and the other end being permanently terminated and a vehicular turnaround provided.

Cultural or Community Facility : Facilities designed to promote cultural advancement and serve the community such as art galleries; non-profit civic or fraternal organizations; museums, exhibition, or similar facilities; libraries; and community centers.

Cut-off light fixture : An artificial outdoor lighting fixture designed to ensure that no light is emitted above a horizontal line parallel to the ground.

D

Deciduous trees : Trees and other plants whose leaves fall off at certain seasons.

Dedication : A gift, by the owner, or a right to use of land for a specified purpose or purposes. Because of a transfer or property rights is entailed, dedication must be made by written instrument, and is completed with an acceptance.

Development : The division of land into two or more parcels, the construction, reconstruction, structural alteration, relocation, or enlargement of any structure; any excavation or land disturbance; and any use or the extension of the extension of the use of land. For Section 6.1 Watershed Districts, the definition of "Development" shall be the following: "Any land disturbing activity which adds to or changes the amount of impervious or partially impervious cover on a land area or which otherwise decreases the infiltration or precipitation into the soil." For Section 7.2 Flood Damage Prevention Standards, the definition of "Development" shall be: "For floodplain management purposes, 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."

Diameter at Breast Height (DBH) : Diameter of a tree measured at four and one-half feet from the ground.

Discharging Landfill : A landfill which discharges treated leachate and which requires a National Pollution Discharge Elimination System (NPDES) permit.

Dish antenna (or earth station) : An accessory structure and shall mean a combination of (1) antenna or dish antenna whose purpose is to receive communication or other signals from orbiting satellites and other extraterrestrial sources; (2) a low-noise amplifier which is situated at the focal point of the receiving component and whose purpose is to carry the signals into the interior of the building.

Dish antenna (or earth station) height : That distance as measured vertically from the highest point of the antenna or dish, when positioned at its lowest angle for operation, to ground level at the bottom of the base which supports the antenna.

Dish antenna (or earth station) setback : The distance measured from the center mounting post supporting the antenna.

Double frontage lot : A continuous (through) lot which is accessible from both streets upon which it fronts.

Drainageway buffer : A recorded easement or unrecording portion of land that shall remain undisturbed except as may be necessary to accommodate.

- (1) Road, provided they cross at a horizontal angle of at least 60 degrees.
- (2) Utilities and their easements.
- (3) Greenway, pedestrian paths, and their easements as part of a group housing project, mobile home park, or subdivision if permitted by the Town Board of Commissioners upon finding that the buffers is the most appropriate location for the greenway or pedestrian path.

Drainageway buffers shall be measured perpendicular to the flow of the drainage and from the edge of the drainageway banks, except when no drainageway swale shall be used.

Homeowners shall be encouraged to help maintain drainageway buffers and streams and stream banks so that maximum stream protection is achieved.

Dwelling, multifamily : A building arranged to be occupied by more than two families, the building has more than two dwelling units, but excluding mobile homes and townhouses.

Dwelling, single-family : A building arranged to be occupied by one family, the building housing only one dwelling unit, but excluding mobile homes and townhouses.

Dwelling, two-family : A building arranged to be occupied by two families, the building having two dwelling units, but excluding mobile homes and townhouses.

Dwelling unit : A building or portion thereof designed, arranged, and/or used for the living quarters for one or more persons living as a single family, with cooking facilities, excluding units in rooming, boarding, and tourist homes, family or group care homes, or hotels or motels or other buildings designed for transient residence.

E

Easement : A grant by the property owner of a strip of land for specified purpose and use by the public, a corporation, or persons.

Electronic Gaming Operation : Any business enterprise, whether as a principal or an accessory use, where persons utilize electronic machines, including but not limited to computers and gaming terminals, to conduct games of chance 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. This term includes but is not limited to internet cafes, internet sweepstakes, or cyber cafes. This does not include any lottery approved by the State of North Carolina.

