

**Richmond County  
North Carolina  
Code Of Ordinances**

**CODE OF ORDINANCES COUNTY OF RICHMOND, NORTH CAROLINA**

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2002 OFFICIALS  
Of the  
COUNTY OF  
RICHMOND, NORTH CAROLINA  
AT THE TIME OF THIS CODIFICATION

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## PREFACE

This Code constitutes a codification of the general and permanent ordinances of the County of Richmond, North Carolina.

Source materials used in the preparation of the Code were the ordinances adopted by the board of commissioners. The source of each section is included in the history note appearing in parentheses at the end thereof. The absence of such a note indicates that the section is new and was adopted for the first time with the adoption of the Code.

The chapters of the Code have been conveniently arranged in alphabetical order, and the various sections within each chapter have been catch lined to facilitate usage. Notes which tie related sections of the Code together and which refer to relevant state law have been included. A table listing the state law citations and setting forth their location within the Code is included at the back of this Code.

### *Chapter and Section Numbering System*

The chapter and section numbering system used in this Code is the same system used in many state and local government codes. Each section number consists of two parts separated by a dash. The figure before the dash refers to the chapter number, and the figure after the dash refers to the position of the section within the chapter. Thus, the second section of chapter 1 is numbered 1-2, and the first section of chapter 6 is 6-1. Under this system, each section is identified with its chapter, and at the same time new sections can be inserted in their proper place by using the decimal system for amendments. For example, if new material consisting of one section that would logically come between sections 6-1 and 6-2 is desired to be added, such new section would be numbered 6-1.5. New articles and new divisions may be included in the same way or, in the case of articles, may be placed at the end of the chapter embracing the subject, and, in the case of divisions, may be placed at the end of the article embracing the subject. The next successive number shall be assigned to the new article or division. New chapters may be included by using one of the reserved chapter numbers. Care should be taken that the alphabetical arrangement of chapters is maintained when including new chapters.

### *Page Numbering System*

The page numbering system used in this Code is a prefix system. The letters to the left of the colon are an abbreviation which represents a certain portion of the volume. The number to the right of the colon represents the number of the page in that portion. In the case of a chapter of the Code, the number to the left of the colon indicates the number of the chapter. In the case of an appendix to the Code, the letter immediately to the left of the colon indicates the letter of the appendix. The following are typical parts of codes of ordinances, which may or may not appear in this Code at this time, and their corresponding prefixes:

TABLE INSET:

### *Index*

The index has been prepared with the greatest of care. Each particular item has been placed under several headings, some of which are couched in lay phraseology, others in legal terminology, and still others in language generally used by local government officials and employees. There are numerous cross references within the index itself which stand as guideposts to direct the user to the particular item in which the user is interested.

### *Looseleaf Supplements*

A special feature of this publication is the looseleaf system of binding and supplemental servicing of the publication. With this system, the publication will be kept up-to-date. Subsequent amendatory legislation will be properly edited, and the affected page or pages will be reprinted. These new pages will be distributed to holders of copies of the publication, with instructions for the manner of inserting the new pages and deleting the obsolete pages.

Keeping this publication up-to-date at all times will depend largely upon the holder of the publication. As revised pages are received, it will then become the responsibility of the holder to have the amendments inserted according to the attached instructions. It is strongly recommended by the publisher that all such amendments be inserted immediately upon receipt to avoid misplacing them and, in addition, that all deleted pages be saved and filed for historical reference purposes.

### *Acknowledgments*

The publisher is most grateful to Marian Savage, CMC, Clerk to the Board and Stephen Futrell, County Attorney for their cooperation and assistance during the progress of the work on this publication. It is hoped that their efforts and those of the publisher have resulted in a Code of Ordinances which will make the active law of the county readily accessible to all citizens and which will be a valuable tool in the day-to-day administration of the county's affairs.

### *Copyright*

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- Sec. 29-63. Payment of taxes and filing of returns.
- Sec. 29-64. Penalties.
- Sec. 29-65. Misdemeanor for willful violation.

**CHAPTER 30 - (RESERVED)**

**CHAPTER 31 - (RESERVED)**

**CHAPTER 32 TELECOMMUNICATIONS\***

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## Chapter 1 GENERAL PROVISION

### **Sec. 1-1. Designation and citation of Code.**

The ordinances embraced in this and the following chapters and sections shall constitute and be designated "Code of Ordinances, County of Richmond, North Carolina," and may be so cited.

State law references: Admission of Code in evidence, G.S. 160A-79.

### **Sec. 1-2. Definitions and rules of construction.**

In the construction of this Code and of all ordinances, the following definitions and rules of construction shall be observed, unless inconsistent with the manifest intent of the board of commissioners or the context clearly requires otherwise:

*Charter.* The term "Charter" shall mean the Charter of the County of Richmond, North Carolina.

*Code.* The term "Code" shall mean the Code of Ordinances, County of Richmond, North Carolina, as designated in section 1-1.

*Computation of time.* The time within which an act is to be done shall be computed by excluding the first and including the last day, and if the last day is Saturday, Sunday or a legal holiday, that day shall be excluded.

**State law references: Computation of time, G.S. 1-593.**

*Commissioners.* The terms "commissioners" and "board of commissioners" shall mean the members of the governing body of the County of Richmond, North Carolina.

*County.* The term "county" shall mean the County of Richmond, in the State of North Carolina, except as otherwise provided.

*Gender.* Words importing the masculine gender shall include the feminine and neuter.

*G.S. and General Statutes.* The abbreviation "G.S." and the term "General Statutes" shall mean the latest edition of the General Statutes of North Carolina, as amended.

*Governor.* The terms "governor" and "the governor" shall mean the Governor of North Carolina.

*Joint authority.* All words giving a joint authority to three or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

*May, shall.* The term "may" is permissive, the term "shall" is mandatory.

*Month.* The term "month" shall mean a calendar month.

*Number.* Words used in the singular include the plural and the plural includes the singular number.

*Oath.* The term "oath" shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the terms "swear" and "sworn" shall be equivalent to the terms "affirm" and "affirmed."

*Official time standard.* The term "official time standard" means that whenever certain hours are named in this Code, they shall mean standard time or daylight saving time as may be in current use in this county.

*Officials, boards, commissions, etc.* Whenever reference is made to officials, boards, commissions, committees and the like, by title only, they shall be construed as if followed by the words "of the County of Richmond, North Carolina."

*Owner.* The term "owner," applied to any property, shall include any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or a part of such property.

*Person.* The term "person" shall include a corporation, firm, partnership, association, organization and any other group acting as a unit, as well as an individual.

*Personal property.* The term "personal property" includes every species of property except real property.

*Preceding, following.* The terms "preceding" and "following" shall mean next before and next after, respectively.

*Property.* The term "property" shall include real and personal property.

*Real property.* The term "real property" shall include lands, tenements and hereditaments.

*Sidewalk.* The term "sidewalk" shall mean any portion of a street, between the curblin and the adjacent property line intended for the use of pedestrians.

*Signature and subscription.* The terms "signature" and "subscription" includes a mark when the person cannot write.

*State.* The terms "state" and "this state" shall be construed to mean the State of North Carolina, except as otherwise provided.

*Street.* The term "street" shall mean and include any public way, road, highway, street, avenue, boulevard, parkway, alley, lane, viaduct, bridge, and the approaches thereto within the town and shall mean the entire width of the right-of-way between abutting property lines.

*Tenant.* The terms "tenant" and "occupant" applied to a building or land shall include any person who occupies the whole or a part of such building or land, whether alone or with others.

*Tense.* Words used in the past or present tense include the future as well as the past and present.

*Town.* The terms "town" and "the town" shall mean all incorporated areas within the County of Richmond in the State of North Carolina, except as otherwise provided.

*Writing, written.* The terms "writing" and "written" shall include printing and any other mode of representing words and letters.

*Year.* The term "year" shall mean a calendar year, unless otherwise specified.  
State law references: Similar rules of construction of statutes, G.S. 160A-1.

### **Sec. 1-3. Provisions considered as continuations of existing ordinances.**

The provisions appearing in this Code, so far as they are the same as those of ordinances adopted prior to the adoption of this Code and included herein, shall be considered as continuations thereof and not as new enactments.

### **Sec. 1-4. Catchlines of sections; history notes and references.**

- (a) The catchlines of the several sections of this Code are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such sections nor as any part of the section, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted.
- (b) The history notes following sections and the references and notes scattered throughout the Code are not part of the Code but are merely for the benefit of the user of the Code.

### **Sec. 1-5. Severability of parts of Code.**

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

**Sec. 1-6. General penalty; enforcement of ordinances; continuing violations.**

- (a) Unless otherwise specifically provided, violation of any provision of this Code or any other county ordinance shall subject the offender to the remedies hereinafter provided; except, that where the General Statutes of North Carolina provide specific civil remedies for violations of provisions of this Code adopted pursuant to such statutes, such remedies available to the county for enforcement of this Code shall be in addition to the remedies hereinafter stated; provided that no criminal penalties shall be applicable unless hereinafter stated in this section as being applicable to specific chapters or provisions of this Code.
- (b) Violations of any provision of the chapters and sections of this Code shall be a misdemeanor and punishable as provided by G.S. 14-4.
- (c) In addition to any civil or criminal penalties set out in this section, any provision of this Code or any other county ordinance may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction. In such case, the general court of justice shall have jurisdiction to issue such orders as may be appropriate, and it shall not be a defense to the application of the county for equitable relief that there is an adequate remedy at law.
- (d) In addition to any civil or criminal penalties set out in this section, any provision of this Code or any other county ordinance that makes unlawful a condition existing upon or use made of real property may be enforced by injunction and order of abatement, and the general court of justice shall have jurisdiction to issue such orders. When a violation of such a provision occurs, the county may apply to the appropriate division of the general court of justice for a mandatory or prohibitory injunction and order of abatement commanding the defendant to correct the unlawful condition upon or cease the unlawful use of the property. The action shall be governed in all respects by the laws and rules governing civil proceedings, including the Rules of Civil Procedure in general and Rule 65 in particular.
- (e) In addition to an injunction, the court may enter an order of abatement as a part of the judgment in the cause. An order of abatement may direct that:
  - (1) Buildings or other structures on the property be closed, demolished or removed;
  - (2) Fixtures, furniture or other movable property be removed from buildings on the property;
  - (3) Grass and weeds be cut;
  - (4) Improvements or repairs be made; or
  - (5) Any other action be taken that is necessary to bring the property into compliance with this Code or such ordinance.

If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, he may be cited for contempt, and the county may execute the order of abatement. The county shall have a lien on the property for the cost of executing an order of abatement in the nature of a mechanic's and materialman's lien. The defendant may secure cancellation of an order of abatement by paying all costs of the proceedings and posting a bond for compliance with the order. The bond shall be given with sureties approved by the clerk of superior court in an amount approved by the judge before whom the matter is heard and shall be conditioned on the defendant's full compliance with the terms of the order of abatement within a time fixed by the judge. Cancellation of an order of abatement shall not suspend or cancel an injunction issued in conjunction therewith.

- (f) The provisions of this Code and any other county ordinances may be enforced by one, all or a combination of the remedies authorized and prescribed by this section, except that any provision the violation of which incurs a civil penalty shall not be enforced by criminal penalties.
- (g) Except as otherwise specifically provided, each day's continuing violation of any provision of this Code or any other county ordinance shall be a separate and distinct offense.
- (h) Any ordinances hereafter adopted by the board of commissioners of the county, the violation of which shall incur a penalty, shall specify whether the enforcement shall be pursuant to the civil penalty or criminal penal provisions of this section.
- (i) Upon determination of a violation of any section of this Code, the penalty for which is a civil penalty, the county shall cause a warning citation, or a Notice of Violation to be issued to the violator, setting out the nature of the violation, the section violated, the date of the violation and an order to immediately cease the violation or, if the violation is in the nature of an infraction for which an order of abatement would be appropriate in a civil proceeding, stating a reasonable period of time in which the violation must be abated. The warning citation, or Notice of Violation shall specify that a second citation shall incur a civil penalty.
- (j) Upon failure of the violator to obey the warning citation, or Notice of Violation, a civil citation with penalty shall be issued by the appropriate official of the county and either served directly on the violator or his duly designated agent, or registered agent if a corporation, in person or posted in the United States mail service by first class mail addressed to the last known address of the violator as contained in the records of the county, or obtained from the violator at the time of issuance of the warning citation. The violator shall be deemed to have been served upon the mailing of such citation. The citation shall direct the violator to appear before the county treasurer, located in the County Administration Building, within 15 days of the date of the citation or alternatively to pay the citation by mail. The violation for which the citation is issued must have been corrected by the time the citation is paid; otherwise,

further citations shall be issued. Citations may be issued for each day the offense continues until the prohibited activity is ceased or abated. If the violator fails to respond to a citation within 15 days of its issuance and pay the penalty prescribed therein, the county may institute a civil action in the nature of debt in the appropriate division of the North Carolina General Court of Justice for the collection of the penalty, an administration fee and legal fees.

(k) Unless otherwise stated or authorized in the a particular Chapter of this Code of Ordinance, the following schedule shall be observed for monetary fines of Civil Penalties:

1. \$100 for the first 5 Civil Citation with Penalty
2. \$500 for the second 5 Civil Citations with Penalty
3. \$1,000 for each subsequent Civil Citations with Penalty.

An administrative fee of \$30.00 shall be added to each Civil Citation with Penalty

(Ord. of 1/8/2007)

State law references: Similar provisions, G.S. 160A-175, penalty for violation of county ordinances, G.S. 14-4.

**Sec. 1-7. Amendments to Code; effect of new ordinances; amendatory language.**

(a) All ordinances passed subsequent to this Code, which amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system hereof and printed for inclusion herein. When subsequent ordinances repeal any chapter, section or subsection or any portion thereof, such repealed portions may be excluded from this Code by omission from reprinted pages. The subsequent ordinances as numbered and printed, or omitted in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time that this Code and subsequent ordinances numbered or omitted are readopted as a new code by the board of commissioners.

(b) Amendments to any of the provisions of this Code shall be made by amending such provisions by specific reference to the section number of this Code in the following language:

*"That section of the Code of Ordinances, County of Richmond, North Carolina, is hereby amended to read as follows: . . . ." The new provisions shall then be set out in full as desired.*

(c) If a new section not heretofore existing in the Code is to be added, the following language shall be used:

*"That the Code of Ordinances, County of Richmond, North Carolina, is hereby amended by adding a section, to be numbered \_\_\_\_\_, which such section reads as follows: . . . ." The new section shall then be set out in full as desired.*

- (c) All sections, articles, chapters or provisions desired to be repealed must be specifically repealed by section, article or chapter number, as the case may be.

**Sec. 1-8. Supplementation of Code.**

- (a) By contract or by county personnel, supplements to this Code shall be prepared on an annual basis. A supplement to the Code shall include all substantive, permanent and general parts of ordinances passed by the board of commissioners during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.
- (b) In preparing a supplement to this Code, all portions of the Code, which have been repealed, shall be excluded from the Code by the omission thereof from reprinted pages.
- (c) When preparing a supplement to this Code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:
  - (1) Organize the ordinance material into appropriate subdivisions.
  - (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such catchlines, headings and titles.
  - (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers.
  - (4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections to" (inserting section numbers to indicate the sections of the Code, which embody the substantive sections of the ordinance, incorporated into the Code).
  - (5) Make other nonsubstantive changes necessary to preserve the original meanings of ordinance sections inserted into the Code, but in no case shall the codifier make

any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

**Sec. 1-9. Ordinances not affected by Code.**

Nothing in this Code or the ordinance adopting this Code shall be construed to repeal or otherwise affect the validity of any of the following:

- (1) Any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this Code;
- (2) Any ordinance or resolution promising or guaranteeing loans or the payment of money for the county or authorizing the issuance of any bonds of the county or any evidence of the county's indebtedness;
- (3) Any contract or obligation assumed by the county;
- (4) Any ordinance fixing the salary of any county officer or employee;
- (5) Any right or franchise granted by the county;
- (6) *Deleted*
- (7) Any appropriation ordinance;
- (8) Any ordinance, which, by its own terms, is effective for a stated or limited term;
- (9) Any ordinance providing for local improvements and assessing taxes therefor;
- (10) *Deleted*
- (11) *Deleted*
- (12) Any ordinance describing or altering the boundaries of the county;
- (13) The administrative ordinances or resolutions of the county not in conflict or inconsistent with the provisions of this Code;
- (14) Any ordinance levying or imposing taxes not included herein;
- (15) *Deleted*
- (16) Any personnel ordinance;

(17)nor shall such ordinance be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance which is repealed by this chapter; and all such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this section.

(Ord. 1/8/2007)

State law references: Statutes not repealed by General Statutes, G.S. 164-7.



## **Chapter 2 ADMINISTRATION\* (RESERVED)**

## **Chapter 3 (RESERVED)**

**Chapter 4 ANIMALS**  
**ARTICLE I. IN GENERAL**

**Secs. 4-1--4-30. Reserved.**

**ARTICLE II. ANIMAL AND RABIES CONTROL**

**Sec 4-31. Purpose Declared**

These rules are enacted for the purpose of protecting the people of Richmond County from rabies transmitted by unconfined, uncontrolled and unimmunized animals, and to regulate animals that are a particular nuisance or danger.

**State law references:** Purposes of Animal Welfare Act, G.S. § 19A-21.

**Sec 4-32. Definitions and Terms**

- A. **Abandonment** shall mean the willful discarding or deserting of a live animal, leaving an animal for a period in excess of twelve (12) hours without providing adequate food, water, or shelter for the duration of the absence or releasing or dumping an animal from a vehicle without demonstrating intent to recover the animal.
- B. **Adequate Food** shall mean the provision at suitable intervals, not to exceed twenty-four (24) hours, of a quantity of wholesome foodstuff suitable for the species and age, sufficient to maintain nutrition in each animal. Such foodstuff shall be served in a receptacle, dish or container that is physically clean and in which agents injurious to health have been removed or destroyed to a practical minimum.
- C. **Adequate Water** shall mean a constant access to a supply of clean, fresh water suitable for drinking and provided in a sanitary manner. No mold shall be in the receptacle and water must not be frozen or too hot to be utilized for drinking.
- D. **Adequate Shelter** shall mean that shelter or outside enclosure which will keep a non-aquatic animal dry and out of the direct sun, at a temperature level that is healthful for the animal. For dogs, cats, and other small animals, the shelter shall be a wind and moisture resistant structure of suitable size to accommodate the animal. It shall include four walls, a roof and a solid floor raised off the ground, with an opening entrance large enough to allow access to the animal. The animal must have access to shaded areas other than the shelter during warm or hot days. Owners are allowed to utilize plastic barrels anywhere and metal barrels in shaded areas only. For all animals, the containment area shall be free of accumulated waste and debris so that the animal shall be free to walk or lie down without coming in contact with any such waste or debris, and drainage shall be provided to eliminate excess water or moisture. Aquatic or semi aquatic animals shall have an adequate amount of clean water in which to move.

- E. **Agents of the Animal Control Program** shall refer to any personnel of the Richmond County Health Department authorized by the Health Director to perform animal control or animal control-related duties, such as the Animal Control Officers and the Environmental Health staff.
- F. **Animal** shall include every living creature, domestic or non domestic, but does not include humans.
- G. **Animal Control Officer** shall mean any person or persons designated by the Health Director to pick up, restrain, impound, care for, euthanize or dispose of animals, and who is responsible for discharging such other duties or functions as may be prescribed by this or any other county ordinance, provision or by State law or by the Richmond County Board of Health.
- H. **At Large** shall mean any animal off the property of its owner and not under direct control of a competent person.
- I. **Bite** means to cut, wound, or tear with the teeth and includes injuries ranging from minor to severe. A break in the skin caused by teeth is considered a bite for the purposes of this Ordinance.
- J. **Confinement** shall mean restricted interaction.
- K. **Cruelty and Cruel Treatment** shall mean every act, omission or neglect whereby unjustifiable physical pain, suffering or death is caused or permitted. Examples include slapping, beating, kicking, hanging, submerging under water, suffocating, poisoning, setting on fire, and depriving of food, water and medical treatment, or otherwise subjecting the animal to conditions detrimental to its health or general welfare.
- L. **Dangerous Dog** shall refer to a dog that has killed a person; or has been deemed dangerous in another county or state; or is determined by the person or board designated by the Richmond County Board of Health to be responsible for such determination to be dangerous because the dog has engaged in one (1) or more of the behaviors listed in this subsection:
1. Any dog owned or harbored primarily or in part for the purpose of dog fighting, or any dog trained for dog fighting; or
  2. Any dog, while not on the owner's real property, that has inflicted a bite on a person, which requires first aid or treatment from a medical professional.
- M. **Domestic Animal** shall mean any of various animals, such as dogs, cats, equine, sheep, cattle, goats, hogs, poultry, ferrets, llamas, emus, and/or other animals domesticated by man so as to live and/or breed in a tame condition.
- N. **Exotic Animal** shall mean any living animal, which is strikingly or excitingly different or unusual and not ordinarily kept as a pet or domesticated animal. By way
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of example, exotic animals shall include, but are not limited to, lions, tigers, apes, monkeys, poisonous reptiles, and poisonous spiders. A hybrid of any animal listed in the example above, regardless of genetic percentages, shall be deemed exotic.

- O. **Exposed to Rabies** shall refer to an animal that has been bitten by, or been in the presence of, any animal known or suspected to have been infected with rabies.
  - P. **Feral Cat** shall mean a cat that is unsocialized to humans and has a temperament of extreme fear of and resistance to contact with humans.
  - Q. **Fine** shall refer to a directive, issued by the Animal Control Officer, authorized by these Rules this Ordinance, to pay a civil penalty for violation of this Ordinance.
  - R. **Health Department (Office of Health Department)** shall refer to the Richmond County Health Department.
  - S. **Impoundment** shall be the possession or seizure of an animal by the Animal Control Officer.
  - T. **Nuisance** shall mean an animal or group of animals which:
    - 1. Damages, soils, or defiles private or public property; or
    - 2. Interferes with, molests, or attacks persons or other animals; or
    - 3. Is/are repeatedly at large, with the exception of feral cats; or
    - 4. Causes unsanitary, dangerous or offensive conditions; or
    - 5. Chases, snaps at, harasses or impedes pedestrians, bicyclists or vehicles; or
    - 6. By virtue of number assertive tendencies is offensive or dangerous to the public health, safety, or welfare; or
    - 7. Is diseased or dangerous to the public health.
  - U. **Owner** shall include any person, group of persons, firm, partnership, organization, association or corporation owning, keeping or harboring an animal, assumes care of an animal or acts as a custodian of an animal, unless the animal is being boarded for a fee. If the keeper of an animal is a minor child, the parent or guardian of such minor shall accept the responsibility and held liable for noncompliance with the provisions of this Ordinance.
  - V. **Potentially Dangerous Dog** shall refer to any dog, when not on the owner's real property, that has killed or inflicted severe injury upon a domestic animal; or when not on the owner's real property, that has approached a person in a vicious or terrorizing manner in an apparent attitude of attack; or that has been deemed potentially dangerous in another county or state.
  - W. **Provocation or Provoking** shall mean any actions designed to goad, inflame, instigate, or stimulate an aggressive or defensive response on the part of an animal, but provocation shall not include any part of an individual that pertain to reasonable efforts of self-defense against an unprovoked animal.
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- X. **Reasonable Diligent Attempts** shall mean attempts have been made to locate owners including scanning, rabies tag check and checking Animal Control and RCAS lost and found reports.
- Y. **Restraint** shall mean that an animal is under sufficient physical control such as a leash, cage, bridle, or similar effective and humane device that restrains and controls the animal, or adequately contained by a fence on the premises or other secure enclosure. If any unattended animal is restrained by a chain, leash or similar device, it shall be designed and placed to prevent choking or strangulation. Such chain or restraint shall not be less than eight feet in length and must have a swivel on both ends. A dog that is considered vicious or a public nuisance must be on a leash at all times when off of the owner's property.
- Z. **RCAS** shall refer to the Richmond County Animal Shelter as it is currently managed and is a place provided and operated for the restraint, care, and disposition of animals.
- AA. **Secure Enclosure** shall mean an enclosure from which an animal cannot escape unless freed by an owner, or, a chain of sufficient strength to tie an animal to a stationary object and to prevent the animal from moving further than the length of the chain from that stationary object. An automobile, truck or other vehicle shall be considered a secure enclosure only if an animal cannot escape from it unless freed by an owner, and said animal is not at risk of illness, injury, or death due to temperature extremes.
- BB. **Severe Injury** shall mean any physical injury that results in broken bones or disfiguring lacerations or requires cosmetic surgery or hospitalization.
- CC. **Stray Animal** shall refer to a domestic animal that roams at large with no apparent Ownership.
- DD. **Vaccination** shall mean the administration of anti-rabies vaccine approved by the United States Bureau of Animal Industry, the North Carolina State Department of Agriculture and the North Carolina Board of Health.
- EE. **Wild Animal** shall mean any animal which can be normally found in the wild state, particularly those exotic, dangerous or non-domestic animals which generally do not live in or about the habitation of humans (i.e. raccoons, snakes, bats). For purposes of this chapter wild animals are deemed inherently dangerous. They are deemed as such because of their vicious propensities and capabilities, the likely gravity of harm inflicted by their attack and unpredictability despite attempts at domestication. The category of wild animals includes but is not limited to:
- Members of the Canidae family such as wolves (*canis lupus*) and coyotes (*canis l atrans*) and wolf-coyote hybrids.
  - Members of the Ursidae family that includes any member of the bear family or hybrids thereof.,
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- Members of the Felidae family such as wild cats, cougars, mountain lions, or panthers.

**Cross-references:** Definitions and rules of construction generally, § 1-3.

**State law references:** Handling of poisonous reptiles, G.S. § 14-416 et seq.; definitions relating to civil remedy for protection of animals, G.S. § 19A-1; definitions relating to the Animal Welfare Act, G.S. § 19A-23; definitions relating to veterinarians, G.S. § 90-181; local health director, G.S. §§ 130A-40, 130A-41; definitions relating to rabies, G.S. § 130A-184; animal shelters, G.S. § 153A-442.

#### **Sec 4-33. Appointment of Animal Control Officers**

- A. Animal Control Officers are appointed by the Health Director and considered to be employees of the Richmond County Health Department. Animal Control Officers are hereby designated as Rabies Control Officers for Richmond County.
- B. Animal Control Officers shall have all the powers, authority and immunity granted under the Laws of this State and this Ordinance to enforce provisions as they relate to the care, treatment, and control or impounding of animals.
- C. Except as may be otherwise provided by General Statute and this Ordinance, no officer, agent or employee of Richmond County charged with the duty of Animal Control shall be personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of such duties unless he/she has acted in malice.

#### **Sec 4-34. Powers and Duties of the Animal Control Officers**

The Animal Control Officers shall:

- A. Have the power to issue citations for the violation of the Richmond County Animal Control Ordinance and other laws of the state of North Carolina relating to the ownership, control, care, and custody of dogs, cats, and other animals.
  - B. Have right of entry upon the premises of any place where entry is necessary to enforce the provisions of this Ordinance. If consent for entry is not obtained, an administrative search and inspection warrant shall be obtained pursuant to N.C.G.S. §15-27.2. However, if an imminent hazard exists, no warrant is required for entry upon the premises.
  - C. Have the responsibility to enforce all State Laws and local Ordinance pertaining to the ownership and control of animals and shall cooperate with all other law enforcement offices in fulfilling this duty.
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- D. Be responsible for the investigation of all reported animal bites and impose the quarantine of any animals involved for a period not less than ten (10) days and shall submit a report to the Health Department as soon as practical of any such animal bite and the condition of any quarantined animals.
- E. Act as rabies control officers and enforce and carry out all state laws and all county ordinances pertaining to rabies control Cooperate and assist with the annual Rabies Clinic.
- F. Seize and impound animals in Richmond County involved in a violation of State Laws and local Ordinance.
- G. Investigate cruelty or animal abuse with regard to dogs, cats, other pets and livestock.
- H. Utilize a record keeping system with the RCAS. Documentation from the point of admission to the disposition of the animal shall be maintained between Richmond County Animal Control and RCAS. Records of the animal picked-up, when, where, why, description and whether the animal was returned to the owner, impounded at the RCAS, placed elsewhere, euthanized or released shall be part of the records system.

**State law references:** Animal cruelty investigators, G.S. § 19A-45 et seq.; county animal control officers, G.S. § 67-30; powers and duties of county dog warden, G.S. § 67-31.

#### **Sec 4-35. Animal Control Offenses**

- A. Dogs not under direct control. A dog not under direct control of its owner and determined to be at large by the animal control officer can be picked up by such officer, and the owner may be subject to a fine as outlined in this Ordinances.
    - 1. Upon conducting a complaint investigation, any animal not under the direct control of its owner and determined to be at large by the animal control officer can be picked up by such officer, and the owner will be subject to a fine as outlined in this Ordinance.
    - 2. An owner may lawfully permit an animal which is not dangerous to be at large in the course of a show, obedience school, tracking tests, field training, or other events sanctioned or supervised by a recognized organization. Hunting dogs may be at large in the course of hunting if under the control of the owner.
  - B. Female dogs during the estrus period. It shall be unlawful for any dog or cat owner to permit a female dog or cat to run at large during estrus (heat). Every female dog or cat, while in estrus, shall be confined in such a manner that she will not be in contact with male dogs and cats, nor create a nuisance by attracting other animals. This Section does not prohibit the intentional breeding of animals on the premises of the animals' owner. Restraint in this instance does not mean tied to a stationary object.
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C. Possession of animals owned by another. It shall be unlawful for any person to knowingly or intentionally, unless with consent of the owner, harbor, feed and keep in his possession, by confinement or otherwise, any dog or other animal that does not belong to him unless he has within forty-eight (48) hours from the time such dog or other animal has come into his possession notified the animal control officer.

1. Upon receiving such notice, the animal control officer may in his discretion place the dog or other animal in the animal shelter. It shall be unlawful for any person refuse to surrender any such dog or other animal to the animal control officer upon demand.
2. The purpose of this section is to aid in rabies control and to prevent the intentional or unintentional possession of the pets of other persons.

D. Deceased Animals.

1. It shall be the duty of the owner or person in charge of any animals that die from any cause, and the owner, lessee or person in charge of any land upon which any animals die, to bury the dead animals to a depth of at least three (3) feet beneath the surface of the ground, or to completely burn such animals within twenty-four (24) hours after the death of the animals is known, or to otherwise dispose of the animals in a manner approved by the state veterinarian.
2. It shall be unlawful for any person to remove the carcasses of dead animals from his premises to the premises of any other person without the written permission of the person having charge of such premises and without burying such carcasses as provided in this section.
3. It shall not be the responsibility for the Animal Control officer to pick up and/or dispose of any deceased animal.

**State law references:** Euthanasia defined, G.S. § 19A-23(9); livestock law, G.S. § 68-15 et seq.; disposition of dead domesticated animals, G.S. § 106-403.

E. Public Nuisance Animals.

1. An animal may be determined by the animal control supervisor to be a public nuisance when it commits any of the following acts two (2) or more times, or any combination of two (2) or more of the following acts one (1) or more times:
    - a. Chases, snaps at, or molests pedestrians, bicyclists, motor vehicle passengers, or farm stock or domestic animals
    - b. Turns over garbage pails
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- c. Damages gardens or other foliage or other real or personal property
  - d. Habitually or continuously loiters on school grounds or official county recreation areas; or
  - e. Commits other acts that constitute a public nuisance.
  - f. Failing to confine a female dog or cat while in heat in a secure enclosure in such a manner that will prevent the animal from coming into contact with a male of its species, or attract other animals.
2. Special Preventative Measures may be determined by the Animal Control Officer for any animal deemed as a public nuisance. If it is determined that the circumstances require special preventive measures, then the animal control officer shall have the authority to require appropriate, specific preventive measures which might include, but are not limited to, the following:
- a. Necessary repairs to any fence or enclosure.
  - b. Measures to ensure that a gate will remain secure.
  - c. A fence or secure dog fence or any other similar device that would provide greater assurance for the confinement of the dog, subject to specific approval by the animal control officer.
3. Upon determining that an animal is a public nuisance, an animal control officer shall make a good faith attempt to notify the owner in writing of such determination, and make a good faith attempt to obtain the owner's written acknowledgement of such determination. However, such acknowledgement shall not constitute a necessary element for a violation by the owner of this section.
4. The owner may appeal the determination by filing written objections with the animal control officer supervisor within three (3) days. Any requests for appeal shall be reviewed by the appellate board, known as the animal grievance committee. The appellate board shall hear any requests for appeal of the animal control supervisor's determination of public nuisance.
5. If an animal has been determined to be a public nuisance under this Ordinance, it shall be unlawful for the owner to permit the animal to run at large or in any way leave the owner's property unless under restraint.
6. If an owner of a public nuisance animal does not abide by the terms under this Ordinance, the animal shall be impounded at the RCAS by the Animal Control Officer.

**State law references:** G.S. §§ 153A-121; 160A-174

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F. Cruelty to Animals: The following acts or omissions relating to the mistreatment of animals are unlawful and violations of this Section:

1. Any person to beat, ill-treat, torment, overload, overwork, or otherwise abuse an animal.
  2. It shall be unlawful for any person to subject or cause to be subjected any animal to cruel treatment or to deprive or cause to be deprived any animal of adequate food and water. With respect to domesticated animals or wild animals in captivity or under restraint, it shall additionally be unlawful to deprive or cause to be deprived any such animal of adequate shelter or veterinary care.
  3. It shall be unlawful to restrain any animal except in a humane fashion as defined in this Ordinance.
  4. It shall be unlawful for any person to entice or lure any animal out of an enclosure or off the property of its owner or keeper, or to seize, molest or tease any animal while the animal is held or controlled by its owner or keeper or while the animal is on or off the property of its owner or keeper.
  5. It shall be unlawful to leave an animal in a parked vehicle when temperatures inside the vehicle may adversely affect the animal's health and welfare. When the conditions inside a parked vehicle constitute an imminent threat to the animal's health or safety, Animal Control, any law enforcement agency, or fire agency may remove any animal left unattended in a parked vehicle.
  6. It shall be unlawful to leave an animal in any vehicle where it must stand, sit or lie on extremely hot or cold surfaces including but not limited to truck beds.
  7. It shall be unlawful for any person to abandon or forsake any animal within the County.
  8. No animal shall be used for fighting, training of other animals to fight, or used as bait to encourage fighting behavior in other animals.
  9. No person shall own, possess, keep, harbor, train, lend, borrow, or handle any dog, cat, bird/fowl, or other domestic, feral or wild animal with the intent that such animal shall be engaged in any animal fight/fight training, exhibition of animal fighting or being used as bait for fighting animals.
  10. No person shall train, assist, umpire/referee or in any way participate in the training of any animal to be used for animal fighting or used as bait or for animal fighting, or torment, badger or bait any animal for the purpose of fighting the primary purpose of which is the training/conditioning of animals for vicious behavior during animal fights or exhibitions of fighting animals.
  11. No person shall charge admission to, participate in, or be present as a spectator, handler, timekeeper, referee, guard, etc. at any animal fight/battle.
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12. No person shall profit from any activity connected with any animal fight or exhibition of animals fighting or training, or competitions or matches of fighting animals.
  13. Any animal found to be used in violation of this section will be immediately confiscated by animal services and control.
  14. No person shall, for the purpose of any exhibition/occurrence of animal fighting, or training for animal fighting:
    - a. Build, make, maintain, or keep a pit or other animal fighting arena or area, whether permanent or portable, on premises owned or occupied by him;
    - b. Allow a pit or other animal fighting arena or area whether permanent or portable, to be built, made, maintained, or kept on his premises; or
    - c. Build, make, maintain, or keep a pit or other animal fighting arena or area, whether permanent or portable, on public or private property.
  15. No person shall possess, use, sell, give, trade, or loan apparatus, paraphernalia, pit supplies, implements, programs, drugs or equipment used to train or condition animals for fights or battles.
  16. No person shall use any animal as bait or as a lure in training dogs for fights or battles.
  17. No person shall willfully initiate, engage in, or in any way further act in cruelty to any animal, or any act tending to produce such cruelty. The Animal Control Officers shall impound the animal, and charges shall be assessed against the violator as a cost of abatement
- G. It shall be a violation for any person injuring a dog or cat by vehicular collision, to fail to notify immediately the owner thereof, if known, the Richmond County Animal Control, RCAS or Richmond County Sheriff's Department.
- H. Non-domestic animals: No person shall possess or harbor any non-domestic animal(s) which are dangerous to persons or property or which have the potential of being dangerous to persons or property. This Section does not apply to bona fide circuses, petting zoos, or other traveling commercial exhibitions of limited duration.
- I. Any business owning, maintaining or harboring a dog or other animal for sentry or guard purposes must display a warning sign that a sentry animal is on the premises. The sign shall be plainly visible and capable of being read from the public highway or street. The provisions of this Section do not apply to law enforcement animals.
- J. It shall be a violation for any person to interfere with, hinder or molest the agents of the Animal Control program in the performance of any duty authorized by this Ordinance, or to seek to release an animal impounded or in the custody of such agents.
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**State law references:** Chapter 14: Criminal law - Article 23: Trespasses to personal property, G.S. § 14-163 Poisoning livestock, G.S. § 14-163.1 Assaulting a law enforcement agency animal or an assistance animal, Article 47: Cruelty to animals, G.S. § 14-360 Cruelty to animals; construction of section, G.S. § 14-361 Instigating or promoting cruelty to animals, G.S. § 14-361.1 Abandonment of animals, G.S. § 14-362 Cock fighting, G.S. § 14-362.1 Animal fights, other than cock fights, and animal baiting, G.S. § 14-363 Conveying animals in a cruel manner, G.S. § 14-363.1 Living baby chicks or other fowl, or rabbits under eight weeks of age; disposing of as pets or novelties forbidden, G.S. § 14-363.2 Confiscation of cruelly treated animals, Article 49: Protection of livestock running at large, G.S. § 14-366 Molesting or injuring livestock, G.S. § 14-368 Placing poisonous shrubs and vegetables in public places, G.S. § 14-401 Putting poisonous foodstuffs, antifreeze, etc., in certain public places, prohibited, Chapter 19A: Protection of animals - Article 1: Civil remedy for the protection of animals, G.S. § 19A-1 Definitions, G.S. § 19A-1.1 Exemptions, G.S. § 19A-2 Purpose, G.S. § 19A-3 Preliminary injunctions, G.S. § 19A-4 Permanent injunctions, Article 4: Animal cruelty investigators, G.S. § 19A-45 Appointment of animal cruelty investigators; term of office; removal; badge; oath; bond., G.S. § 19A-46 Powers; magistrate's order; execution of order; petition; notice to owner., G.S. § 19A-47 Care of seized animals, G.S. § 19A-48 Interference [with animal cruelty investigator] unlawful, G.S. § 19A-49 Educational requirements., Chapter 153A: Counties - 153A-127: Abuse of animals, Chapter 160: Cities and towns - 160A-182: Abuse of animals

#### **Sec 4-36 Wild Animals and Exotic Animals.**

- A. This subsection shall apply to all animals defined as a wild or exotic animal in Section 2. Neither this subsection or any section of this Ordinance shall have the effect of permitting any activity or condition with respect to the state which is prohibited or more severely restricted by the state statutes or the state Wildlife Resources Commission, or of permitting any activity or condition with respect to any animal which is prohibited or more severely restricted by federal statute or regulation.
  - B. It shall be unlawful for any owner or other person to possess or harbor a wild animal or exotic animal as heretofore defined within the county.
  - C. Exemptions:
    - 1. Veterinary clinics and licensed rehab centers in possession of such animals for treatment or rehabilitation purposes.
    - 2. Any institution licensed by appropriate state and/or federal agencies that exist primarily to educate the public in the areas of science and nature.
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3. Bona fide traveling circuses certified by the United States Department of Agriculture any non-resident carnivals and fairs are exempt for not longer than two weeks (14 days) per each separate location where such events are held within the county, per calendar year.
4. Persons temporarily transporting such mammals or reptiles through the county provided that such transit time should not be more than twenty-four (24) hours.
5. Zoological parks, petting zoos and marine mammal show licensed by the United States Department of Agriculture.