Elevated building : For floodplain management, a non-basement building that has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

Event venue : A place of assembly open to the general public without membership and operated for profit, where dances, parties, receptions, meetings, and other gatherings are held. Such facilities may provide live entertainment, and may serve catered meals, and alcoholic beverages when the owner or operator holds the appropriate licenses and permits. Prior to approval, any such venue must address noise with a proposal to minimize disturbances to surrounding properties which shall include, but not be limited to restricting activities inside the structure. If located outside, no electronically amplified sound generated shall be audible at any time beyond the boundary of the property on which the facility is located after 11:00 p.m. An event venue shall not be located within one-half mile from the boundary of another event

venue of the same type. The venue may include catering services but is not a restaurant use where food is served to the general public who are not members of a group leasing or renting such facilities for a function. At a minimum, such an event venue must provide one onsite parking space for every four persons permitted occupancy at any given time.

Evergreen Plants : Trees or plants that retain their foliage all year.

Existing construction : For purposes of detaining rates, structures for which the start of construction commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures".

Existing development : Those projects that are built or those projects that a minimum have established a vested right under North Carolina zoning laws as of the effective date of this ordinance based on at least one of the following criteria:

- (1) Substantial expenditures of resources (time, labor, money) based on a good faith reliance upon having receiving a valid local government approval to proceed with the project, or
- (2) Having an outstanding valid building permit as authorized by the General Statutes (G.S. § 153A-344.1 and G.S. § 160A-385.1), or
- (3) Having an approved site specific or phased development plan as authorized by the General Statutes (G.S. § 153A-344.1 and G.S. § 160A-385.1).

Existing manufactured home park or manufactured home subdivision : A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either the final site grading or the pouring of concrete slabs) is completed before December 19, 2000.

Expansion to an existing manufactured home park or subdivision : The preparation of additional sites by 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 the final site grading or the pouring of concrete slabs).

Externally Oriented Land Uses : A land use characterized by a greater degree of vehicular and pedestrian movement external to the structures on site relative to other sites. *Exterior Lighting* : Lighting such as that used in and around buildings, recreation areas, parking lots and signs designed to illuminate certain areas for visibility.

F

Family : One or more persons related by blood, adoption, or marriage, living together as a single housekeeping unit, exclusive of household servants. A number of persons not exceeding five living together as a single housekeeping unit thought not related by blood, adoption, or marriage, shall be deemed to constitute a family, as shall a foster care home approved by the State.

Family care home : A facility as defined in G.S. § 168-21.

Fence : An artificially constructed barrier intended for protection, screening or boundary.

Flood or flooding : A general and temporary condition of partial or complete inundation of normally dry land areas from: 1) the overflow of inland or tidal waters; and 2) the unusual and rapid accumulation of runoff of surface waters from any source.

Flood Hazard Boundary Map (FHBM) : An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard and the risk premium zones applicable to the community.

Flood Insurance Rate Map (FIRM) : An official map of a community on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

Flood Insurance Study : The engineering study performed by the Federal Emergency Management Agency to identify flood hazard areas, flood insurance risk zones, and other flood data in a community. The study includes Flood Boundary and Floodway Maps (FBFMs), Flood Hazard Boundary Maps (FHBMs), and/or Flood Insurance Rate Maps (FIRMs).

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

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 on wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.

Floor area, gross : The number of square feet of total floor area bounded by the exterior faces of a structure, plus the number of square feet of unenclosed space devoted to the conduct of the use, excluding basements and unenclosed porches, balconies, and terraces, unless used in conjunction with the use, such as for outdoor eating, merchandising, storage, assembly, or similar uses, and excluding off-street parking and loading areas.

Food Cart : Any non-motorized pushcart or other wheeled device, used expressly for the preparation and sale of food products, and without provisions for its operator to enter the unit to conduct such.

Food Truck : A business that serves food or beverages to the general public from a self-contained unit (either motorized or in a trailer on wheels) that conducts all or part of its operations on premises other than its own, and is readily movable, without disassembling, for transport to another location. Such a unit can be entered by its operator so as to conduct business operations. The term "food truck" shall not include food carts.

Food Truck Uses : All uses associated with the operation of a Food Truck.

Freeway, expressway, or parkway : Divided multilane roadway designed to carry large volumes of traffic at relatively high speeds. A freeway is a divided highway providing for continuous flow

of vehicles with no direct access to abutting property or streets and with access to selected crossroads provided via connecting ramps. An expressway is a divided highway with full or partial control of access and generally with grade separations at major intersections. A parkway is a highway for noncommercial traffic, with full or partial control of access, and usually located within a park or a ribbon of parkline development.

Frontage road : A local street or road that is parallel to a full or partial access controlled facility and functions to provide access to adjacent land.

Fully controlled access highway : A divided, multi-lane major highway in which the Department of Transportation has purchased all access rights to the highway. Access to the highway is by way of interchanges.

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

G

Greenway : An identified open space or linear park network left in its natural state except for the introduction of trails used by pedestrians and bicyclists. See Section 6.3.1: Open Space for standards regarding greenways.

Group Care Home, Non-Protected : A non-protected group care home as used throughout this ordinance means a residential use for six or fewer residents who are not handicapped or otherwise protected by the Fair Housing Act. Examples may include homes for battered individuals, homeless individuals, abused children, pregnant teenagers, or runaway children. Non-protected group care homes shall not house non-handicapped individuals who are mentally ill, alcoholics, drug addicts, or ex-offenders in transition between release from incarceration and return to freedom. All non-protected group care homes must comply with applicable federal, state, and local licensing requirements and health regulations. The limit of

six residents applies to non-protected home located in the residential zoning districts. Non-protected group homes located in O&P zoning district may house up to ten residents, to the extent applicable.

Group Care Home, Protected : A protected group care home as used throughout this ordinance means a "family care home" as defined in Chapter 168, Article 3, of the North Carolina General Statutes. A protected group care home means a home with support and supervisory personnel that provides room and board, personal care and habilitation services in a family environment for not more than six resident handicapped persons. In addition, a protected group home shall mean a residential use provided in a residential environment for no more than six residents protected by the Fair Housing Act, even if such use does not conform to the language above. All protected group homes must comply with applicable federal, state, and local licensing requirements and health regulations. Protected group homes located in the R-MH, O&P, C, and C-MU zoning districts may house up to ten residents.

H

Half street : A street whose centerline coincides with a subdivision plat boundary, with one-half 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 and orthopedic impairments but not including mentally ill persons who are dangerous to others as defined in G.S. § 122C-3(11)b.

Highest adjacent grade : The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of the structure.

Historic structure : Any structure that is: 1) listed individually in the National Register of Historic Places; 2) certified or preliminarily determined by the Secretary of the Interior as contributing to the Secretary to qualify as a registered historic district; 3) individually listed on a State inventory of historic places; 4) individually listed on a local inventory of historic places in

communities with historic preservation programs that have been certified by an approved state program as determined by the Secretary of Interior or directly by the Secretary of the Interior in states without approved programs.

Home occupation : An incidental use of a dwelling unit for gainful employment involving the manufacture, provision, or sale of goods and/or services. The term "home occupation" shall not be deemed to include a tourist home.

I

Industrial development : Any non-residential development that requires an NPDES permit for an industrial discharge and/or requires the use or storage of any hazardous material for the purpose of manufacturing, assembling, finishing, cleaning or developing any product or commodity.

Interior lot : A lot other than a corner lot with only one frontage on a street.

Internal save tree area : An area of land with existing vegetation that has been designated to be undisturbed and to be used on the design of site development.

Internally oriented land uses : A land use in which the majority of activity is oriented to the interior of the structures on site with minimal vehicular and pedestrian movement external to the structures.

Junk yard : The use of more than 600 square feet of any lot or tract for the outdoor storage and/or sale of waste paper, rags, scrap metal, or other junk, including the storage of automobiles or other vehicles or dismantling of such vehicles or machinery or parts thereof.

K

Kenel : An establishment for the keeping or breeding of dogs for profit.

L

Land use classification : The class or description of how land is to be used or occupied.

Land Development Administrator : The Town employee responsible for the administration of this LDO.

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

Landscape Area : A portion of a site or property containing vegetation to exist after construction is completed. Landscaped areas include, but are not limited to, natural areas, buffers, plantings, and streetscapes.

Landscape buffer : See "Buffer".