**State law references:** intentionally expose humans to venomous reptiles. G.S. §§ 14-416 et seq., raise American alligators without a proper license. G.S. § 106-763.1, release exotic species of wild animals or wild birds into an area for the purpose of stocking the area for hunting or trapping. G.S. § 113-292(e).

#### **Sec 4-37. Tethering.**

- A. No person shall fasten, chain, or tie an animal for more than twelve (12) hours in any twenty-four (24) hour period or cause such animal to be fastened, chained, or tied in such a manner as to cause or threaten to cause injury to that animal.
- B. Any animal tethered in a fixed manner, must be tethered to a ground anchor by a coated cable wire not shorter than fifteen (15) feet. Ropes shall not be used as a tether line.
- C. Any animal tethered in a running manner, must be tethered to a coated cable runner wire not shorter than fifteen (15) feet and the runner wire must be firmly secured to two fixed anchor points. The running tether must be attached to a runner wire and have a swivel connector to prevent entanglement.
- D. All tethers must be attached to a properly fitting and secure nylon or leather collar. Wire or choke collars are not permitted as collars. All tethers must have swivels attached at both ends to prevent entanglement. The tether must be arranged so as to clear any obstacle that may limit the length of the tether. Adequate shade, protection from precipitation, and access to drinking water must be within reach of a tethered animal.
- E. Animal Control is authorized to impound or, in the alternative, request the general court of justice to issue a seizure order, for any animal for which there is probable cause to believe has not been tethered as required by this Section.

**State law references:** G.S. §§ 153A-121; 160A-174

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#### **Sec 4-38. Rabies Control**

- A. Dogs cats, and ferrets four (4) months of age and older shall be immunized against rabies according to N.C.G.S.§130A-185.
  - B. It shall be the responsibility of the owner of such animals to possess a current rabies vaccination tag or other certificates of rabies vaccination at all times and provide proof to the Animal Control Officers upon request.
  - C. When an animal has bitten a person, the person or parent, guardian or person in loco parentis of the person, and the person owning, controlling, or possessing the animal shall notify Richmond County Animal Control immediately and give the name and address of the person bitten and the owner of the animal. Every physician treating a bite wound shall report the incident to Richmond County Animal Control.
  - D. All dogs, cats, or ferrets that bite a person shall be immediately be confined for 10 days in a place designated by the Animal Control Officers in compliance with N.C.G.S.§130A-196.
  - E. After reviewing the circumstances of the particular case, the Health Director or his designee may allow the owner to confine the animal on the owner's property or other secure confinement designated by the Health Director. An owner who fails to confine his animal in accordance with the instructions shall be guilty of a Class 2 misdemeanor.
  - F. If the owner or the person who controls or possesses an animal that has bitten a person refuses to confine the animal as required by this section, the Health Director may order seizure of the animal and its confinement for 10 days at the expense of the owner.
  - G. Animals, which are unvaccinated or not currently vaccinated against rabies, which are bitten by or exposed to a known rabid animal, shall immediately be destroyed. However, the owner or keeper may agree to a strict quarantine of the animal at a veterinary hospital for a minimum of six months at the owner's expense.
  - H. It shall be unlawful for any person to counterfeit a rabies vaccination tag or to use such vaccination tag, which has not been properly obtained from a licensed veterinarian or certified rabies vaccinator.
  - I. It shall be unlawful for any person to remove a rabies vaccination tag from any dog or cat belonging to another person residing within Richmond County unless by the direction of the owner thereof.
  - J. Failure to comply with the provisions of this Section or surrender of the animal shall result in a first offense fine of \$100, a second offense fine of \$200, and a third offense fine of \$500—after which the animal shall be confiscated by the Animal
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Control Officer. The Richmond County Animal Control Notice of Violation form (RCACNOV1) shall be used as the legal instrument to implement these penalties. Physicians, in accordance with N.C.G.S. § 130A-196, must report every animal bite, to a human being, to the Health Department within twenty-four (24) hours on the Animal Bite Report Form, which is provided to medical offices by the Health Department. The Health Department will investigate, and the animal will be confined at the owner's expense for not less than ten (10) days after the animal bite.

**State law references:** Rabies, G.S. § 130A-184 et seq.; vaccination of all dogs and cats, G.S. § 130A-185; rabies vaccination tags, G.S. § 130A-190; biting dogs and cats, procedures, G.S. § 130A-196; infected dogs and cats, procedures, G.S. § 130A-197; animals suspected of having rabies, procedures, G.S. § 130A-198.

#### **Sec 4-39 Area-Wide Emergency Quarantine.**

- A. When reports indicate a positive diagnosis of rabies, the director of public health shall order an area-wide quarantine for such period, as he deems necessary. Upon invoking of such emergency quarantine, no pet animal shall be taken into the streets or permitted to be in the streets during such period. During such quarantine, no animal may be taken or shipped from the county without written permission of the animal services and control department. The police and sheriff's departments are hereby fully authorized, during such emergency, to impound any animal found running at large in the county.
- B. If there are additional positive cases of rabies occurring during the period of quarantine, such period of quarantine may be extended at the discretion of the local health director.

**State law references:** Quarantine of districts infected with rabies, G.S. § 130A-194; destroying stray dogs and cats in quarantine districts, G.S. § 130A-195.

#### **Sec 4-40. Failure to Surrender Animal.**

It shall be unlawful for any person to fail or refuse to surrender any animal for quarantine or euthanization as required in this Ordinance, when demand is made therefore by animal control.

**State law references:** Powers and duties of dog warden, G.S. § 67-31; confinement of animals suspected of having rabies, G.S. § 130A-198.

#### **Sec 4-41. Killing, Releasing or Removing; Restricted.**

It shall be unlawful for any person to kill or release any animal under observation for rabies, any animal suspected of having been exposed to rabies or to remove such animal from the county without written permission from animal control and the local health director.

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**Sec 4-42 . Improper Tags; Unauthorized Removal.**

- A. Improper tags. It shall be unlawful for any person to counterfeit a rabies vaccination tag or to use a rabies vaccination tag that has not been properly obtained from a licensed veterinarian in accordance with the provisions of G.S. Section 106-366.
- B. Removal.
  - 1. It shall be unlawful for any person to remove a rabies vaccination tag, an identification tag or license tag from any animal belonging to another person unless by the direction of the owner.
  - 2. It shall be unlawful for any owner to permit his dog to be off the property of the owner without a rabies vaccination tag or can provide a valid rabies certificate except under Sec 4-38.

**State law references:** Rabies vaccination tags, G.S. § 130A-190.

**Sec 4-43. Seizure and Impoundment of Animals.**

- A. Powers of officers. Animal control officers and other law enforcement officers are empowered to seize and impound:
    - 1. Dogs running at large in violation of Sec4-35(A);
    - 2. Dogs unlawfully possessed by a person other than the owner in violation of Sec4-35(C);
    - 3. Dogs determined to be a public nuisance under the provisions of Sec4-35(E);
    - 4. Animals that have been found to be a victim of cruel treatment under the provisions of Sec4-35(F);
    - 5. Wild animals determined to be held in violation of the provisions of Sec4-36;
    - 6. Animals appearing not to be in compliance with the rabies control provisions of Sec 4-38;
    - 7. Dogs in violation of Sec 4-37; Tethering;
    - 8. Dogs in violation of Sec 4-45; Dangerous and Potentially Dangerous Dogs.
  - B. It shall be the responsibility of the person having controlled custody or possession of an animal, in which an animal is being surrendered to Animal Control, to be subject
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to an impoundment fee, determined by the Richmond County Board of Commissioners, per visit.

- C. Responsibility for penalties. Impoundment of such an animal shall not relieve the owner thereof from any penalty that may be imposed for violation of this Ordinance, or which is found to be creating a public nuisance, rabies vaccination, or dangerous or potentially dangerous dog in violation of this Ordinance.
- D. Dangerous conditions. Animal control officers shall not be required, in the process of seizing or impounding animals, to place themselves in a situation that may jeopardize their health and safety.
- E. Notification to owners. Upon impounding an animal, the animal control officer shall make a reasonable diligent attempt to determine the ownership of the impounded animal, if not already known, and to notify the owners of the impoundment and the procedure for redemption according to the provisions of the [Richmond County Animal Shelter](#). All cats and dogs must be scanned for microchips. Reasonable diligent attempts include scanning, rabies tag check, and checking animal control's lost and found reports.

**State law references:** Cruelty to animals, G.S. § 14-360 et seq.; putting poisonous compounds, etc., in public places, G.S. § 14-401; permitting bitch to run at large, G.S. § 67-2; disposition of dead domesticated animals, G.S. §§ 106-700, 106-701; confinement or leashing of vicious animals, G.S. § 130A-200; department of transportation to remove dead animals from roads, G.S. § 136-18(21); adoption of rules by wildlife resources commission, G.S. § 143-243; power of county to define and prohibit the abuse of animals, G.S. § 153A-127; abatement of public health nuisances by county, G.S. § 153A-140.

#### **Sec 4-44. Interference.**

It shall be unlawful for any person to interfere with, hinder, or molest the animal control supervisor, animal control officers, or other certified law officers, or their agents, or veterinarians, in the performance of any duty authorized by these Rules.

**State law references:** Obstructing public officers, G.S. § 14-223.

#### **Sec 4-45. Dangerous and Potentially Dangerous Dogs**

- A. 1. Dangerous dog means a dog that:
    - a. Has killed a person; or
    - b. Has been deemed dangerous in another county or state; or
    - c. Is determined by the person or board designated by the county to be responsible for such determination to be dangerous because the dog has engaged in one (1) or more of the behaviors listed in this subsection:
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- 1). Any dog owned or harbored primarily or in part for the purpose of dog fighting, or any dog trained for dog fighting; or
  - 2). Any dog, while not on the owner's real property, that has inflicted a bite on a person, which requires first aid or treatment from a medical professional.
2. Potentially dangerous dog means:
- a. Any dog, when not on the owner's real property, that has killed or inflicted severe injury upon a domestic animal; or
  - b. Any dog, when not on the owner's real property, that has approached a person in a vicious or terrorizing manner in an apparent attitude of attack; or
  - c. Any dog that has been deemed potentially dangerous in another county or state.
3. Owner means shall include any person, group of persons, firm, partnership, organization, association or corporation owning, keeping or harboring an animal, assumes care of an animal or acts as a custodian of an animal, unless the animal is being boarded for a fee. If the keeper of an animal is a minor child, the parent or guardian of such minor shall accept the responsibility and held liable for noncompliance with the provisions of this Ordinance.
4. Owner's real property means any real property owned or leased (with written permission to harbor the dog) by the owner of the dog but does not include any public right-of-way or a common area of a condominium, apartment complex, or townhouse development.
5. Severe injury means any physical injury that results in broken bones or disfiguring lacerations or requires cosmetic surgery or hospitalization.
- 6, The animal control supervisor has the authority to determine whether a dog is dangerous or potentially dangerous and must notify the dog's owner in writing giving reasons for the determination.

#### B. Duty of Animal Control Officer

Upon receipt of a complaint of a dangerous animal, it shall be the duty of the Animal Control Officer to seize the animal and impound the animal the RCAS until a resolution is determined. If the owner is known, the Animal Control Supervisor shall promptly conduct a hearing, after reasonable notice to the owner, to determine if the animal is dangerous.

If the Animal Control Supervisor determines that an animal is dangerous or potentially dangerous as defined in this Ordinance, he shall enter an order in writing identifying the animal in detail, the owner, and the facts upon which he determines that the animal is or is not dangerous or potentially dangerous.

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### C. Animals Determined Not Dangerous or Potentially Dangerous

If the Animal Control Supervisor determines that the animal is not dangerous or potentially dangerous, the animal shall be released on the same terms as impounded animals are ordinarily released under the provisions of this Ordinance. No person shall knowingly file a false complaint.

### D. Animals Determined to be Dangerous or Potentially Dangerous

When an animal has been declared to be dangerous or potentially dangerous and a menace to public health, the Animal Control Supervisor shall order the animal, to be confined to its owner's property. However, the animal may be permitted to leave its owner's property when accompanied by a responsible adult and restrained on a leash.

### E. Animal Found to Be Dangerous or Potentially Dangerous

If after the hearing by the Animal Control Supervisor, the animal is found to be dangerous or potentially dangerous; his order shall further provide the following:

The owner shall be required to keep the dangerous or potentially dangerous animal confined at all times in a secure enclosure abiding by at least the minimum cage requirements as follows:

- a. 10 x 10 x 6 feet heavy gauge chain link fence.
- b. Four-inch concrete slab.
- c. Roof suitable to contain the dog.
- d. Double padlock.
- e. "Beware of dog" signs posted on the lot.

Once the animal owner is notified that any animal has been declared to be a dangerous or potentially dangerous dog, the owner will have up to three (3) weeks to construct the dog lot and have it approved by the county animal control supervisor.

Any animal declared a dangerous dog or potentially dangerous dog is required to remain confined at the RCAS until such time as the owner constructs or makes available confinement facilities which are adjudged by county animal control officials to be secured and in keeping with all requirements. The owner shall furnish the Animal Control Officer current proof that the animal is vaccinated against rabies.

- i. The owner shall pay any fees to the RCAS for each day the animal has been impounded to the date it is released.
  - ii. The owner shall file written consent with the Animal Control Officer that the Animal Control Officer may go on the premises of the owner at anytime during the next five (5) years after the order is entered to determine if the owner is complying with the order. The consent shall further authorize the Animal Control Officer to confiscate, impound and destroy the dangerous or potentially
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dangerous animal, if it is found the animal is not being kept within the enclosure as required by the order

- iii. The dangerous or potentially dangerous animal will be released to the owner only after the owner has complied with the requirements of the order.
- iv. Unless the requirements of the order are complied with within thirty (30) days after its entry, the dangerous or potentially dangerous animal shall be destroyed unless the owner has appealed to the Animal Grievance Board.

F. Confiscation and Destruction of Dangerous or Potentially Dangerous

If the owner of a dangerous or potentially dangerous animal fails to comply with the order within thirty (30) days after its entry, the Animal Control Officer shall destroy the animal unless the owner has filed an appeal.

G. Dangerous or Potentially Dangerous Animal Penalty

The owner of the animal, which has been found to be a dangerous or potentially dangerous animal, who fails at any time to keep the dangerous or potentially dangerous animal confined as required by the order of the Animal Control Supervisor, shall be guilty of a misdemeanor and shall be prosecuted by the Superior Court of Richmond County. The Animal Control Supervisor may bring a civil proceeding in the Richmond County Superior Court to enforce the provisions of this Ordinance in accordance with North Carolina General Statute 130A-18.

H. The provisions of this subsection do not apply to:

1. A dog being used by a law enforcement officer to carry out the law enforcement officer's official duties, or an assistance dog trained and used as an assistance dog for the physically disabled; or
  2. A dog being used in a lawful hunt unless the target or victim is not the intended prey of said hunt.
  3. A dog where the injury or damage inflicted by the dog was sustained by a domestic animal while the dog was working as a hunting dog, herding dog, or predator control dog on the property of, or under the control of, its owner or keeper, and the damage or injury was to a species or type of domestic animal appropriate to the work of the dog; or
  4. A dog where the injury inflicted by the dog was sustained by a person who, at the time of the injury, was committing a willful trespass or other tort, was tormenting, abusing, or assaulting the dog, had tormented, abused, or assaulted the dog, or was committing or attempting to commit a crime or was in any way provoked to attack.
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## I. Appeals Process.

1. The owner may appeal the determination by filing written objections with the animal control supervisor within ten (10) days. An appellate board, known as the animal grievance committee, shall hear any requests for appeal of the animal control supervisor's determination of dangerous, or potentially dangerous, dog.
2. The animal grievance committee shall consist of five (5) representatives and one (1) alternate appointed by the county board of commissioners. Two members shall be appointed for an initial term of three years, two members shall be appointed for an initial term of two years, one member shall be appointed for an initial term of one year, and all members shall thereafter be appointed for terms of three years. All five members of the board shall hear appeals whenever all five can be present, but three members shall constitute a quorum in the event that all five are not able to be present. The alternate member will sit on the committee when an even number of members are present. To avoid tie votes, all appeals shall be heard by an odd number of members, either three (3) or five (5). Committee members shall disclose any potential conflict of interest they have with a case and excuse him, or her, accordingly. The animal grievance committee shall have jurisdiction to hear and determine all appeals from determinations made by the animal control supervisor excluding matters referred for criminal prosecution or civil actions for injunctive relief.
3. Upon timely receipt of an appeal, the animal control supervisor shall schedule a hearing before the appeals board within thirty (30) days of the filing of the appeal. Any appeal from the final decision of the animal grievance committee shall be taken to district court of Richmond County by filing notice of appeal and a petition for review within ten (10) days of the final decision of the appellate board. Appeals from the rulings of the animal grievance committee shall be heard de novo before a district court judge. During an appeal process, the dog is to be housed at RCAS with the owner paying a daily boarding fee as set by the Richmond County Board of Commissioners, or the dog may be boarded at a veterinarian's office at the owner's expense if pre-approved by the animal control supervisor. Court shall be the same as in N.C.G.S. §150B-51.

## J. Owner Responsibilities

It shall be unlawful for an owner to:

1. Leave a dangerous or potentially dangerous dog unaccompanied on the owner's real property unless the dog is confined indoors, or in the secure enclosure.
  2. Permit a dangerous or potentially dangerous dog to go outside the secure enclosure unless the dog is leashed or is otherwise securely restrained. Dogs off of owner's property must be muzzled with a muzzle that allows dog to pant and breathe.
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3. Transfer ownership of a dangerous or potentially dangerous dog without having notified the animal control section in writing ten (10) days prior to transfer of ownership. The person receiving ownership of the dog shall have a secure enclosure prior to taking possession of the dog.
  4. To move any animal deemed dangerous or potentially dangerous that has bitten a human that results in severe injury from one location to another without written permission from the animal control section of the Richmond County Health Department.
  5. Transfer ownership of a dangerous or potentially dangerous dog without having notified in writing the person taking ownership or possession of the dog, of the dog's dangerous behavior and the determination of the dog as potentially dangerous. If the owner transfers ownership or possession of the dog, he must notify the animal control section or local health director of the name and address of the new owner or possessor. He must also notify the new owner or possessor about the dog's dangerous behavior and any determination made by the local dangerous dog official or board.
  6. Violations.
    - i. If a dog that has been declared dangerous or potentially dangerous is found to be in violation of this subsection, the owner will be issued a civil penalty as set by the Richmond County Board of Commissioners for the first and second offense, and if the dog is found to be in violation for a third time, the dog is to be immediately surrendered to the animal control section of the Richmond County Health Department by the owner to be euthanized or taken to a licensed veterinarian for humane euthanization at the owner's expense and transported by animal control. If the owner contests this violation, the owner may file a written appeal with the animal control supervisor within three (3) days of the notification of the violation. A hearing with the appellate board shall be scheduled within ten (10) days. If the owner appeals this violation, the dog is to be held at the RCAS, boarded in a secure environment until the appeal is heard. If the owner of the potentially dangerous dog does not appeal the violation three (3) days, the dog will be euthanized at the beginning of the fourth day. If the owner loses the appeal, the dog will be euthanized at the beginning of the next day.
    - ii. A dog that has been declared dangerous for inflicting a bite that results in severe injury to a person is to be immediately surrendered to the animal control section of the Richmond County Health Department by the owner to be euthanized. The owner has the option for animal to be transported by animal control to a licensed veterinarian for humane euthanasia at owner's expense. If the owner contests this determination, the owner may file a written appeal with animal control supervisor within three (3) days of the notification of the dog as dangerous. The dog is to be housed at the RCAS with the owner paying a daily boarding fee. A hearing with the appellate board shall be scheduled within ten
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(10) days. The determination of the appellate board shall be final.

- iii. If a cat, dog, or ferret has bitten a person, and the owner fails to quarantine the animal within eight (8) hours, the owner is to be held in the Richmond County jail until such time as the animal is surrendered for quarantine.

**State law references:** Article 1: Owner's liability- G.S. § 67-1: Liability for injury to livestock or fowls, G.S. §67-3: Sheep killing dogs to be killed, G.S. §67-4: Failing to kill mad dog, Article 1A: Dangerous dogs- G.S. §67-4.1: Definitions and procedures, G.S. §67-4.2: Precautions against attacks by dangerous dogs, G.S. §67-4.3: Penalty for attacks by dangerous dogs, G.S. §67-4.4: Strict liability, G.S. §67-4.5: Local ordinances. Chapter 130A: Public health - 130A-200: Confinement or leashing of vicious animals. Chapter 153A: Counties - 153A-131: Possession or harboring of dangerous animals. Chapter 160A: Cities and towns - 160A-187: Possession or harboring of dangerous animals

#### **Sec 4-46. Damage, Destruction, and/or Theft of County Animal Control Property**

- A. It shall be a violation for any person to damage, destroy, or remove property belonging to the Richmond County Animal Control program. Violators will be fined in accordance with the provisions of Section 24 of these Rules to include the cost of replacement or repair of the damaged, destroyed, or stolen property.
- B. No animal trap will be placed upon property located within the county without the consent of the owner or person in control of the property.
- C. A citizen may petition the appellate board for a hearing to determine the circumstances regarding the exemption of payment for the loss or damage of animal traps. The board may determine the extent of non-intentional loss, destruction or damage to traps, including any lack of negligence. The board may relieve the citizen of any financial responsibility. The burden of proof, however, will be upon the citizen to show that the loss was not the result of negligence or intentional loss, damage or destruction. Failure of any person, assessed restitution for the loss of or damage to a trap, to remit the restitution within thirty (30) days of the written notification may be prosecuted by the District Court of Richmond County.

#### **Sec 4-47. Supplemental of Other Laws**

The powers conferred by this Ordinance shall be in addition and supplemental to powers conferred by any other Law and adopted by reference.

#### **Sec4-48. Invalidity**

If any part of this Ordinance or the application thereof to any person or condition is held invalid, such invalidity shall not affect other parts of this Ordinance or their application to

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any other person or condition; and to this end, the provisions of this Ordinance are hereby declared to be separable.

#### **Sec 4-49. Conflict**

Insofar as the provisions of this Ordinance are inconsistent with the provisions of any other law, except a provision of State or Federal law, the provisions of this Ordinance shall control.

#### **Sec 4-50. Enforcement in Municipalities; Restricted**

- A. Animal control officers shall have no authority to enforce this chapter within the boundaries of any municipality unless the governing body of that municipality adopts a resolution stating that Richmond County is empowered to enforce the provisions of this chapter within that municipality, and repeals any inconsistent ordinances.
- B. The animal control officers shall be prohibited from enforcing the provisions of any ordinance or municipal law not adopted according to the provisions of this section.

**State law references:** Territorial jurisdiction of county ordinances, G.S. § 153A-122

#### **Sec 4-51. Exemptions**

This ordinance shall not apply to the lawful taking of animals under the jurisdiction and regulation of the Wildlife Resources Commission, lawful activities of agencies conducting or sponsoring biomedical research or training, lawful activities for sport, the production of livestock, or the lawful destruction of any animal for the purpose of protection of humans or livestock.

#### **Sec 4-52. Redemption**

When any dog or cat is seized, it shall be impounded and notice thereof shall be given to the owner (if known). In order for the dog or cat to be redeemed, the owner shall comply with all requirements of the RCAS, including, but not restricted to, rabies vaccinations, spay or neuter fees, and impoundment fees at the discretion of the RCAS.

#### **Sec 4-53. Animal Registration and Micro-chipping**

- A. Public nuisance, dangerous and potentially dangerous dog registration and micro-chipping required. Any person who owns, harbors, possesses, or maintains any dog which has lawfully been declared to be a public nuisance or dangerous or potentially dangerous animals pursuant to this Section shall be micro-chipped and registered with the Richmond County Health Department Animal Control.
  - B. Owners of such animals must have such animals micro-chipped with such submitted for record to Animal Control.
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- C. Owners of dangerous or potentially dangerous animals must obtain a permit from Richmond County Health Department Animal Control Section within 15 days of such declaration or final appeal determination at a fee established by the board of commissioners.
- D. Owners of such animals must register such animals annually and pay fee established by the board of commissioners. The fee must be paid by such owner by the 10<sup>th</sup> day of July of each year thereafter until such time as the dog in question expires, or ownership of such dog is relinquished to another person or to the animal shelter. The Richmond County Health Department Animal Control must be notified at any time as to any change in the status of such animal. i.e. Expired; relinquished to another person; etc.
- E. Violation of this provision, including failure to pay registration and renewal fees, will result in immediate seizure of such animal by Animal Control, and immediate termination of ownership rights to such animal. The determination of the animal's final disposition will be at the discretion of the animal control supervisor or his/her designee.
- F. Public nuisance, dangerous, and potentially dangerous dog records may be made available to the public. The location in which any dog lawfully deemed to be a public nuisance, dangerous, or a potentially dangerous dog under this Section or N.C.G.S. 67-4.1 et seq. is kept shall be made available to the public, provided that such location falls under the jurisdiction of this Ordinance.

**State law references:** G.S. §§ 153A-121; 160A-174

#### **Sec 4-54. Penalties**

Any person who violates a provision of this Ordinance shall be guilty of a misdemeanor and may be punishable by N.C.G.S. §130A-25. The county may secure injunctions and abatement orders to further insure compliance with its Regulations, as provided by N.C.G.S. §130A-18-20 and §153A-123(a). Each day's violation of this Ordinance shall be a separate offense. Payment of a fine imposed in criminal proceedings pursuant to this subsection does not relieve a person of liability for taxes or fees imposed under this Ordinance.

Unless otherwise stated, a first offense fine of \$25.00, a second offense fine of \$50.00, and a third offense fine of \$100.00—shall punish violations of any provision of this Ordinance. Such penalty shall be paid within seventy-two (72) hours from issuance of the notice referred to above. After the seventy-two (72) hour period, the civil penalty will increase by twenty-five dollars (\$25.00) and an additional twenty-five dollars (\$25.00) for every five (5) work day period in which the fine is not paid, not to exceed one thousand dollars (\$1,000). The Richmond County Animal Control Notice of

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Violation form (RCACNOV1) shall be used as the legal instrument to implement these penalties.

The Health Director or his designee is authorized to accept such payments in full and as final settlement of the claim or claims, right or rights of action which the County may utilize to enforce such penalty by civil action in the nature of a debt. Acceptance of such penalty shall be deemed a full and final release of any and all such claims, or rights of action arising out of such alleged violation or violations.

Any complainant, requesting a live animal trap, will be subject to a deposit, determined by the Richmond County Board of Health, per trap. The deposit will be returned to the complainant upon the retrieval of any undamaged trap. Traps will be placed on the complainant's property, until animal is captured or a period of time that does not exceed seven (7) business days.

Restitution for damage, destruction, or theft of Animal Control property shall be based on repair or replacement costs at fair market value.

#### **Sec 4-55. Appeals Procedures**

- A. The owner may appeal the determination by filing written objections with the chief animal control officer within ten (10) days. An appellate board, known as the animal grievance committee shall hear any requests for appeal of the chief animal control officer's determination of dangerous, or potentially dangerous, dog
  - B. The animal grievance committee shall consist of five (5) representatives and one (1) alternate appointed by the county board of commissioners. Two members shall be appointed for an initial term of three years, two members shall be appointed for an initial term of two years, one member shall be appointed for an initial term of one year, and all members shall thereafter be appointed for terms of three years. All five members of the board shall hear appeals whenever all five can be present, but three members shall constitute a quorum in the event that all five are not able to be present. The alternate member will sit on the committee when an even number of members is present. To avoid tie votes, all appeals shall be heard by an odd number of members, either three (3) or five (5). Committee members shall disclose any potential conflict of interest they have with a case and recuse him, or her, accordingly. The animal grievance committee shall have jurisdiction to hear and determine all appeals from determinations made by the animal control supervisor excluding matters referred for criminal prosecution or civil actions for injunctive relief.
  - C. Upon timely receipt of an appeal, the animal control supervisor shall schedule a hearing before the appeals board within thirty (30) days of the filing of the appeal. Any appeal from the final decision of the animal grievance committee shall be taken to district court of Richmond County by filing notice of appeal and a petition for review within ten (10) days of the final decision of the appellate board. Appeals from the rulings of the animal grievance committee shall be heard de novo before a district
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court judge. During an appeal process, the dog is to be housed at RCAS with the owner paying a daily boarding fee as set by the Richmond County Board of Commissioners, or the dog may be boarded at a veterinarian's office at the owner's expense if pre-approved by the animal control supervisor. Court shall be the same as in N.C.G.S. §150B-51.

**Effective Date**

Adopted by Richmond County Board of Commissioners July 8, 2013.

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## **Chapter 5 BUSINESSES\***

**\*Cross references: Taxation, ch. 29.**

**State law references: Authority to regulate and license businesses, G.S. 153A-134.**

### **ARTICLE I. IN GENERAL**

#### **Sec. 5-1. Purchasers of pine straw.**

- (a) The provisions of this section are adopted pursuant to the authority contained in G.S. 153A-134 and G.S. 153A-121.
- (b) Every person, engaged in the purchase of pine straw in the county shall keep a book in which shall be legibly written, at the time of each transaction, the following information:
  - (1) An account of each transaction, including the quantity of pine straw purchased, which shall include the number of bales purchased if in that form or, if not, by truckload quantity or any other conveyance used for transporting the pine straw to the place of business of the purchaser.
  - (2) The amount of money paid for the pine straw.
  - (3) The date of the transaction.
  - (4) The name and place of business or residence of the person, firm or corporation selling the pine straw to the purchaser.
  - (5) The purchaser or his employee or agent shall require the person, firm or corporation selling such pine straw to present two forms of positive identification, identifying the person or the representatives of the firm or corporation as the case may be; provided, however, that the presentation of any one state or federal government issued identification containing a photographic representation imprinted thereon shall constitute compliance with the identification requirements of this paragraph. The purchaser or his employee or agent shall legibly record this identification information next to the person's name and residence in the book heretofore required to be kept.
  - (6) In addition, sellers of pine straw shall also be required to make available to the purchaser the license number and registration information of the vehicle used to transport such pine straw.
  - (7) Such book shall be a permanent record to be kept at all times on the premises of the place of business of the purchaser and shall be made available, during regular business hours, to any law enforcement officer who requests to inspect the book.

- (8) Any purchaser who fails to keep and maintain records as required by this ordinance shall be guilty of committing a misdemeanor and upon conviction, shall be punished by a fine of up to \$500.00 as provided by G.S. 14-4.

(Ord. of 12-7-1987(1))

**Secs. 5-2--5-30. Reserved.**

**ARTICLE II.  
MESSAGE PARLORS, HEALTH SALONS AND RELATED  
BUSINESSES\***

**Sec. 5-31. Purpose of article.**

- (a) To protect public health, safety, welfare and morals, the following privilege license provisions and regulations are ordained for the privilege of carrying on the business, trade, or profession of massagist and for the operation or carrying on of the businesses, trades, or professions commonly known as massage parlors, bath parlors, health salons, physical culture studios, or similar establishments wherein massage or physical manipulation of the human body is carried on or practiced.
- (b) The provisions of this article shall not apply to a regularly established and licensed hospital, sanitarium, nursing home, nor to an office or clinic operated and regularly used by a duly qualified and licensed medical practitioner, osteopath, or chiropractor in connection with the practice of medicine, chiropractic or osteopathy; nor will they apply to any treatment given in the residence of a patient if administered by a licensed physician, osteopath or registered physical therapist or chiropractor.

(Ord. of 4-6-1992, § 1)

**Sec. 5-32. Definitions.**

The following words, terms and phrases when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Business or profession of massage* means the massage or treatment of any person for a fee or in expectation of a gratuity from the person massaged.

*Massage* means the manipulation of body muscle or tissue by rubbing, stroking, kneading or tapping, by hand or mechanical device.

*Massage and bodywork therapy* means systems of activity applied to the soft tissues of the human body for therapeutic, educational, or relaxation purposes. The application may include:

- (1) Pressure, friction, stroking, rocking, kneading, percussion, or passive or active stretching within the normal anatomical range of movement.
- (2) Complementary methods, including the external application of water, heat, cold, lubricants, and other topical preparations.
- (3) The use of mechanical devices that mimic or enhance actions that may possibly be done by the hands.

*Massage and bodywork therapist* means a person licensed under this article.

*Massage business* means any establishment or business wherein massage is practiced, including establishments commonly known as health clubs, physical culture studios, and massage parlors.

*Massagist* means any persons engaged in the business or profession of massage.

*Practice of massage and bodywork therapy* means the application of massage and bodywork therapy to any person for a fee or other consideration. The term "practice of massage and bodywork therapy" does not include the diagnosis of illness or disease, medical procedures, chiropractic adjustive procedures, electrical stimulation, ultrasound, prescription of medicines, or the use of modalities for which a license to practice medicine, chiropractic, nursing, physical therapy, occupational therapy, acupuncture, or podiatry is required by law.

*Private parts* means the penis, scrotum, mons veneris, vulva or vaginal area.

(Ord. of 4-6-1992, § 2; Ord. of 9-11-2000)

Cross references: Definitions generally, § 1-2.

### **Sec. 5-33. Prohibited acts.**

- (a) It shall be unlawful for any massage business to knowingly provide, allow or permit a massage or treatment to be given by a person to a person of the opposite sex.
- (b) It shall be unlawful for any massagist to massage or treat persons of the opposite sex.
- (c) It shall be unlawful for any person to massage or to offer to massage the private parts of another for hire.

(d) It shall be unlawful for any person to practice or engage in massage or bodywork therapy for hire unless he is a licensed massage or bodywork therapist, pursuant to G.S. 90-620 et seq.

(e) It shall be unlawful for any person to solicit business for him or her to perform massage or bodywork therapy unless (i) that person is a licensed massage or bodywork therapist, pursuant to G.S. 90-620 et seq., and (ii) such solicitation complies with any regulations promulgated by the state board of massage and bodywork therapy.

(Ord. of 4-6-1992, § 3; Ord. of 9-11-2000)

**Sec. 5-34. Licensing.**

(a) No person shall operate a massage or bodywork therapy business unless such person shall have first applied for and received a privilege license from the city-county tax collector.

(b) No person shall engage in the business or profession of massage or bodywork therapy unless such person shall have first applied for and received a privilege license from the city-county tax collector. Each application shall be accompanied by a medical certificate signed by a physician that the applicant was examined by the physician and that the applicant is free of any communicable disease. A new medical certificate shall be required with each application for renewal of the privilege license.

(Ord. of 4-6-1992, § 4; Ord. of 9-11-2000)

**Sec. 5-35. Restriction on licensees.**

No person licensed under section 5-34 shall permit any person to practice massage or bodywork therapy or treat any person upon the premises operated by the licensee unless the person giving such massage, therapy, or treatment has been issued a license as required by this article and a massage or bodywork therapy license pursuant to G.S. 90-620 et seq.

(Ord. of 4-6-1992, § 5; Ord. of 9-11-2000)

**Sec. 5-36. Penalties and enforcement.**

Violation of this article will constitute a misdemeanor punishable by a fine of \$500.00 as provided in G.S. 14-4. This article may be enforced by an appropriate equitable remedy issuing from the state general court of justice as provided by G.S. 153A-123.

(Ord. of 4-6-1992, § 6)

**Secs. 5-36--5-50. Reserved.**

### **ARTICLE III. YARD SALES AND FLEA MARKETS**

#### **Sec. 5-51. Purpose of Article**

To define and differentiate between normal home and neighborhood yard sales and flea markets. In addition to set standards, frequency, and location of such activity within the jurisdiction of Richmond County. The regulations found within this section do not purport to regulate those sales or activities already regulated by other State or County laws or regulations.

#### **Sec. 5-52. Definitions**

*Flea Market* An open-air market for the sale of new and/or second-hand articles and goods by one or more merchants, which is conducted on an open non-residential lot

*Yard Sale (Garage Sale, Attic Sale, Rummage Sale)* An occasional sale conducted by a household or a or a group of households, or by a nonprofit organization on its own premise, at which surplus and primarily used household goods and/or clothing are sold. Yard sales conducted by a household or group of households shall be those conducted on residential premises of one of more of those households.

#### **Sec. 5-53. Standards – Yard Sales**

1. Yard sales shall be a permitted use in zoning districts defined as residential by the Richmond County Zoning Ordinance, so long as they are conducted on a tract of land that has an occupied dwelling.
2. Each yard sale shall be limited to the daylight hours of 2 consecutive days.
3. Yard sales shall be limited to a maximum of 6 per calendar year per property with an interval of at least 2 months between sales.
4. The yard sale operator shall provide parking for his or her yard sales so as to not impede the normal flow of traffic the roadways in the area around the yard sale.
5. Yard sales shall not include items purchased elsewhere expressly for resale.
6. Goods intended for sale shall not be stored or displayed in the front or side yards of a dwelling except on the day(s) of the sale.
7. Commercial outdoor sales activities are prohibited at yard sales.

**Sec. 5-54. Standards – Flea Markets**

1. Flea markets shall be permitted uses only in non-residential zoning districts or as conditional uses in the Commercial Overlay Districts as defined by the Richmond County Zoning Ordinance.
2. Flea market operators must have the appropriate business licenses and permits from the Office of the Richmond County Tax Collector.
3. Flea market operators shall provide sanitary conditions at all times and must comply with the requirements of the Richmond County health Department.
4. Flea market operators shall maintain at all times a current list of vendors that are renting space within the Flea Market area. Such list shall include name, address and telephone number of the vendor, location (or booth) at which vendor is located, and type of products or material being sold by vendor. Such information shall be kept by the flea market operator for a period of 1 one year. The flea market operator shall make such list available to inspection by the Code Enforcement Administrator as well as law enforcement agencies at any time during hours of operation.
5. Flea markets are allowed to operate only 3 days a week.
6. Flea markets shall comply at al times with all other state and local laws and regulations, including (but not limited to) Health Department regulations.

**Sec. 5-55. Penalties and enforcement.**

Violation of this article will constitute a misdemeanor punishable by a fine of \$500.00 as provided in G.S. 14-4. This article may be enforced by an appropriate equitable remedy issuing from the state general court of justice as provided by G.S. 153A-123. Furthermore, any act constituting a violation of the provisions of this Article or a failure to comply with any of its requirements shall also subject the offender to a civil penalty as authorized in Sec 1-6 of this Code and GS 153A-123.