Landscape plan : The portion of the development plan that is submitted to show existing vegetation and proposed location of plant material used to conform to site plan application requirements.

Lighting plan : A portion of the development plan showing the location, height above grade, fixture type, isolux diagram, foot-candles at grade and bulb wattage for each light source proposed. The plan shall conform to the applicable policies contained herein.

Limited controlled access highway : A multi-lane major artery for through traffic that can be accessed at stoplights or specific curb cuts. The Department of Transportation has purchased partial access rights to such roads.

Live-work unit : A single-family house or townhouse with the first floor available as a commercial space, either independently leased or in conjunction with the residential unit above.

Loading area : A completely off-street space (or) berth on the same lot for the loading or unloading of freight carriers with ingress and egress to a public street or alley.

Local residential street : Cul-de-sacs, loop streets less than 2500 feet in length, or streets less than one mile in length that do not connect thoroughfares, or serve major traffic generators, and do not collect traffic from more than 100 dwelling units.

Local road : A local road serves primarily to provide access to adjacent land and for travel over relatively short distances.

Local street : A local street is any link not part of a higher-order urban system which serves primarily to provide direct access to abutting land and access to higher systems.

Lot : A portion of a subdivision, or any other parcel of land, intended as a unit of transfer of ownership for development or both. This shall include a single lot of record, or more than one contiguous lot for record in the same ownership, which lot or lots of records are not divided by any street or public alley, and excluding any part of a lot or lots of record which, when served from the contiguous land in the same ownership, creates a nonconformity or a lot or parcel which does not meet the dimensional requirements of this ordinance.

Lot coverage, maximum in percent : The maximum percent of the lot which may be covered with structures. All yard requirements must be met in addition to lot coverage requirements.

Lot depth : The distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost points for the side lot lines in the rear. On lots having an access strip extending from the front of the main portion of the lot in order to comply with the requirements of Section 6.1 of this ordinance, the foremost point of the side lot lines shall be measured at the place where the access strip joins the main portion of the lot.

Lot of record : A lot which is part of a subdivision, a plat of which has been recorded in the Office of the Register of Deeds of Wake County prior to the adoption of this ordinance. Or a lot described by metes and bounds, the description of which has been so recorded prior to the adoption of this ordinance.

Lot width : The distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the rear of the required front yard; provided however, that width between side lot lines at their foremost points (where they intersect the right-of-way line, or for lots having an access strip extending from the front of the main portion of the lot in order to comply with the requirements of Section 6.1 of this ordinance, at the place where the access strip joins the main portion of the lot) shall not be less than 80 percent of the required lot width, except in the case of the turning circle of cul-de-sacs where the 80 percent requirement shall not apply.

Lowest floor : For floodplain management and flood insurance purposes, the lowest floor of the lowest enclosed area, including basement. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building's 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.

M

Major collector : A road which serves major intracounty travel corridors and traffic generators and provides access to the arterial system.

Major thoroughfare : A roadway that carries traffic from one Town to another, often through several other cities. These include interstate, other freeways, expressways, or parkway roads and major streets that provide for expeditious movement of high volumes of traffic within and through urbanized areas. Examples include Main Street in Rolesville and Capital Boulevard in Raleigh.

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

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

- (2) The relaxation, by factor greater than five percent of any buffer, density or built-upon area requirement under the high density;
- (3) Any variation in the design, maintenance or operation requirements of a wet detention pond or other approved storm water management.

Manufactured home : A structure, transportable in one or more section, that 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 : A parcel (or contiguous) of land divided into two or more manufactured home lots for rent or sale.

Market and sales of produce and seasonal goods : A business, usually held outdoors, where a vendor can sell produce, such as vegetables and fruits; perishables; and seasonal goods, such as crafts and agriculturally related products, directly to consumers.

Mean sea level : For purposes of the NFIP, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a FIRM are referenced.

Minor arterial : A rural link in a network joining cities and larger towns and providing intrastate and intercounty service at relatively high overall travel speeds with minimum interface to through movement. This network would primarily serve traffic.

Minor Changes (to an approved site plan) : Changes that will not alter the basic relationship of the proposed property to adjacent property, will not alter the uses permitted or increase the density or intensity or development, or will not decrease the off-street parking ratio or reduce the yards provided at the boundary of the site.

Minor collector : A road which provides service to small local communities and links locally important traffic generators with their rural hinterland.

Minor Thoroughfare : A roadway that carries traffic from one part of a town to another. It performs the function of collecting traffic from local access streets and carrying it to the Major Thoroughfare system by facilitating minor through movements and may also serve abutting property.

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

Mobile/manufactured home : A dwelling unit that is not constructed in accordance with the standards of the North Carolina Uniform Residential Building Code for one and two-family dwellings; and (ii) is composed of one or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported to the home site on its own chassis. A dwelling meeting the above definition shall be considered a mobile home, even if placed on a permanent foundation.

Mobile/manufactured home, class A : A mobile/manufactured home that meets the standards of the National Mobile Home Construction and Safety Standards Act of 1974 and which is certified by the zoning administrator as meeting the following appearance criteria:

- (a) The mobile/manufactured home shall have a length not exceeding four times its width.
- (b) The pitch of the mobile/manufactured home's roof shall have a minimum vertical rise of one foot for each five feet of horizontal run.
- (c) The exterior materials and color shall be compatible with structures in the immediate vicinity.
- (d) The underpinning for the mobile home shall be of solid masonry construction.

Mobile/manufactured home, class B : A mobile/manufactured home that meets the standards of the National Mobile Home Construction and Safety Standards Act of 1974, but which does not meet the criteria for a class A mobile/manufactured home.

Mobile/manufactured home, class C : A mobile/manufactured home that does not meet the standards for a class A or B mobile/manufactured home.

Mobile home park : Any plot of ground of at least ten acres in size upon which ten or more mobile homes, occupied for dwelling or sleeping purposes, are located, regardless of whether or not a charge is made for such accommodations.

Mobile home subdivision : A subdivision designed or intended primarily for sale of lots for residential occupancy by mobile homes.

Mobile Vendor : Any person who exhibits, displays, sells, or offers for sale goods or products from a wagon, handcart, pushcart, motor vehicle, conveyance, stand, lunch cart or from his person in the Town of Rolesville corporate limits and extraterrestrial jurisdiction. This definition does not include door-to-door peddler or solicitor as defined under Section 111.01.

Modular home : A self-contained assembly is transported to a building site in section or panels and erected thereon. The term shall not be construed to include extra-wide or double-wide mobile/manufactured homes. Modular homes are constructed in conformance with the North Carolina State Building Code. For the purpose of this ordinance, a modular home shall be considered a single family dwelling.

N

Net acreage, acres, land area, square footage of land area : Land area with streets, rights-of-way, driveways which serve as access to more than two units or uses, and major transmission line easements not included in its measurement.

New construction : For floodplain management purposes, structures for which the "start of construction" commenced on or after the effective date of this ordinance and includes any subsequent improvements to such structures.

New manufactured home park or subdivision : A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are

to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete slabs) is completed on or after December 19, 2000.

Nonconforming building or use : Any legally existing building or use that fails to comply with the provisions of this ordinance.

Nonconforming Lot of Record : A lot described by a plat or a deed that was recording prior to the effective date of local watershed protection regulations (or their amendments) that does not meet the minimum lot size or other development requirements of the statewide watershed protection rules.

Non-cutoff Light Fixture : An outdoor lighting fixture designed to allow light to be directly emitted above a horizontal line parallel to the ground.

Non-residential Development : All development other than residential development, agriculture and silviculture.

O

Official Maps or Plans : Any maps or plans officially adopted by the Board of Commissioners of the Town of Rolesville.

Open Space : An area (land and/or water) generally lacking in man-made structures and reserved for enjoyment in its unaltered state.

Ornamental Trees : Usually refers to flowering trees such as dogwoods, flowering pear and flowering plum trees. Ornamental trees typically are smaller, understory trees (see "Understory," below).

P

Park : See "Recreation area".

Planned Unit Development (PUD) : As defined in Section 6.2. In general, PUDs allow for a mix of residential and commercial uses and for a variety of housing densities within the development, controlled by an overall density limit.