The County has the right to enjoin immediately any flea market or yard sale operating in violation of this ordinance.

(Ord. of 10/2/2006)

**Secs. 5-56--5-60. Reserved.**

State law references: Adult establishments, G.S. 14-202.10 et seq.; massage therapy, G.S. 90-620 et seq

## **Chapter 6 - (RESERVED)**

## **Chapter 7 - (RESERVED)**

**Chapter 8 CIVIL EMERGENCIES\***  
**ARTICLE I. IN GENERAL**

**Secs. 8-1--8-30. Reserved.**

**ARTICLE II. EMERGENCY MANAGEMENT**

**Sec. 8-31. Title.**

This article shall be known and may be cited and referred to as the "Emergency Management Ordinance for the County of Richmond."

(Ord. of 12-7-1987(2), § 1)

**Sec. 8-32. Intent and purpose.**

- (a) It is the intent and purpose of this article to establish an office that will ensure the complete and efficient utilization of all of the county's resources to combat disaster resulting from enemy actions or other disasters.
- (b) The county office of emergency management will be the coordinating agency for all activity in connection with emergency management; it will be the instrument through which the board of commissioners may exercise the authority and discharge the responsibilities vested in them during disaster emergencies.
- (c) This article will not relieve any county department of the moral responsibilities or authority given to it in the county Charter or by local ordinances, nor will it adversely affect the work of any volunteer agency organized for relief in disaster emergencies.

(Ord. of 12-7-1987(2), § 2)

**Sec. 8-33. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Attack* means direct or indirect assault against the county, its government, its environs, or of the nation, by the forces of a hostile nation or the agents thereof, including assault by bombing, conventional or nuclear, chemical or biological warfare, terrorism or sabotage.

*Coordinator* means the coordinator of the county emergency management agency, appointed as prescribed in this article.

*Disaster* means, but is not limited to, actual or threatened enemy attack, sabotage, extraordinary fire, flood, storm, epidemic, accident, chemical spill or other impending or actual calamity endangering or threatening to endanger health, life or property of constituted government.

*Emergency management* means the basic government functions of maintaining the public peace, health and safety during an emergency. This term shall include plans and preparations for protection and relief, recovery and rehabilitation from effects of an attack by the forces of an enemy nation or the agents thereof, or a disaster as defined in this section. It shall not, however, include any activity that is the primary responsibility of the military forces of the United States.

*Emergency management forces* means the employees, equipment and facilities of all county departments, boards, councils, institutions and commissions; and in addition, it shall include all volunteer personnel, equipment and facilities contributed by, or obtained from, volunteer persons or agencies.

*Emergency management volunteer* means any person duly registered, identified and appointed by the coordinator of the county emergency management agency and assigned to participate in the emergency management activity.

*Regulations* means plans, programs and other emergency procedures deemed essential to emergency management.

*Volunteer* means contributing a service, equipment or facilities to the emergency management agency without remuneration.

(Ord. of 12-7-1987(2), § 3)

Cross references: Definitions generally, § 1-2.

### **Sec. 8-34. Organization and appointments.**

(a) The organization shall consist of the following:

- (1) An agency of Emergency Management within the executive department of the county government under the direction of the county board of commissioners. The agency head of the County Emergency Management Agency shall be known as the Coordinator, and such assistants and other employees as are deemed necessary for the proper functioning of the agency will be appointed.
- (2) The employees and resources of all county departments, boards, institutions, and councils shall participate in the Emergency Management activities. Duties assigned to county departments shall be the same as or similar to the normal duties of the department, where possible.
- (3) Volunteer personnel and agencies offering service to, and accepted by the county.

- (b) The board of commissioners shall appoint a Coordinator of the County Emergency Management Agency who shall be a person well versed and trained in planning operations involving the activities of many different agencies which will operate to protect the public health, safety and welfare in the event of danger from enemy action or disaster as defined in this article.
- (c) The Coordinator shall designate and appoint Deputy Coordinators to assume the emergency duties of the Coordinator in the event of his absence or inability to act.

(Ord. of 12-7-1987(2), § 4)

**Sec. 8-35. Day to day duties and responsibilities of the coordinator.**

The Coordinator shall be responsible to the board of commissioners in regard to all phases of Emergency Management activity. The Coordinator shall be responsible for the planning, coordination and operation of the Emergency Management activities in the county. The coordinator shall maintain liaison with the state and federal authorities and the authorities of nearby political subdivisions so as to insure the most effective operation of the emergency management plans. The coordinator's duties shall include, but not be limited to, the following:

- (1) Coordinating the recruitment of volunteer personnel and agencies to augment the personnel and facilities of the county for Emergency Management purposes.
- (2) Development and coordination of plans for the immediate use of all facilities, equipment, manpower and other resources of the county for the purpose of minimizing or preventing damage to persons and property; and protecting and restoring to usefulness governmental services and public utilities necessary for the public health, safety, and welfare.
- (3) Negotiating and concluding agreements with owners or persons in control of building or other property for the use of such building or other property for the emergency management purposes and designating suitable buildings as public shelters.
- (4) Through public informational programs, educating the populace as to actions necessary and required for the protection of their persons and property in case of enemy attack or disaster, either impending or present.
- (5) Conducting public practice alerts to ensure the efficient operation of the Emergency Management forces and to familiarize residents with Emergency Management regulations, procedures and operations.
- (6) Coordinating the activity of all other public and private agencies engaged in any Emergency Management activities.

(Ord. of 12-7-1987(2), § 5)

**Sec. 8-36. Emergency management plans.**

- (a) Comprehensive Emergency Management plans shall be adopted and maintained by resolution of the board of commissioners. In the preparations of these plans as it pertains to city and county organization, it is intended that the services, equipment and facilities and personnel of all existing departments and agencies shall be utilized to the fullest extent. When approved, it shall be the duty of all departments and agencies to perform the functions assigned by these plans and to maintain their portions of the plans in a current state of readiness at all times. These plans shall have the effect of law whenever a disaster has been proclaimed.
- (b) The Coordinator shall prescribe in the emergency plans those positions within the disaster organization, in addition to his own, for which lines of succession are necessary. In each instance, the responsible person will designate and keep on file with the Coordinator a current list of three persons as successors to his position. The list will be in order of succession and will nearly as possible designate persons best capable of carrying out all assigned duties and functions.
- (c) Each service chief and department head assigned responsibility in the plans shall be responsible for carrying out all duties and functions assigned in such plans. Duties will include the organization and training of assigned employees and where needed volunteers. Each chief shall formulate the Standing Operating Procedure to implement the plans for his service.
- (d) Amendments to these plans shall be submitted to the Coordinator. If approved, the Coordinator will then submit the amendments to the board of commissioners with his recommendation for their approval. Such amendments shall take effect 30 days from the date of approval.
- (e) When a required competency or skill for a disaster function is not available within government, the Coordinator is authorized to seek assistance from persons outside of government. The assignment of duties, when of a supervisory nature, shall also include the granting of authority for the persons so assigned to carry out such duties prior to, during, and after the occurrence of a disaster. Such services from persons outside of government may be accepted by local government on a volunteer basis. Such citizens shall be enrolled as Emergency Management volunteers.

(Ord. of 12-7-1987(2), § 6)

**Sec. 8-37. No municipal or private liability.**

- (a) This article is an exercise by the county of its governmental functions for the protection of the public peace, health, and safety, and neither agents nor representatives of the county, nor any individual, receiver, firm, partnership,

corporation, association, or trustee, nor any of the agents thereof in good faith carrying out, complying with or attempting to comply with any order, rule or regulation promulgated pursuant to the provisions of this article, shall be liable for any damage sustained to persons or property as the result of such activity.

- (b) Any person owning or controlling real estate or other premises who voluntarily and without compensation grants the county the right to inspect, designate and use the whole or any part of parts of such real estate or premises for the purpose of sheltering persons during an actual, impending or practice disaster situation shall not be civilly liable for the death of, or injury to, any persons on or about such real estate or premises under such license, privilege or other permission; or for loss of, or damage to, the property of such person.

(Ord. of 12-7-1987(2), § 7)

**Sec. 8-38. Violations.**

It shall be a misdemeanor punishable by a fine of \$500.00 for any person to violate any of the provisions of this article or plans issued pursuant to the authority contained in this article, or to willfully obstruct, hinder or delay any member of the emergency management organization in the enforcement of the provisions of this article or any plan issued under this article.

(Ord. of 12-7-1987(2), § 8)

**Secs. 8-39--8-60. Reserved.**

**ARTICLE III. EMERGENCY PREPAREDNESS**

**Sec. 8-61. State of emergency; restrictions authorized.**

- (a) A State of Emergency shall be deemed to exist whenever during times of public crisis, disaster, rioting, catastrophe, or similar public emergency, for any reason, public safety authorities are unable to maintain public order or afford adequate protection for lives, safety or property, or whenever the occurrence of any such condition is imminent.
- (b) In the event of an existing or threatened State of Emergency endangering the lives, safety, health and welfare of the people within the county or any part thereof, or threatening damages to or destruction of property, the chair of the board of commissioners is hereby authorized and empowered under G.S. 14-288.13 and G.S. 166A-8 to issue a public proclamation declaring to all persons the existence of such a State of Emergency, and, in order to more effectively protect the lives and property of people within the county, to place in effect any or all of the restrictions authorized in this article.

(c) The chair of the board of commissioners is hereby authorized and empowered to limit by the proclamation the application of all or any part of such restrictions to any area specifically designated or described within the county and to specific hours of the day or night; and to exempt from all or any part of such restrictions, while acting in the line of and within the scope of their respective duties, law enforcement officers, firemen and other public employees, rescue squad members, doctors, nurses, employees of hospitals and other medical facilities; on-duty military personnel, whether state or federal; on-duty employees of public utilities, public transportation companies, and newspaper, magazine, radio broadcasting, and television broadcasting corporations operated for profit; and such other classes of persons as may be essential to the preservation of public order and immediately necessary to serve the safety, health, and welfare needs of people within the county.

(Ord. of 12-7-1987(3), § 1)

**Sec. 8-62. Proclamation imposing prohibitions and restrictions.**

(a) The chair of the board of commissioners of the county by proclamation may impose the prohibitions and restrictions specified in sections 8-63 through 8-68 in the manner described in those sections. The chair of the board of commissioners may impose as many of those specified prohibitions and restrictions as he finds are necessary, because of an emergency, to maintain an acceptable level of public order and services, and to protect lives, safety, and property. The chair of the board of commissioners shall recite his findings in the proclamation.

(b) The proclamation shall be in writing. The chair shall take reasonable steps to give notice of the terms of the proclamation to those affected by it and shall post a copy of it in the County Courthouse. The chair shall send reports of the substance of the proclamation to the mass communications media which serves the affected area. The chair shall retain a text of the proclamation and furnish upon request certified copies of it.

(Ord. of 12-7-1987(3), § 2)

**Sec. 8-63. Evacuation.**

The chair of the board of commissioners may direct and compel the evacuation of all or part of the population of the county, to prescribe routes, modes of transportation, and destination in connection with evacuation; and to control ingress and egress of a disaster area, the movement of persons within the area, and the occupancy of premises therein. Details of the evacuation may be set forth or amended in a subsequent proclamation which shall be well publicized.

(Ord. of 12-7-1987(3), § 3)

**Sec. 8-64. Curfew.**

- (a) The proclamation may impose a curfew prohibiting in certain areas and during certain periods the appearance in public of anyone who is not a member of an exempted class. The proclamation shall specify the geographical area or areas and the period during each 24-hour day to which the curfew applies. The chair of the board of commissioners may exempt from some or all of the curfew restrictions classes of people whose exemption the chair finds necessary for the preservation of the public health, safety, and welfare. The proclamation shall state the exempted classes and the restrictions from which each is exempted.
- (b) Unless otherwise specified in the proclamation, the curfew shall apply during the specified period each day until the chair of the board of commissioners by proclamation removes the curfew.

(Ord. of 12-7-1987(3), § 4)

**Sec. 8-65. Restrictions on possession, consumption, or transfer of alcoholic beverages.**

The proclamation may prohibit the possession or consumption of any alcoholic beverage; including beer, wine, and spirituous liquor other than on one's own premises, and may prohibit the transfer, transportation, sale or purchases of any alcoholic beverage within the area of the county described in the proclamation. The prohibition, if imposed, may apply to transfers of alcoholic beverages by employees of Alcoholic Beverage Control stores as well as by anyone else within the geographical area described.

(Ord. of 12-7-1987(3), § 5)

**Sec. 8-66. Restriction on possession, transportation, and transfer of dangerous weapons and substances.**

- (a) The proclamation may prohibit the transportation or possession off one's own premises, or the sale or purchase of any dangerous weapon or substance. The chair of the board of commissioners may exempt from some or all of the restrictions classes of people whose possession, transfer, or transportation of certain dangerous weapons or substances is necessary to the preservation of the public's health, safety, or welfare. The proclamation shall state the exempted classes and the restrictions from which each is exempted.
- (b) Dangerous weapon or substance means:
  - (1) Any deadly weapon, ammunition, explosive, incendiary device, radioactive material or device as defined in G.S. 14-288.8(c)(5), gasoline, or other instrument or substance designed for a use that carries a threat of serious bodily injury or destruction of property.

- (2) Any other instrument or substance that is capable of being used to inflict serious bodily injury or destruction of property, when the circumstances indicate that there is some probability that such instrument or substance will be so used.
- (3) Any part or ingredient in any instrument or substance included above when the circumstances indicate a probability that such a part or ingredient will be so used.
- (c) If imposed, the restrictions shall apply throughout the jurisdiction of the county or such part thereof as designated in the proclamation.
- (d) A violation of this section shall be punishable as provided in G.S. 14-288.7.

(Ord. of 12-7-1987(3), § 6)

**Sec. 8-67. Restrictions on access to areas.**

- (a) The proclamation may prohibit obtaining access or attempting to obtain access to any area, designated in the manner described in this section, in violation of any order, clearly posted notice, or barricade indicating that access is denied or restricted.
- (b) Areas to which access is denied or restricted shall be designated by the Sheriff and his subordinates or other law enforcement officer when directed in the proclamation to do so by the chair of the board of commissioners. When acting under this authority, the Sheriff and his subordinates may restrict or deny access to any area, street, highway or location within the county if that restriction or denial of access or use is reasonably necessary to promote efforts being made to overcome the emergency or to prevent further aggravation of the emergency.

(Ord. of 12-7-1987(3), § 7)

**Sec. 8-68. Scope of proclamation.**

The proclamation may prohibit or restrict:

- (1) Movements of people in public places;
- (2) The operation of offices, business establishments, and other places to or from which people may travel or at which they may congregate; and
- (3) Other activities or conditions the control of which may be reasonably necessary to maintain order and protect lives or property during the state of emergency, within the area designated in the proclamation.

(Ord. of 12-7-1987(3), § 8)

**Sec. 8-69. Removal of prohibitions and restrictions.**

The chair of the board of commissioners shall by proclamation terminate the entire declaration of emergency or remove any of the prohibitions and restrictions when the emergency no longer requires them, or when directed to do so by the board of commissioners.

(Ord. of 12-7-1987(3), § 9)

**Sec. 8-70. Superseding and amendatory proclamations.**

The chair of the board of commissioners in his discretion may invoke the restrictions authorized by this article in separate proclamations, and may amend any proclamation by means of a superseding proclamation in accordance with the procedures set forth in section 8-62.

(Ord. of 12-7-1987(3), § 10)

**Sec. 8-71. Termination of proclamation.**

Any proclamation issued under this article shall expire five days after its last imposition unless sooner terminated in writing under the same procedures set forth in section 8-62 for proclamations.

(Ord. of 12-7-1987(3), § 11)

**Sec. 8-72. In case of absence or disability of chair.**

In case of the absence or disability of the chair of the board of commissioners, the vice-chair of the board of commissioners, or such other person as may be designated by the board of commissioners, shall have an exercise all of the powers given in this article to the chair of the board of commissioners.

(Ord. of 12-7-1987(3), § 12)

**Sec. 8-73. Penalty for violation.**

Except as provided in section 8-66, any person violating any prohibition or restriction imposed by a proclamation authorized by this article shall be guilty of a misdemeanor, punishable upon conviction by a fine not exceeding \$500.00 or imprisonment not exceeding 30 days, as provided by G.S. 14-4.

(Ord. of 12-7-1987(3), § 13)

**Sec. 8-74. Territorial applicability.**

This article shall not apply within the corporate limits of any municipality, or within any area of the county over which the municipality has jurisdiction to enact general police-power ordinances, unless the municipality by resolution consents to its application or the mayor of the municipality has requested its application, in which event it shall apply to such areas as fully and to the same extent as elsewhere in the county.

(Ord. of 12-7-1987(3), § 15)

**\*Cross references: Administration, ch. 2; emergency services, ch. 11; fire prevention, ch. 17.**

**State law references: Civil emergencies, G.S. 14-288 e seq., G.S. 166A-8 et seq.**

## **Chapter 9 - (RESERVED)**

**Chapter 10 - (RESERVED)**

## Chapter 11 EMERGENCY SERVICES\*

\*Cross references: Civil emergencies, ch. 8; fire prevention, ch. 17.

State law references: Public safety telephone service, G.S. 62-1 et seq.; ambulance services, G.S. 153A-250.

### ARTICLE I. IN GENERAL

Secs. 11-1--11-30. Reserved.

### ARTICLE II. AMBULANCE SERVICE\*

\*State law references: Regulation of ambulance services, G.S. 131E-155 et seq.

#### Sec. 11-31. Definition.

The following words, terms and phrases when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Ambulance* means any privately or publicly owned motor vehicle, aircraft, or vessel that is specially designed constructed, or modified and equipped and is intended to be used for and is maintained or operated for the transportation on the streets or highways, waterways or airways of this state for persons who are sick, injured, wounded or otherwise incapacitated or helpless.

*Ambulance provider* means an individual, firm, corporation or association who engages or professes to engage in the business or services of transporting patients in an ambulance.

*Approved* means approved by the state medical care commission pursuant to its rules and regulations promulgated under G.S. 143B-165.

*Board* means the County Emergency Medical Services Board which is made up of the chief of each Rescue Squad and the Coordinator of the County Emergency Medical Service.

*Commission* means the State Medical Care Commission.

*Department* means the Department of Health and Human Services.

*Dispatcher* means a person who is available at all times to receive requests for emergency services, to dispatch emergency services, and to advise fire departments, law enforcement agencies and emergency medical facilities of any existing or threatened emergency.

*Emergency and emergency transportation service* mean the use of an ambulance, the equipment and personnel to provide medical care transportation of a patient who is in need of immediate medical treatment in order to prevent loss of life or further aggravation of physiological or psychology illness or injury.

*Emergency medical technician* means an individual who has completed an educational program in emergency medical care approved by the department and has been certified as an emergency medical technician by the department.

*Franchisee* means any person having been issued a franchise by the county for the operation of an ambulance service.

*License* means any valid driver's license or permit to operate a motor vehicle issued under or granted by the laws of the state.

*Medical responder* means an individual who has completed an educational program in emergency medical care and first aid approved by the department and has been certified as a medical responder by the department.

*Nonemergency transportation services* means the operation of an ambulance for any purpose other than transporting emergency patients.

*Operator* means a person in actual physical control of an ambulance which is in motion or which has the engine running.

*Owner* means any person or entity who owns an ambulance.

*Patient* means an individual who is sick, injured, wounded, or otherwise incapacitated or helpless such that the need for some medical assistance might be anticipated while being transported to or from a medical facility.

*Rescue* means a situation where the victim cannot escape any area through the normal exit or under his own ability.

*Secondary ambulance provider* means the system of personnel and equipment meeting the same criteria as a primary ambulance provider, but not normally dispatched on first call response.

(Ord. of 9-10-1990(1), § I)

Cross references: Definitions generally, § 1-2.

**Sec. 11-32. Franchise required.**

- (a) No person either as owner, agent, or otherwise, shall furnish, operate, conduct, maintain, advertise, or otherwise be engaged in or profess to be engaged in the

business or service of emergency and/or nonemergency transportation of patients within the county unless the person holds a valid permit for each ambulance used in such business or service issued by the State Department of Health and Human Services, Office of Emergency Medical Services, and has been granted a franchise for the operation of such business or service by the county.

- (b) Every ambulance, except those specifically excluded from the operation of this section, when operated in this state shall be occupied by at least one certified Emergency Medical Technician who shall be responsible for the medical aspects of the mission prior to arrival at the hospital and one Medical Responder assuming no other person of higher certification or license is available for the operation of the vehicle and rendering assistance to the Emergency Medical Technician during the emergency mission.
- (c) No franchise shall be required for:
  - (1) Any entity rendering assistance to a franchised ambulance service in the case of a major catastrophe, mutual aid or emergency with which the service franchised by the county are insufficient or unable to cope;
  - (2) Any entity operated from a location or headquarters outside of the county in order to transport patients who are picked up beyond the limits of the county, to facilities located within the county, or to pick up patients within the county for transporting to locations outside the county; or
  - (3) Ambulance owned and operated by an agency of the United States government.
- (d) If a person, firm, or corporation is providing ambulance services in the county or any portion thereof, on the effective date of the adoption of this article, the person, firm, or corporation is also entitled to a franchise to continue to service that part of the county in which the service is being provided. The board of commissioners shall determine whether the person, firm, or corporation so entitled for consideration for a franchise is in compliance with G.S. 131E-155 et seq., of the General Statutes of North Carolina, and if that is the case, the board shall grant the franchise, if the firm has provided evidence of insurance.

(Ord. of 9-10-1990(1), § II)

### **Sec. 11-33. Application for ambulance franchise.**

Application for a franchise to operate an ambulance in the county shall be made by the ambulance provider upon such forms as may be prepared or prescribed by the county and shall contain:

- (1) The name and address of the ambulance provider and of the owner of ambulance.

- (2) The trade or other fictitious names, if any, under which the applicant does business, along with a certified copy of an assumed name certificate stating such names or articles of incorporation stating such names.
- (3) A resume of the training and experience of the applicant in the transportation and care of patients.
- (4) A full description of the type and level of service to be provided including the location of the place or places from which it intends to operate, the manner in which the public will be able to obtain assistance and how the vehicles will be dispatched. An audited financial statement of the applicant as the statement pertains to the operations in the county, the financial statement to be in such forms and in such detail as the county may require.
- (5) A description of the applicant's capability to provide 24-hour coverage, seven days a week for the districts covered by the franchise applied for, and an accurate estimate of the minimum and maximum times for a response to calls within such districts.
- (6) Any such information the county shall deem reasonably necessary for a fair determination of the capability of the applicant to provide ambulance services in the county in accordance with requirements of state laws and the provisions of this article.

(Ord. of 9-10-1990(1), § III)

**Sec. 11-34. Granting of franchise.**

- (a) Prior to accepting applications for the operation of an ambulance service, the board of commissioners may designate specific service areas as franchise districts. The districts will be established using criteria that includes geographic size, road access, the location of existing medical transportation services, population, and response time. The county shall have the authority to redistrict or rearrange existing districts at any time at their discretion.
- (b) An applicant may apply for a franchise to operate either emergency transportation service or nonemergency transportation service or both. If both types of service are to be provided, separate applications must be filed.
- (c) Upon receipt of an application for a franchise, the county shall schedule a time and place for hearing the applicant prior to an investigation. Within 30 days after such hearing, the county shall cause such investigation as it may deem necessary to be made of the applicant and his proposed operation.
- (d) A franchise may be granted if the county finds that:

- (1) The applicant meets state standards and standards outlined in this article.
  - (2) A need exists for the proposed service in order to improve the level of ambulance services available to residents of the county and that this is a reasonable and cost effective manner of meeting the need. Where a franchise is to be issued to an existing service, there will be a need to maintain the existing level of service.
- (e) Each franchised ambulance service, its equipment and the premises designated in the application and all records relating to its maintenance and operation, as such, shall be open to inspection by the state.

(Ord. of 9-10-1990(1), § IV)

**Sec. 11-35. Term of franchise.**

- (a) The county may issue a franchise hereunder to an ambulance provider. Either party, at its option, may terminate the franchise upon 120 days prior written notice to the other party. After a notice of service termination is given, the ambulance provider may reapply for a franchise if continued service is desired.
- (b) Upon suspension, revocation, or termination of a franchise granted hereby, such franchised ambulance service immediately shall cease operations. Upon suspension, revocation, or termination of a driver's license or attendant's certificate or Emergency Medical Technician certificate, such persons shall cease to drive an ambulance or provide medical care in conjunction with an ambulance service, or attend an ambulance or provide medical care in conjunction with the ambulance service. Upon acceptance of a franchise by an operator, that shall be in agreement to comply with required standards at all times.
- (c) Each franchised ambulance service shall comply at all times with the requirements of this article, the franchise granted pursuant to this article, and all applicable state and local law relating to health, sanitation, safety, equipment, and ambulance design and all other laws and ordinances.
- (d) Prior approval of the county shall be required where ownership or control of more than ten percent of the right of control of franchisee is acquired by a person or group or persons acting in concert, none of whom own or control ten percent of more of such right of control, singularly or collectively, at the date of the franchise. By its acceptance of the franchise, the franchisee specifically agrees that any such acquisition occurring without prior approval of the county shall constitute a violation of the franchise by the franchisee and shall be cause for termination at the option of the county.
- (e) Upon any changes of ownership of a franchised ambulance service without prior approval of the county, the county has the option to terminate the franchise. No franchise may be sold, assigned, mortgaged, or otherwise transferred without the prior

approval of the county. The county shall have the option to terminate the franchise, in either case, requiring a new application to be submitted, and a finding of conformance with all requirements of this article as upon original franchising.

(Ord. of 9-10-1990(1), § V)

**Sec. 11-36. Standards for drivers and attendants.**

Standards for drivers and attendants shall be as developed by the state medical care commission as required for certification of medical responders and emergency medical technicians pursuant to G.S. 131E-158 and G.S. 143-507 et seq., and shall be applied.

(Ord. of 9-10-1990(1), § VI)

**Sec. 11-37. Standard for vehicles and equipment.**

Vehicle and equipment standards shall be as developed by the state medical care commission pursuant to G.S. 131E-157, and G.S. 143-507 et seq., and shall be applied and such provisions are incorporated herein by reference.

(Ord. of 9-10-1990(1), § VII)

**Sec. 11-38. Standard for communications.**

- (a) Each ambulance vehicle shall be equipped with an operational two-way radio capable of establishing good quality voice communications from within the geographic confines of the county to each hospital department in the county in which the ambulance is based and to the emergency communications center. Each ambulance vehicle shall be equipped with two-way radio communications capabilities compatible within all hospital emergency departments to which transportation of patients is made on regular or routine basis anywhere within the state.
- (b) Each ambulance provider shall maintain current authorizations of Federal Communications Commission licenses for all frequencies and radio transmitters operated by that provider. Copies of all authorizations and licenses shall be on display and available for inspections per Federal Communications Commission's Rule and Regulations.
- (c) Each ambulance provider at its base of operation, must have at least one operative telephone line. Telephone numbers must be registered with each law enforcement agency and communications center in the county.
- (d) Each ambulance may be dispatched from the county emergency communications center or other communications center within the county in which dispatch capabilities are provided. The ambulance operator shall notify the Emergency Communications Center of this dispatch and availability on call.

(Ord. of 9-10-1990(1), § VIII)

**Sec. 11-39. Insurance.**

No ambulance franchise shall be issued under this article, nor shall such franchise be valid after issuance, nor shall any ambulance be operated in the county unless the franchisee has at all times in force and effect insurance coverage issued by an insurance company licensed to do business in the state, for each and every ambulance owner and/or operated by or for the ambulance service providing for the payment of damages:

- (1) In the sum of \$500,000.00 for injury to or death of individuals in accidents resulting from any cause for which the owner of such vehicle would be liable on account of liability imposed on him by law, regardless of whether the ambulance was being driven by the owner/operator of his agency; and provided that greater insurance sums may be required by the state or the county.
- (2) In the sum of \$1,000,000.00 for the loss of or damage to the property of another, including personal property, under the circumstances, or such greater sums as may be required by the state or county.
- (3) In the sum of \$100,000.00 for uninsured motorist.
- (4) In the sum of not less than \$1,000,000.00 for professional liability.

(Ord. of 9-10-1990(1), § IX)

**Sec. 11-40. Records.**

Each franchisee shall complete and maintain copies of the current State Office of Emergency Medical Service ambulance call report for each and every emergency call dispatched.

(Ord. of 9-10-1990(1), § X)

**Sec. 11-41. Rates and charges.**

- (a) Each franchisee who charges for services shall submit a schedule of rates to the county for approval and shall not charge more nor less than the approved rates without specific approval by the board of commissioners.
- (b) An ambulance service which charges for services shall not attempt to collect on emergency calls until the patient has reached the point of destination, has received medical attentions, and is in a condition deemed by the physician fit to consult with the ambulance service, but such service may attempt to collect charges from family or

guardian of the patient once the patient is in the process of receiving medical attention.

- (c) Request for collection may be made prior to transporting non-emergency patients to a non-emergency facility.

(Ord. of 9-10-1990(1), § XI)

**Sec. 11-42. Enforcement.**

- (a) The office of the County Manager or his designee shall be the enforcing agency for the regulations contained in this article. Such office will:
  - (1) Receive all franchise proposals from potential providers.
  - (2) Study each proposal for conformance to this article.
  - (3) Recommend to the board of commissioners the award of the franchise to the applicants submitting the most appropriate proposal.
  - (4) Recommend to the board of commissioners the temporary or permanent suspension of a franchise in the event of noncompliance with the franchise terms of this article. Recommend the imposition of misdemeanor or civil penalties for noncompliance.
  - (5) Insure by cooperative agreement with other ambulance services the continued service in a district where an ambulance service franchise has been suspended.
  - (6) Develop monthly reports from ambulance service records and consolidate such reports and records into a quarterly summary for review for the County Emergency Medical Services Board.
  - (7) Receive complaints from the public, other enforcing agencies, and ambulance services regarding franchise infractions. Review the complaints with the Chief of the Rescue Squad or direction of the ambulance service. Follow-up to ensure that the appropriate action has been taken. If the infraction still persists, obtain corrective action.
  - (8) Recommend improvements to the county which will ensure better medical transportation.
  - (9) Maintain all records required by this article and other applicable county regulations.
  - (10) Perform the above functions as may be requested by any municipality within the county.

(11) Serve as staff to the County Emergency Medical Service Advisory Board on all matters that pertain to the committee.

(b) The State Office of Emergency Medical Services will inspect the premises, vehicles, equipment, and personnel of franchises to assure compliance with state regulations.

(Ord. of 9-10-1990(1), § XII)

**Sec. 11-43. Emergency medical services advisory council.**

(a) There is hereby created the County Emergency Medical Services Advisory Council whose membership shall be appointed by the board of commissioners.

(b) The County Emergency Medical Services Advisory Council shall have the responsibility and duty of advising the Emergency Services Coordinator on matters relating to the enforcement of this article as specified in section 11-42 and shall develop and recommend for approval by the board of commissioners such standards of care, policies, procedures, and actions which will maintain and improve the quality of emergency medical services for the residents of the county.

(c) Membership on the County Emergency Medical Services Advisory Council shall consist of:

(1) Physician nominated by the County Medical Society.

(2) Physician from a Hamlet Hospital offering 24-hour emergency service.

(3) County Communications Center representative.

(4) Representative from county government (county commissioner, county manager, or their designee).

(5) One representative from each franchise provider of rescue or ambulance service within the county.

(6) Emergency room nurse nominated by the administration of Richmond Memorial Hospital.

(7) Citizen-at-large from the county appointed by the board of commissioners.

(8) Educator nominated by the board of commissioners.

(9) Coordinator of Emergency Management of the county.

(d) All members of the council shall have full and equal voting rights on matters to be considered by the council with the exception of:

- (1) The Coordinator of Emergency Management of the county who shall serve as staff and act as chair until a chair from the membership is appointed by the board of commissioners.
- (2) Representatives from the franchised providers when the council considers matters relating to the granting of franchise and/or reviewing complaints from the public and investigations regarding franchised services. Representatives from franchised services shall have full and equal voting rights on all other matters not excluded by this provision.

(Ord. of 9-10-1990(1), § XIII)

**Secs. 11-44--11-70. Reserved.**

### **ARTICLE III. 911 SYSTEM**

#### **Sec. 11-71. Purpose.**

Pursuant to authority provided in G.S. 62A-4, the board of commissioners determines it to be in the best interest of the citizens of the county to establish an enhanced 911 public safety telephone communications system, the objective of which shall be to provide response to emergencies by the appropriate agency in the least possible amount of time.

(Ord. of 12-3-1990, § I)

#### **Sec. 11-72. Definitions.**

The following words, terms and phrases when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*911 charge* means a contribution to the county for the 911 service start-up equipment costs, subscriber notification costs, addressing costs, billing costs, and nonrecurring and recurring installation, maintenance, service, and network charges of a service supplier providing 911 service pursuant to this chapter.

*911 system and 911 service* mean an emergency telephone system that provides the user of the public telephone system the ability to reach a public answering point by dialing the digits 911. The term "911 system" shall mean "Enhanced 911 service," an emergency telephone system that provides the user of the public telephone system with 911 service and, in addition, directs 911 calls to appropriate public safety answering points by selective routing based on the geographical location from which the call originated and provides the capability for automatic number identification and automatic location identification features.

*Addressing* means the assigning of a numerical address and street name to each location within the county necessary to provide public safety service as determined by the county. This address will replace route and box numbers currently in place and facilitate quicker response by public safety agencies.

*Public safety agency* means a functional division of a public agency which provides firefighting, law enforcement, medical, suicide prevention, civil defense, poison control, or other emergency services.

*Service supplier* means a person or entity who provides exchange telephone service to a telephone subscriber.

*Telephone subscriber and subscriber* mean a person or entity to whom exchange telephone service, either residential or commercial, is provided and in return for which the person or entity is billed on a monthly basis. When the same person, business, or organization has several telephone access lines, each exchange access facility shall constitute a separate subscription.

(Ord. of 12-3-1990, § II)

Cross references: Definitions generally, § 1-2.

### **Sec. 11-73. Charges.**

It is determined that a monthly charge as set from time to time by the board of commissioners per telephone subscriber access line shall be charged and collected by each service supplier providing service to the county customers. Such supplier shall remit to the County Finance Officer the amounts collected less a one percent charge, within ten days following the last day of each month as provided in G.S. 62A-5 and G.S. 62A-6.

(Ord. of 12-3-1990, § III)

### **Sec. 11-74. Emergency telephone system fund.**

The County Finance Officer, as required under G.S. 62A-6, shall deposit the charges in a separate, restricted fund. The Fund shall be known as the Emergency Telephone System Fund. The county finance officer may invest money in the Fund in the same manner that other money of the county may be invested. The County Finance Officer shall deposit any income earned from such an investment in the Emergency Telephone System Fund.

(Ord. of 12-3-1990, § IV)

### **Sec. 11-75. Payments from fund.**

Money from the Emergency Telephone System Fund shall be used only to pay for:

- (1) The lease, purchase, or maintenance of emergency telephone equipment, including necessary computer hardware, software and database provisioning, addressing, and nonrecurring costs of establishing a 911 system; and
- (2) The rates associated with the service supplier's 911 service and other service supplier recurring charges.

(Ord. of 12-3-1990, § V)

**Sec. 11-76. Misuse of 911 system; penalty.**

Any person who intentionally calls the 911 number for other than purposes of obtaining public safety assistance commits a misdemeanor.

(Ord. of 12-3-1990, § VI)

**Chapter 12 - (RESERVED)**

**Chapter 13 - (RESERVED)**

## **Chapter 14 ENVIRONMENT\***

\*Cross references: Land development, ch. 20; buildings and building regulations, § 20-61 et seq.; floods, § 20-166 et seq.; erosion and sedimentation control for land use, § 20-318; manufactured homes and trailers, § 20-406 et seq.; solid waste, ch. 23; solid, medical, hazardous, and/or low-level radioactive waste facilities, § 23-46 et seq.; streets, sidewalks and other public places, ch. 26.

State law references: Regulation of junk and abandoned vehicles, G.S. 153A-132; noise regulation, G.S. 153A-133.

### **ARTICLE I. IN GENERAL**

**Secs. 14-1--14-30. Reserved.**

### **ARTICLE II. ABANDONED VEHICLES\***

**\*State law references: Junk and abandoned vehicles, G.S. 153A-132 et seq.**

**Sec. 14-31. Definitions.**

The following words, terms and phrases when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Code Administrator* for this Article means the person assigned by County Manager the duties of enforcing and administrating this Article of the Richmond County Code

Abandoned motor vehicle means a vehicle that:

- (1) Is left on public grounds or county-owned property in violation of a law or ordinance prohibiting parking;
- (2) Is left for longer than 24 hours on property owned or operated by the county;
- (3) Is left for longer than two hours on private property without the consent of the owner, occupant, or lessee of the property; or
- (4) Is left for longer than seven days on public grounds.

Junked motor vehicle means a motor vehicle that does not display a current license plate and:

- (1) Is partially dismantled or wrecked;
- (2) Cannot be self-propelled or moved in the manner in which it originally was intended to move;

(3) Is more than five years old and appears to be worth less than \$100.00; or

*Motor vehicle* means any machine designed or intended to travel over land or water by self-propulsion or while attached to self-propelled vehicle.

*Nuisance vehicle* means a vehicle on public or private property that is determined and declared to be dangerous and prejudicial to the public health or safety. Finding of such nuisance vehicle can be shown by evidence of the following no-exclusive list:

- (1) A breeding ground or harbor for mosquitoes, other insects, rats or other pests; or
- (2) A point of heavy growth of weeds or other noxious vegetation over eight (8) inches in height; or
- (3) A point of collection of pools or ponds of water; or
- (4) A point of concentration of quantities of gasoline, oil or other flammable or explosive materials as evidenced by odor; or
- (5) One which has areas of confinement which cannot be operated from the inside, such as trunks, hoods, etc.; or
- (6) So situated or located that there is a danger of it falling or turning over; or
- (7) One which is a point of collection of garbage, food waste, animal waste, or any other rotten or putrescent matter of any kind; or
- (8) One which has sharp parts thereof which are jagged or contain sharp edges of metal or glass; or
- (9) Any other vehicle specifically declared a health and safety hazard and a public nuisance by the Richmond County Board of Commissioners.

Nothing in this definition would not include any vehicle on a bona fide farm, but any use of farm property for non-farm purpose is subject to this section.

(Ord. of 3-2-1987, § 1; Ord. of 9-11-2000, Ord. 5-3-2004, Ord. 8/2004)

Cross references: Definitions generally, § 1-2.

**Sec. 14-32. Abandoned vehicles, junked motor vehicles, and nuisance vehicles unlawful; removal authorized.**

- (a) It shall be unlawful for the owner or person entitled to possess a motor vehicle or for the owner, lessee, or occupant of the real property upon which that vehicle is located to leave or allow that vehicle to remain on the property after it has been declared an abandoned motor vehicle or a junked motor vehicle or a nuisance vehicle.
- (b) Upon investigation, the Code Administrator may determine and declare that a vehicle is a health or safety hazard or an abandoned vehicle or junked motor vehicle or nuisance vehicle and order the vehicle removed.