Plat : A map or plan of a parcel of land which is to be, or has been subdivided.

Principal arterial : A rural link in a network of continuous routes serving corridor movements having trip length and travel density characteristics indicative of substantial statewide or interstate travel and existing solely to serve traffic. This network would consist of interstate routes and other routes designed as principal arterial.

Principal building, use, or structure : The main use of a lot or the building or structure in or on which the main use of the lot takes places.

Private driveway : A roadway serving two or fewer lots, building sites or other division of land and not intended to be public ingress or egress.

Private street : An undedicated private right-of-way which affords access to abutting properties and requires a subdivision streets disclosure statement in accordance with G.S. § 136-102.6.

Protected Open Space : Fields, forests, streams, and other lands that have been set aside for permanent protection as open space. Activities within the protected open space are restricted in perpetuity through the use of an approved legal instrument.

Public sewage disposal system : A system serving two or more dwelling units and approved by the Wake County Health Department and/or the North Carolina Department of Natural Resources and Community Development.

R

Recreation area (also "Park"): An area of land or combination of land and water resources that is developed for active and/or passive recreation pursuits with various man-made features that accommodate such activities.

Recreational vehicle : A vehicle that is: 1) built on a single chassis; 2) 4,000 square feet or less when measured at the largest horizontal projection; 3) designed to be self-propelled or permanently tow-able by a light duty truck; 4) designed primarily not for use as a permanent dwelling, but as a temporary living quarters for recreational, camping, travel, or seasonal use.

Remedy a violation : To bring the structure or other development into compliance with State or local 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 the flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing Federal financial exposure with the regard to the structure or other development.

Reservation : A reservation of land does not involve any transfer or property rights. It simply constitutes an obligation to keep property free from development for a stated period of time.

Residential collector street : A local access street which serves as a connector street between local residential streets and the thoroughfare system. Residential collector streets typically collect traffic from 100 to 400 dwelling units.

Residential development : Buildings for residence such as attached and detached single-family dwellings, apartment complexes, condominiums, townhouses, cottages, etc. and their associated outbuildings such as garages, storage buildings, gazebos, etc. and customary home occupations.

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

Restaurant : An establishment whose primary purpose is serving meals to patrons.

Restaurant, drive-in or take-out : Any restaurant which makes provision for curbside service, outdoors service, or a drive-in window, or any restaurant more than ten percent of whose average daily customers take their food or beverages out of the restaurant.

Restaurant, indoor : Any restaurant except a drive-in or take-out restaurant.

Reversed Frontage Lot : A lot on which the frontage is at right angles or approximately right angles (interior angles less than 135 degrees) to the general pattern in the area. A reserved frontage lot may also be a corner lot, an interior lot or a through lot.

Right-of-way, street : A strip of land, owned publicly or privately, which affords the principal means of access to abutting property.

Road : See "Street".

Roof line : The top edge of the roof or the top edges of the parapet, whichever forms the top line of the building silhouette, but not including penthouses or equipment structures.

S

Save Area : Any area of undisturbed land that has been designed to remain undisturbed within the development plan. These undisturbed areas shall contain small to significant vegetation that will be used to meet buffer requirements.

Screen : A method of reducing the impact of noise, visual intrusions and invasion of privacy with such elements as plants, berms, fences, walls or any appropriate combination thereof.

Service station : A building or lot dedicated to the rendering of services such as the sale of gasoline, oil, grease, and accessories and the minor repair of automobiles, excluding body working, overhauling, and painting.

Setback lines : The line on the front, rear, and sides of a lot which delineates the area within which a structure may be built and maintained, according to the district regulations.

Shopping center : Two or more commercial establishments planned, and constructed, as a single unit with off-street parking and loading facilities provided on the property.

Sign : Any outdoor letter, symbol, number, trademark, or other form of publicity or combination of these as well as the surface on which they are painted or to which they are attached, or any of the above when placed inside a window facing out, and any background material, coloring, shapes, or other trim shall be considered a sign, unless entirely enclosed by a fence or a wall such that the above items and any structure or lighting attached to or accessory to them cannot be seen off the premises on which they are located. Works of fine art which in no way identify or advertise a product or business shall be excluded from this definition.

Sign area : The area of the smallest regular polygon composed of eight lines or less, circle, half-circle, ellipse, or combination thereof, which will encompass the entire sign, excluding the base or apron, supports, or other structural members unless some part of the message appears on them, in which case they shall be included. Where symbols, letters, or numbers are attached separately to a structure, including a sign structure or two separated surfaces, the area between the separate items or letters, whether open or solid, shall be computed as part of the sign area. The total sign area for a double-faced sign shall be measured on the largest face of the sign. Where three-dimensional figures are used as signs, the largest dimensions of such figure shall be projected on a vertical plane and measured in the standard manner.

Sign height : The vertical distance measured from the adjacent street grade or from the ground on which it rests, whichever allows the sign the greatest height, to the top of the sign.

Sign, identification : A sign which contains any or all of the following: the name of the occupants, owner, or establishments, the type of establishment, the name of the franchise, the hours of operation, and house number, when located on the site of the establishment.

Sign, on-site advertising : A sign which contains information about an establishment or the products or services that it offers, other than that contained in an identification sign, when located on the same site as the establishment to which it refers.

Sign, on-site advertising (billboard): A sign which contains information about an establishment, business, commodity, activity, or service not conducted, sold, or offered upon the premises where such sign is located and not otherwise allowed in Table 11.5, and which is not specifically

regulated in Table 11.5 as a directional sign to churches, meeting halls, civic clubs, or garage sales, or as a temporary sign.

Sign, ground : A sign erected on a free standing frame, mast, and/or pole and not attached to any building, fence, or wall.

Sign, wall : A sign which is attached flat to the wall or façade of a building, or to a fence or wall.

Sign, projecting : A sign which extends beyond and is attached to a building wall and may extend over a public right-of-way.

Sign, roof : A sign attached to and extending upward from a roof of a structure.

Significant vegetation : Existing vegetation eight inches in diameter and greater. This measurement is determined at breast height (Diameter at Breast height - DBH).

Silviculture : The growing, harvesting, and regeneration of trees, leaves, or seeds, in accordance with a forest management plan acceptable to the North Carolina Division of Forest Resources using best management practice as defined in Forest Practices Guidelines Related to Water Quality (15 NCAC 11.6101 - .0209) and all successor documents.

Single family residential : Any development where: 1) no building contains more than one dwelling unit, 2) every dwelling unit is on a separate lot, and 3) where no lot contains more than one dwelling unit.

Single-tier lot : A lot which backs upon a limited access highway, a railroad, a physical barrier, or the parcel of land including topography, building placement and all other pertinent site features.

Site plan : A portion of the development plan that shows the existing and proposed conditions of the parcel of land including topography, building placement and all other pertinent site features.

Small vegetation : Existing vegetation from two and one-half inches in caliper to significant vegetation size of eight inches in diameter at DBH.

Special Event : means any occasion including but not limited to fairs, shows, exhibitions, town celebrations, and festivals taking place within a specifically defined area of the Town of Rolesville.

Specimen tree : Any tree other than a pine tree with a caliper of 18 inches or more.

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, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, 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 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.

Stream buffer : See "Buffer, riparian".

Street (also "road"): A public dedicated and accepted right-of-way for vehicular traffic (or a private road only if permitted by this ordinance) which affords the principal means of access to abutting properties.

Street Banners : Any one- or two-sided (faced) banner or sign suspended over public right-of-way between two or more street poles for the purpose of promoting a special event (see Town Code Chapter 113).

Street front buffer : A buffer, which is located along all thoroughfares as, defined by the Thoroughfare Plan of the Town of Rolesville.

Structure : Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include buildings, mobile homes, fences, signs, gas or liquid storage tanks, and swimming pools.

Subdivider : Any person, firm, or corporation who subdivides or develops any land deemed to be a subdivision as herein defined.

Subdivision : A subdivision shall include all divisions of a tract of parcel of land into two or more lots, building sites, or other divisions when any one or more of those divisions is created for the purpose, whether immediate or future, or sale, legacy, partition, or building development and shall include all divisions of land involving the dedication of a new street or a change in existing streets; provided, however, that the following shall not be included within this definition:

- (1) The combination or recombination of portion so previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to the standards of this Code.
- (2) The division of land into parcels greater than ten acres where no street right-of-way dedication is involved.
- (3) The public acquisition by purchase of strips of land for the widening of opening of streets or for public transportation system corridors.