(Ord. of 3-2-1987, § 2; Ord. of 9-11-2000, Ord. 5-3-2004, Ord. 8/2004)

**Sec. 14-33. Removal of abandoned vehicles or junked motor vehicles; pre-towing notice requirements.**

- (a) A vehicle to be towed or otherwise removed because it has been declared to be an abandoned vehicle, nuisance vehicle, or junked motor vehicle shall be towed only after notice to the owner or person entitled to possession of the vehicle. If the names and mailing addresses of the owners of the vehicle or the real property upon which it is located can be ascertained in the exercise of reasonable diligence, the notice shall be given to both by first-class mail. The person who mails the notice shall retain a written record to show the name and address to which mailed, and the date mailed. If such names and addresses cannot be ascertained, affixing on the windshield or some other conspicuous place on the vehicle shall give notice. The notice shall state that the county will remove the vehicle on a specified date, no sooner than seven days after the notice is affixed or mailed, unless the owner or legal possessor prior to that time removes the vehicle.
- (b) With respect to abandon vehicle on private property, nuisance vehicle and junked motor vehicle to which notice is required to be given, if the owner or person entitled to possession does not remove the vehicle but chooses to appeal the determination that the vehicle is an abandoned vehicle or junked motor vehicle, such appeal shall be made to the board of commissioners in writing, heard at the next regularly scheduled meeting of the board of commissioners and further proceedings to remove the vehicle shall be stayed until the appeal is heard and decided.
- (c) An abandoned vehicle or junked motor vehicle may be removed without giving the minimum seven days' prior notice only in those circumstances where the authorizing official finds, and enters such findings in appropriate records, a special need for prompt action to maintain the public health, safety and welfare. Circumstances justifying the removal of vehicles without prior notice include:
  - (1) Vehicles abandoned on streets or highways. For vehicles left on public streets and highways over which Richmond County has authority the Board of Commissioners hereby determines that immediate removal of such vehicles may be warranted when they are:
    - a. Obstructing traffic; or
    - b. Parked in violation of an ordinance or other law or regulation prohibiting or restricting parking; or
    - c. Parked in a no-stopping or standing zone; or
    - d. Parked in loading zones; or
    - e. Parked in bus zones; or
    - f. Parked in violation of temporary parking restriction imposed by Ordinances or other laws or regulations.

- (2) With respect to abandoned or nuisance vehicles left on County owned property other than the streets and highway, and on private property, such vehicles may be removed without giving prior notice only in those circumstances where the authorizing official finds a special need for prompt action to protect and maintain the public health, safety and welfare. By way of illustration and not of limitation, such circumstances include vehicles blocking or obstructing ingress or egress to businesses and residences, vehicles parked in such a location or manner as to pose a traffic hazard, and vehicles causing damage to public or private property.

(Ord. of 3-2-1987, § 3; Ord. of 9-11-2000, Ord. 6-7-2004)

**Sec. 14-34. Removal of vehicle; post towing notice requirements.**

- (a) Any vehicle, which has been determined to be an abandoned vehicle, nuisance vehicle or junked motor vehicle may be removed to a storage garage or area by towing business contracting to perform such services for the county. Whenever such vehicle is removed, the building inspector shall immediately notify the last known registered owner of the vehicle, such notice to include the following:
  - (1) A description of the removed vehicle;
  - (2) The location where the vehicle is stored;
  - (3) The violation with which the owner is charged, if any;
  - (4) The procedure the owner must follow to redeem the vehicle; and
  - (5) The procedure the owner must follow to request a probable cause hearing on the removal.
- (b) This notice shall be mailed to the owner's last known address, unless waived in writing.
- (c) If the vehicle is registered in the state, notice shall be mailed within 24 hours. If the vehicle is not registered in this state, notice shall be mailed to the owner within 72 hours from the removal of the vehicle.
- (d) Whenever an abandoned vehicle or a junked motor vehicle is removed and such vehicle has no valid registration or registration plate, the authorizing county official shall make reasonable efforts, including the checking of the vehicle identification number, to determine the last known registered owner of the vehicle and to notify him of the information as set forth in subsections (a)(1) through (5) of this section.

(Ord. of 3-2-1987, § 4; Ord. of 9-11-2000, Ord. 5-3-2004)

**Sec. 14-35. Right to probable cause hearing before sale or final disposition of vehicle.**

After removal of a vehicle declared to be an abandoned vehicle or junked motor vehicle, the owner or other person entitled to possession may request in writing a hearing to determine if probable cause existed for removing the vehicle. The request must be filed with the magistrate in the county where the vehicle was towed. The magistrate will set the hearing within 72 hours of receipt of the request, and the hearing will be conducted in accordance with provisions of G.S. 20-219.11.

(Ord. of 3-2-1987, § 5; Ord. of 9-11-2000)

**Sec. 14-36. Sale and disposition of unclaimed vehicles.**

- (a) With the consent of the owner, the building inspector may dispose of any vehicle as an abandoned vehicle or junked motor vehicle without holding it for any prescribed period of time.
- (b) Any unclaimed abandoned vehicle or junked motor vehicle shall be held for a period of at least 15 days. The owner of any such vehicle may claim his vehicle during the 15-day retention period by exhibiting proof of ownership to the building inspector and after paying all reasonable costs incident to the removal and storage of the vehicle plus administrative expenses. If after the vehicle is held 15 days it remains unclaimed, such vehicle may be destroyed or sold at private sales as junk.
- (c) Within 15 days after final disposition of an abandoned vehicle or a junked motor vehicle, written notice thereof shall be given to the department of motor vehicles that the vehicle has been determined to be an abandoned vehicle or junked motor vehicle and disposed of as such. The notice shall contain as full and accurate a description of the vehicle as can be reasonably determined.
- (d) Disposition of such vehicle shall be carried out in coordination with the County and in accordance with Article 1 of Chapter 44A of the North Carolina General Statutes.

(Ord. of 3-2-1987, § 6; Ord. of 9-11-2000, Ord. 5-3-2004)

**Sec. 14-37. Disposition of proceeds of sale.**

The proceeds of the sale of an abandoned vehicle or junked motor vehicle, after all costs of removal, storage, investigation and sale, and satisfaction of any lien of record on the vehicle have been deducted therefrom, shall be held by the county finance officer for 30 days and paid to the owner upon demand. If the owner does not appear to claim the remainder of the proceeds within 30 days after disposal of the vehicle, the funds shall be deposited into the county general fund and the owner's rights therein shall be forever extinguished.

(Ord. of 3-2-1987, § 7; Ord. of 9-11-2000)

**Sec. 14-38. Immunity.**

Neither the county nor any person shall be held to answer in any civil or criminal action to any owner or other person legally entitled to the possession of any junked, lost or stolen vehicle for disposing of such vehicle as contemplated by this article.

(Ord. of 3-2-1987, § 8; Ord. of 9-11-2000)

**Sec. 14-39. Exceptions.**

Nothing in this article shall apply to any motor vehicle in an enclosed building, any motor vehicle kept or stored at a bona fide automobile graveyard or junkyard as defined in G.S. 136-143, or to any motor vehicle that is used on a regular basis for business or personal use.

(Ord. of 3-2-1987, § 9; Ord. of 9-11-2000)

**Secs. 14-40--14-60. Reserved.**

### **ARTICLE III. NOISE**

**Sec. 14-61. Purpose.**

- (a) It is recognized that excessive and unnecessary noise endangers the physical and emotional health and welfare of the people, interferes with legitimate business and recreational activity, increased construction costs, depresses property values, offends the senses, creates public nuisances, and in other respects reduces the quality of life.
- (b) Because the regulation of excessive and unnecessary noise that may jeopardize human health or welfare or substantially degrade the quality of life is well within the purview of the governing body's police powers, it is declared to be the purpose of this section to prevent, prohibit, and provide the regulation and abatement of excessive and unnecessary noise which may injure the physical and emotional health or welfare of its citizens or degrade the quality of life.

(Ord. of 7-10-1995, § 1)

**Sec. 14-62. Certain noises and sounds prohibited.**

- (a) It shall be unlawful for any person, firm or corporation to create or assist in creating any unreasonably loud, disturbing sound levels in the county, taking into consideration volume, duration, frequency, and other characteristics of the sound.

- (b) The following activities, among others, are hereby declared to be unreasonably loud, disturbing sound levels, but such enumeration shall not be deemed to be exclusive:
- (1) The playing of any musical instrument or electronic sound amplification equipment in such manner or with such volume, particularly during hours between 11:00 p.m. and 7:00 a.m., such that a reasonably prudent person would recognize as likely to unreasonably disturb persons in the vicinity.
  - (2) The keeping of any animal or bird which makes frequent or long continued sounds, such that a reasonably prudent person would recognize as likely to unreasonably disturb persons in the vicinity.
  - (3) The use of any automobile, motorcycle or vehicle so out of repair or in such manner as to create unreasonably loud, disturbing sounds.
  - (4) The operating of any garage or service station in any residential area so as to cause unreasonably loud, disturbing sounds to be emitted between the hours of 9:00 p.m. and 7:00 a.m. on any day.
  - (5) The creation of unreasonably loud, disturbing sound levels adjacent to any school, educational facility, church, or court during normal operating hours, or within 150 feet of any hospital, which a reasonably prudent person would recognize as likely to unreasonably interfere with the working of such institutions, provided conspicuous signs are displayed indicating that such area is a school, educational facility, church, court, or hospital area.
  - (6) The erection (including excavation), demolition, alteration or repair of any building in a residential or business district other than between the hours of 7:00 a.m. and 9:00 p.m. on any day, except in the case of urgent necessity in the interest of public safety, and then only under the direction of an appropriate county official.
  - (7) The firing or discharging of a gun, firecrackers, gun powder or other combustible substance in the streets or elsewhere for the purpose of making noise or disturbance, except by permit from the sheriff.
  - (8) The shouting and crying of peddlers, barkers, hawkers, and vendors, which disturbs the quiet and peace of the neighborhood.
  - (9) The operating or permitting the operation within a multifamily dwelling of any source of sound in a manner such that a reasonably prudent person would recognize as likely to unreasonably disturb persons in the vicinity.
  - (10) The operating or permitting the operation of any mechanically powered saw, drill, grinder, lawn or garden tool, or similar tool between the hours of 10:00 p.m. and 6:00 a.m. unless such equipment is operated inside a building or other

structure so that the sound therefrom does not travel across any residential real property line. All such equipment shall be properly muffled and maintained in working order so as not to create excessive and unnecessary noise.

- (11) The operating or permitting the operation of any motor boat or similar craft in any lake, river, stream, canal, bay, or other waterway in such a manner as to cause unnecessary and excessive noise within a residential area.

(Ord. of 7-10-1995, § 2)

**Sec. 14-63. Exemptions from section 14-62.**

The following are exempt from the provisions of section 14-62:

- (1) Lawn mowers and agricultural equipment during the hours of 6:00 a.m. to 10:00 p.m. when operated with all manufacturers' standard mufflers and noise reduction equipment in use and proper operating condition;
- (2) Nonamplified crowd noises resulting from the activities such as those planned by students, governmental, or community groups;
- (3) Construction operations for which building permits have been issued or construction operations not requiring permits due to ownership of the project by an agency of government; providing all equipment is operated in accord with the manufacturers' specifications and with all standard equipment manufacturers' mufflers and noise reducing equipment in use and in proper operating condition;
- (4) Noises of safety signals, warning devices, emergency pressure relief valves and bells and chimes of churches;
- (5) Any other noise resulting from activities of a temporary duration permitted by law and for which a license or permit therefor has been granted by the county in accordance with the above. Regulation of noises emanating from operations under permit shall be according to the conditions and limits stated on the permit and contained above;
- (6) Noises made by persons having obtained a permit to use the streets;
- (7) All noises coming from the normal operations of aircraft (not including scale model aircraft) and all noises emanating from the Rockingham-Hamlet Airport property within the NEF (Noise Exposure Forecast) zones as established by the most recent survey, and maintained in the office of the airport manager;
- (8) All noises coming from the normal operations of the vehicles, aircraft, vendors, law enforcement authorities, and patrons emanating from the North Carolina Speedway

and the Rockingham Dragway during regular business hours and scheduled activities and events;

- (9) All noises made by animals when a person is trespassing or threatening to trespass upon private property in or upon which the animal is situated or for any legitimate cause which teased or provoked the animal.

(Ord. of 7-10-1995, § 3)

**Sec. 14-64. Special permits for relief from allowable noise level limits.**

Applications for a permit for relief from the prohibited allowable noise level limits designated in section 14-62 may be made in writing to the Sheriff or his duly authorized representative. Any permit granted by the Sheriff under this article must be in writing and shall contain all conditions upon which such permit shall be effective. The Sheriff or his duly authorized representative may grant the relief as applied for under the following conditions:

- (1) General requirements. The Sheriff may prescribe any reasonable conditions or requirements he deems necessary to minimize adverse effects upon the community or the surrounding neighborhood, including use of mufflers, screens, or other sound attenuating devices.
- (2) Permits for entertainment. Permits may be granted for the purpose of entertainment under the following conditions:
  - a. The function must be open to the public (admission may be charged).
  - b. The function must take place on public property.
  - c. The permit will be given for only four hours in one 24-hour day.
  - d. The function must be staged between the hours of 9:00 a.m. and 12:00 midnight.
- (3) Other. Special permits for non-entertainment special purposes may be issued under the following conditions:
  - a. If the special purpose relates to the operation of a trade or business, that the special purpose not be in the ordinary course of that trade or business; or
  - b. If the special purpose does not relate to the operation of a trade or business, that the special purpose not be an ordinary event in the affairs of the applicant.
- (4) Recurring purpose. If the special purpose is a recurring purpose, that it not recur more often than four times each calendar year.

- (5) Special necessary purpose. That the special purpose be absolutely necessary to the operations of the applicant's trade or business.
- (6) Compatibility with surrounding neighborhood. If the special purpose does not relate to the operation of the trade or business, that the special purpose be compatible with the ordinary activities of the neighborhood in which the special purpose is to occur.
- (7) Emergency situations. Except in emergency situations, as determined by the Sheriff, the special permit may be issued only for eight hours between 7:00 a.m. and 5:00 p.m. on weekdays.
- (8) Duration. Special permits may be issued for no longer than 15 consecutive days, renewable by further application to the Sheriff.
- (9) Exterior loudspeaker not permitted. No permit may be issued to permit the use of any loudspeaker or sound amplifying device on the exterior of any building which at any time is unnecessary or excessive except those used for emergency warnings.
- (10) Appeal. Anyone aggrieved by the provisions of this section shall have the right to appeal the decision of the Sheriff to the board of commissioners. The appeal shall be in writing and filed with the County Manager within ten days after the decision of the Sheriff. Upon receipt of a notice of appeal, the board of commissioners shall grant a hearing to the appellant at the next regular meeting, provided, such notice of appeal is received by 5:00 p.m. of the Friday before such board of commissioner's meeting.
- (11) At the hearing before the board of commissioners pursuant to an appeal as requested pursuant to this article, the board of commissioners shall hold a public hearing to determine whether issuance of the permit would be detrimental to the public health, safety, and welfare of the community. If the board of commissioners determines that the issuance of the permit would not be detrimental to the public health, safety, and welfare, the board of commissioners shall specifically authorize the sheriff to issue the permit to the applicant. If the board of commissioners determines that the issuance of the permit would be detrimental to the public health, safety and welfare of the community, the board of commissioners shall so notify the applicant, and the Sheriff shall not issue the permit.

(Ord. of 7-10-1995, § 4)

**Sec. 14-65. Enforcement responsibility for control of excessive or unnecessary noise.**

The Sheriff shall have primary responsibility for enforcement of this article.

(Ord. of 7-10-1995, § 5)

**Sec. 14-66. Penalties.**

- (a) When a violation of section 14-62 occurs for the first time or more than 12 months after a previous violation, the violator shall be issued a warning by the Sheriff or a Deputy Sheriff. For subsequent violations within a 12-month period of the first violation, the violator shall be deemed guilty of a misdemeanor punishable by a fine of up to \$500.00 pursuant to section 1-6.
- (b) When a source of noise is being conducted in violation of this article, any resident of the county may institute any appropriate causes or proceeding to restrain, correct, or abate such violations or otherwise prevent the unlawful use of such noise operation or the unlawful operation of such facility by any person.

(Ord. of 7-10-1995, § 6)

**Secs. 14-67--14-90. Reserved.**

## **ARTICLE IV. WATERSHED PROTECTION\***

\*Editor's note: The following appendixes, mentioned throughout this article, are not printed herein, but are on file in the county offices:

Appendix A--Application for a Watershed Subdivision Approval

Appendix B--Rules of Procedure for the Watershed Review Board Regarding the Appeals and Variances

State law references: General ordinance-making powers, G.S. 153A-121.

### **DIVISION 1. GENERALLY**

#### **Sec. 14-91. Authority and enactment.**

The Legislature of the State of North Carolina has, in G.S. 153A-121, General Ordinance Authority; and in G.S. 143-211 et seq., Watershed Protection Rules, delegated the responsibility or directed local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. The board of commissioners does hereby ordain and enact into law the following articles as the watershed protection ordinance of the county.

(Ord. of 11-1-1993, § 101; Ord. of 8-8-1994; Ord. of 11-3-1997; Ord. of 5-7-2001, § 101)

#### **Sec. 14-92. Jurisdiction.**

The provisions of this article shall apply within the areas designated as a Public Water Supply Watershed by the state environmental management commission and shall be defined and established on the map entitled, "Watershed Protection Map of Richmond County, North Carolina" ("the watershed map"), which is adopted simultaneously with the ordinance from which this article is derived. The Watershed Map and all explanatory

matter contained thereon accompanies and is hereby made a part of this article. This article shall be permanently kept on file in the office of the County Clerk.

(Ord. of 11-1-1993, § 102; Ord. of 8-8-1994; Ord. of 11-3-1997; Ord. of 5-7-2001, § 102)

**Sec. 14-93. Exceptions to applicability.**

- (a) Nothing contained in this article shall repeal, modify, or amend any Federal or State law or regulation, or any ordinance or regulation pertaining thereto except any ordinance which these regulations specifically replace; nor shall any provision of this article amend, modify, or restrict any provisions of the code of the county; however, the adoption of this article shall and does amend any and all ordinances, resolutions, and regulations in effect in the county at the time of the adoption of the ordinance from which this article is derived that may be construed to impair or reduce the effectiveness of this article or to conflict with any of its provisions.
- (b) It is not intended that this article interfere with any easement, covenants or other agreements between parties. However, if the provisions of this article impose greater restrictions or higher standards for the use of a building or land, then the provisions of this article shall control.
- (c) Existing development, as defined in section 14-221, is not subject to the requirements of this article. Expansions to structures classified as existing development must meet the requirements of this article, however, the built-upon area of the existing development is not required to be included in the density calculations.
- (d) If a nonconforming 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 this article if it is developed for single-family residential purposes. Any lot or parcel created as part of a family subdivision after the effective date of the ordinance from which this article is derived, shall be exempt from these rules if it is developed for one single-family detached residence and if it is exempt from local subdivision regulation. Any lot or parcel created as part of any other type of subdivision that is exempt from a local subdivision ordinance shall be subject to the land use requirements (including impervious surface requirements) of this article, except that such a lot or parcel must meet the minimum buffer requirements to the maximum extent practicable.

(Ord. of 11-1-1993, § 103; Ord. of 8-8-1994; Ord. of 11-3-1997; Ord. of 5-7-2001, § 103)

**Sec. 14-94. Criminal penalties.**

Any person violating any provisions of this article shall be guilty of a misdemeanor and, upon conviction, shall be punished in accordance with G.S. 14-4. The maximum fine for each offense shall not exceed \$500.00. Each day that the violation continues shall constitute a separate offense.

(Ord. of 11-1-1993, § 104; Ord. of 8-8-1994; Ord. of 11-3-1997; Ord. of 5-7-2001, § 105)

**Sec. 14-95. Remedies.**

- (a) If any subdivision, development and/or land use is found to be in violation of this article, the board of commissioners may, in addition to all other remedies available either in law or in equity, institute a civil penalty in the amount of \$100.00, action or proceedings to restrain, correct, or abate the violation; to prevent occupancy of the building, structure, or land; or to prevent any illegal act, conduct, business, or use in or about the premises. In addition, the state environmental management commission may assess civil penalties in accordance with G.S. 143-215.6(a). Each day that the violation continues shall constitute a separate offense.
- (b) If the Watershed Administrator finds that any of the provisions of this article are being violated, he shall notify in writing the person responsible for such violation, indicating the nature of the violation, and ordering the action necessary to correct it. He shall order discontinuance of the illegal use of land, buildings or structures; removal of illegal buildings or structures, or of additions, alterations or structural changes thereto; discontinuance of any illegal work being done; or shall take any action authorized by this article to ensure compliance with or to prevent violation of its provisions. If a ruling of the watershed administrator is questioned, the aggrieved party or parties may appeal such ruling to the Watershed Review Board.

(Ord. of 11-1-1993, § 105; Ord. of 8-8-1994; Ord. of 11-3-1997; Ord. of 5-7-2001, § 106)

**Sec. 14-96. Repeal of existing watershed ordinance.**

This article in part carries forward by re-enactment, some of the Watershed Ordinance of the county, (adopted by the board of commissioners on November 1, 1993, as amended), and it is not the intention to repeal but rather to reenact and continue in force such existing provisions so that all rights and liabilities that have accrued there under are preserved and may be enforced. All provisions of the watershed ordinance, which are not re-enacted in this article, are hereby repealed. All suits at law or in equity and/or all prosecutions resulting from the violation of any ordinance provisions heretofore in effect, which are now pending in any court of this state or of the United States, shall not be abated or abandoned by reason of the adoption of the ordinance, from which this article is derived but shall be prosecuted to their finality the same as if this article had not been adopted; and any and all violations of the existing watershed protection ordinance, prosecutions for which have not yet been instituted, may be hereafter filed and prosecuted; and nothing in this article shall be so construed as to abandon, abate or dismiss any litigation or prosecution now pending and/or which may heretofore have been instituted or prosecuted.

(Ord. of 5-7-2001, § 104)

**Secs. 14-97--14-110. Reserved.**

## **DIVISION 2. SUBDIVISION REGULATIONS**

### **Sec. 14-111. General provisions.**

- (a) No subdivision plat of land within the Public Water Supply Watershed shall be filed or recorded by the Register of Deeds until it has been approved in accordance with the provisions of this article. Likewise, the clerk of superior court shall not order or direct the recording of a plat if the recording of such plat would be in conflict with this article.
- (b) The approval of a plat does not constitute or effect the acceptance by the county or the public of the dedication of any street or other ground, easement, right-of-way, public utility line, or other public facility shown on the plat and shall not be construed to do so.
- (c) All subdivisions shall conform with the mapping requirements contained in G.S.47-30.
- (d) All subdivisions of land within the jurisdiction of the county after the effective date of the ordinance from which this article is derived shall require a plat to be prepared, approved, and recorded pursuant to this article. The County Subdivision Ordinance, set forth in division 2 of article V of this chapter, shall regulate all subdivision, by definition, in concurrence with this article. Where this article conflicts with any applicable federal, state, or local law, the most stringent shall govern.

(Ord. of 5-7-2001, § 201)

### **Sec. 14-112. Subdivision application and review procedures.**

- (a) All proposed subdivisions shall be reviewed prior to recording with the Register of Deeds by submitting a vicinity map to the watershed administrator to determine whether or not the property is located within the designated public water supply watershed. Subdivisions that are not within the designated watershed area shall not be subject to the provisions of this article and may be recorded provided the Watershed Administrator initials the vicinity map. In addition, subdivisions within a WS-IV watershed are subject to the provisions of this article only when an erosion and sedimentation plan is required under the provisions of state law, or approved local program. Subdivisions within the designated watershed area shall comply with the provisions of this article and all other state and local requirements that may apply.
- (b) Subdivision applications shall be filed with the Watershed Administrator. The application shall include a completed application form, two copies of the plat and

supporting documentation deemed necessary by the Watershed Administrator or the Watershed Review Board (see appendix A; on file in the county offices).

(c) The Watershed Administrator shall review the completed application and shall either approve, approve conditionally or disapprove each application. The Watershed Administrator shall take final action within 45 days of submission of the application. The Watershed Administrator or the Watershed Review Board may provide public agencies an opportunity to review and make recommendations. However, failure of the agencies to submit their comments and recommendations shall not delay action within the prescribed time limit. Such public agencies may include, but are not limited to, the following:

(1) The district highway engineer with regard to proposed streets and highways.

(2) The director of the health department with regard to proposed private water system or sewer systems normally approved by the health department.

(3) The State Division of Environmental management with regard to proposed sewer systems normally approved by the division, engineered storm water controls or storm water management in general.

(4) Any other agency or official designated by the Watershed Administrator or Watershed Review Board.

(d) If the Watershed Administrator approves the application, such approval shall be indicated on both copies of the plat by the following certificate and signed by the Watershed Administrator:

#### CERTIFICATE OF APPROVAL FOR RECORDING

I certify that the plat shown hereon complies with the Watershed Protection Ordinance and is approved by the Watershed Review Board for recording in the Register of Deeds office.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Watershed Administrator

NOTICE: This property is located within a Public Water Supply Watershed--development restrictions may apply.

(e) If the Watershed Administrator disapproves or approves conditionally the application, the reasons for such action shall be stated in writing for the applicant and entered in the minutes. The subdivider may make changes and submit a revised plan, which shall constitute a separate request for the purpose of review.

- (f) All subdivision plats shall comply with the requirements for recording of the county Register of Deeds.
- (g) The plat shall be recorded within 30 days of approval. The subdivider shall provide the Watershed Administrator with evidence the plat has been recorded with the Register of Deeds within five working days.

(Ord. of 5-7-2001, § 202)

**Sec. 14-113. Subdivision standards and required improvements.**

- (a) Adequate building space. All lots shall provide adequate building space in accordance with the development standards contained in division 3 of this article. Lots, which are smaller than the minimum required for residential lots, may be developed using built-upon area criteria in accordance with division 3 of this article.
- (b) Calculating built-upon area. For the purpose of calculating built-upon area, total project area shall include total acreage in the tract on which the project is to be developed.
- (c) Storm water drainage facilities. The application shall be accompanied by a description of the proposed method of providing storm water drainage. The subdivider shall provide a drainage system that diverts stormwater runoff away from surface waters and incorporates best management practices to minimize water quality impacts.
- (d) Erosion and sedimentation control. The application shall, where required, be accompanied by a written statement that a sedimentation and erosion control plan has been submitted to and approved by the state division of land quality.
- (e) Roads constructed in critical areas and watershed buffer areas. Where possible, roads should be located outside of critical areas and watershed buffer areas. Roads constructed within these areas shall be designed and constructed to minimize their impact on water quality.

(Ord. of 5-7-2001, § 203)

**Sec. 14-114. Construction procedures.**

- (a) No construction or installation of improvements shall commence in a proposed subdivision until a subdivision plat has been approved.
- (b) No building or other permits shall be issued for the erection of a structure on any lot not of record at the time of adoption of the ordinance from which this article is derived, until all requirements of this article have been met. The subdivider, prior to commencing any work within the subdivision, shall make arrangements with the Watershed Administrator to provide for adequate inspection.

(Ord. of 5-7-2001, § 204)

**Sec. 14-115. Penalties for transferring lots in unapproved subdivisions.**

Any person who, being the owner or agent of the owner of any land located within the jurisdiction of the county, thereafter subdivides his land in violation of this article or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under this article and recorded in the office of the Register of Deeds, shall be guilty of a misdemeanor. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this penalty. The county may bring an action for injunction of any illegal subdivision, transfer, conveyance, or sale of land, and the court shall, upon appropriate findings, issue an injunction and order requiring the offending party to comply with this article.

(Ord. of 5-7-2001, § 205)

**Secs. 14-116--14-140. Reserved.**

**DIVISION 3. DEVELOPMENT REGULATIONS**

**Sec. 14-141. Establishment of watershed areas.**

(a) The purpose of this division is to list and describe the watershed areas herein adopted.

(b) For purposes of this article, the county is hereby divided into the following areas, as appropriate:

- WS-II-CA (Critical area)
- WS-II-BW (Balance of watershed)
- WS-III-CA (Critical area)
- WS-III-BW (Balance of watershed)
- WS-IV-CA (Critical area)
- WS-IV-PA (Protected area)

(Ord. of 11-1-1993, § 301; Ord. of 8-8-1994; Ord. of 11-3-1997; Ord. of 5-7-2001, § 301)

**Sec. 14-142. Description of watersheds.**

(a) WS-II watershed areas - critical area (WS-II-CA). In order to maintain a predominately undeveloped land use intensity pattern, single-family residential uses shall be allowed at a maximum of one dwelling unit per two acres. All other residential and nonresidential development shall be allowed at a maximum six

percent built-upon area. New sludge application sites and landfills are specifically prohibited.

- (b) WS-II watershed areas - balance of watershed (WS-II-BW). 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 acre. All other residential and nonresidential development shall be allowed a maximum of 12 percent built-upon area. In addition, nonresidential uses, new development and expansions to existing development may occupy ten percent of the balance of the watershed, which is outside the critical area, with a 70 percent built-upon area when approved as a special intensity allocation (SIA). The Watershed Administrator is authorized to approve SIAs consistent with the provisions of this article. Projects must minimize built-upon surface area, direct stormwater away from surface waters and incorporate Best Management Practices to minimize water quality impacts. Nondischarging landfills and sludge application sites are allowed.
- (c) WS-III watershed areas - critical area (WS-III-CA). In order to maintain a low to moderate land use intensity pattern, single-family residential uses are allowed at a maximum one dwelling unit per 40,000 square feet. All other residential and nonresidential development shall be allowed to a maximum of 12 percent built-upon area. New sludge application sites and landfills are specifically prohibited.
- (d) WS-III watershed areas - balance of watershed (WS-III-BW). In order to maintain a low to moderate land use intensity pattern, single-family detached uses shall develop at a maximum of one dwelling unit per 40,000 square feet unless the residential unit is hooked into a public sewer system, then the maximum will be two dwelling units per acre. All other residential and nonresidential development shall be allowed a maximum of 24 percent built-upon area. In addition, new development and expansions to existing development may occupy ten percent of the balance of the watershed, which is outside the critical area, with a 70 percent built-upon area when approved as a special nonresidential intensity allocation (SIA). The Watershed Administrator is authorized to approve SIAs consistent with the provisions of this article. Projects must minimize built-upon surface area, direct stormwater away from surface waters and incorporate Best Management Practices to minimize water quality impacts. Nondischarging landfills and sludge application sites are allowed.
- (e) WS-IV watershed areas - critical area (WS-IV-CA). Only new development activities that require an erosion/sedimentation control plan under state law or approved local program are required to meet the provisions of this article when located in the WS-IV watershed. In order to address a moderate to high land use intensity pattern, single-family residential uses are allowed at a maximum of two dwelling units per acre. All other residential and nonresidential development shall be allowed 24 percent built-upon area. New sludge application sites and landfills are specifically prohibited.

(f) WS-IV watershed areas - protected area (WS-IV-PA). Only new development activities that require an erosion/sedimentation control plan under state law or approved local government program are required to meet the provisions of this article when located in a WS-IV watershed. In order to address a moderate to high land use intensity pattern, single-family residential uses shall develop at a maximum of two dwelling units per acre. All other residential and nonresidential development shall be allowed at a maximum of 24 percent built-upon area. A maximum of three dwelling units per acre or 36 percent built-upon area is allowed for projects without a curb and gutter street system.

(Ord. of 11-1-1993, § 302; Ord. of 8-8-1994; Ord. of 11-3-1997; Ord. of 5-7-2001, § 302)

**Sec. 14-143. Density and built-upon limits.**

The following table specifies the density limits for single-family residential development and the built-upon area limits for all other residential development and nonresidential development:

<b>Watershed Type</b>	<b>Single Family Residential Density</b>	<b>Other Residential and Non Residential Development (Maximum Percentage Built-Upon Area)</b>	<b>Special Intensity Allocation (SIA)</b>
WS-II-CA	1 per 2 acres	6%	N/A
WS-II-BW	1 per acre	12%	10%-70%
WS-III-CA	1 per 40,000sqft	12%	N/A
WS-III-BW*	1 per 40,000sqft	24%	10%-70%
WS-IV-CA	1 per 20,000sqft	24%	N/A
WS-IV-PA**	1 per 20,000sqft 1 per 14,500sqft	24% - 36%**	N/A

\* If dwelling unit is attached to a public sewer system, the minimum lot size per dwelling unit is 20,000 square feet

\*\* In residential or nonresidential developments with a curb and gutter system, the minimum single family residential lot shall be one-half acre and the maximum built-upon area shall not exceed 24 percent. In residential and nonresidential developments without a curb and gutter system, the minimum single-family lot shall be one-third acre and the maximum built-upon area shall not exceed 36 percent.

For reference purposes regarding ground absorption sewage collection (septic systems) please refer to 15 NCAC 1211.

(Ord. of 11-1-1993, § 303; Ord. of 8-8-1994; Ord. of 11-3-1997; Ord. of 5-7-2001, § 303)

**Sec. 14-144. Allowed uses.**

(a) The following uses are allowed in the critical areas of the WS-II, WS-III, and WS-IV Public Water Supply Watersheds.

- (1) Agriculture subject to the provisions of the Food Security Act of 1985 and the Food, Agriculture, Conservation and Trade Act of 1990. Agricultural activities conducted after January 1, 1993, shall maintain a minimum ten-foot vegetative buffer, or equivalent control as determined by the Soil and Water Conservation Commission, along all perennial waters indicated on the most recent versions of USGS 1:24,000 (7.5 minute) scale topographic maps or as determined by local government studies. Animal operations greater than 100 animal units shall employ best management practices by July 1, 1994 as recommended by the Soil and Water Conservation Commission.
- (2) Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 11.6101-.0209).
- (3) Residential development, including both single-family and all other residential.
- (4) Nonresidential development, excluding: i) the storage of toxic and hazardous materials unless a spill containment plan is implemented, ii) landfills, and iii) sites for land application of sludge/residuals or petroleum contaminated soils. New industrial development is required to incorporate adequately designed, constructed and maintained spill containment structures if hazardous materials are either used, stored or manufactured on the premises.

(b) The following uses are specifically prohibited in the critical areas of all watersheds:

new sludge application sites and landfills.

(c) The following uses are allowed in the balance of WS-II and WS-III watersheds and the protected area of WS-IV watersheds.

- (1) Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990.
- (2) Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 11.6101-.0209).

- (3) Residential development, using density criteria as shown in the table in section 14-143.
- (4) Nonresidential development excluding the storage of toxic and hazardous materials unless a spill containment plan is implemented, using density calculation as found in section 14-143.
- (5) Nondischarging landfills and sludge application sites.
- (6) Discharging landfills are allowed in the WS-IV protected area. Discharging landfills are not allowed in the balance of WS-II and WS-III watersheds.

(Ord. of 11-1-1993, § 304; Ord. of 8-8-1994; Ord. of 11-3-1997; Ord. of 5-7-2001, § 304)

**Sec. 14-145. Cluster development.**

Clustering of development is allowed and encouraged in all Public Water Supply Watershed areas under the following conditions:

- (1) Minimum lot sizes are not applicable to single-family cluster development projects; however, the total number of lots shall not exceed the number of lots allowed for single-family detached developments as stated in sections 14-142--14-143. Density or built-upon area for the project shall not exceed that allowed for the critical area, protected area, or balance of watershed, whichever applies as per sections 14-142--14-143.
- (2) All built-upon area shall be designed and located to minimize stormwater runoff impact to the receiving waters and minimize concentrated stormwater flow.
- (3) The remainder of the tract shall remain in a vegetated or natural state. The title to the open space area shall be conveyed to an incorporated homeowners association for management; to a local government for preservation as a park or open space; or to a conservation organization for preservation in a permanent easement. Where a property association is not incorporated, a maintenance agreement shall be filed with the property deeds.

(Ord. of 11-1-1993, § 305; Ord. of 8-8-1994; Ord. of 11-3-1997; Ord. of 5-7-2001, § 305)

**Sec. 14-146. Buffer areas required.**

- (a) A minimum 100-foot vegetative buffer is required for all new development activities that exceed the low density option; otherwise, a minimum 30-foot vegetative buffer for development activities is required along all perennial waters indicated on the most recent versions of USGS 1:24,000 (7.5 minute) scale topographic maps or as determined by local government studies. Desirable artificial streambank or shoreline stabilization is permitted.

- (b) No new development is allowed in the buffer except for water dependent structures and public projects such as road crossings and greenways where no practical alternative exists. These activities should minimize built-upon surface area, direct runoff away from the surface waters and maximize the utilization of stormwater Best Management Practices.

(Ord. of 11-1-1993, § 306; Ord. of 8-8-1994; Ord. of 11-3-1997; Ord. of 5-7-2001, § 306)

**Sec. 14-147. Rules governing the interpretation of watershed area boundaries.**

Where uncertainty exists as to the boundaries of the watershed areas, as shown on the Watershed Map, the following rules shall apply:

- (1) Where area boundaries are indicated as approximately following either street, alley, railroad or highway lines or centerlines thereof, such lines shall be construed to be such boundaries.
- (2) 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 county as evidence that one or more properties along these boundaries do not lie within the watershed area.
- (3) 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.
- (4) Where the watershed area boundaries lie at a scaled distance of 25 feet or less from any parallel lot line, the location of watershed area boundaries shall be construed to be the lot line.
- (5) Where other uncertainty exists, the Watershed Administrator shall interpret the Watershed Map as to location of such boundaries. This decision may be appealed to the Watershed Review Board.

(Ord. of 11-1-1993, § 307; Ord. of 8-8-1994; Ord. of 11-3-1997; Ord. of 5-7-2001, § 307)

**Sec. 14-148. Application of regulations.**

- (a) No building or land shall hereafter be used and no development shall take place except in conformity with the regulations specified in this article for the water supply watershed area in which it is located.
- (b) No area required for the purpose of complying with the provisions of this article shall be included in the area required for another building.

- (c) Every residential building hereafter erected, moved or structurally altered shall be located on a lot which conforms to the regulations specified in this article, except as permitted in section 14-147.
- (d) If a use or class of use is not specifically indicated as being allowed in a watershed area, such use or class of use is prohibited.

(Ord. of 11-1-1993, § 308; Ord. of 8-8-1994; Ord. of 11-3-1997; Ord. of 5-7-2001, § 308)

**Sec. 14-149. Existing development.**

Any existing development as defined in section 14-221 may be continued and maintained subject to the provisions provided in this article. Expansions to structures classified, as existing development must meet the requirements of this article; however, the built-upon area of the existing development is not required to be included in the density calculations.