Substantial damage : Damage of any origin sustained by a structure where by the cost of restoring the structure to it's before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. See definition of "substantial improvement."

Substantial improvement : Any repair, reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "substantial damage," regardless of the actual repair work

performed. The term does not, however, include either: 1) any project of improvement of a structure to correct existing violations of State or local health, sanitary or safety code specifications that have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or, 2) any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

Substantially improved existing manufactured home park or subdivision : Where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction, or improvement began.

T

Thoroughfare : See "Major thoroughfare" and "Minor thoroughfare".

Through lot : A lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as double frontage lots.

Townhouse : A dwelling unit constructed in a series or group of attached units with property lines separating such units.

Toxic substance : Any substance or combination of substances (including disease causing agents), which after discharge and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, has the potential to cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions or suppression in reproduction or growth) or physical deformities in such organisms or their offspring or other adverse health effects.

Traditional neighborhoods : Traditional neighborhood developments (TND) allow for the development of fully integrated, mixed-use pedestrian oriented neighborhoods. TNDs provide for a variety of housing types and densities and commercial activities sized to serve the TND.

Emphasis is placed on sidewalks, green space, minimal house setbacks, narrow streets, and alleys for service traffic.

Tree canopy : The diameter or variable radius from the tree trunk to the outermost reaches of tree branches.

Trunk line : Imaginary or visual line separating a cleared area from a forested area.

Understory trees : Understory trees are those which are smaller and usually grow under the canopy of larger trees. Examples are dogwoods, Japanese maples, and flowering red plums. Understory trees usually are selected for their ornamental.

V

Variance : A relaxation of the terms of this ordinance under the specific conditions set forth in Section 2 and G.S. 160D.

Vegetation buffer : See "Buffer, riparian".

Vehicular use area : An off-street ground level area used for temporary storage of motor vehicles or parking. Also includes drive entries, loading areas and/or other impervious surface areas used for transportation.

Violation : The failure of a structure or other development to be fully compliant with the communities' floodplain management regulations. A structure or other development without the elevation certificate, other certificates, or other evidence or compliance required in Articles 4 and 5 is presumed to be in violation until such time as that documentation is provided.

W

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

Watershed : The entire land area contributing surface drainage to a specific point (e.g. the water supply intake).

WS-II Waters Class : Sources of water supply for drinking, culinary, or food-processing purposes for those uses desiring maximum protection for their water supplies where a WS-I classification is not feasible and any best usage specified for Class C waters. Class WS-II waters are protected as water supplies that are in predominantly undeveloped watersheds and meet average watershed development density levels.

DRAFT

Y

Yard : An open space on the same lot with a principal structure of use unobstructed and unoccupied by any structure or portion thereof or parking or loading area, except as provided in this ordinance.

Yard, front : A yard extending the full width of the lot and situated between the right-of-way line and the front line of the principal structure or use projected to the side lines of the lot. Depth of required front yards shall be measured at right angles to a straight line joining the foremost points of the side lot lines. The foremost point of the side lot lines in the case of rounded property corners at street intersections shall be assumed to be the point at which the side and front lines would have met without such rounding. The foremost points of the side lot lines in the case of lots having an access strip extending from the front of the main portion for the lot in order to comply with the requirements of Section 9.2 of this ordinance shall be measured at the place where the access strip joins the main portion of the lot. However, nothing may be placed in the access strip that is not permitted by this ordinance to be placed in a front yard. Front and rear yard lines shall be parallel.

Yard, rear : A yard extending the full width of the lot and situated between the rear line of the lot and the principal structure or use projected to the side lines of the lot.

Yard, side : A yard extending along either side of a lot measured from front yard line to rear yard line and lying between the side lot line and the principal structure or use on the lot.

Z

Zoning Administrator : The official charged with the enforcement of this ordinance. Is a designee of the Land Development Administrator.

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