- (1) Vacant lots. This category consists of vacant lots for which plats or deeds have been recorded in the office of the Register of Deeds of the county. Lots may be used for any of the uses allowed in the watershed area in which it is located, provided the following:
  - a. Where the lot area is below the minimum specified in this article, the Watershed Administrator is authorized to issue a watershed protection permit.
  - b. Notwithstanding the foregoing, whenever two or more contiguous residential vacant lots of record are in single ownership at any time after the adoption of the ordinance from which this article is derived and such lots individually have less area than the minimum requirements for residential purposes for the watershed area in which such lots are located, such lots shall be combined to create one or more lots that meet the standards of this article, or if this is impossible, reduce to the extent possible the nonconformity of the lots.
- (2) Occupied lots. This category consists of lots, occupied for residential purposes at the time of the adoption of the ordinance from which this article is derived. These lots may continue to be used; provided that whenever two or more adjoining lots of record, one of which is occupied, are in single ownership at any time after the adoption of the ordinance from which this article is derived and such lots individually or together have less area than the minimum requirements for residential purposes for the watershed area in which they are located, such lots shall be combined to create lots which meet the minimum size requirements or which minimize the degree of nonconformity.
- (3) Uses of land. This category consists of uses existing at the time of adoption of the ordinance from which this article is derived, where such use of the land is not permitted to be established hereafter in the watershed area in which it is located. Such uses may be continued except as follows:

- a. When such use of land has been changed to an allowed use, it shall not thereafter revert to any prohibited use.
  - b. Such use of land shall be changed only to an allowed use.
  - c. When such use ceases for a period of at least one year, it shall not be reestablished.
- (4) Reconstruction of buildings or built-upon areas. Any existing building or built-upon area not in conformance with the restrictions of this ordinance that has been damaged or removed may be repaired and/or reconstructed, except that there are no restrictions on single-family residential development, provided:
- a. Repair or reconstruction is initiated within 12 months and completed within two years of such damage.
  - b. The total amount of space devoted to built-upon area may not be increased unless stormwater control that equals or exceeds the previous development is provided.

(Ord. of 11-1-1993, § 309; Ord. of 8-8-1994; Ord. of 11-3-1997; Ord. of 5-7-2001, § 309)

**Sec. 14-150. Watershed protection permit.**

- (a) Except where a single-family residence is constructed on a lot deeded prior to the effective date of the ordinance from which this article is derived, no building or built-upon area shall be erected, moved, enlarged or structurally altered, nor shall any building permit be issued, nor shall any change in the use of any building or land be made until a watershed protection permit has been issued by the Watershed Administrator. No Watershed Protection permit shall be issued except in conformity with the provisions of this article.
- (b) Watershed Protection Permit applications shall be filed with the Watershed Administrator. The application shall include a completed application form (see appendix A, on file in the county offices) and supporting documentation deemed necessary by the Watershed Administrator.
- (c) Prior to issuance of a Watershed Protection Permit, the Watershed Administrator may consult with qualified personnel for assistance to determine if the application meets the requirements of this article.
- (d) A Watershed Protection Permit shall expire if the applicant does not obtain a building permit or Watershed Occupancy Permit for such use within 12 months from the date of issuance.

(Ord. of 11-1-1993, § 310; Ord. of 8-8-1994; Ord. of 11-3-1997; Ord. of 5-7-2001, § 310)

**Sec. 14-151. Building permit required.**

No permit required under the State Building Code shall be issued for any activity for which a Watershed Protection Permit is required until that permit has been issued.

(Ord. of 11-1-1993, § 311; Ord. of 8-8-1994; Ord. of 11-3-1997; Ord. of 5-7-2001, § 311)

**Sec. 14-152. Watershed protection occupancy permit.**

- (a) The Watershed Administrator shall issue a Watershed Protection Occupancy Permit certifying that all requirements of this article have been met prior to the occupancy or use of a building hereafter erected, altered or moved and/or prior to the change of use of any building or land.
- (b) A Watershed Protection Occupancy Permit, either for the whole or part of a building, shall be applied for coincident with the application for a Watershed Protection Permit and shall be issued or denied within ten days after the erection or structural alterations of the building.
- (c) When only a change in use of land or existing building occurs, the Watershed Administrator shall issue a Watershed Protection Occupancy Permit certifying that all requirements of this article have been met coincident with the Watershed Protection Permit.
- (d) If the Watershed Protection Occupancy Permit is denied, the Watershed Administrator shall notify the applicant in writing stating the reasons for denial.
- (e) No building or structure, which has been erected, moved, or structurally altered, may be occupied until the Watershed Administrator has approved and issued a Watershed Protection Occupancy Permit.

(Ord. of 11-1-1993, § 312; Ord. of 8-8-1994; Ord. of 11-3-1997; Ord. of 5-7-2001, § 312)

**Secs. 14-153--14-180. Reserved.**

## **DIVISION 4. PUBLIC HEALTH REGULATIONS**

**Sec. 14-181. General, provisions.**

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 improper management of stormwater runoff; or any other situation found to pose a threat to water quality.

(Ord. of 11-1-1993, § 401; Ord. of 8-8-1994; Ord. of 11-3-1997; Ord. of 5-7-2001, § 401)

**Sec. 14-182. Abatement.**

- (a) The Watershed Administrator shall monitor land use activities within the watershed areas to identify situations that may pose a threat to water quality.
- (b) The Watershed Administrator shall report all findings to the Watershed Review Board. The Watershed Administrator may consult with any public agency or official and request recommendations.
- (c) Where the Watershed Review Board finds a threat to water quality and the public health, safety and welfare, the Board shall institute any appropriate action or proceeding to restrain, correct or abate the condition and/or violation.

(Ord. of 11-1-1993, § 402; Ord. of 8-8-1994; Ord. of 11-3-1997; Ord. of 6-7-2001, § 402)

Secs. 14-183--14-200. Reserved.

**DIVISION 5. ADMINISTRATION, ENFORCEMENT AND APPEALS\***

\*Cross references: Administration, ch. 2.

**Sec. 14-201. Watershed Administrator; duties.**

The board of commissioners shall appoint a Watershed Administrator, who shall be duly sworn in. It shall be the duty of the Watershed Administrator to administer and enforce the provisions of this article as follows:

- (1) The Watershed Administrator shall issue Watershed Protection Permits and Watershed Protection Occupancy Permits as prescribed in this article. A record of all permits shall be kept on file and shall be available for public inspection during regular office hours of the Administrator.
- (2) The Watershed Administrator shall serve as clerk to the Watershed Review Board.
- (3) The Watershed Administrator shall keep records of all amendments to this article and shall provide copies of all amendments upon adoption to the Water Quality Section of the Division of Environmental Management.

- (4) The Watershed Administrator shall keep records of the jurisdiction's use of the provision that a maximum of ten percent of the noncritical area of WS-II and WS-III watersheds and, for local governments that do not choose to incorporate the high density option, ten percent of the protected area of WS-IV watersheds may be developed with new development at a maximum of 70 percent built-upon surface area. Records for each watershed shall include the total acres of noncritical watershed area, total acres eligible to be developed under this option, total acres approved for this development option, and individual records for each project with the following information: location, number of developed acres, type of land use and stormwater management plan, if applicable.
- (5) The Watershed Administrator is granted the authority to administer and enforce the provisions of this article, exercising in the fulfillment of his responsibility the full police power of the county. The Watershed Administrator, or his duly authorized representative, may enter any building, structure, or premises, as provided by law, to perform any duty imposed upon him by this article.
- (6) The Watershed Administrator shall keep a record of variances to this article. This record shall be submitted for each calendar year to the Water Quality Section of the Division of Environmental Management on or before January 1 of the following year and shall provide a description of each project receiving a variance and the reasons for granting the variance.

(Ord. of 11-1-1993, § 501; Ord. of 8-8-1994; Ord. of 11-3-1997; Ord. of 5-7-2001, § 501)

**Sec. 14-202. Appeal from the watershed administrator.**

- (a) Any order, requirement, decision or determination made by the Watershed Administrator may be appealed to and decided by the Watershed Review Board.
- (b) An appeal from a decision of the Watershed Administrator must be submitted to the Watershed Review Board within 30 days from the date the order, interpretation, decision or determination is made. All appeals must be made in writing stating the reasons for appeal. Following submission of an appeal, the Watershed Administrator shall transmit to the Board all papers constituting the record upon which the action appealed from was taken.
- (c) An appeal stays all proceedings in furtherance of the action appealed, unless the officer from whom the appeal is taken certifies to the Board after the notice of appeal has been filed with him, that by reason of facts stated in the certificate, a stay would in his opinion cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a court of record on application of notice of the officer from whom the appeal is taken and upon due cause shown.

(d) The Board shall fix a reasonable time for hearing the appeal and give notice thereof to the parties and shall decide the same within a reasonable time. At the hearing, any party may appear in person, by agent or by attorney.

(Ord. of 11-1-1993, § 502; Ord. of 8-8-1994; Ord. of 11-3-1997; Ord. of 5-7-2001, § 502)

**Sec. 14-203. Changes and amendments to article.**

(a) The board of commissioners may, on its own motion or on petition, after public notice and hearing, amend, supplement, change or modify the watershed regulations and restrictions as described in this article.

(b) No action shall be taken until the proposal has been submitted to the Watershed Review Board for review and recommendations. If no recommendation has been received from the Watershed Review Board within 45 days after submission of the proposal to the Chairman of the Watershed Review Board, the board of commissioners may proceed as though a favorable report had been received.

(c) Under no circumstances shall the board of commissioners adopt such amendments, supplements or changes that would cause this article to violate the watershed protection rules as adopted by the State Environmental Management Commission. All amendments must be filed with the State Division of Environmental Management, State Division of Environmental Health, and the State Division of Community Assistance.

(Ord. of 11-1-1993, § 503; Ord. of 8-8-1994; Ord. of 11-3-1997; Ord. of 5-7-2001, § 503)

**Sec. 14-204. Public notice and hearing required.**

Before adopting or amending this article, the board of commissioners shall hold a public hearing on the proposed changes. A notice of the public hearing shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the area. The notice shall be published for the first time not less than ten nor more than 25 days before the date for the hearing.

(Ord. of 11-1-1993, § 504; Ord. of 8-8-1994; Ord. of 11-3-1997; Ord. of 5-7-2001, § 504)

**Sec. 14-205. Watershed Review Board--Establishment.**

The County Board of Adjustments and Appeals as created in section 20-31 et seq., is hereby designated as the Watershed Review Board.

(Ord. of 11-1-1993, § 505; Ord. of 8-8-1994; Ord. of 11-3-1997; Ord. of 5-7-2001, § 505)

**Sec. 14-206. Same--Rules of conduct for members.**

The board of commissioners for cause, including violation of the rules stated below, may remove members of the Board:

- (1) Faithful attendance at meetings of the Board and conscientious performance of the duties required of members of the Board shall be considered a prerequisite to continuing membership on the Board.
- (2) No Board member shall take part in the hearing, consideration, or determination of any case in which he is personally or financially interested. A Board member shall have a financial interest in a case when a decision in the case will:
  - a. Cause him or his spouse to experience a direct financial benefit or loss, or
  - b. Will cause a business in which he or his spouse owns a ten percent or greater interest, or is involved in a decision-making role, to experience a direct financial benefit or loss. A Board member shall have a personal interest in a case when it involves a member of his immediate family (i.e., parent, spouse, or child).
- (3) No Board member shall discuss any case with any parties thereto prior to the public hearing on that case; provided, however, that members may receive and/or seek information pertaining to the case from the Watershed Administrator or any other member of the Board, its secretary or clerk prior to the hearing.
- (4) Members of the Board shall not express individual opinions on the proper judgment of any case prior to its determination on that case.
- (5) Members of the Board shall give notice to the chairman at least 48 hours prior to the hearing of any potential conflict of interest, which he has in a particular case before the board.
- (6) No Board member shall vote on any matter that decides an application or appeal unless he had attended the public hearing on that application or appeal.

(Ord. of 11-1-1993, § 506; Ord. of 8-8-1994; Ord. of 11-3-1997; Ord. of 5-7-2001, § 506)

**Sec. 14-207. Some--Powers and duties.**

- (a) Administrative review. The Watershed Review Board shall hear and decide appeals from any decision or determination made by the Watershed Administrator in the enforcement of this article.
- (b) Variances. The Watershed Review Board shall have the power to authorize, in specific cases, minor variances from the terms of this article as will not be contrary to the public interests where, owing to special conditions, a literal enforcement of this article will result in practical difficulties or unnecessary hardship, so that the spirit of this article shall be observed, public safety and welfare secured, and substantial

justice done. In addition, the county shall notify and allow a reasonable comment period for all other local governments having jurisdiction in the designated watershed where the variance is being considered.

(1) Applications for a variance shall be made on the proper form obtainable from the Watershed Administrator and shall include the following information:

- a. A site plan, drawn to a scale of at least one inch to 40 feet, 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 north point, name and address of person who prepared the plan, date of the original drawing, and an accurate record of any later revisions.
- b. A complete and detailed description of the proposed variance, together with any other pertinent information, which the applicant feels, would be helpful to the Watershed Review Board in considering the application.
- c. The Watershed Administrator shall notify in writing each local government having jurisdiction in the watershed and the entity using the water supply for consumption. Such notice shall include a description of the variance being requested. Local governments receiving notice of the variance request may submit comments to the Watershed Administrator prior to a decision by the Watershed Review Board. Such comments shall become a part of the record of proceedings of the Watershed Review Board.

(2) Before the Watershed Review Board may grant a variance, it shall make the following three findings, which shall be recorded in the permanent record of the case, and shall include the factual reasons on which they are based:

- a. There are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this article. In order to determine that there are practical difficulties or unnecessary hardships, the Board must find that the five following conditions exist:
  1. If he complies with the provisions of this article, the applicant can secure no reasonable return from, nor make reasonable use of, his property. Merely proving that the variance would permit a greater profit to be made from the property will not be considered adequate to justify the Board in granting an variance. Moreover, the Board shall consider whether the variance is the minimum possible deviation from the terms of the article that will make possible the reasonable use of his property.

2. The hardship results from the application of this article to the property rather than from other factors such as deed restrictions or other hardship.
  3. The hardship is due to the physical nature of the applicant's property, such as its size, shape, or topography, which is different from that of neighboring property.
  4. The hardship is not the result of the actions of an applicant who knowingly or unknowingly violates this article, or who purchases the property after the effective date of the ordinance from which this article is derived, and then comes to the Board for relief.
  5. The hardship is peculiar to the applicant's property, rather than the result of conditions that are widespread. If other properties are equally subject to the hardship created in the restriction, then granting a variance would be a special privilege denied to others, and would not promote equal justice.
- b. The variance is in harmony with the general purpose and intent of this article and preserves its spirit.
  - c. In the granting of the variance, the public safety and welfare have been assured and substantial justice has been done. The Board shall not grant a variance if it finds that doing so would in any respect impair the public health, safety, or general welfare.
- (3) In granting the variance, the Board may attach thereto such conditions regarding the location, character, and other features of the proposed building, structure, or use as it may deem advisable in furtherance of the purpose of this article. If a variance for the construction, alteration or use of property is granted, such construction, alteration or use shall be in accordance with the approved site plan.
  - (4) The Watershed Review Board shall refuse to hear an appeal or an application for a variance previously denied if it finds that there have been no substantial changes in conditions or circumstances bearing on the appeal or application.
  - (5) A variance issued in accordance with this section shall be considered a Watershed Protection Permit and shall expire if the applicant does not obtain a building permit or Watershed Occupancy Permit for such use within six months from the date of the decision.
  - (6) If the application calls for the granting of a major variance, and if the Watershed Review Board decides in favor of granting the variance, the Board shall prepare a preliminary record of the hearing with all deliberate speed. The preliminary record of the hearing shall include:

- a. The variance application;
- b. The hearing notices;
- 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.

(7) 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 (i) the property owner can secure no reasonable return from, nor make any practical use of the property unless the proposed variance is granted, and (ii) 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 Watershed Review Board. 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 (i) the property owner can secure a reasonable return from or make a practical use of the property without the variance or (ii) 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 Watershed Review Board. The Board shall prepare a final decision denying the variance as proposed.

(c) Subdivision approval. See division 2 of this article.

(d) Public health. See division 4 of this article.

(e) Approval of all development greater than the low density option. See appendix C, on file in the county offices.

(Ord. of 11-1-1993, § 507; Ord. of 8-8-1994; Ord. of 11-3-1997; Ord. of 5-7-2001, § 507)

**Sec. 14-208. Appeals from the Watershed Review Board.**

Appeals from the Watershed Review Board must be filed with the Superior Court within 30 days from the date of the decision. Decisions by the Superior Court will be in the manner of certiorari.

(Ord. of 11-1-1993, § 508; Ord. of 8-8-1994; Ord. of 11-3-1997; Ord. of 5-7-2001, § 508)

**Secs. 14-209--14-220. Reserved.**

## **DIVISION 6. DEFINITIONS**

**Sec. 14-221. General definitions.**

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Agricultural use* means the use of waters for stock watering, irrigation, and other farm purposes.

*Best management practices (BMP)* means a structural or nonstructural management-based practice used singularly or in combination to reduce nonpoint source inputs to receiving waters in order to achieve water quality protection goals.

*Buffer* means 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.

*Building* means any structure having a roof supported by columns or by walls, and intended for shelter, housing or enclosure of persons, animals or property. The connection of two buildings by means of an open porch, breezeway, passageway, carport or other such open structure, with or without a roof, shall not be deemed to make them one building.

*Built-upon area* means and includes 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.)

*Cluster development* means the grouping of buildings in order to conserve land resources and provide for innovation in the design of the project including minimizing stormwater runoff impacts. The term "cluster development" includes nonresidential development as well as single-family residential and multifamily developments. For the purpose of this article, planned unit developments and mixed use development are considered as cluster development.

*Critical area* means the area adjacent to a water supply intake or reservoir where risk associated with pollution is greater than from the remaining portions of the watershed. The critical area is defined as extending either 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.

*Customary home occupations* means any use conducted entirely within a dwelling and carried on by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling for residential purposes and does not change the character thereof; Provided, further, that no mechanical equipment is installed or used except as is normally used for domestic or professional purposes, and that not over 25 percent of the total floor space of any structure is used for the occupation. No home occupation shall be conducted in any accessory building except for the storage and service of a vehicle that is driven off site, such as a service repair truck, delivery truck, etc.

*Development* means any land disturbing activity, which adds to or changes the amount of impervious or partially impervious cover on a land area or which otherwise decreases the infiltration of precipitation into the soil.

*Dwelling unit* means a building, or portion thereof, providing complete and permanent living facilities for one family.

*Existing development* means those projects that are built or those projects that at a minimum have established a vested right under state zoning law as of the effective date of the ordinance from which this article is derived, based on at least one of the following criteria:

- (1) Substantial expenditures of resources (time, labor, money) based on a good faith reliance upon having received a valid local government approval to proceed with the project;
- (2) Having an outstanding valid building permit as authorized by 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 G.S. 153A-344.1 and G.S. 160A-385.1.

*Existing lot and lot of record* mean a lot which is part of a subdivision, a plat of which has been recorded in the Office of the Register of Deeds prior to the adoption of the ordinance from which this article is derived, or a lot described by metes and bounds, the description of which has been so recorded prior to the adoption of the ordinance from which this article is derived.

*Family* means one or more persons occupying a single dwelling unit, provided that unless all members are related by blood or marriage or adoption, no such family shall contain over five persons, but further provided that domestic servants employed or living on the premises may be housed on the premises without being counted as a family or families.

*Family subdivision means* a division of a tract of land to:

- (1) Convey the resulting parcels, with the exception of parcels retained by the grantor, to a relative or relatives as a gift or for nominal consideration, but only if no more than one parcel is conveyed by the grantor from the tract to any one relative; or
- (2) Divide land from a common ancestor among tenants in common, all of whom inherited by intestacy or by will.

*Industrial development* means any nonresidential 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.

*Landfill* means a facility for the disposal of solid waste on land in a sanitary manner in accordance with G.S. 130A-290 et seq. For the purpose of this article the term "landfill" does not include composting facilities.

*Lot* means a parcel of land occupied or capable of being occupied by a building or group of buildings devoted to a common use, together with the customary accessories and open spaces belonging to such parcel.

*Nonconforming lot of record* means a lot described by a plat or a deed that was recorded prior to the effective date of the ordinance (or its amendments) from which this article is derived that does not meet the minimum lot size or other development requirements of the statewide watershed protection rules.

*Nonresidential development* means all development other than residential development, agriculture and silviculture.

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

*Protected area* means the area adjoining and upstream of the critical area of WS-IV watersheds. The boundaries of the protected area are defined as within five miles of and draining to the normal pool elevation of the reservoir or to the ridgeline of the watershed; or within ten miles upstream and draining to the intake located directly in the stream or river or to the ridgeline of the watershed.

*Residential development* means 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* means any solid or semisolid waste generated from a wastewater treatment plant, water treatment plant or air pollution control facility permitted under the authority of the environmental management commission.

*Single-family residential* means any development where:

- (1) No building contains more than one dwelling unit,
- (2) Every dwelling unit is on a separate lot, and
- (3) No lot contains more than one dwelling unit.

*Street and road* mean a right-of-way for vehicular traffic which affords the principal means of access to abutting properties.

*Structure* means anything constructed or erected, including but not limited to buildings, which requires location on the land or attachment to something having permanent location on the land.

*Subdivider* means any person, firm or corporation who subdivides or develops any land deemed to be a subdivision as defined in this article.

*Subdivision* means all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future) and includes all division of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within this definition nor be subject to the regulations authorized by this article:

- (1) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of this article;
- (2) The division of land into parcels greater than five acres where no street right-of-way dedication is involved;

- (3) The public acquisition by purchase of strips of land for the widening or opening of streets;
- (4) The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of this article;
- (5) The division of a tract into plots or lots used as a cemetery.

*Subdivision ordinance* means the county's subdivision ordinance adopted by the board of commissioners, July 12, 1999, as amended, and set forth in article V, division 2, of this chapter.

*Toxic substance* means 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.

*Variance* means a permission to develop or use property granted by the Watershed Review Board relaxing or waiving a water supply watershed management requirement adopted by the environmental management commission that is incorporated into this article.

*Variance, major*, means 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 a factor greater than five percent, of any buffer, density or built-upon area requirement under the high-density option;
- (3) Any variation in the design, maintenance or operation requirements of a wet detention pond or other approved stormwater management system.

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

*Water dependent structure* means any structure for which the use requires access to or proximity to or citing within surface waters to fulfill its basic purpose, such as boat

ramps, boat 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* means the entire land area contributing surface drainage to a specific point (e.g., the water supply intake.)

*Watershed Administrator* means an official or designated person of county responsible for administration and enforcement of this article.

(Ord. of 11-1-1993, § 601; Ord. of 8-8-1994; Ord. of 11-3-1997; Ord. of 5-7-2001, § 601)

Cross references: Definitions generally, § 1-2.

### **Sec. 14-222. Word interpretation.**

For the purpose of this article, certain words shall be interpreted as follows:

Words in the present tense include the future tense.

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

The term "person" includes a firm, association, corporation, trust, and company as well as an individual.

The term "structure" shall include the term "building."

The term "lot" shall include the terms, "plot," "parcel," or "tract."

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

The term "will" is always mandatory and not merely directory.

(Ord. of 11-1-1993, § 602; Ord. of 8-8-1994; Ord. of 11-3-1997; Ord. of 5-7-2001, § 602)

**Chapter 15 - (RESERVED)**

**Chapter 16 - (RESERVED)**

## **Chapter 17 FIRE PREVENTION\***

\*Cross references: Civil emergencies, ch. 8; emergency services, ch. 11; buildings and building regulations, § 20-61 et seq.; fire protection for site development and improvement standards, § 20-316; burning, disposal or dumping of garbage or refuse near occupied building prohibited, § 23-1.

State law references: Fire protection, G.S. 153A-233 et seq.

### **ARTICLE I. IN GENERAL**

**Secs. 17-1--17-30. Reserved.**

### **ARTICLE II. FIRE PREVENTION CODE**

**Sec. 17-31. Title.**

This article shall be known as the "Fire Prevention Ordinance of Richmond County, North Carolina" and may be cited as such and referred to as "this article."

(Ord. of 8-8-1994, § 1)

**Sec. 17-32. Intent.**

- (a) The intent of this article is to prescribe regulations for safeguarding life and property within the unincorporated limits of the county, and in any municipality which requests it apply to the municipality, from the hazards of fire and explosion arising from the storage, handling and use of hazardous substances, materials and devices, and from hazardous conditions in the use or occupancy of buildings or premises.
- (b) This article shall be in effect within the corporate limits of any municipality within the county if requested by the governing body of the municipality and approved by the board of commissioners.
- (c) This article shall not be construed to impose any liability on the county for any damage to persons or property by reason of any inspection or reinspection authorized in this article, or failure to inspect or reinspect, or permits issued or denied, or by reason of the approval or disapproval of any equipment.

(d) All fire prevention ordinances heretofore adopted by the county are hereby repealed.

(Ord. of 8-8-1994, § 2)

**Sec. 17-33. Fire inspector to enforce article.**

The office of the County Fire Inspector is hereby established. The duty of the Fire Inspector shall be to make the inspections required of this article and to enforce compliance with this article, and he is invested with authority to do so.

(Ord. of 8-8-1994, § 3)

**Sec. 17-34. Adoption of technical codes and standards by reference; copies on file.**

- (a) The code known as, and entitled "Volume V--Fire Protection," of the North Carolina State Building Code, 1991 Edition, and any amendments to it are hereby adopted and incorporated by reference as part of this article. Copies of this article and all codes and standards adopted by reference shall be kept on file in the offices of the clerk to the board of commissioners and the Fire Inspector and open to the public.
- (b) Amendments to codes and standards which have been adopted by reference in this section which are adopted and published by the state building code council shall be effective in the county at the time such amendments become a part of "Volume V- Fire Prevention" of the state building code.

(Ord. of 8-8-1994, § 4)

**Sec. 17-35. Inspection of buildings and premises.**

The Fire Inspector shall inspect or cause to be inspected as often as he deems necessary, all buildings, structures, and premises within his jurisdiction for the purposes of ascertaining and causing to be corrected any condition which may cause fire or explosion, endanger life from fire or explosion, or any violations of the provisions of this article.

(Ord. of 8-8-1994, § 5)

**Sec. 17-36. Permits.**

Permits from the County Inspection Department are required for the following:

- (1) The tax office shall not issue an initial privilege license for any new commercial endeavor until a certificate of compliance has been issued by the fire inspector or his representative.
- (2) Installation, or abandonment of aboveground or belowground tanks storing volatile flammable or combustible liquids. Permits must be obtained from the county inspection department.
- (3) Before any person shall hold any special event such as fireworks, displays, tent assemblies, or any other public assembly not covered by this Code they shall obtain a permit from the County Inspection Department.

(Ord. of 8-8-1994, § 6)

**Sec. 17-37. Removal of obstructions; prohibited parking.**

No person shall place or keep any vehicle, fence, growth, trash or other material near any fire hydrant or fire station that would prevent immediate use of a hydrant or delay fire apparatus from responding to any alarm. Fire lanes shall be properly marked and NO PARKING signs posted. It shall be the responsibility of the management of any commercial property to ensure that the fire lanes are open and accessible to fire apparatus at all times. When such violations are found, the Fire Inspector or his authorized representative is authorized to issue a citation to the person responsible for obstructing a fire hydrant, fire station, or fire lane and to the person responsible for ensuring that the fire lanes are open and accessible.

(Ord. of 8-8-1994, § 7)

**Sec. 17-38. Emergency entry.**

- (a) The Fire Inspector or his authorized representative shall have the right to enter any building or premises without permission or warrant in the event of any emergency situation constituting an immediate threat to human life, property or the public safety for the purpose of inspecting, eliminating, controlling, or abating the dangerous condition or situation.
- (b) If entry or access is denied so as to limit the authorized duties of this Code, the Fire Inspector or his authorized representative shall seek and obtain an administrative search, inspection warrant pursuant to G.S. 15-27.2.

(Ord. of 8-8-1994, § 8)

**Sec. 17-39. Investigation of fires.**

The County Fire Inspector's office shall be notified by the senior fire officer of a Fire Protection District upon the occurrence of any fire in any building listed in section 17-44.

(Ord. of 8-8-1994, § 9)

**Sec. 17-40. Fire records.**

- (a) Fire Protection Districts shall keep a record of all emergency alarms and submit reports of these alarms to the Fire Inspector's Office in accordance with the schedule the Fire Inspector prescribes.
- (b) The Emergency Communications Center shall keep a record of all emergency alarms relating to fire, indicating incident number, time alarm received, time enroute, time arrived and in-service time.

(Ord. of 8-8-1994, § 10)

**Sec. 17-41. Maintaining a fire hazard.**

No person shall knowingly maintain a fire hazard.

(Ord. of 8-8-1994, § 11)

**Sec. 17-42. Carelessness with fire.**

No person shall deliberately, or through carelessness or negligence, set fire to or cause the burning of any material, in such a manner as to endanger the safety of any person or property.

(Ord. of 8-8-1994, § 12)

**Sec. 17-43. Fees.**

- (a) Fees for inspections and penalties for violations of this article shall be determined by resolution of the board of commissioners and may be amended from time to time. The inspection fee schedule shall be kept on record in the offices of the clerk to the board of commissioners and the Fire Inspector.
- (b) Inspection fees shall be paid within the number of days specified in the billing or notice of the amount of the fee.

(Ord. of 8-8-1994, § 13)

**Sec. 17-44. Inspection schedule.**

- (a) In order to preserve and to protect public health and safety, and to satisfy the requirements of G.S. 153A-351, political subdivisions assuming inspection duties, as set out in G.S. 153A-351, shall have a periodic inspection schedule for the purpose of identifying activities and conditions in buildings, structures, and premises that pose dangers of fire, explosion, or related hazards. Such inspection schedule shall be approved by the local governing body and shall be submitted to the Division of Engineering of the Department of Insurance. In no case may inspections be conducted less frequently than described in the schedule below:
  - (1) Once every six months: schools.
  - (2) Once every year: hazardous, institutional, high-rise, assembly and residential (only interior common areas) except one-family and two-family dwelling units of multifamily occupancies, and day care.

(3) Once every two years: educational, (except public schools) and industrial.

(4) Once every three years: business, mercantile, storage, churches and synagogues.

(b) Frequency rates for inspections of occupancies as mandated by the General Statutes shall supersede this schedule. Nothing in this section is intended to prevent a jurisdiction from conducting more frequent inspections than the schedule listed above or the schedule filed with the Engineering Division of the State Department of Insurance.

(Ord. of 8-8-1994, § 14)

**Sec. 17-45. Violations and penalties.**

(a) Any person who shall violate any of the provisions of this article or who shall fail to comply with any judicial warrant, lawful order, or regulation made thereunder, or who builds in violation of any specifications or plans submitted and approved thereunder or any permit issued thereunder, shall be guilty of a misdemeanor punishable by up to a fine of \$500.00. Each day that such violation continues shall constitute a separate offense. In the name of the county, the County Fire Inspector is authorized to institute and prosecute a civil action to enjoin the construction or erection of any facility, building or structure which does not conform to the provisions of this article.

(b) This article may be enforced by any of the remedies set forth in G.S. 153A-123, in addition to others specifically set out in this article.

(c) Any person who violates any of the provisions of this article shall be subject to a civil penalty for each violation in the amount established by ordinance of the board of commissioners from time to time. The civil penalty schedule shall be kept on record with the clerk of the board of commissioners and in the Fire Inspector's Office for public inspection. Each day of violation will constitute a separate and distinct offense.

(d) Civil penalties must be paid within the number of days specified in the citation or notice for a violation of this article. The Fire Inspector is authorized to issue written citations in the name of the county for violations.

(e) Nothing in this section shall preclude the issuance of an arrest warrant.

(Ord. of 8-8-1994, § 15)

**Sec. 17-46. Service of orders or notices.**

(a) Service of orders or notices for the correction of violations of this article will be sufficient if served upon the owner, occupant or other person responsible for the conditions, either by personally delivering a copy of such notice to such person or by

delivering the notice to and leaving it with any person in charge of the premises, or by sending a copy of the order or notice by certified or registered mail to the owner's last known address as shown on the records of the County Tax Assessor.

- (b) When buildings or other premises are occupied by one other than the owner under a lease or other agreement, the orders or notices issued to correct violations of this article arising out of operations conducted on the premises shall apply to the occupant thereof; provided that where the order or notices require making of additions to or changes in the premises themselves which may become part of the real property of the owner, then, in such cases, the orders or notices shall also be issued to the owner of the premises or real property. Failure to deliver an order or notice to the owner, if other than the occupant, shall not invalidate any order or notice duly served on the occupant.

(Ord. of 8-8-1994, § 16)

**Sec. 17-47. Appeals.**

Any person may appeal an order, decision or determination of the Fire Inspector or his representative to the Commissioner of Insurance through the appeal procedure set forth in Chapter 7 of Volume I-A, Administration and Enforcements of the North Carolina State Building Codes, 1991 Edition, or any amendments made to it, and such appeal procedure is adopted by reference. The Fire Inspector shall make available to any person upon request, a copy of the appeal procedure. In addition, a copy of the appeal procedure shall be kept available in the office of the clerk to the board of commissioners.

(Ord. of 8-8-1994, § 17)

## **Chapter 18 - (RESERVED)**

**Chapter 19 - (RESERVED)**

## **Chapter 20 LAND DEVELOPMENT\***

\*Cross references: Any ordinance dedicating or accepting any subdivision plat saved from repeal, § 1-9(11); environment, ch. 14; streets, sidewalks and other public places, ch. 26.

State law references: Planning and regulation of development, G.S. 153A-320 et seq.

### **ARTICLE I. IN GENERAL**

**Secs. 20-1--20-30. Reserved.**

### **ARTICLE II. ADMINISTRATION\***

\*Cross references: Administration, ch. 2.

#### **DIVISION 1 - General**

**Sec. 20-31. Enactment clause.**

Pursuant to the authority conferred by G.S. chs. 153 and 160A, the board of commissioners does hereby ordain and establish into law the following amendments to the ordinance creating the County Planning Board and Board of Adjustments, adopted on September 11, 2000.

(Ord. of 3-13-2000, § I(A); Ord. of 9-11-2000)

**Sec. 20-32. Short title.**

This article shall be known as the "Ordinance Amending the Ordinance Creating the Richmond County Planning Board and Board of Adjustments."

(Ord. of 3-13-2000, § I(B); Ord. of 9-11-2000)

**Sec. 20-33. Jurisdiction.**

This article shall apply to any and all actions that the County Planning Board and the County Board of Adjustments may take as of the effective date of the ordinance from which this article is derived.

(Ord. of 3-13-2000, § I(C); Ord. of 9-11-2000)

**Sec. 20-34. Purpose.**

The purposes of this article are to:

- (1) To amend the ordinance creating the County Planning Board and Board of Adjustments so as to have two separate boards;
- (2) To amend the procedures for the planning and conduct of the quasi-judicial hearing proceedings to account for the changes described in this article.

(Ord. of 3-13-2000, § I(D); Ord. of 9-11-2000, Ord. of 7-12-2004)

### **Sec. 20-35. Definitions.**

For purposes of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning. The present tense is included in the future tense and the future tense is included in the present tense. The singular includes the plural and the plural includes the singular.

*Adverse decision* means a determination that an ordinance has been violated, a permit or Certificate of Completion should be denied or revoked, or a denial of a permit, application, or certificate pursuant to the County Manufactured Home Park Ordinance set forth in division 2 of article VI of this chapter, the Subdivision Ordinance set forth in division 2 of article V of this chapter, any Land Use Plan or Zoning Ordinance adopted by the board of commissioners, or any amendment, addition, or change of any of those such ordinances, plans, or amendments, additions or changes thereto.

*Appeal* means a particular case being heard by the Board of Adjustments as a result of a person's filing a notice of appeal indicating his or her contest of or challenge to an adverse decision and an appeal is allowed by applicable ordinance.

*Applicant* means the person requesting that the Board of Adjustments hear and determine his or her appeal of the decision, ruling, requirement or determination by an administrative official or that Board of Adjustments grant a waiver or variance.

*Board of adjustments* means the County Planning and Zoning Board of Adjustments. The board of commissioners shall appoint the Board of Adjustments in the manner described in the Article.

*Building permit and construction permit* mean a permit authorizing the owner or agent to make physical improvements to a piece of property based on a residential subdivision plan or a manufactured home park or subdivision plan that has received preliminary approval.

*Burden of proof* means the responsibility for producing enough evidence to overcome a presumption to the contrary.

*Competent evidence* means evidence that, in the chair's discretion, is credible and relevant to prove or disprove a fact at issue.

*Critical findings of fact* means facts determined by the Board of Adjustments and pertinent to the Board of Adjustments' decision.

*Evidence* means anything offered before the Board of Adjustments which tends to prove or disprove a fact.

*Lot* means and includes the words plot, parcel or tract. A piece of land whose boundaries have been described by a legal instrument or map recorded with the Register of Deeds.

*Manufactured home park ordinance* means the County Manufactured Home Park Ordinance set forth in division 2 of article VI of this chapter.

*Notice of appeal* means the written notice submitted to the Clerk to the Board of Adjustments by an applicant of his or her intent to contest an Adverse Decision.

*Opponent* means anyone adverse to the petitioner, including, but not limited to, the county and its officers and employees.

*Ordinance* means any ordinance duly adopted by the board of commissioners.

*Other interested parties* means a person other than the applicant or the opponent who has a substantial interest in the outcome of the proceeding and who may be adversely affected by the decision to be rendered by the Board of Adjustments for a particular proceeding. Such other interested parties shall, at the discretion of the Board of Adjustments, have standing to become a party to the proceeding, which is before the Board of Adjustments.

*Planning board* means the County Planning and Zoning Board of Adjustment.

*Presumption of correctness* means an assumption that the adverse decision, which is contested by the applicant, was correct and not in violation of applicant's rights.

*Proceeding* means a quasi-judicial proceeding or hearing.

*Subdivision ordinance* means the Subdivision Ordinance of the county set forth in division 2 of article V of this chapter.

(Ord. of 3-13-2000, § I(E); Ord. of 9-11-2000, Ord. of 7-12-2004; Ord. 6-22-2006)  
Cross references: Definitions generally, § 1-2.

## **DIVISION 2 – Planning and Zoning Board of Adjustment**

(Ord. 3/21/2006)

### **Sec. 20-36. Establishment of the Planning and Zoning Board of Adjustments**

The County Planning and Zoning Board of Adjustments is hereby established to perform the activities described in this article.

### **Sec. 20-37. Membership of Planning and Zoning Board of Adjustments.**

1. There shall be a total of seven (7) member appointed to the Planning and Zoning Board of Adjustment by the County Commissioners. The County Commission, at its discretion may set and provide compensation from time to time.
2. None of the members of the Planning and Zoning Board of Adjustments shall hold any other public office or position with the county or any municipality in the county.
3. All members of the Planning and Zoning Board of Adjustment shall be adult citizens and residents of the county.

### **Sec. 20-38. Terms of membership of the Planning and Zoning Board of Adjustments**

1. Except as is provided in this article, the term of a Planning and Zoning Board of Adjustment membership is three years.
2. In appointing the original members of the Planning and Zoning Board of Adjustment, or in filling vacancies caused by the expiration of the terms of existing members, the board of commissioners may appoint some members for less than three years, in order that the terms of all members do not expire at the same time.

### **Sec. 20-39. Alternate members of Planning and Zoning Board of Adjustments.**

1. The board of commissioners may appoint alternate members to the Planning and Zoning Board of Adjustments in the same manner as appointing regular members. Such alternate members shall serve on the Planning and Zoning Board of Adjustments in the absence of any regular member.
2. Alternate members shall be appointed for the same term, at the same time, and in the same manner as regular members of the Planning and Zoning Board of Adjustment.
3. While attending any regular or special meeting of the Planning and Zoning Board of Adjustment and serving in the absence of a regular member, an alternate member of the Planning and Zoning Board of Adjustment has and may exercise all the powers and duties of a regular member.

**Sec. 20-40. Powers and duties of Planning and Zoning Board of Adjustment.**

1. Administrative review. The Planning and Zoning Board of Adjustments shall hear and decide appeals where it is alleged that there is error in any order, requirement, decision, or determination made by any administrative official in the application or enforcement of any provision Chapter 14 and 20 of the Richmond County Code, the Richmond County Zoning Ordinance, any Land Use Plan, or any other ordinance specifically granting jurisdiction, including amendments, additions, or changes to any such codes, ordinance, or plans. Upon review, the Planning and Zoning Board of Adjustments may reverse or affirm, wholly or in part, or may modify the administrative official's decision, order, requirement or determination, and may direct the issuance of certificates or permits that are the subject of the appeal.
2. Variances/waiver of requirements. Upon application, the Planning and Zoning Board of Adjustments may authorize exceptions from the requirements of the ordinances referenced in subsection (a) of this section deemed reasonable and in keeping with general purpose and intent, but only if the literal enforcement of one or more provisions is impractical or would exact undue hardship upon the applicant due to the particular conditions of the land in question. The Planning and Zoning Board of Adjustments shall hear and decide applications for variances; and if the Planning and Zoning Board of Adjustments authorizes a variance, it shall make specific findings of fact that support the following conclusions:
  - a. There are practical difficulties or unnecessary hardships in the way of carrying out the strict letters of the ordinances referenced in subsection (a) of this section, as demonstrated by:
    - i. If the applicant complies with the literal terms of the ordinance, he or she cannot secure a reasonable return from, or make a reasonable use of his property;
    - ii. The hardship of which the applicant complains results from unique circumstances;
    - iii. The hardship is not the result of the applicant's own action;
  - b. The variance applied for is in harmony with the general purpose and intent of the ordinance and preserves its spirit; and
  - c. In granting of the variance, the Planning and Zoning Board of Adjustments has assured that public safety and welfare have been protected and substantial justice has been done.

The Planning and Zoning Board of Adjustments shall enter the reasoning on which it grants or denies the application for variance in writing. In addition, the grant or denial of the application and the reasoning for the grant or denial shall be made in writing

and sent to the applicant within ten days of the action by the Planning and Zoning Board of Adjustments.

In ruling on the application, the Planning and Zoning Board of Adjustments shall not grant a variance or waiver of the requirements of this subsection solely because of a demonstration of financial disadvantage.

If the Planning and Zoning Board of Adjustments grants an application for variance, it may attach thereto any conditions and safeguards as it deems reasonably necessary or desirable in furthering the purposes of the ordinances described above. Departure from or violation of any of those conditions shall be deemed a violation of those ordinances, and shall necessitate imposition of such penalties as are permitted by the ordinances or law.

A variance, once granted, shall continue for an indefinite period of time, unless otherwise provided at the time that the variance was granted.

3. Conditional Use Permit Review. The Planning and Zoning Board of Adjustments shall hear and decide to approve or deny those application designated as Conditional Use as found in the Richmond County Zoning Ordinance, Section 6.
4. Review and Recommendations. The Planning and Zoning Board of Adjustment shall advise and comment on whether the proposed zoning map or ordinance text amendment is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The board shall provide a written recommendation to the board of county commissioners that addresses plan consistency and other matters as deemed appropriate by the board, but a comment by the board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the governing board.

The Planning and Zoning Board of Adjustment Board shall work with the county planning and administrative staff to:

- a. Develop, review and recommend map and/or text amendments to the County Zoning Ordinances;
- b. The County Board of Commissioners may also direct the Planning and Zoning Board of Adjustment to:
  - i. Make studies of the county and surrounding areas;
  - ii. Determine objectives to be sought in the development of the study area;
  - iii. Prepare and adopt plans for achieving these objectives;
  - iv. Develop and recommend policies, ordinances, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner;

- v. Advise the board of commissioners concerning the use and amendment of means for carrying out plans;
- vi. Exercise any functions in the administration and enforcement of various means for carrying out plans that the board of commissioners may direct;
- vii. Perform any other related duties that the board of commissioners may direct.

**Sec. 20-41. Procedures; notice.**

Applications for appeals of administrative orders, variances of any ordinance requirements of this Chapter or other Chapters assigned to the Planning and Zoning Board of Adjustments for review, or any other review procedures assigned to the Planning and Zoning Board of Adjustment by ordinance (i.e. Condition Use Applications, shall be submitted to the Planning Department Staff. The Department Staff shall present the application at a public hearing before the Planning and Zoning Board of Adjustment at its next regular meeting at least 15 days from the date the application was submitted along with all relevant information collected by staff. Notice of a public hearing as to an application for variance by the Planning and Zoning Board of Adjustments shall comply with the provision of G.S. 153A-323 and G.S. 153A-342, as amended, and as follows:

1. Newspaper notice. Department staff shall cause a notice of the public hearing to be published as a legal advertisement in a newspaper of general circulation in the county once a week for two successive weeks, the first publication of which shall not appear less than ten days or more than 25 days prior to the date for the public hearing. The notice shall include the time, place, and date of the hearing, as well as information about the variance request.
2. Mailed notice. Department staff shall cause notice of the public hearing to be sent by mail to the owners of all parcels of land immediately adjacent to the parcel of land for which a public hearing and review has been requested (as shown on the county tax maps) at the last address listed for such owners as shown on the county tax records. Such notice must be deposited in the mail at least ten, but not more than 25, days prior to the date of the public hearing. The person mailing such notices shall certify to the Planning and Zoning Board of Adjustments that fact, and such certificate shall be deemed conclusive in the absence of fraud.
3. Posted notice. A sign advertising the public hearing shall be posted by the Department Staff in a prominent location on the property for which public hearing and review has been requested. Such sign shall be posted at least ten days prior to the public hearing date.

The Planning and Zoning Board of Adjustment may subpoena witnesses and compel the production of evidence. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the Planning and Zoning Board of Adjustment may apply to the General Court of Justice for an order requiring that its order be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties. No testimony of any

witness before the Planning and Zoning Board of Adjustment pursuant to a subpoena issued in exercise of the power conferred by this subsection may be used against the witness in the trial of any civil or criminal action other than a prosecution for false swearing committed on the examination. Any person, who, while under oath during

**Sec. 20-42. Conduct of quasi-judicial proceeding.**

When the Planning and Zoning Board of Adjustments sits to hear an appeal from an administrative official's decision, or an application for a variance or waiver of requirements, or an application for a Conditional Use Permit, or any other review process assigned to the Board by ordinance or code, it shall conduct its hearing pursuant to these rules for a quasi-judicial proceeding, below.

1. Purpose. The purpose of these procedures is to provide an orderly method by which the Planning and Zoning Board of Adjustments can hear and decide all such quasi-judicial proceedings.
2. Objectives. The objectives of the Planning and Zoning Board of Adjustments when conducting a quasi-judicial proceeding are:
  - a. To conduct all such proceedings in a fair and efficient manner;
  - b. To base all decisions on competent and relevant evidence;
  - c. To ensure that the applicable ordinance is being enforced and administered in a fair and efficient manner; and
  - d. To provide the citizens of the county with an administrative avenue to contest and appeal decisions made pursuant to one of the applicable ordinances when those decisions adversely affect them and the ordinances allow an appeal.
3. Procedure.
  - a. The Applicant, Opponent, and Other Interested Parties (or their attorneys) shall be required to appear in person at the Proceeding;
  - b. The following Procedure shall be followed for each Proceeding:
    - i. Where the Proceeding is a public hearing, the Planning and Zoning Board of Adjustments shall go into public hearing. The Planning and Zoning Board of Adjustments may go into closed session only in accordance with the State Open Meetings Law.
    - ii. All parties and interested persons wishing to appear before the Planning and Zoning Board of Adjustments and present evidence or testimony with respect to the proceeding shall be identified before any evidence is introduced.

- iii. The Board Chairman shall swear in all witnesses appearing in a case.
- iv. The Chairman, or such person as he shall direct, shall give a preliminary statement of the Proceeding. The preliminary statement shall contain the name of the Applicant and the determination requested by the Applicant.
- v. The Applicant shall present his side of the Proceeding. The Applicant shall be entitled to introduce evidence and present witnesses in presenting his side, subject to cross-examination by the other parties in the case.
- vi. The members of the Planning and Zoning Board of Adjustments may question the Applicant and his witnesses.
- vii. At the close of the Applicant's evidence, Opponents and Other Interested Parties may present evidence to the Planning and Zoning Board of Adjustments. All evidence introduced or testimony presented shall be subject to cross-examination by the applicant.
- viii. The members of the Planning and Zoning Board of Adjustments may question opponents, other interested parties, and their witnesses.
- ix. At the close of all evidence introduced by the Opponents, or Other Interested Parties, the Applicant shall be given an opportunity to introduce rebuttal evidence in accordance with the procedures listed in this section.
- x. The Planning and Zoning Board of Adjustments in its discretion may allow persons not a party to the Proceeding to testify before the Planning and Zoning Board of Adjustments and present documentary evidence. Such persons may be cross-examined by the parties in the case, and may be questioned by the Planning and Zoning Board of Adjustments.
- xi. After all evidence has been introduced; the Applicant, Opponents, and Other Interested Parties shall be allowed to make concluding arguments before the Planning and Zoning Board of Adjustments.
- xii. The Planning and Zoning Board of Adjustments may, at its discretion, request additional facts and information from the Applicant, Opponent, or Other Interested Parties before arriving at a determination of the case. If such additional information is requested, the proceeding may be continued to another meeting of the Planning and Zoning Board of Adjustments.
- xiii. The Planning and Zoning Board of Adjustments shall discuss the evidence presented and determine the findings of fact by a majority vote. If the proceeding is a public hearing, the Planning and Zoning Board of Adjustments shall close the public hearing before making any findings of fact.

- xiv. After all Findings of Fact have been determined by the Planning and Zoning Board of Adjustments, the Planning and Zoning Board of Adjustments may by majority vote draw conclusions based on the Findings of Fact as determined by the Planning and Zoning Board of Adjustments.
  - xv. After the Planning and Zoning Board of Adjustments has drawn all conclusions, the Planning and Zoning Board of Adjustments shall by majority render a decision.
  - xvi. Notwithstanding the above, the Planning and Zoning Board of Adjustments may discuss the evidence generally at the close of a Proceeding, indicate a proposed decision by consensus, and may Planning Staff to draft the Findings of Fact and conclusions for consideration by the Planning and Zoning Board of Adjustments at a meeting so designated by the Planning and Zoning Board of Adjustments. If the decision by the Board is unanimous, the Board may authorize the Chairman to approve the Findings of Fact and Conclusions of Law in keeping with the unanimous decision. In such cases, additional meetings of the Board shall not be required.
4. Rules of evidence. The Rules of Evidence shall bind neither the Planning and Zoning Board of Adjustments nor the Applicant, nor the Opponents, nor Other Interested Parties. The Chair of the Planning and Zoning Board of Adjustments shall have the sole discretion to determine whether evidence may be introduced according to the purposes and objectives of the Planning and Zoning Board of Adjustments, as stated above.
5. Decisions.
- a. Written decision required. The Planning and Zoning Board of Adjustments shall issue a written decision for all proceedings within 45 days. The decision shall contain the following sections:
    - i. "Findings of Fact," which shall list the facts of the Proceeding as determined by the Planning and Zoning Board of Adjustments;
    - ii. "Conclusions," which shall list the conclusions reached by the Planning and Zoning Board of Adjustments in light of the facts listed in the Findings of Fact; and
    - iii. "Decision," which shall state the decision of the Planning and Zoning Board of Adjustments
  - b. Findings of fact. Critical findings of fact made by the Planning and Zoning Board of Adjustments shall be based on sworn testimony or other competent evidence.

- c. Presumption of correctness. If the Proceeding is an Appeal, the adverse decision from which the Applicant is appealing shall be presumed to be correct. The burden of proving that the decision was incorrect shall be upon the Applicant.
- d. Notification of decision. The Planning and Zoning Board of Adjustments shall send to the Applicant, the Opponents, and Other Interested Parties appearing before the Planning and Zoning Board of Adjustments a copy of the written decision.

**Sec. 20-43. Board Organization.**

1. Chair. The Planning and Zoning Board of Adjustment shall elect a Chairperson from its membership at the July meeting of each year. The Chair shall have the following duties and responsibilities in relation to a quasi-judicial hearing of the Planning and Zoning Board of Adjustments:
  - a. The Chair shall conduct the proceedings in an orderly and efficient manner, consistent with the terms of the applicable ordinance;
  - b. The Chair shall rule on questions of procedure and evidence in accordance with these rules. Unless otherwise specified by the Ordinance, the Chair may, in his discretion, set time frames within which documents connected with the proceeding must be filed with the Clerk to the Planning and Zoning Board of Adjustments. Unless prohibited by the ordinance, the Chair may, in his or her discretion and for good cause shown, allow an extension of time for any such filing.
  - c. The Chair shall, in conjunction with the Clerk to the Planning and Zoning Board of Adjustments be responsible for formulating the written decisions of the Board.
  - d. The Chair shall administer oaths to witnesses presenting testimony and evidence to the Board
2. Vice-chair. The Planning and Zoning Board of Adjustment shall elect a Chairperson from its membership at the July meeting of each year. The Vice-Chair shall be responsible for conducting all duties and responsibilities of the Chair relating to the proceedings in the Chair's absence.
3. Clerk to the Planning and Zoning Board of Adjustments. The County Director of Planning, or designee, shall be the Clerk to the Board and shall have the following duties and responsibilities:
  - a. Minutes. The Clerk shall be responsible for taking clear, accurate, and detailed minutes at all Proceedings of the Planning and Zoning Board of Adjustment. Such

minutes shall be detailed, and shall contain a summary of statements made by members of the Planning and Zoning Board of Adjustment.

- b. Maintain records. The Clerk shall be responsible for maintaining all records associated with the proceedings. Such records shall include, but not be limited to, the notice of appeal or application for variance/waiver or requirement submitted by the applicant in accordance with an ordinance (where applicable), the response to a request for variance/waiver of requirements filed by an opponent or other interested party (as allowed by the Planning and Zoning Board of Adjustment), the application for any permit (where applicable), the minutes, and all documentary evidence introduced before the Planning and Zoning Board of Adjustment.
  - c. Notification and correspondence. The Clerk shall be responsible for all correspondence and notification required by the terms of these procedures. Such notification shall include a notice to the applicant by certified mail of the date, time and place of the Proceeding.
  - d. Written decisions. The Clerk shall, in conjunction with the Chair, be responsible for compiling the written decisions of the Planning and Zoning Board of Adjustment. The Clerk to the Planning and Zoning Board of Adjustment shall be responsible for sending a copy of the written decision to the Applicant, the Opponents, and Other Interested Parties appearing in a particular Proceeding.
4. Attendance at meetings. Each Planning and Zoning Board of Adjustment member is responsible for faithfully attending all regular Board meetings. Any Planning and Zoning Board of Adjustment member who expects to be absent at an upcoming meeting shall so notify the Chair or Clerk as soon as possible. If any Planning and Zoning Board of Adjustment member is absent from any three consecutive regular meetings or from three or more regular meetings held within the past 12-month period, that member shall not be allowed to sit on the Board until there is a majority vote of the County Commissioners to reinstate said member to the Board.
5. Meeting schedules.
1. The Planning and Zoning Board of Adjustment shall, at the July meeting of each year, set the time and date for its regular meetings monthly meetings to be held in the County Commissioners Chambers. The meeting may be held at other places as directed by the Chairman of the Planning and Zoning Board of Adjustment as needed. Said schedule shall be forwarded to the County Clerk.
  2. The Chairman of the Planning and Zoning Board of Adjustment may call special meetings of the Board at any time. Either the Chairman or the Clerk will give at least 48 hours notice of the time, place and subject of the meeting to each member. Such notice shall also be forwarded to the County Clerk.

3. If there is no agenda items for a scheduled meeting the Chairman may direct the clerk to dispense with the regular meeting by given written or oral notice no less than 24 hours to the Board membership.
6. Quorum. The Planning and Zoning Board of Adjustment shall not pass on any question relating to appeal, variance or any other question that is the before the Board when fewer than 4 members are present and sitting. A four-fifth (4/5) vote of the Board shall be required to reverse any order, decision, or determination of the administrative official charged with the specific enforcement action; to decide in favor of the applicant any matter upon which it is required to pass under any ordinance; or to grant a variance from the provisions of the ordinance.
7. Rules of Conduct: A member of the Planning and Zoning Board of Adjustment shall not participate in or vote on any matter in a manner that would violate persons' constitutional rights to an impartial decision. The Board of County Commissioners may remove for cause any member of the Planning and Zoning Board of Adjustment, including, but not limited to violations of the rules below:
  - a. Faithful attendance at all Planning and Zoning Board of Adjustment meetings and conscientious performance of the duties required of Board members shall be considered a prerequisite of continuing membership on the Board.
  - b. Board members having undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter.
  - c. No Board member shall vote on any matter that decides an application or appeal unless he has attended the public hearing on that case.
  - d. Board members shall not express individual opinions on the proper judgment of any case with any parties thereto before that case is determined.
  - e. Board members shall refrain and avoid from publicly speaking out on any issue before the Board, Board of Commissioners, or any board or commission appointed by the Board of Commissioners
  - f. Board members not disclosing having a fixed opinion that is not susceptible to change, prior to hearing the matter,
  - g. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

**Secs. 20-48--20-60. Reserved.**

## **ARTICLE III. BUILDINGS AND BUILDING REGULATIONS\***

\*Cross references: Environment, ch. 14; fire prevention, ch. 17; floods, § 20-166 et seq.; manufactured homes and trailers, § 20-406 et seq.; solid waste, ch. 23; streets, sidewalks and other public places, ch. 26; smoking in county buildings, § 26-2.

State law references: Building inspection, G.S. 153A-350 et seq.

### **DIVISION 1. GENERALLY**

**Secs. 20-61--20-75. Reserved.**

### **DIVISION 2. BUILDING CODE**

**Sec. 20-76. Administration.**

The board of commissioners hereby establishes a Division of Inspections. The Division of Inspections will be supervised by the County Building Inspector and will include building, electrical, plumbing, insulation, and mechanical inspectors. The inspectors shall be charged with the responsibility of enforcing the codes included in this article.

(Ord. of 5-29-1979, § 1.1)

Cross references: Administration, ch. 2.

**Sec. 20-77. Jurisdiction.**

The State Building Code, as adopted in this article, shall be administered and enforced in all parts of the county, a political subdivision of the state, excepting the following:

- (1) The incorporated area of a municipality, unless such municipality's governing board agrees to allow the county to enforce the code within its jurisdiction;
- (2) The extraterritorial area of a municipality, where the municipality exercises its jurisdiction, excepting such municipalities as mentioned in subsection (1) of this section.

(Ord. of 5-29-1979, § 1.2)

**Sec. 20-78. Building code adopted.**

The North Carolina State Building Code, as adopted by the North Carolina Building Code Council, and as amended, is hereby adopted by reference as fully as though set forth in this section as the Building Code of the county to the extent such code is applicable for safe and stable design, methods of construction, minimum standards and use of materials in buildings or structures hereafter erected, enlarged, altered, repaired, or otherwise constructed or reconstructed. The Building Code Volumes include but may not be limited to”

North Carolina State Building Code, Administrative Law  
North Carolina State Building Code, Building Code  
North Carolina State Building Code, Accessibility Code  
North Carolina State Building Code, Plumbing Code  
North Carolina State Building Code, Mechanical Code  
North Carolina State Building Code, Electrical Code  
North Carolina State Building Code, Fire Prevention Code  
North Carolina State Building Code, Fuel Gas Code  
North Carolina State Building Code, Energy Code  
North Carolina State Building Code, Existing Buildings Code  
North Carolina State Building Code, Residential Code

Exception to this application of the above referenced codes is found in NCGS 143-138(b) as amended.

(Ord. of 5-29-1979, § 2.1 Ord. of 5-3-2004)

**Sec. 20-79. Reserved**

(Ord. of 5-29-1979, § 2.2 Ord of 5-3-2004)

**Sec. 20-80. Reserved**

(Ord. of 5-29-1979, § 2.3 Ord. of 5-3-2004)

**Sec. 20-81. Uniform standards code for manufactured homes.**

The North Carolina Uniform Standards Code for Manufactured Homes, as adopted by the North Carolina Building Code Council, is hereby adopted by reference as fully as though set forth in this section.

(Ord. of 5-29-1979, § 2.4 Ord. of 5-3-2004)

**Sec. 20-82. Amendments to code.**

Amendments to the regulatory codes adopted by reference in this article, which are from time to time adopted and published by the agencies or organizations referred to in this article shall be effective in the county at the time such amendments are filed with the county inspections superintendent.

(Ord. of 5-29-1979, § 2.5)

**Sec. 20-83. Permits--Application.**

An application shall be made, on forms provided by the Inspections Division, to secure permits. Permits shall be obtained prior to the commencement of any construction.

- (A) Before commencement of any work for which a permit is required by G.S. 153A-357, the owner of the property shall apply to the Building Inspector for a permit to build. This permit shall be given in writing and shall contain a provision that the requirements of the building law. As the building progresses, the Inspector shall make as many inspections as may be necessary to satisfy him or her that the building is being constructed according to the provisions of this chapter. As soon as the building is completed, the owner shall notify the Inspector, who shall proceed at once to inspect the building and determine whether or not the flues and the building are properly constructed in accordance with the building law.
- (B) If the building meets the requirements of the building law, the Inspector shall then issue to the contractor or owner of the building a certificate, which shall state that he or she has complied with the requirements of the building law as to that particular building, giving description and locality and street number, if numbered. The Inspector shall keep his or her record so that it will show readily by reference all such buildings as are approved. The Inspector shall report to the Insurance Commissioner every person neglecting to secure such permit and certificate and also bring the matter before the County Manager for his or her attention and action.

(Ord. of 5-29-1979, § 3.1, Ord. of 5-3-2004)

### **Sec. 20-83A Building Permit Moratorium While A Petition For Change Of Zoning Is Pending**

No building permit shall be issued for construction of a building on property for which a petition for change of zoning is pending. This moratorium shall be in effect from the time when the County receives such a petition until the petition is either denied or approved by the County Board of Commissioners.

(Ord. 5-3-2004)

### **Sec. 20-83B Defects In Building**

Whenever the Building Inspector finds any defects in any new building or finds that the building is not being constructed or has not been constructed in accordance with the provisions of this chapter or that an old building because of its condition is dangerous or likely to cause a fire, it shall be his or her duty to notify the owner of the building of the defects or the failure to comply with this chapter, and the owner or builder shall immediately remedy the defect and make the building comply with the law. The owner or builder may appeal from a decision of the Building Inspector to the Insurance Commissioner.

(Ord. 5-3-2004)

### **Sec. 20-83C Failure To Comply With Order**

If the owner or builder erecting any new building, upon notice from the Building Inspector, shall fail or refuse to comply with the terms of the notice by correcting the defects pointed out in such notice so as to make such building comply with the building code, he or she shall be guilty of a misdemeanor. Every day during which any defect in the building is willfully allowed to remain after notice from the Inspector shall constitute a separate and distinct offense.

(Ord. 5-3-2004)

### **Sec. 20-84. Same--Site plan.**

A site plan, drawn to scale, of all construction projects shall be submitted to the Inspections Division, at the time of application. The plan should be on a minimum 8 1/2-inch by 11-inch paper and include: a scale, the location of the structure on the lot, the distance of the structure from the intersection of two state roads, the dimensions of the structure, the height of the structure, the lot lines, a rough floor plan, the location and size of all accessory structures, and the name and address of the author.

(Ord. of 5-29-1979, § 3.2)

### **Sec. 20-85. Same--Flood hazard maps.**

A building permit shall not be issued for any structure to be located within Flood Hazard Area (Zone A) as delineated on the United States Department of Housing and Urban Development Flood Hazard Boundary Maps until such permit is stamped on its face "In Flood Hazard Area." Construction in flood hazard areas shall comply with all local ordinances relating to flood hazards.

(Ord. of 5-29-1979, § 3.3)

### **Sec. 20-86. Same--Time limits.**

All permits shall expire by limitation 180 days after the date of issuance if the work authorized by the permit has not been commenced. If after commencement the work is discontinued for a period of 12 months, the permit therefor shall immediately expire. No work authorized by any permit that has expired shall thereafter be performed until a new permit has been secured.

(Ord. of 5-29-1979, § 3.4)

### **Sec. 20-87. Schedule of fees.**

A schedule of permit and inspection fees in on file at the county clerk's office.

(Ord. of 5-29-1979, art. IV)

**Sec. 20-88 Copies Of Codes Filed**

An official copy of each regulatory code adopted in this subchapter and official copies of all amendments thereto shall be kept on file in the office of the Building Inspector. The copies shall be the official copies of the codes and amendments.

(Ord. 5-3-2004)

**Secs. 20-89--20-105. Reserved.**

(Ord. 5-3-2004)

**DIVISION 3. ELECTRICAL CODE\***

\*State law references: Certification by electrical inspectors, G.S. 153A-351.

**Sec. 20-106. Permit required to connect power supply or distribution lines.**

It shall be unlawful for any corporation, cooperative association or person acting in person or through an agent to connect to any new dwelling structure in the county electric power supply or distribution lines without having in possession a permit issued by the County Electrical Inspector authorizing such connection.

(Ord. of 11-2-1970, § 1)

**Sec. 20-107. Connection to sewage disposal system required prior to connection of electrical service.**

It shall be unlawful for the County Electrical Inspector to issue a permit for the connection of the electric service to any new dwelling structure in the county without having in his own possession a certificate from the county board of health certifying that the structure is connected to a sewage disposal system which meets the requirements of the county board of health and the State Board of Health.

(Ord. of 11-2-1970, § 2)

**Sec. 20-108. Rating of electric service entrance.**

The County Electrical Inspector shall not issue a permit to connect electric service to any new dwelling structure in the county unless the electric service entrance to the structure is rated for at least 100 amps and the wiring system of the structure meets the electrical and building codes of the state.

(Ord. of 11-2-1970, § 3)

**Sec. 20-109. Contents of permit; filing.**

Each permit issued by the County Electrical Inspector for the connection of electric service to any new dwelling service in the county shall contain the name of the owner of the structure, the address of the owner of the structure, the date of the inspection, the location of the structure and a brief description of the structure. On the fifth day of each month the Electrical Inspector shall file with the clerk to the board of commissioners a copy of each permit for the connection of electrical service to a new dwelling structure issued during the preceding month.

(Ord. of 11-2-1970, § 4)

**Sec. 20-110. Definition.**

The term "new dwelling structure" for the purpose of this division includes a new or used structure designed primarily for human family inhabitation which is permanently or temporarily moved to, placed upon, or constructed upon any parcel of real estate in the county after January 1, 1971.

(Ord. of 11-2-1970, § 5)

Cross references: Definitions generally, § 1-2.

**Sec. 20-111. Penalty for violations.**

Any person who shall violate the provisions of this division shall be guilty of a misdemeanor punished by a fine of not more that \$500.00 or imprisonment for not more than 30 days in the discretion of the court as provided by G.S. 14-4.

(Ord. of 11-2-1970, § 6)

**Sec. 20-112. Applicability of division.**

This division shall be effective within the corporate limits of any municipality within the county, which shall by resolution so agree.

(Ord. of 11-2-1970, § 7)

**Secs. 20-113--20-130. Reserved.**

**DIVISION 4. MINIMUM HOUSING CODE\***

\*State law references: Minimum housing standards, G.S. 160A-441 et seq.

**Sec. 20-131. Finding; purpose.**

- (a) Pursuant to G.S. 160A-441, it is hereby declared that there exist in the county dwellings which are unfit for human habitation due to dilapidation, defects increasing the hazards of fire, accidents and other calamities; lack of ventilation, light and sanitary facilities; and other conditions rendering such dwellings unsafe or unsanitary, dangerous and detrimental to the health, safety and morals, and otherwise inimical to the welfare of the residents of the county. It is further found that there exists within the County abandoned structures which are found to be hazardous to the health, safety and welfare of residents within the County due to the attraction of insects or rodents, conditions creating a fire hazard, dangerous conditions constituting a threat to children or frequent use by vagrants as living quarters and/or otherwise unlawful occupation in the absence of sanitary facilities. Therefore, pursuant to the authority granted by G.S. 160A-441 and GS 153A-336, it is the intent of this subchapter to provide for the repair, closing or demolition of any such abandoned structures in accordance with the same provisions and procedures as are set forth by law for the repair, closing or demolition of dwellings unfit for human habitation.
- (b) In order to protect the health, safety and welfare of the residents of the county as authorized by G.S. 160A-441 et seq., it is the purpose of this division to establish minimum standards of fitness for the initial and continued occupancy of all buildings used for human habitation, as expressly authorized by G.S. 160A-441.

(Ord. of 9-11-1989, § 1) (Ord. 6/4/2007)

**Sec. 20-132. Definitions.**

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Abandoned Structure* means any structure within the County's Jurisdictions that is deemed to be in violation of this Division whenever the structure constitutes a hazard to the health, safety or welfare of the county citizens as a result of:

- (1) The attraction of insects or rodents;
- (2) Conditions creating a fire hazard;
- (3) Dangerous conditions constituting a threat to the public; or
- (4) Frequent use by vagrants as living quarters and/or otherwise unlawful occupation in the absence of sanitary facilities.

*Basement* means a portion of a dwelling, which is located partly underground, having direct access to light from windows located above the level of the adjoining ground.

*Cellar* means a portion of a dwelling, which is located partly, or wholly underground having an inadequate access to light and air from windows located partly or wholly below the level of the adjoining ground.

*Deteriorated* means that a dwelling is unfit for human habitation and can be repaired, altered or improved to comply with all of the minimum standards established by this division at a cost not in excess of 50 percent of its value, as determined by finding of the inspector.

*Dilapidated* means that a dwelling is unfit for human habitation and cannot be repaired, altered or improved to comply with all of the minimum standards established by this division except at a cost in excess of 50 percent of its value, as determined by finding of the inspector.

*Dwelling* means any building, structure, or part thereof, which wholly or partly is used or intended to be used for living, sleeping or habitation by human occupants, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith. "Temporary housing," as defined in this section, shall not be regarded as a dwelling. The term shall include within its meaning the terms "roominghouse" and "rooming unit," as defined in this section.

*Dwelling unit* means any room or group of rooms located within a dwelling and forming a single habitable unit with facilities, which are used or intended to be used for living, sleeping, cooking and eating.

*Extermination* means the control and elimination of insects, rodents or other pests by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating or trapping; or by any other recognized and legal pest elimination methods approved by the inspector.

*Garbage* means the organic waste resulting from the handling, preparation, cooking and consumption of food.

*Habitable room* means a room or enclosed floor space used or intended to be used for living, sleeping, cooking, or eating purposes, excluding bathrooms, water closet compartment, laundries, heater rooms, foyers, or communicating corridors, closets and storage spaces.

*Infestation* means the presence, within or around a dwelling, or any insects, rodents, or other pests in such number as to constitute a menace to the health, safety or welfare of the occupants or the public.

*Inspector* means the Building Inspector of the county, Public Officer as defined herein, or any authorized agent of the Inspector.

*Multiple dwellings* means any dwelling containing more than two dwelling units.

*Occupant* means any person living, sleeping, cooking, or eating in, or having actual possession of a dwelling, dwelling unit or rooming unit.

*Operator* means any person who has charge, care or control of a building, or part thereof, in which dwelling units or rooming units are let.

*Owner* means any person who alone, jointly, or severally with others:

- (1) Shall have title to any dwelling, dwelling unit or rooming unit; with or without accompanying actual possession thereof; or
- (2) Shall have charge, care or control of any dwelling, dwelling unit or rooming unit, as owner or agent of the actual owner, or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the actual owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this division, and of rules and regulations adopted pursuant thereto, to the same extent as if he were the owner.

*Party or parties in interest* means all persons who have interests of record in a dwelling, dwelling unit or rooming unit and any persons who are in possession thereof.

*Plumbing* means and includes all of the following supplied facilities and equipment: gas pipes, gas burning equipment, water pipes, mechanical garbage disposal units (mechanical sink grinders), sewage disposal pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machines, catchbasins, drains, vents and any other similar supplied fixtures, together with all connections to water, sewer or gas lines.

*Public Officer:* means the officer or officers who are authorized herein to exercise the powers prescribed herein and appointed by the County Manager.

*Public authority* means the County Inspections Department or any officer who is in charge of any department or branch of the government of the county or the state relating to health, fire, building regulations or other activities concerning dwellings in the county.

*Roominghouse* means any dwelling, or that part of any dwelling containing one or more rooming units, in which space is let by the owner or operator to three or more persons who are not husband or wife, son or daughter, mother or father, sister or brother of the owner or operator.

*Rooming unit* means any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

*Rubbish* means nonorganic waste materials. The term includes paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass and dust.

*Supplied* means paid for, furnished, or provided by, or under the control of, the owner or operator.

*Temporary housing* means any trailer or other structure used for human shelter, which is designed to be transportable, and which is not attached to the ground, to another structure or to any utilities system on the same premises for more than 30 consecutive days.

*Unfit for human habitation* means that conditions exist in a dwelling, dwelling unit, roominghouse or rooming unit which violate or do not comply with one or more of the minimum standards of fitness or one or more of the requirements established by this division.

*Unsafe*, as to buildings, dwellings or dwelling units, mean especially dangerous to life because of its liability to fire, bad conditions of walls, overloaded floors, defective construction, decay, unsafe wiring or heating system, inadequate means of egress, or other causes.

*Unsanitary*, as to buildings, dwellings or dwelling units means unhealthy, unhygienic, potentially hazardous to health or life because of unsafe conditions or existence of refuse, garbage, decay, or disposed items on the property or any buildings, dwellings, or dwelling units thereon.

Words having certain meaning: Whenever the words "dwelling," "dwelling unit," "roominghouse," "rooming unit," or "premises" are used in this division they shall be construed as though they were followed by the words "or any part thereof."

(Ord. of 9-11-1989, § 2, Ord. of 5-3-2004, Ord. 12-16-2005) (Ord. 6/4/2007)  
Cross-references: Definitions generally, § 1-2.

### **Sec. 20-133. Minimum standards of fitness for dwellings and dwelling units.**

- (a) Every dwelling and dwelling unit used as a human habitation, or held out for use as a human habitation, shall comply with all of the minimum standards of fitness for human habitation and all of the requirements of sections 20-134 through 20-138.
- (b) No person shall occupy as owner-occupant, or let to another for occupancy or use as a human habitation, any dwelling or dwelling unit which does not comply with all of the minimum standards of fitness for human habitation and all of the requirements of sections 20-134 through 20-138.
- (C) Every structure, other than a dwelling unit used as a human habitation, shall comply with all of the minimum standards of fitness for human habitation and all of the

requirements of sections 20-134 through 20-13. In making the preliminary determination of whether or not any structure, intended for use as residential or non-residential, is in violation of this Division, the Inspector may, by way of illustration and not limitation, consider the presence or absence of the following conditions:

- (1) Holes or cracks in the structure's floors, walls, ceilings or roof which might attract or admit rodents and insects or become breeding places for rodents and insects;
- (2) The collection of garbage or rubbish in or near the structure, which might attract rodents and insects or become breeding places for rodents and insects;
- (3) Violations of the State Building Code, the State Electrical Code or the Fire Prevention Code, which constitute a fire hazard in such structure;
- (4) The collection of garbage, rubbish or combustible material, which constitutes a fire hazard in such structure;
- (5) The use of such structure or nearby grounds or facilities by children as a play area;
- (6) The overgrowth of vegetation in and around the structure to the point of blocking ingress and egress, or hampering access around perimeter of the structure.
- (7) Violations of the State Building Code which might result in danger to children using the structure or nearby grounds or facilities as a play area; and
- (8) Use of such structure by transients and vagrants in the absence of sanitary facilities for living, sleeping, cooking, eating and/or otherwise unlawful occupation.

(Ord. of 9-11-1989, § 3) (ORD.6/4/2007)

**Sec. 20-134. Minimum standards for structural conditions.**

The following standards shall constitute the minimum standards for structural condition of a dwelling or dwelling unit:

- (1) Walls or partitions or supporting members, sills, joists, rafters or other structural members shall not list, lean or buckle, and shall not be rotted, deteriorated, or damaged, and shall not have holes or cracks which might admit rodents.
- (2) Floors or roofs shall have adequate supporting members and strength to be reasonably safe for the purpose used.

- (3) Foundations, foundation walls, piers or other foundation supports shall not be deteriorated or damaged.
- (4) Steps, stairs, landings, porches or other parts or appurtenances shall be maintained in such condition that they will not fall or collapse.
- (5) Adequate facilities for egress in case of fire or panic shall be provided.
- (6) Interior walls and ceilings of all rooms, closets and hallways shall be finished of suitable materials, which will, by use of reasonable household methods promote sanitation and cleanliness, and shall be maintained in such a manner so as to enable the occupants to maintain reasonable privacy between various spaces.
- (7) The roof, flashings, exterior walls, basement walls, floors, and all doors and windows exposed to the weather shall be constructed and maintained so as to be weather and watertight.
- (8) There shall be no chimneys or parts thereof which are defective, deteriorated or in danger of falling, or in such condition or location as to constitute a fire hazard.
- (9) There shall be no use of the ground for floors, or untreated wood floors on the ground.

(Ord. of 9-11-1989, § 4)

**Sec. 20-135. Minimum standards for basic plumbing, heating and electrical equipment and facilities.**

(a) Plumbing system.

- (1) Each dwelling or dwelling unit shall be connected to a potable water supply and to a public sewer or other approved sewage disposal system.
- (2) Each dwelling unit shall contain not less than a kitchen sink, lavatory, tub or shower, water closet, and adequate supply of both cold and hot water. All water shall be supplied through an approved pipe distribution system connected to a potable water supply.
- (3) All plumbing fixtures shall meet the standards of the State Plumbing Code and shall be maintained in a state of good repair and in good working order.
- (4) All required plumbing fixtures shall be located within the dwelling unit and be accessible to the occupants of dwelling unit. The water closet and tub or shower shall be located in a room or rooms affording privacy to the user.

(b) Heating system. Every dwelling and dwelling unit shall have facilities for providing heat in accordance with the following:

- (1) Central and electric heating system. Every central or electric heating system shall be of sufficient capacity to heat all habitable rooms, bathrooms and water closet compartments in every dwelling unit to which it is connected with a minimum temperature of 70 degrees Fahrenheit measured at a point three feet above the floor during ordinary winter conditions.
- (2) Other heating facilities. Where a central or electric heating system is not provided, each dwelling and dwelling unit shall be provided with sufficient fireplaces, chimneys, flues, gas vents or other facilities to which heating appliances may be connected to heat all habitable rooms with a minimum temperature of 70 degrees Fahrenheit measured three feet above the floor during ordinary winter conditions.

(c) Electrical system.

- (1) Every dwelling and dwelling unit shall be wired for electric lights and convenience receptacles. Every habitable room shall contain electric convenience receptacles, connected to such manner as determined by the State Electrical Code. There shall be installed in every bathroom, water closet room, laundry room and furnace room at least one supplied ceiling or wall-type electric light fixture. If wall or ceiling light fixtures are not provided in any habitable room, then each such habitable room shall contain at least three floor or wall type electric convenience receptacles.
- (2) Every public hall and stairway in every multiple dwelling shall be adequately lighted by electric lights at all times when natural daylight is not sufficient.
- (3) All fixtures, receptacles, equipment and wiring shall be maintained in a state of good repair, safe capable of being used, and installed in accordance with the state electrical code.

(Ord. of 9-11-1989, § 5)

**Sec. 20-136. Minimum standards for ventilation.**

- (a) Room sizes. Every dwelling unit shall contain at least the minimum room size in each habitable room as required by the State Residential Building Code. Every dwelling unit shall contain at least 150 square feet of habitable floor area for the first occupant, at least 100 square feet of additional habitable area for each of the next three occupants, and at least 75 square feet of additional habitable floor area for each additional occupant. In every dwelling unit and in every rooming unit, every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor area, and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor area for each occupant 12 years of age and over and at least 35 square feet of floor area for each occupant under 12 years of age.

- (b) Ceiling height. All full stories must have all ceiling heights a minimum of seven feet in all habitable rooms. All attic areas for habitable use must have a ceiling height of at least seven feet six inches over one-third of each room.
- (c) Floor area calculation. Floor area shall be calculated on the basis of habitable room area. The floor area of any space where the ceiling height is less than 4 1/2 feet shall not be considered habitable room area, and therefore, not considered as part of the floor area for the purpose of determining maximum permissible occupancy.
- (d) Cellar. No cellar shall be used for living purposes.
- (e) Basements. No basement shall be used for living purposes unless:
  - (1) The floor and walls are substantially watertight;
  - (2) The total window area, total openable window areas and ceiling height are equal to those required for habitable rooms;
  - (3) The required minimum window area of every habitable room is entirely above the grade adjoining such window area, except where the window or windows face a stairwell, window well or accessway.

(Ord. of 9-11-1989, Ord of 5-3-2004)

**Sec. 20-137. Minimum standards for safe and sanitary maintenance.**

- (a) Exterior foundations walls and roofs. Every foundation wall, exterior wall and exterior roof shall be substantially weather-tight and rodent proof; shall be kept in sound condition and good repair; shall be capable of supporting the load which normal use would cause to be placed thereon. Every exterior wall shall be protected with paint or other protective covering to prevent the entrance or penetration or moisture or the weather.
- (b) Interior floors, walls and ceilings. Every floor, interior wall and ceiling shall be substantially rodent proof; shall be kept in sound condition and good repair; and shall be safe to use and capable for supporting the load which normal use would cause to be placed thereon.
- (c) Windows and doors. Every window, exterior door, basement or cellar door and hatchway shall be substantially weathertight and rodent proof and shall be kept in sound working condition and good repair.
- (d) Stairs, porches and appurtenances. Every outside and inside stair, porch and any appurtenances thereto shall be safe to use and capable of supporting the load that

normal use would cause to be placed thereon and shall be kept in sound condition and good repair.

- (e) Bathroom floors. Every bathroom floor surface and water closet compartment floor surface shall be constructed and maintained so that it will be reasonably impervious to water and will permit such floor to be easily kept in a clean and sanitary condition.
- (f) Supplied facilities. Every supplied facility, piece of equipment or utility which is required under this division shall be constructed or installed that it will function safely and effectively and shall be maintained in satisfactory working condition.
- (g) Drainage. Every yard shall be properly graded in order to obtain thorough drainage and to prevent the accumulation of stagnant water.
- (h) Noxious weeds. Every yard and all exterior property areas shall be kept free of species of weeds or plant growth, which are noxious or detrimental to health.
- (i) Egress. Every dwelling unit shall be provided with adequate means of egress as required by the State Residential Building Code.

(Ord. of 9-11-1989, § 8)

**Sec. 20-138. Minimum standards for control of insects, rodents and infestations.**

- (a) Screens. In every dwelling unit, for protection against mosquitoes, flies and other insects, every window or other device with openings to outdoor space, used or intended to be used for ventilation, shall likewise be equipped with screens.
- (b) Rodent control. Every basement or cellar window used or intended to be used for ventilation, and every other opening to a basement which might provide an entry for rodents, shall be equipped with screens or such other approved device as will effectively prevent their entrance.
- (c) Infestation. Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents or other pests therein or on the premises; and every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for such extermination whenever his dwelling unit is the only one infested. Whenever infestation is caused by failure of the owner to maintain a dwelling in a rodentproof or reasonably insectproof condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two or more of the dwelling units in any dwelling or in the shared or public parts of any dwelling containing two or more dwelling units, extermination shall be the responsibility of the owner.
- (d) Garbage and rubbish; storage and disposal. Every dwelling and every dwelling unit shall be supplied with adequate provisions for garbage and rubbish storage and

disposal. The owner, operators or agent in control of the dwelling or dwelling unit shall be responsible for the removal of rubbish.

(Ord. of 9-11-1989, § 9)

**Sec. 20-139. Minimum standards applicable to roominghouses; exceptions.**

All of the provisions of this division and all of the minimum standards and requirements of this division, shall be applicable to roominghouses, and to every person who operates a roominghouse, or who occupies or lets to another for occupancy and any rooming unit in any roominghouse, except as provided as follows:

- (1) Water closet, hand lavatory and bath facilities. At least one water closet, lavatory basin and bathtub or shower, properly connected to an approved water and sewer system and in good working condition, shall be supplied for each four rooms within a roominghouse whenever these facilities are shared. All such facilities shall be located within the residence building served and shall be directly accessible from a common hall or passageway and shall be not more than one story removed from any of the persons sharing such facilities. Every lavatory basin and bathtub or shower shall be supplied with hot and cold water at all times. Such required facilities shall not be located in a cellar.
- (2) Minimum floor area for sleeping purposes. Every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor area, and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor area for each occupant 12 years of age and over and at least 35 square feet of floor area for each occupant under 12 years of age.
- (3) Sanitary condition. The operator of every roominghouse shall be responsible for the sanitary maintenance of all walls, floors and ceilings, and for the sanitary maintenance of every other part of the roominghouse. The operator of every roominghouse shall be further responsible for the sanitary maintenance of the entire premises where the entire structure or building within which the roominghouse is contained in leased or occupied by the operator.
- (4) Sanitary facilities. Every water closet, flush urinal, lavatory basin and bathtub or shower required by subsection (1) of this section shall be located within the roominghouse and within a room or rooms which afford privacy, are separate from the habitable rooms, are accessible from a common hall, and are accessible without going outside the roominghouse or through any other room therein.

(Ord. of 9-11-1989, § 10)

**Sec. 20-140. Responsibilities of owners and occupants.**

- (a) Public areas. Every owner of a dwelling containing two or more dwelling units shall be responsible for maintaining in a clean and sanitary condition the shared or public areas of the dwelling and premises thereof.
- (b) Cleanliness. Every occupant of a dwelling or dwelling unit shall keep in a clean and sanitary condition that part of the dwelling, dwelling unit and premises thereof which he occupies and controls.
- (c) Rubbish and garbage. Every occupant of a dwelling or dwelling unit shall dispose of all his rubbish and garbage in a clean and sanitary manner by placing it in the supplied storage facilities. In all cases, the owner shall be responsible for the availability of rubbish and garbage storage facilities.
- (d) Supplied plumbing fixtures. Every occupant of a dwelling unit shall keep all supplied plumbing fixtures therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation of the supplied plumbing fixtures.

(Ord. of 9-11-1989, § 11)

**Sec. 20-141. Powers and duties of building inspector.**

The Inspector is hereby designated as the officer to enforce the provisions of this division and to exercise the duties and powers prescribed in this division. The Inspector is authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purpose and provisions of this division. The Inspector shall have the following powers and duties:

- (1) To inspect and investigate the building conditions, and to inspect buildings, dwelling and dwelling units located in the county, in order to determine which buildings dwellings and dwelling units are unsafe, unsanitary, or otherwise hazardous or in any unlawful condition, and for the purpose of carrying out the objectives of this division with respect to the repair, closing or demolition of such buildings, dwellings and dwelling units;
- (2) To take such action, together with other appropriate departments and agencies, public and private, as may be necessary to effect rehabilitation of housing which is deteriorated;
- (3) To keep a record of the results of inspections made under this division and inventory of those dwellings that do not meet the minimum standards of fitness prescribed in this division;
- (4) To administer oaths and affirmations, examine witnesses and receive evidence;

- (5) To enter upon premises for the purpose of making examinations and inspections; provided such entries shall be made in accordance with section 20-137 and state law, and shall be made in such manner as to cause the least possible inconvenience to the persons in possession;
- (6) To appoint and fix the duties of such officers, agents, and employees as he deems necessary to assist in carrying out the purposes of this division, and to delegate any of his functions and powers to such officers, agents and employees; and
- (7) To perform such other duties as may be prescribed in this division or by the board of commissioners.

(Ord. of 9-11-1989, Ord. Of 5-3-2004)

**Sec. 20-142. Inspections; duty of owners and occupants.**

- (a) For the purpose of making inspections, the inspector is hereby authorized to enter, examine and survey at all reasonable times all dwellings, dwelling units, roominghouses, rooming units, rooming unit and the premises associated therewith. The owner or occupant of every dwelling, dwelling unit, roominghouse or rooming unit or the person in charge thereof shall give the inspector free access to such dwelling, etc., and its associated premises at all reasonable times for the purposes of such inspections, examination and survey.
- (b) Every occupant of a dwelling, dwelling unit, roominghouse or rooming unit shall give the owner thereof, or his agent or employee, access to any part of such dwelling unit and its premises at all reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliances with the provisions of this division or with any lawful order issued pursuant to the provisions of this division.
- (c) When permission to inspect a dwelling or its premises is denied, the building inspector must obtain a warrant to inspect. G.S. 15-27.2 provides for the issuance of warrants for the conduct of inspections authorized by law.

(Ord. of 9-11-1989, § 13, Ord. 5-3-2004)

**Sec. 20-143. Procedure for enforcement.**

(a) *Initiation of Investigation* - In addition to his or her periodic inspections, the Inspector shall inspect or investigate a particular building, dwelling, dwelling unit or property within the County's jurisdiction when either:

- (i) He or she (or members of the Building Inspections Department) determines that, or
- (ii) A petition is filed by a Public Authority that, or
- (ii) A petition is filed by at least five (5) county residents charging

that the said building, dwelling, dwelling unit, or property so violates this minimum housing code or the North Carolina State Building Code, as amended, as to make it unfit for human habitation, or that it is abandoned, unsafe, unsanitary or otherwise hazardous and unlawful.

(b) *Unsafe buildings, dwellings, dwelling units.* If the Inspector determines that a building, dwelling, dwelling unit or property is unsafe, he or she shall affix a notice of the unsafe character of that building, etc., to a conspicuous place on its exterior wall and mail a copy of such notice to the owner and person(s) entitled to occupy that building, etc.

(c) *Notice of Hearing.* If (i) an inspection or investigation as to any building, dwelling, dwelling unit, or property reveals a reasonable basis for finding violation(s) of this minimum housing code or the North Carolina State Building Code, or (ii) the owner or person(s) possessing a building, dwelling, dwelling unit, or property determined to be unsafe fails to take the corrective action required under subsection (b), preceding, the Inspector shall issue and cause to be served by certified or registered mail, or by any other means permitted under the Rules of Civil Procedure, upon the owner of and parties with an interest in (including persons in possession, custody or control of) the building, dwelling, dwelling unit, or property at issue a complaint stating the charges and containing a notice that a hearing will be held before the Inspector at a time and place therein fixed, not less than ten nor more than 30 days after service of the complaint.

(d) *Contents of Complaint.* The Inspector's complaint under Section (c), preceding, shall at a minimum state that:

- (i) The building is in a condition that appears to constitute a dire or safety hazard or to be dangerous to life, health, or other property;
- (ii) A hearing will be held before the Inspector at a designated place and time, not later than 10 days after the date of the notice, at which time the owner is entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and
- (iii) Following the hearing, the Inspector may issue any order to repair, close, vacate, or demolish the building that appears appropriate.

(e) *Answer and Hearing.* The owner or party in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the notice of hearing. Notice of such hearing shall be given to at least one of the persons signing a petition relating to such dwelling. Any person desiring to do so may attend such hearing and give relevant evidence. The rules of evidence or procedure for courts of law or equity shall not be controlling in hearings before the inspector.

- (f) *Decision.* After the hearing, the Inspector shall state in writing his or her determination as to whether the building dwelling, dwelling unit, or property is unsafe, unsanitary or otherwise hazardous or in an unlawful condition, or if it is deteriorated or dilapidated.
- (i) If, upon the hearing, the Inspector finds that the building, dwelling, or dwelling unit is in such an unsafe, unsanitary or hazardous condition that is a fire or safety hazard or it is dangerous to life, health or other property, he or she shall issue a written order, directed to the owner of the building and persons entitled to possess such building, etc., requiring the owner to remedy the defective conditions by repairing, closing, vacating, or demolishing the building or taking other necessary steps, within such period, not less than 60 days, as the Inspector may prescribe.
  - (ii) If the Inspector finds that the condition of the building, dwelling, dwelling unit, or property creates an imminent danger to life or other property, he may order that corrective action be taken in less than 60 days as may be feasible.
  - (iii) If the Inspector determines that the building, dwelling, dwelling unit, or property is deteriorated, he or she shall state in writing those findings of fact in support of such determination, and shall issue and cause to be served upon the owner and person(s) entitled to possess such property an order directing and requiring the same to repair, alter or improve each building, dwelling or dwelling unit to comply with the minimum standards or fitness established by this division within a specified period of time, not to exceed 90 days. Such order may also direct and require the owner and person(s) entitled to possess such property to vacate and close such building, dwelling or dwelling unit until such repairs, alternations, and improvements have been made.
  - (iv) If the Inspector determines that the building, dwelling or dwelling unit is dilapidated, he or she shall state in writing those findings of fact to support such determination, and shall issue and cause to be served upon the owner and person(s) entitled to possess such property an order directing and requiring the same either to repair, or improve such building, dwelling, dwelling unit, or property to comply with the minimum standards of fitness established by this division, or else to vacate and remove or demolish the building, dwelling, dwelling unit, or property within a specified period of time not to exceed 90 days.
- (g) *Failure to comply with order.*
- (i) *In personam remedy.* If the owner of any building, dwelling, dwelling unit, or property that has been determined by the Inspector to be unsafe, deteriorated, unsanitary, hazardous or dilapidated, shall fail to comply with the Inspector' order to repair, alter, or improve or to vacate and close the dwelling within the time specified therein, or if the owner of a dilapidated building, dwelling, dwelling unit, or property shall fail to comply with an order of the Inspector to repair, alter or improve or to vacate and close and remove or demolish the sane within the

time specified therein, the Inspector shall submit to the board of commissioners at its next regular meeting a resolution directing the county attorney to petition the Superior Court for an order directing such owner to comply with the Order to the Inspector, as authorized by G.S. 160A-446(g).

- (ii) *In rem remedy.* After failure of an owner of an unsafe, unsanitary, hazardous, deteriorated or dilapidated building, dwelling, dwelling unit, or property to comply with an order of the Inspector within the time specified therein, if injunctive relief has not been sought or has not been granted as provided in the subsection (g)(1) of this section, the Inspector shall submit to the board of commissioners an ordinance ordering the Inspector to cause such building, dwelling, dwelling unit, or property to be repaired, altered, improved, vacated, closed, removed or demolished, as provided in the original order of the Inspector, and pending removal or demolition, to place a placard on such building, dwelling, dwelling unit, or property as provided by G.S. 160A-443 and section 20-140.

(h) *Appeals from orders of Inspectors.*

- (i) An appeal from any decision or order of the Inspector may be taken by any person aggrieved thereby. Any appeal from the Inspector shall be taken within ten days from the rendering of the decision or service of the order, and shall be taken by filing with the Inspector and with the Board of Adjustment and Appeals a notice of appeal which shall specify the grounds upon which the appeal, the Inspector shall forthwith transmit to the Board all the papers constituting the record upon which the decision appealed from was made. When an appeal is from a decision of the Inspector requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing by the Board of Adjustment and Appeals, unless the Inspector certifies to the board, after the notice of appeal is filed with him, that by reason of the facts stated in the certificate (a copy of which shall be furnished the appellant), a suspension of his requirement would cause imminent peril to life or property, in which case the requirement shall not be suspended except for due cause shown upon not less than one day's written notice to the Inspector, by the Board, or by a court of record upon petition made pursuant to G.S. 160A-446(f) and subsection (e) of this section.
- (ii) The Board of Adjustment and Appeals shall fix a reasonable time for the hearing of all appeals, shall give due notice to all the parties, and shall render its decision within a reasonable time. Any party may appear in person or by agent or attorney. The Board of Adjustment and Appeals may reverse or affirm, wholly or partly, or may modify the decision or order appealed from, and may make such decision and order as in its opinion ought to be made in the matter, and to that end it shall have all the powers of the Inspector, but the concurring vote of four members of the Board shall be necessary to reverse or modify any decision or order of the Inspector. The Board of Adjustment and Appeals shall have power also in passing upon appeals, in any case where there are practical difficulties or unnecessary

hardships in the way of carrying out the strict letter of the ordinance to adapt the application of the ordinance to the necessities of the case to the end that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.

(iii) Every decision of the Board of Adjustment and Appeal shall be subject to review by proceedings in the nature of certiorari instituted within 15 days of the decision of the Board, but not otherwise.

(i) *Petition to Superior Court by Owner.* Any person aggrieved by an order issued by the inspector or a decision rendered by the Board of Adjustment and Appeals shall have the right, within 30 days after issuance of the order or rendering of the decision, to petition the Superior Court for a temporary injunction restraining the Inspector pending a final disposition of the cause, as provided by G.S. 160A-446(f).

(Ord. of 9-11-1989, § 14, Ord. of 3-5-2004, Ord. Of 12-16-2005)

**Sec. 20-144. Methods of service of complaints and orders.**

(a) Complaints or orders issued by the Inspector shall be served upon persons wither personally or by registered or certified mail. If the whereabouts of such persons are unknown and the whereabouts cannot be ascertained by the Inspector in the exercise of reasonable diligence, the Inspector shall make an affidavit to the effect, and the serving of such complaint or order upon such person may be made by publishing the complaint at least once on later than the time at which personal service would be required under the provisions of this division in a newspaper having general circulation in the county. Where service is made by publication, a notice of the proceedings shall be posted in a conspicuous place on the premises affected by the complaint or order.

(b) If the Zoning Board of Adjustment consists of more than five members, the chairman shall designate five members to hear appeals under this division.

(Ord. of 9-11-1989, § 15)

**Sec. 20-145. Conflict with other provisions.**

If any provision, standard, or requirement of this division is found to be in conflict with any provision of any other ordinance or code of the county, the provision which established the higher standards or more stringent requirement for the promotion and protection of the health and safety of the residents of the county shall prevail.

(Ord. of 9-11-1989, § 16)

**Sec. 20-146. Violations; penalty.**

- (a) It shall be unlawful for the owner of any dwelling or dwelling unit to fail, neglect, or refuse to repair, alter, or improve the dwelling, or to vacate and close and remove or demolish the dwelling, upon order of the inspector duly made and served as provided in this division, within the time specified in such order. Each day that any such failure, neglect, or refusal to comply with such order continues shall constitute a separate and distinct offense.
- (b) It shall be unlawful for the owner of any dwelling or dwelling unit, with respect to which an order has been issued pursuant to section 20-143, to occupy or permit the occupancy of the dwelling or dwelling unit after the time prescribed in such order for its repair, alteration or improvement or its vacation and closing. Each day that such occupancy continues after such prescribed time shall constitute a separate and distinct offense.
- (c) The violation of any provision of this division shall constitute a misdemeanor punishable by a \$500.00 fine, as provided by G.S. 14-4.
- (d) In addition to the penalty established by subsection (c) of this section, and the remedies provided by other provisions of this division, this division may be enforced by an appropriate equitable remedy issued by a court of competent jurisdiction.

(Ord. of 9-11-1989, § 17)

**Secs. 20-147--20-165. Reserved.**

## **ARTICLE IV. FLOODS\***

\*Cross references: Environment, ch. 14; buildings and building regulations, § 20-61 et seq.; manufactured homes and trailers, § 20-406 et seq.; streets, sidewalks and other public places, ch. 26.

State law references: General ordinance making powers, G.S. 153A-121.

### **DIVISION 1. GENERALLY**

**Secs. 20-166--20-180. Reserved.**

### **DIVISION 2. FLOOD DAMAGE PREVENTION**

(Complete Code revisions per Ord. of 10-17-2007)

## **Subdivision I. In General**

### **Sec. 20-181 Statutory Authorization.**

The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Parts 3 and 4 of Article 18 of Chapter 153A; and Part 121, Article 6 of Chapter 153A of the North Carolina General Statutes, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare.

### **Sec. 20-182. Findings Of Fact.**

1. The flood prone areas within the jurisdiction of Richmond County 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.

### **Sec. 20-183 Statement Of Purpose.**

1. It is the purpose of this Division 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:
2. 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;
3. Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;
4. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;
5. Control filling, grading, dredging, and all other development that may increase erosion or flood damage; and
6. Prevent or regulate the construction of flood barriers that will unnaturally divert floodwaters or which may increase flood hazards to other lands.

### **Sec. 20-184 Objectives**

1. The objectives of this Division are to:
2. Protect human life, safety, and health;
3. Minimize expenditure of public money for costly flood control projects;
4. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
5. Minimize prolonged business losses and interruptions;
6. 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;
7. Help maintain a stable tax base by providing for the sound use and development of flood prone areas; and
8. Ensure that potential buyers are aware that property is in a Special Flood Hazard Area.

#### **Sec. 20-185 Definitions**

Unless specifically defined below, words or phrases used in this Division shall be interpreted so as to give them the meaning they have in common usage and to give this Division its most reasonable application.

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

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

“Appeal” means a request for a review of the Floodplain Administrator's interpretation of any provision of this Division.

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

“Area of Special Flood Hazard” see “Special Flood Hazard Area (SFHA)”.

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

“Base Flood” means the flood having a one (1) percent chance of being equaled or exceeded in any given year.

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

“Building” see “Structure”.

“Chemical Storage Facility” means a building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

“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.

“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.

“Effective Date of this Division” means the date upon which the initial Flood Plain Management Ordinance of Richmond County was adopted, which is the basis of this Division and Code. This date is June 1, 1987.

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

“Encroachment” means the advance or infringement of uses, fill, excavation, buildings, structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

“Existing Manufactured Home Park or Manufactured Home Subdivision” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site

grading or the pouring of concrete pads) was completed before the initial effective date of the floodplain management regulations adopted by the community.

“Flood” or “Flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) the overflow of inland or tidal waters; and/or
- (2) the unusual and rapid accumulation of runoff of surface waters from any source.

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

“Flood Insurance” means the insurance coverage provided under the National Flood Insurance Program.

“Flood Insurance Rate Map (FIRM)” means an official map of a community, issued by the Federal Emergency Management Agency, on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.

“Flood Insurance Study (FIS)” 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 Federal Emergency Management Agency. The Flood Insurance Study report includes Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), if published.

“Flood Prone Area” see “Floodplain”

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

“Floodplain Administrator” is the individual appointed to administer and enforce the floodplain management regulations.

“Floodplain Development Permit” means any type of permit that is required in conformance with the provisions of this Division, prior to the commencement of any development activity.

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

“Floodplain Management Regulations” means this Division and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances,

and other applications of police power. This term describes Federal, State or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

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

“Floodway” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

“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.

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

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

“Hazardous Waste Management Facility” means, as defined in NCGS 130A, Article 9, a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.

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

“Historic Structure” means any structure that is: 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; 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; individually listed on a local inventory of historic landmarks in communities with a “Certified Local Government (CLG) Program”; or certified as contributing to the historical significance of a historic district designated by a community with a “Certified Local Government (CLG) Program”.

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

“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.

“Lowest Floor” means 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 Division.

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

“Manufactured Home Park” for the purposes of this Article, means a parcel (or contiguous parcels) of land divided in two or more manufactures home lots or spaces for rent or sale. .

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

“Mean Sea Level” means, for purposes of this Division, the National Geodetic Vertical Datum (NGVD) as corrected in 1929, the North American Vertical Datum (NAVD) as corrected in 1988, or other vertical control datum used as a reference for establishing varying elevations within the floodplain, to which Base Flood Elevations (BFEs) shown on a FIRM are referenced. Refer to each FIRM panel to determine datum used.

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

“Non-Encroachment Area” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot as designated in the Flood Insurance Study report.

“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.

“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.

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

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

“Recreational Vehicle (RV)” for the purpose of this Article, means a vehicle, which is:

- a Built on a single chassis;
- b 400 Square feet or less when measures at the largest horizontal projection.
- c Designed to be self-propelled or permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.

“Reference Level” is the top of the lowest floor for structures within Special Flood Hazard Areas designated as Zone A1-A30, AE, A, A99 or AO.

“Regulatory Flood Protection Elevation” means the “Base Flood Elevation” plus the “Freeboard”. In “Special Flood Hazard Areas” where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE plus two (2) feet of freeboard. In “Special Flood Hazard Areas” where no BFE has been established, this elevation shall be at least two (2) feet above the highest adjacent grade.

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

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

“Salvage Yard” means any 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.

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

“Solid Waste Disposal Site” means, as defined in NCGS 130A-290(a)(36), any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.

“Special Flood Hazard Area (SFHA)” means the land in the floodplain subject to a one percent (1%) or greater chance of being flooded in any given year, as determined in Sec. 20-187 of this Division.

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

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

“Substantial Damage” means damage of any origin sustained by a structure during any one-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 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 community code enforcement official and which are the minimum necessary to assure safe living conditions; or

(b) any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

“Variance” is a grant of relief from the requirements of this Division.

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

“Water Surface Elevation (WSE)” means the height, in relation to mean sea level, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

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

(Ord. 11-08-2007)

**Sec. 20-186. Lands To Which This Division Applies.**

This Division shall apply to all Special Flood Hazard Areas within the jurisdiction Of Richmond County North Carolina and within the jurisdiction of any other community whose governing body agrees, by resolution, to such applicability.

**Sec. 20-187. Basis For Establishing The Special Flood Hazard Areas.**

The Special Flood Hazard Areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its Flood Insurance Study (FIS) and its accompanying Flood Insurance Rate Maps (FIRM), for Richmond County, North Carolina dated, October 16, 2007, which are adopted by reference and declared to be a part of this Division.

The initial Flood Insurance Rate Maps are as follows for the jurisdictional areas at the initial date:

Richmond County, North Carolina, County Unincorporated Area, dated March 11, 1983  
City of Hamlet, dated July 2, 87  
City of Rockingham, dated September 6, 1989

(Ord. 11-08-2007)

**Sec. 20-187.1 Establishment Of Floodplain Development Permit.**

A Floodplain Development Permit shall be required in conformance with the provisions of this Division prior to the commencement of any development activities within Special Flood Hazard Areas determined in accordance with the provisions of Sec.20-187 of this Chapter.

### **Sec. 20-188 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 Division and other applicable regulations.

### **Section20-189 Abrogation And Greater Restrictions.**

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

### **Sec. 20-190 Interpretation**

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

- (a) considered as minimum requirements;
- (b) liberally construed in favor of the governing body; and
- (c) deemed neither to limit nor repeal any other powers granted under State statutes.

### **Sec. 20-191 Warning and Disclaimer of Liability**

The degree of flood protection required by this Division 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 Division 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 Division shall not create liability on the part of Richmond County North Carolina or by any officer or employee thereof for any flood damages that result from reliance on this Division or any administrative decision lawfully made hereunder.

### **Sec. 20-192. Penalties For Violation.**

Violations of this Division or failure to comply with any requirements, including violations of conditions and safeguards established in connections with grants of variances or special exception shall be prosecuted under the terms found in Section 1-6 of this Code. Nothing herein contained shall prevent Richmond County from taking such other lawful action as is necessary to prevent or remedy any violation.

### **Secs. 20-192--20-210. Reserved.**

## **Subdivision II. Administration**

### **Sec. 20-211 Designation Of Floodplain Administrator.**

The Richmond County Planning Director and/or his/her designee hereinafter referred to as the "Floodplain Administrator", is hereby appointed to administer and implement the provisions of this Division.

### **Section 20-212 Floodplain Development Application, Permit And Certification Requirements.**

1. Application for a Floodplain Development Permit shall be made to the Floodplain Administrator prior to any development activities located within Special Flood Hazard Areas. The following items shall be presented to the Floodplain Administrator to apply for a floodplain development permit:
2. A plot plan drawn to scale (of no less than 1" equals 200") shall include, but shall not be limited to, the following specific details of the proposed floodplain development:
3. 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;
4. The boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in Sec. 20-187 of this Division, or a statement that the entire lot is within the Special Flood Hazard Area;
5. Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in Sec. 20-187 of this Division;
6. The boundary of the floodway(s) or non-encroachment area(s) as determined in Sec. 20-187 of this Division;
7. The Base Flood Elevation (BFE) where provided as set forth in Sec 20-187; Sec 20-213; or Sec 20-233 of this Division;
8. The old and new location of any watercourse that will be altered or relocated as a result of proposed development;
9. Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to:

10. Elevation in relation to mean sea level of the proposed reference level (including basement) of all structures;
11. Elevation in relation to mean sea level to which any non-residential structure in Zone AE, A or AO will be flood-proofed; and
12. Elevation in relation to mean sea level to which any proposed utility systems will be elevated or floodproofed;
13. If flood proofing, a Flood proofing Certificate (FEMA Form 81-65) with supporting data and an operational plan that includes, but is not limited to, installation, exercise, and maintenance of flood proofing measures.
14. A Foundation Plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this Division are met. These details include but are not limited to:
15. 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);
16. Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with Sec 20-232(4)(c) of this Division when solid foundation perimeter walls are used in Zones A, AO, AE, and A1-30;
17. Usage details of any enclosed areas below the lowest floor.
18. 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;
19. Certification that all other Local, State, and Federal permits required prior to floodplain development permit issuance have been received.
20. Documentation for placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure that the provisions of Sec. 20-232(6) and (7) of this Division are met.
21. 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.

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

1. A description of the development to be permitted under the floodplain development permit.
2. The Special Flood Hazard Area determination for the proposed development in accordance with available data specified in Sec. 20-187 of this Division.
3. The regulatory flood protection elevation required for the reference level and all attendant utilities.
4. The regulatory flood protection elevation required for the protection of all public utilities.
5. All certification submittal requirements with timelines.
6. A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse, as applicable.
7. The flood openings requirements, if in Zones A, AO, AE or A1-30.
8. Limitations of below BFE enclosure uses (if applicable). (i.e., parking, building access and limited storage only).

#### Certification Requirements.

##### (a) Elevation Certificates

An Elevation Certificate (FEMA Form 81-31) is required after the reference level is established. Within seven (7) calendar days of establishment of the reference level elevation, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to mean sea level. . Any work done within the seven (7) day calendar period and prior to submission of the certification shall be at the permit holder's risk. The Floodplain Administrator shall review the certificate data submitted. The permit holder immediately and prior to further work being permitted to proceed shall correct deficiencies detected by such review. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop-work order for the project.

A final as-built Elevation Certificate (FEMA Form 81-31) is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Compliance/Occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the

certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.

(b) Floodproofing Certificate

If non-residential floodproofing is used to meet the regulatory flood protection elevation requirements, a Floodproofing Certificate (FEMA Form 81-65), 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 Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to mean sea level. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. The applicant prior to permit approval shall correct deficiencies detected by such review. 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.

(c) If a manufactured home is placed within Zone A, AO, AE, or A1-30 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 Sec. 20-232(3)(b) of this Division .

(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 Zone A, AO, AE or A1-30, are exempt from the elevation/floodproofing certification requirements specified in items (a) and (b) of this subsection:

- (i) Recreational Vehicles meeting requirements of Sec. 20-232(6)(a) of this Division;
- (ii) Temporary Structures meeting requirements of Sec20-232 (7) of this Division; and
- (iii) Accessory Structures less than 150 square feet meeting requirements of Sec20.232 (8) of this Division.

## **Sec. 20-213 Duties And Responsibilities Of The Floodplain Administrator.**

1. The Floodplain Administrator shall perform, but not be limited to, the following duties:
2. Review all floodplain development applications and issue permits for all proposed development within Special Flood Hazard Areas to assure that the requirements of this Division have been satisfied.
3. Review all proposed development within Special Flood Hazard Areas to assure that all necessary Local, State, and Federal permits have been received.
4. Notify adjacent communities and the North Carolina Department of Crime Control and Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).
5. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained.
6. Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of Sec20-235 of this Division are met.
7. Obtain actual elevation (in relation to mean sea level) of the reference level (including basement) and all attendant utilities of all new and substantially improved structures, in accordance with Sec. 20-212 (3) of this Division.
8. Obtain actual elevation (in relation to mean sea level) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with the provisions of Sec. 20-212(3) of this Division.
9. Obtain actual elevation (in relation to mean sea level) of all public utilities in accordance with the provisions of Sec.20-212(3) of this Division .
10. When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the provisions of Sec. 20-212(3) and Sec. 20-232 (2) of this Division.
11. 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 Division.

12. When Base Flood Elevation (BFE) data has not been provided in accordance with Sec. 20-187 of this Division, obtain, review, and reasonably utilize any Base Flood Elevation (BFE) data, along with floodway data or non-encroachment area data available from a Federal, State, or other source, including data developed pursuant to Sec. 20-233(2)(b), in order to administer the provisions of this Division.
13. When Base Flood Elevation (BFE) data is provided but no floodway or non-encroachment area data has been provided in accordance with Sec. 20-187 B of this Division, 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 Division.
14. 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 Base Flood Elevation, advise the property owner of the option to apply for a Letter of Map Amendment (LOMA) from FEMA. Maintain a copy of the Letter of Map Amendment (LOMA) issued by FEMA in the floodplain development permit file.
15. Permanently maintain all records that pertain to the administration of this Division and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.
16. Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the floodplain administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local Division and the terms of the permit. In exercising this power, the floodplain administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.
17. Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this Division, the Floodplain Administrator 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.
18. Revoke floodplain development permits as required. The Floodplain Administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, 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.

19. Make periodic inspections throughout the special flood hazard areas within the jurisdiction of the community. The Floodplain Administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.
20. Follow through with corrective procedures of Sec. 20-214 of this Division.
21. Review, provide input, and make recommendations for variance requests.
22. Maintain a current map repository to include, but not limited to, the FIS Report, FIRM and other official flood maps and studies adopted in accordance with Sec. 20-187 of this Division, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify State and FEMA of mapping needs.
23. Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-F) and Letters of Map Revision (LOMR).

**Sec. 20-214. Corrective Procedures.**

- 1) Violations to be Corrected: When the Floodplain Administrator finds violations of applicable State and local laws, it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.
- 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 Floodplain Administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:
  - a. That the building or property is in violation of the floodplain management regulations;
  - b. That a hearing will be held before the floodplain administrator 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 Floodplain Administrator 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 Floodplain Administrator shall find that the building or development is in violation of this Division, he/she 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 One-hundred-eighty 180 calendar days. Where the Floodplain Administrator finds that there is imminent danger to life or other property, they 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 local elected governing body by giving notice of appeal in writing to the Floodplain Administrator and the clerk within ten (10) days following issuance of the final order. In the absence of an appeal, the order of the Floodplain Administrator 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 misdemeanor and shall be punished at the discretion of the court.

#### **Sec. 20-215 Variance Procedures**

1. The Richmond County Planning and Zoning Board of Adjustment as established by Richmond County in Chapter 20, Article II of this Code, hereinafter referred to as the “appeal board”, shall hear and decide requests for variances from the requirements of this Division.
2. Any person aggrieved by the decision of the appeal board 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 Sec. 20-185 of this Division, provided provisions of Sec 20-215(9)(b), (c), and (e) of this Division 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.
  - c. Any other type of development provided it meets the requirements of this Section.

- d. In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this Division, and:
4. The danger that materials may be swept onto other lands to the injury of others;
  - a. The danger to life and property due to flooding or erosion damage;
  - b. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - c. The importance of the services provided by the proposed facility to the community;
  - d. The necessity to the facility of a waterfront location as defined under Sec. 20-185 of this Division as a functionally dependent facility, where applicable;
  - e. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
  - f. The compatibility of the proposed use with existing and anticipated development;
  - g. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  - h. The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - i. 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
  - j. 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.
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 Division, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this Division.
7. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Base Flood Elevation (BFE) and the elevation to which the

structure is to be built and that such construction below the Base Flood Elevation increases risks to life and property, and that the issuance of a variance to construct a structure below the Base Flood Elevation will result in increased premium rates for flood insurance up to \$25 per \$100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.

8. The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency 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 ordinances.
  - 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 ordinances.
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. Richmond County has notified the Secretary of the North Carolina Department of Crime Control and Public Safety of its intention to grant a variance at least thirty (30) calendar days prior to granting the variance.

**Secs. 20-216--20-230. Reserved.**

### **Subdivision III. Provisions For Flood Hazard Reduction**

#### **Sec. 20-231 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.
3. All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.
4. Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding to the Regulatory Flood Protection Elevation. 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.
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. Any alteration, repair, reconstruction, or improvements to a structure, which is in compliance with the provisions of this Division, shall meet the requirements of “new construction” as contained in this Division.
9. Nothing in this Division shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this Division 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 Division.
10. 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 Sec. 20-215(10) of this Division. 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 Sec 20-212(3) of this Division.
11. All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.
12. 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.
13. All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.
14. 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.
15. 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.
16. When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest base flood elevation shall apply.

## **Sec. 20-232 Specific Standards.**

In all Special Flood Hazard Areas where Base Flood Elevation (BFE) data has been provided, as set forth in Sec. 20-187, or Sec. 20-233 of this Division, the following provisions, in addition to the provisions of Sec. 20-231 of this Division, 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 Sec. 20-185 of this Division.
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 Sec. 20-185 of this Division. Structures located in A, AE, AO, and A1-30 Zones may be floodproofed to the regulatory flood protection elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the regulatory flood protection elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. For AO Zones, the floodproofing elevation shall be in accordance with Sec. 20-236(2) of this Division. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in Sec. 20-212(3), along with the operational and maintenance plans.
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 Sec. 20-185 of this Division.
  - 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 Sec. 20-232(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 Floodplain Administrator 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 be constructed entirely of flood resistant materials at least to the regulatory flood protection elevation;
    - c. Shall include, in Zones A, AO, AE, and A1-30, 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 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.

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, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
- b. Additions to post-FIRM structures with no modifications to the existing structure other than a standard door in the common wall shall require only the addition to comply with the standards for new construction.
- 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.
  - ii. A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

6. Recreational Vehicles. Recreational vehicles shall either:

- a. Be on site for fewer than 180 consecutive days and be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions); or
- b. 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 Floodplain Administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning notification. The following information shall be submitted in writing to the Floodplain Administrator for review and written approval:

- 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 Sec. 20-231(1);
  - f. All service facilities such as electrical shall be installed in accordance with the provisions of Sec. 20-231(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 Sec. 20-232 (4)(c).
  - h. An accessory structure with a footprint less than 150 square feet that satisfies the criteria outlined above does not require an elevation or floodproofing certificate. Elevation or floodproofing certifications are required for all other accessory structures in accordance with Sec. 20-212(3).

**Sec. 20-233. Standards For Floodplains Without Established Base Flood Elevations.**

Within the Special Flood Hazard Areas designated as Approximate Zone A and established in Sec. 20-187, where no Base Flood Elevation (BFE) data has been provided by FEMA, the following provisions, in addition to the provisions of Sec 20-231 and Sec. 20-232 of this Division, 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 Base Flood Elevation (BFE) data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this Division and shall be elevated or floodproofed in accordance with standards in Sec 20-231 and Sec. 20-232 of this Division.
  - b. When floodway data is available from a Federal, State, or other source, all new construction and substantial improvements within floodway areas shall also comply with the requirements of Secs. 20-232 and 20-235 of this Division.
  - c. All subdivision, manufactured home park and other development proposals shall provide Base Flood Elevation (BFE) data if development is greater than five (5) acres or has more than fifty (50) lots/manufactured home sites. Such Base Flood Elevation (BFE) data shall be adopted by reference in accordance with Sec. 20-187 and utilized in implementing this Division.
  - d. When Base Flood Elevation (BFE) data is not available from a Federal, State, or other source as outlined above, the reference level shall be elevated or floodproofed (nonresidential) to or above the Regulatory Flood Protection Elevation, as defined in Sec. 20-185. All other applicable provisions of Sec. 20-231 and Sec. 20-232 of this Division shall also apply.

**Sec. 20-234 Standards For Riverine Floodplains With BFE But Without Established Floodways Or Non-Encroachment Areas.**

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:

**Standards of Sec 20-231 and Sec. 20-232 of this Division; and**

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

**Sec. 20-235 Floodways And Non-Encroachment Areas.**

Areas designated as floodways or non-encroachment areas are located within the Special Flood Hazard Areas established in Sec. 20-187 of this Division. 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 Sec 20-231 and Sec. 20-232 of this Division, 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, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the Floodplain Administrator prior to issuance of floodplain development permit, or
  - b A Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained upon completion of the proposed encroachment.
2. If the above provision is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this Division.
3. No manufactured homes shall be permitted, except replacement manufactured homes in an existing manufactured home park, provided the following provisions are met:
  - a The anchoring and the elevation standards of Sec. 20-232(3) of this Division; and
  - b The no encroachment standard of Sec 20-235(1), above.

**Sec. 20-236 Standards For Areas Of Shallow Flooding (Zone Ao).**

Located within the Special Flood Hazard Areas established in Sec. 20-187, 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 Sec 20-231 and Sec. 20-232 of this Division, all new construction and substantial improvements shall meet the following requirements:

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 two (2) feet, above the highest adjacent grade; or at least four (4) feet above the highest adjacent grade if no depth number is specified.

Non-residential structures may, in lieu of elevation, be floodproofed to the same level as required part 1 above 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 Sec. 20-212(3) and Sec. 20-232(2) of this Division.

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

**Sec 20-237 Effect Upon Outstanding Floodplain Development Permits.**

Nothing herein contained shall require any change in the plans, construction, size, or designated use of any development or any part thereof for which a floodplain development permit has been granted by the floodplain administrator or his or her authorized agents before the time of passage of this Division; 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 Division.

**Secs. 20-238--20-255. Reserved.**

**ARTICLE V. LAND USE**

**DIVISION 1. GENERALLY**

**Sec. 20-256 Moratoria**

Pursuant to and under the guidelines established by G.S. 153A-340(h) the County is hereby authorized to adopt temporary moratoria on any development approval required by law.

**Secs. 20-257--20-270. Reserved.**

## **DIVISION 2. SUBDIVISIONS\***

\*Editor's note: The following appendixes, mentioned throughout this division, are not printed herein, but are on file in the county offices:

Appendix A--Contents of Preliminary and Final Plat Requirements

Appendix B--Subdivision Application Form

Appendix C--Endorsement and Certificates -- Final Plat Requirements

Appendix D--Specification for Road Design and Construction (Public and Private)

Appendix E--Variance/Appeal Application Form

Appendix F--Fee Schedule

### **Subdivision I. In General**

#### **Sec. 20-271. Authority and enactment clause.**

Pursuant to the authority conferred by G.S. chapter 153A and G.S. chapter 160A, the board of commissioners does hereby ordain and establish into law this chapter.

(Ord. of 7-12-1999, § I(A); Ord. of 1-8-2001(3), § I(A))

#### **Sec. 20-272. Short title.**

This division shall be known as the "Subdivision Ordinance of Richmond County, North Carolina," and may be cited as the "County Subdivision Ordinance."

(Ord. of 7-12-1999, § I(B); Ord. of 1-8-2001(3), § I(B))

#### **Sec. 20-273. Jurisdiction.**

This division shall govern the establishment of each and every new subdivision and any addition or expansion of existing subdivisions lying within the jurisdiction of the county.

(Ord. of 7-12-1999, § I(C); Ord. of 1-8-2001(3), § I(C))

#### **Sec. 20-274. Purpose.**

The purposes of this division are to:

- (1) Promote the orderly development and growth of subdivisions in the county;
- (2) Help secure safety from fire, floods, panic, congestion and other dangers in subdivisions;
- (3) Provide for adequate light, air, and open space in subdivisions;
- (4) Ensure that facilities for transportation, parking, water, sewer and recreation are provided to residents of subdivisions within this division's jurisdiction;
- (5) To coordinate the streets and highways within proposed subdivisions with existing and planned streets and highways and with other public facilities;
- (6) To provide for the traffic in a manner to avoid congestion and overcrowding so as to create conditions essential to public health, safety, and the general welfare;
- (7) Permit orderly development and institution of a land use plan for the county;
- (8) To incorporate in this division those provisions of the Manufactured Home Park Ordinance of the county, set forth in division 2 of article VI of this chapter, that relate to manufactured home subdivisions, in order to have a unified subdivision ordinance; and
- (9) To incorporate the involvement of the Board of Adjustments in the application process.

(Ord. of 7-12-1999, § I(D); Ord. of 1-8-2001(3), § I(D))

**Sec. 20-275. Definitions.**

For the purposes of this division, the following definitions shall apply unless the context clearly indicates or requires a different meaning. The present tense is included in the future tense and the future tense is included in the present tense. The singular includes the plural and the plural includes the singular.

*Board of adjustments* means the county board of adjustments.

*Board of commissioners* means the county board of commissioners.

*Building authorization and construction authorization* mean an authorization for the owner or agent to make physical improvements to a piece of property based on a residential subdivision plan that has received preliminary approval.

*Building code* means the North Carolina State Building Code.

*County* means Richmond County, North Carolina.

*Health department* means the county health department.

*Easement* means a right given by the owner of land to another party for specific limited use of that land. For example, a property owner may give an easement on his property to allow utility facilities, like power lines or pipelines, to allow light to reach a neighbor's windows, or to allow access to another property.

*Lot* means and includes the words plot, parcel or tract. A piece of land whose boundaries have been described by a legal instrument or map recorded with the Register of Deeds.

*Lot area* means the total area circumscribed by the boundaries of a lot, except that when the legal instrument creating a lot shows the boundary for purposes of computing the lot area shall be the street right-of-way line, or if the right-of-way line cannot be determined, a line running parallel to the 30 feet from the center of the traveled portion of the street.

*Lot depth* means the distance between the front lot line and the rear lot line, measured from the midpoint of the front lot line to the midpoint of the rear lot line.

*Lot frontage* means the distance along which the front boundary of the lot and the street lines or right-of-way lines are coincident. On a corner lot the principal frontage shall be the shorter of the street frontages, measured from the point of intersection of the lot lines abutting such streets. Such principal frontage shall be considered the front yard for setback purposes. Where two such frontages are equal in length, the owner shall designate which is the front of building purposes.

*Lot line, rear.* The rear lot line is that opposite to the front lot line. Where lot lines are irregular, the rear lot shall be assumed to be a line not less than 20 feet long, lying within the lot and parallel to the front lot line at its midpoint.

*Lot, nonconforming,* means a lot of record existing at the effective date of this ordinance from which this division is derived or any amendment to it (and not created for the purpose of evading the restrictions of this division) that cannot meet the minimum standards of this division.

*Lot of record* means a lot which is a part of a subdivision, a plat or which has been recorded in the office of the Register of Deeds of the county, or a lot described by metes and bounds, the description of which has been so recorded.

*Lot, single tier,* means a lot which backs up to a limited access highway, railroad, physical barrier, or to another type of land use, and to which access from the rear is usually prohibited.

Lot types:

- (1) A corner lot is defined as 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.

- (2) An interior lot is defined as a lot other than a corner lot with only frontage on a street.
- (3) A through lot is defined as a lot other than a corner lot with a frontage on more than one street. Through lots abutting two streets may be referred to as double frontage lots.
- (4) A reversed frontage lot is defined as 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 reversed frontage lot may also be a corner lot, an interior lot, or a through lot.

*Manufactured home* See Definition found in Chapter 20, Article IV, Division 3, Section 20-555 of the Richmond County Code.

*May* is permissive.

*Planning board* means the county Planning Board.

*Plat, final*, means a drawing and related materials showing the layout of lots, streets, etc., in a proposed subdivision which must be approved pursuant to this division prior to recordation of such plat and prior to the transfer of any lots in a subdivision.

*Plat, preliminary*, means a drawing and related materials showing the layout of a proposed subdivision, including improvements details, which must be approved pursuant to this division prior to the preparation of a final plat.

*Private drive, road*, or street means an easement or right-of-way not publicly owned and maintained and is used for access by the occupants or owners of a development or subdivision, their guest and general public. Where provided, such private access requires a subdivision streets disclosure statement pursuant to the appropriate provisions of this division.

Class A - Private roads that serve 10 or more lots or dwelling units.

Class B - Private roads that serve 5 to 9 lots or dwelling units.

Class C - Private roads that serve 1 to 5 lots or dwelling units in minor subdivisions or the approved number of lots in a family subdivision.

*Public sewer* means a sewage system which is owned by any unit of government or authority, or by a private corporation, person or association and which is designed to

serve uses locating along existing lines or within the service area of the system, should additional collection lines be constructed.

*Public water supply system* means any approved water supply system furnishing potable water to ten or more dwelling units or business or any combination thereof.

*Residential home space* means an area within an approved subdivision meeting all applicable requirements for the purpose of constructing a home.

*Shall and will* are mandatory.

*Street and road* shall be synonymous in meaning.

*Street, alley*, means a strip of land providing secondary access to properties otherwise abutting a street.

*Street, arterial*, means a major street that serves as an avenue for the circulation of traffic onto, out, or around the county and carries high volumes of traffic.

*Street, collector*, means a street designed to carry medium volumes of vehicular traffic, provide access to the major street system and collect the vehicular traffic from the intersecting minor streets.

*Street, cul-de-sac*, means a street that terminates in a vehicular turnaround.

*Street, half*, means a street or public way whose centerline coincides with a subdivision plat boundary, with one-half the street right-of-way being contained within the subdivision plat. The term "street, half" also means any street to which the parcel of land to be subdivided abuts on only one side.

*Street, line*, means the right-of-way line of a street.

*Street, marginal access*, means a street that is parallel to and adjacent to an arterial street or thoroughfare and that is designed to provide access to abutting properties so that these properties are somewhat sheltered from the effects of the through traffic on the arteriolar direct driveway access from a large number of abutting properties.

*Street, minor or residential*, means a street designed primarily to provide vehicular access to properties abutting it.

*Street, public*, means a dedicated and formally accepted public right-of-way for vehicular traffic.

*Street, thoroughfare*, means a traffic artery designed primarily to carry heavy volumes of through vehicular traffic as shown on the major street plan.

*Structure* includes the term "building." Built for the support, shelter or enclosure of persons, animals, chattels or property.

*Subdivider* means any person, firm, or corporation who creates or proposes to create a subdivision as defined in this division.

*Subdivision* means all divisions of a tract or parcel of land into two or more lots, sites, or other divisions, when any one or more of those divisions is created for purposes of sale or development (whether immediate or future), including all division of land involving the dedication of a new street or a change in existing streets; but the following do not fall within this definition and, therefore, are not subject to regulation under this division:

1. The combination or recombination of portions of previously subdivided and recorded lots if the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the county as indicated by this division, or any amendments hereto; and
2. The division of land into parcels greater than five acres if no street right-of-way dedication is involved;
3. The public acquisition by purchase of strips of land for widening or opening streets;
4. The division of a tract in single ownership the entire area of which is no greater than two acres into not more than three lots, if no street right-of-way dedication is involved and if the resultant lots are equal to or exceed the standards of the county as shown by this subdivision.

For the purpose of this Division, the following classes of subdivisions are hereby defined

*Subdivision, family*, means a division of a tract or parcel to be conveyed to a family member of lineal descent or the property owner's father, mother, grandfather, grandmother, brother, sister, aunt, uncle, niece or nephew in accordance with the following:

- (1) All property has access via a new or existing right-of-way or access easement of at least the then applicable state road sizes;
- (2) The property must be conveyed to a member of the grantor's lineal descendants, as defined by G.S. 29-2(4), or the property owner's father, mother, grandfather, grandmother, brother, sister, aunt, uncle, niece, or nephew. The family subdivision intent form, on file in the office of the city clerk, must be filled out, notarized, and submitted to the subdivision administrator;
- (3) No more than ten new lots plus the residual may be created under this division and approved administratively. A waiver from the board of commissioners may be sought for additional lots; and

- (4) The approval process for a family subdivision shall be the same as for a minor subdivision.

*Subdivision, major*, means any subdivision other than a minor subdivision or a family subdivision.

*Subdivision, minor*, means a division of a tract or parcel of land that does not:

- (1) Create more than four lots, plus the residual acreage, from any one tract or parcel of land;
- (2) Dedicate or improve any new public street; and
- (3) Extend public water and or sanitary sewer system other than laterals to serve individual lots.

*Subdivision ordinance administrator*. Until ordered by the board of commissioners, the county planning department shall act as the administrator.

*Travelway* means that portion of an access way easement over which vehicular traffic travels to ingress and egress from one's property, which shall be not less than 15 feet in width.

*Vicinity map* means a drawing showing the general location of a subdivision within the county.

(Ord. of 7-12-1999, § I(E); Ord. of 1-8-2001(3), § I(E), Ord. Of 11-7-2005)  
(Ord. of 10/2/2006)

Cross references: Definitions generally, § 1-2.

Secs. 20-276--20-290. Reserved.

## **Subdivision II. Applications, Plan Review and Approval**

### **Sec. 20-291. Approval/authorization required.**

Physical improvements to the land to be subdivided are authorized by approval of a preliminary plat and sale of lots is permitted after final plat approval.

- (1) No person may subdivide his land except in accordance with all of the provisions of this division. In particular, no person may subdivide his land unless and until a final plat of the subdivision has been approved in accordance with the provisions of this division, and recorded in the County Registry.

- (2) The Register of Deeds may not record a plat of any subdivision within the county's jurisdiction unless the plat has been approved in accordance with the provisions of this division.
- (3) If any person who, being the owner or agent of the owner of any land located within the jurisdiction of the county, hereafter subdivides his land in violation of this division or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under this division and recorded in the office of the Register of Deeds, shall be guilty of a Class 1 misdemeanor. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this penalty. The county may bring an action for injunction of any illegal subdivision transfer, conveyance, or sale of land, and the court shall, upon appropriate findings, issue an injunction and order requiring the offending party to comply with this division. Building permits required pursuant to G.S. 153A-357 may be denied for lots that have been illegally subdivided. In addition to other remedies, the County may institute any appropriate action or proceedings to prevent the unlawful subdivision of land, to restrain, correct, or abate the violation, or to prevent any illegal act or conduct.
- (4) The provisions of this section shall not prohibit any owner or its agent from entering into contracts to sell or lease by reference to an approved preliminary plat for which a final plat has not yet been properly approved under this Division or recorded with the register of deeds, provided the contract does all of the following:
- a. *Incorporates as an attachment a copy of the preliminary plat referenced in the contract and obligates the owner to deliver to the buyer a copy of the recorded plat prior to closing and conveyance.*
  - b. Plainly and conspicuously notifies the prospective buyer or lessee that a final subdivision plat has not been approved or recorded at the time of the contract, that no governmental body will incur any obligation to the prospective buyer or lessee with respect to the approval of the final subdivision plat, that changes between the preliminary and final plats are possible, and that the contract or lease may be terminated without breach by the buyer or lessee if the final recorded plat differs in any material respect from the preliminary plat.
  - c. Provides that if the approved and recorded final plat does not differ in any material respect from the plat referred to in the contract, the buyer or lessee may not be required by the seller or lessor to close any earlier than five days after the delivery of a copy of the final recorded plat.
  - d. Provides that if the approved and recorded final plat differs in any material respect from the preliminary plat referred to in the contract, the buyer or lessee may not be required by the seller or lessor to close any earlier than 15 days after the delivery of the final recorded plat, during which 15-day period the buyer or

lessee may terminate the contract without breach or any further obligation and may receive a refund of all earnest money or prepaid purchase price.

- (5) The provisions of this section shall not prohibit any owner or its agent from entering into contracts to sell or lease land by reference to an approved preliminary plat for which a final plat has not been properly approved under the subdivision ordinance or recorded with the register of deeds where the buyer or lessee is any person who has contracted to acquire or lease the land for the purpose of engaging in the business of construction of residential, commercial, or industrial buildings on the land, or for the purpose of resale or lease of the land to persons engaged in that kind of business, provided that no conveyance of that land may occur and no contract to lease it may become effective until after the final plat has been properly approved under the subdivision ordinance and recorded with the register of deeds.
- (6) Decisions on approval or denial of preliminary or final plats may be made only on the basis of standards explicitly set forth in this Division.

(Ord. of 9-12-1999, § II(A); Ord. of 1-8-2001(3), § II(A)) (Ord. of 10/2/2006)

**Sec. 20-292. Application procedure.**

(a) Minor / Family subdivision approval.

- (1) Planning conference. A planning conference with the Subdivision Administrator to acquaint the applicant with the approval process shall be required prior to or in conjunction with a plan or preliminary sketch of a proposed minor subdivision.
- (2) Application. The applicant for minor subdivision plat approval, before complying with subsection (a)(3) of this section, shall submit a sketch plan to the Subdivision Administrator for a determination of whether the approval process authorized by this section can be and should be utilized. The Subdivision Administrator may require the applicant to submit whatever information is necessary to make this determination, including, but not limited to, a copy of a tax map showing the land being subdivided and all lots previously subdivided from that tract of land within the previous five years.
- (3) Submittal to administrator. Applicants for minor subdivision approval shall submit to the Subdivision Administrator a copy of a plat conforming to the requirements set forth in appendix A, on file in the county offices, as well as two prints of such plat, and a minor subdivision plat shall contain the appropriate certificates as found in Appendix C, on file in the county offices.
- (4) Review procedure. The Subdivision Administrator shall require the following agencies to review the preliminary plat and certify to the Subdivision Administrator that the proposed design meets the respective agency's requirements before preliminary approval may be granted. This list is not

inclusive or exhaustive and may be expanded at the discretion of the Subdivision Administrator without notice and on a case-by-case basis. Such agency review shall be completed within a reasonable time under the circumstances:

- a. State Department of Transportation District Engineer as to street entrance design and proposed intersection with a state-maintained road.
  - b. Health Department as to proposed water, sewer and solid waste collection systems design, if any. In the case of a subdivision to be attached to a public water supply, the Subdivision Administrator shall submit the proposed design to the County Engineer.
  - c. Building Inspection Department as to design compliance with the State Building Code (all applicable sections).
- (5) The Subdivision Administrator shall take expeditious action on an application for minor subdivision plat approval. However, either the Subdivision Administrator or the applicant may at any time refer the application to the major subdivision approval process.
- (6) Not more than a total of four lots plus the resultant lot may be created out of one tract using the minor subdivision plat approval process during any 24-month period. Extensions of previously platted minor subdivisions are not permitted and will result in the conversion of the entire subdivision into a major subdivision for the purpose of this division.
- (7) If the subdivision is disapproved, the Subdivision Administrator shall, within 30 days, mail by certified mail, return receipt requested, to the applicant a written statement of the reasons for disapproval. If the Subdivision Administrator does not take any action within this 30-day time period, then the subdivision shall be deemed to be disapproved.

(b) Major subdivision approval.

- (1) Planning conference. A planning conference with the Subdivision Administrator to acquaint the applicant with the approval process may be required prior to submitting preliminary plat. At the time of such conference, the applicant shall provide a general sketch for discussion and comment.
- (2) Application. Prior to constructing a new subdivision, or phase thereof, or prior to expanding an existing subdivision, an applicant shall submit five legible copies of the preliminary plat, drawn at a scale no less than one inch equals 200 feet, including all the required elements listed for preliminary plans in appendix A, on file in the county offices, plus required fees to the Subdivision Administrator. The preliminary plan may be divided into several maps and plans indicating the different elements required. The Subdivision Administrator may waive certain

elements from the plan, but will always reserve the right to re-request the item or additional items and information as deemed necessary.

(3) Agency review. The Subdivision Administrator shall require the same agencies as listed in subsection (a)(4) of this section to review the preliminary plan and certify to the Subdivision Administrator that the proposed design meets each such agency's requirements before preliminary approval may be granted. This list is not inclusive or exhaustive and may be expanded at the discretion of the Subdivision Administrator without notice and on a case-by-case basis. Such agency review shall be completed within a reasonable time under the circumstances.

(4) Review procedure. Within 30 days of receipt of a preliminary plat, the Subdivision Administrator shall review it for conformance with the standards of this division and shall approve, approve with conditions or deny it as outlined in this division. If the Subdivision Administrator does not take any action within this 30-day time period, then the preliminary plat will be deemed disapproved.

(5) Preliminary plat approval.

- a. Approval. If the Subdivision Administrator approves the application, he or she shall sign off at the appropriate certification on the preliminary plat. Upon request, the Subdivision Administrator may furnish to the applicant a written approval of the preliminary plat. Such authorization shall state the improvements that must be constructed by the applicant prior to approval of the final plat.
- b. Approval with conditions. If the Subdivision Administrator approves the preliminary plat with conditions, he or she shall provide such conditions to the applicant in writing to be mailed by certified mail, return receipt requested, within 30 days of the decision. The applicant must fulfill all conditions in addition to all site improvements before the Subdivision Administrator will approve the final plat. Any development activity started prior to obtaining such final plat approval shall be at the applicant's own risk and shall be deemed a violation of this division.
- c. Application denial. If the Subdivision Administrator denies the application, he or she shall inform the applicant in writing by certified mail, return receipt requested, of the reasons for the denial within 30 days of the action. The applicant shall have 30 days from receipt of such certified letters to appeal the decision to the Board of Adjustments.

(Ord. of 7-12-1999, § II(B); Ord. of 1-8-2001(3), § II(B))

**Sec. 20-293. Completion of improvements.**

- (a) Time period. Upon approval of the preliminary plat, the applicant shall have four years to complete construction of site improvements for the subdivision or phase thereof, except as otherwise noted in subsection (b) of this section. Extensions may be granted by the Subdivision Administrator for good cause upon receipt of a written request from the applicant.
- (b) Site improvements. A subdivision applicant shall be required to construct or install the following improvements, in accordance with the approved preliminary plat, in order to obtain final plat approval:
  - (1) Public water supply systems, if applicable;
  - (2) Public sewage disposal systems, if applicable;
  - (3) Fire protection improvements;
  - (4) Drainage improvements, where applicable; and
  - (5) Internal roads, if applicable.
- (c) Inspection. The Subdivision Administrator (or his or her designee), Code Enforcement Officer, and the County Engineer are authorized to make such inspections of subdivisions as necessary and at any time to ensure compliance with the division.

(Ord. of 7-12-1999, § II(C); Ord. of 1-8-2001(3), § II(C))

**Sec. 20-294. Major subdivision final plat approval process.**

- (a) The Subdivision Administrator shall approve or disapprove major subdivision final plats in accordance with the provisions of this section.
- (b) The applicant for major subdivision plat approval shall submit to the Subdivision Administrator a final plat, drawn in waterproof ink on a sheet made of material that will be acceptable to the County Register of Deeds for recording purposes, and having dimensions as follows: either 18 inches by 24 inches or 24 inches by 36 inches. When more than one sheet is required to include the entire subdivision, all sheets shall be made of the same size and shall show appropriate match marks on each sheet and appropriate references to other sheets of the subdivisions. The scale of the plat shall be at one inch equals not less than 200 feet. The applicant shall also submit two prints of the plat.
- (c) The plats referenced in subsection (b) of this section shall include the elements and conform to the requirements set forth in appendix A, on file in the county offices, as well as two prints of such plat.

- (d) The Subdivision Administrator shall approve the proposed plat unless he or she finds that the plat or the proposed subdivision fails to comply with one or more of the requirements of this division or that the final plat differs substantially from the plans and specifications approved in conjunction with the approval of the preliminary plat.
- (e) If the Subdivision Administrator disapproves the final plat, the applicant shall be furnished with a written statement, delivered by certified mail, return receipt requested, of the reasons for the disapproval.
- (f) Approval of a final plat is contingent upon the plat being recorded within 60 days after the Subdivision Administrator or his or her designee signs the approval certificate.

(Ord. of 1-8-2001(3), § II(D))

**Sec. 20-295. Authorizing the sale of lots before completion of approval preliminary plat.**

If at least 75 percent of the infrastructure of the subdivision is completed in accordance with the preliminary plat, the board of commissioners may authorize final plat approval and the sale of lots before all the requirements of this division are fulfilled if the subdivider provides a performance bond, surety bond, or letter of credit in the amount approved by the Board of Commissioners to ensure that all of the requirements of this division and the approved preliminary plat will be fulfilled within not more than 6 months after final plat approval. The type of performance guarantee from the list above shall be at the election of the developer.

(Ord. of 1-8-2001(3), § II(E), Ord. of 11-7-2005) (Ord. of 10/2/2006)

**Sec. 20-296. Amendments to the subdivision development plan.**

The Subdivision Administrator may authorize minor changes in the preliminary plat after it has been approved, if required by engineering or other circumstances not foreseen at the time the plan was approved, provided that such changes are within the minimum or maximum requirements set forth in this division. All changes and amendments to the preliminary plan after initial approval shall be documented in writing and kept in the case file.

(Ord. of 7-12-1999, § II(D); Ord. of 1-8-2001(3), § II(F))

**Secs. 20-297--20-310. Reserved.**

**Subdivision III. Site Development and Improvement Standards**

**Sec. 20-311. Streets and roads.**

- (a) Every lot within a subdivision must have either frontage on a public (state-maintained) road or a private road, as defined in appendix D, on file in the county offices.
- (b) Where a tract of land to be subdivided adjoins a principal arterial street, the subdivider may be required to provide a marginal access street parallel to the arterial street or reverse frontage on a minor street for the lots to be developed adjacent to the arterial. Where reverse frontage is established, private driveways shall be prevented from having direct access to the principal arterial.
- (c) All driveway entrances and other openings onto streets within the state's jurisdiction shall be constructed so that:
  - (1) Vehicles can enter and exit from the lot in question without posing any substantial danger to themselves, pedestrians, or vehicles traveling in abutting streets; and
  - (2) Interference with the free and convenient flow of traffic in abutting or surrounding streets is minimized.
- (d) The street system of a subdivision shall be coordinated with existing, proposed, and anticipated streets outside the subdivision or outside the portion of a single tract that is being divided into lots (hereinafter, surrounding streets) as provided in this section.
- (e) Streets shall be related appropriately to the topography. In particular, streets shall be designed to facilitate the natural drainage and storm water runoff of the surrounding area and shall conform as closely as practicable to the original topography.
- (f) The design of all public streets and roads within the jurisdiction of this division shall be in accordance with the accepted policies and standards of the State Department of Transportation, Division of Highways. The current editions of the State Department of Transportation's Subdivision Roads - Minimum Construction Standards and Policy on Street and Driveway Access to North Carolina Highways shall apply for any items not included in this division. State construction and design standards cover such areas as pavement and base design, grade, radii of curves, sight distances, design speeds, right-of-way widths, pavement widths, curbs and gutters, cul-de-sac designs, islands and medians, subdivision name markers, dams and bridges, cut and fill slopes, drainage and utilities. Some of these requirements are subject to change by the state at any time without affecting the validity of this section. The subdivision of a nonresidential subdivision shall provide public streets in accordance with the North Carolina Roads Minimum Construction Standards. Any deviation from the state street design standards shall be noted on the subdivision final plat, approved by the Department of Transportation, and recorded with the Register of Deeds.
- (g) Street and road specifications can be found in appendix D, on file in the county offices. Regardless of whether the proposed road is to be public or private, all new

roads and access corridors shall be constructed to the standards as found in appendix D.

(Ord. of 1-8-2001(3), § III (A))

**Sec. 20-312. Road frontage and off-site access.**

- (a) Any tract of land created through the County subdivision process must either have frontage on a public (state-maintained) road or have a private right-of-way or easement corridor to the property. The minimum width of the public road frontage or width of the private right-of-way or easement corridor shall be 30 feet.
- (b) Easement access shall have a minimum 20-foot cleared, unobstructed corridor, with a vertical clearance of at least 13 feet, 6 inches, to allow passage of emergency vehicles. The grade of any road, existing or proposed, within an off-site private right-of-way corridor used to access a subdivision shall not exceed 18 percent if the road is paved. If such road is not paved, the grade shall not exceed 15 percent. Included on the final plat shall be a Disclosure of Private Streets or Roadways certificate as required by N.C.G.S. 136-102.6(f). This certificate shall be appropriately signed.

(Ord. of 7-12-1999, § III(B); Ord. of 1-8-2001(3), § III(B), Ord. 11-7-2005)

**Sec. 20-313. Density.**

- (a) Please refer to Section 3.3 of the Richmond County Zoning Ordinance.
- (b) The acreage of the entire area within the boundary of a subdivision shall be used to determine the overall density of a subdivision. Other standards in this division as well as requirements of The Richmond County Zoning Ordinance, the County Health Department or other agency may also affect the density.

(Ord. of 7-12-1999, § III(C); Ord. of 1-8-2001(3), § III(C), Ord. 11-7-2005)

**Sec. 20-314. Separation and setback requirements.**

- (a) Please refer to Section 3.3 of the Richmond County Zoning Ordinance.
- (b) *Deleted*
- (c) The separation between buildings and water supply systems and/or sewage disposal systems shall be as required by regulations of the County Health Department and the state.
- (d) If any setback or separation provision in this division shall conflict with any federal statute, regulation or law or with any state statute, law or agency regulation, the provisions of this division shall not control.

(e) *Deleted*

(Ord. of 7-12-1999, § III(F); Ord. of 1-8-2001(3), § III(D) Ord. 11-7-2005)

**Sec. 20-315. Utility requirements.**

The approval and installation of all utility improvements, including, but not limited to, water, sewer, electricity and solid waste collection, shall be in accordance with this chapter.

(1) Water. Each and every lot located in a subdivision shall be supplied with water from either an approved municipal system or an approved public or community water system. Before the approval of the final plat, any municipal, public, or community water system must be certified by the County Health Department, County Engineer and/or the Public Water Supply Section of the State Department of the Environment and Natural Resources as being installed to meet all state and local regulations. Individual water wells shall not be allowed in subdivisions, unless the administrator finds that such individual water wells can and will meet all applicable state and county health regulations.

(2) Sewer. Each and every home in a subdivision shall be supplied with either a hookup to a public or package sewage system or an approved septic tank system. Before approval of the final plat any proposed municipal, public, or community sewage disposal must be certified by the County Health Department, County Engineer and/or the Public Water Supply Section of the State Department of the Environment and Natural resources as being installed to meet all state and local regulations. If septic tank systems are intended to be used, there shall be a separate tank for each home space.

(3) *Deleted*

(4) *Deleted*

(Ord. of 7-12-1999, § III(G); Ord. of 1-8-2001(3), § III(E), Ord. 11-7-2005)

**Sec. 20-316. Fire protection.**

Subdivisions proposed to be served by a public water supply system shall meet the minimum requirements of the system owner for fire hydrant installation. For a subdivision without a fire suppression-rated water system, that either has or is adjacent to an adequate permanent surface water supply, the applicant may be required to install a dry fire hydrant system if recommended by the County Fire Marshal. The Fire Marshal shall determine the type and location of such a system. A road providing all-weather access to the water source that is adequate for firefighting equipment shall be required, if applicable.

(Ord. of 7-12-1999, § III(H); Ord. of 1-8-2001(3), § III(F))

Cross references: Fire prevention, ch. 17.

**Sec. 20-317. Utility easements.**

Easements for utilities are required. The applicant should discuss with utility providers whether easements must be provided, and, if so, at what size and location. Such easements shall be shown on the preliminary and final plats.

(Ord. of 7-12-1999, § III(I); Ord. of 1-8-2001(3), § III(G))

**Sec. 20-318. Erosion and sedimentation control.**

Where required under the North Carolina Sedimentation Pollution Control Act of 1973, evidence of approval of an erosion and sedimentation control plan by the State Department of Environment and Natural Resources, Land Quality Division, shall be submitted prior to issuance of a Subdivision Construction Authorization.

(Ord. of 7-12-1999, § III(J); Ord. of 1-8-2001(3), § III(H))

Cross references: Environment, ch. 14.

**Sec. 20-319. Stormwater drainage.**

Stormwater drainage improvements shall be designed and constructed to minimize erosion and downstream sedimentation, to follow natural drainage where possible, to minimize flooding or standing water conditions, to maintain desirable groundwater conditions and to avoid excessive stormwater discharge to sensitive natural areas. Points of stormwater discharge shall be within the subdivision site unless otherwise approved by the Administrator and adjoining property owners. The applicant shall properly maintain stormwater control devices. A detailed drainage plan shall be submitted as part of the site plan application for subdivisions. Such plan shall show the general drainage patterns for the subdivision. Where the drainage of the subdivision does not follow the natural drainage of the property, the applicant shall design such new drainage systems, including swales, ditches, pipes, culverts, detention ponds, lakes, or similar devices, to minimize any adverse effect on the proposed subdivision and on adjacent and downstream properties. Such plan shall include the location, type and size of existing and proposed stormwater drainage improvements.

(Ord. of 7-12-1999, § III(K); Ord. of 1-8-2001(3), § III(I))

**Sec. 20-320. Internal road construction standards.**

Access to all lots within a subdivision shall be made using internal roads. The maintenance of internal roads and drainage facilities shall be the responsibility of the subdivision applicant.

- (1) Road construction. All public roads must be paved and shall meet the minimum State Department of Transportation road standards for local roads. The road should be built so that water will drain from the road surface into side ditches. Because of the high potential for erosion, roads should be constructed along the contour of the land where possible. The Administrator may require that a professional engineer or surveyor certify on an "as-built" drawing that no portion of any internal roads have grades exceeding the maximum allowed by this division.
- (2) Road drainage and culverts. All internal roads shall be provided with appropriate drainage facilities. Road drainage structures shall be constructed in accordance with minimum state road standards. Road drainage side ditches shall have sufficient depth and width to carry the expected volume of stormwater runoff. Where roads cross streams or minor watercourses, culverts shall be designed and installed in accordance with minimum state road standards.
- (3) Turnarounds. A cul-de-sac or other turnaround approved by the Administrator is required on any internal road which serves ten or more spaces. Cul-de-sacs shall have a minimum radius of 35 feet. Cul-de-sacs and other approved turnarounds shall be surfaced with the same material required on the road they serve.
- (4) Vertical clearance. All internal roads, including shoulder areas, shall have a minimum vertical clearance of 13 feet, six inches, to allow for the passage of emergency vehicles.
- (5) Abutting state-maintained roads. In the event that all the homes in a subdivision abut a state-maintained road, no additional internal roads shall be required.

(Ord. of 7-12-1999, § III(L); Ord. of 1-8-2001(3), § III(J))

**Sec. 20-321. Road names.**

The site development plan shall show names, approved by the County Mapping Office, for all proposed internal roads, which serve three or more spaces.

(Ord. of 7-12-1999, § III(M); Ord. of 1-8-2001(3), § III(K))

Cross references: Streets, sidewalks and other public places, ch. 26.

**Sec. 20-322. Road name signs and other regulatory signs.**

The applicant shall provide road name signs in accordance with the County Mapping Office and regulatory signs (such as "stop" signs) in accordance with applicable state and county policies.

(Ord. of 7-12-1999, § III(N); Ord. of 1-8-2001(3), § III(L))

**Sec. 20-323. Property addressing.**

Pease refer to the Chapter 26, Article III of this Code for Street Naming and Property Numbering (Addressing)

(Ord. of 7-12-1999, § III(O); Ord. of 1-8-2001(3), § III(M)) (Ord. of 10/2/2006)  
Cross references: Street numbering, § 26-61 et seq.

**Sec. 20-324. Subdivision identification sign.**

Subdivisions shall provide at least one sign displaying their names at each entrance. The subdivision name shall not duplicate or closely resemble the name of any existing housing development located in the county. Subdivision name signs shall be at least one foot in height by three feet in width. Subdivision identification signs shall not be located within the right-of-way for any road.

(Ord. of 7-12-1999, § III(P); Ord. of 1-8-2001(3), § III(N))

**Sec. 20-325. Subdivision name.**

In order to avoid possible confusion for emergency services personnel, the applicant shall choose a name for the subdivision which does not duplicate or closely resemble the name of any existing road, subdivision, or other housing development located in the county.

(Ord. of 7-12-1999, § III(Q); Ord. of 1-8-2001(3), § III(Q))

**Secs. 20-326--20-345. Reserved.**

**Subdivision IV. Administration\***

\*Cross references: Administration, ch. 2.

**Sec. 20-346. Pre-existing/nonconforming subdivisions.**

- (a) Any subdivision existing on the effective date of the ordinance from which this division is derived, or any subsequent amendment thereto, may continue to operate without being subject to the requirements of this division unless expansion or addition is proposed. Any subdivision with a plat that has been duly recorded in the County Register of Deeds office prior to the effective date of the ordinance from which this division is derived is exempt from the provisions of this division.

(b) Subdivisions existing prior to the effective date of the ordinance from which this division is derived ("preexisting subdivisions") shall be registered with the County Building Inspector within six months of adoption of the ordinance from which this division is derived. Any pre-existing subdivision, which is not registered, may be subject to the provisions of this division. Pre-existing subdivisions registered with the Building Inspector may be expanded provided that any such expansion shall be in accordance with the requirements of this division.

(c) *Deleted*

(Ord. of 7-12-1999, § IV(A); Ord. of 1-8-2001(3), § IV(A), Ord. 11-7-2005)

**Sec. 20-347. Expansion of existing subdivisions.**

The addition of any new spaces to a subdivision existing prior to enactment of the ordinance from which this division is derived, except as provided below, shall be considered an expansion of such subdivision and shall be subject to the requirements of this division.

- (1) Infilling. If a pre-existing subdivision is to be expanded, but such expansion does not require the construction of new internal roads to serve the new spaces, the development will not be required to comply with the requirements of this division, provided that all of the following conditions are met:
  - a. The development must occur within the boundaries of the existing subdivision;
  - b. The number of new spaces shall not exceed more than 33 percent of the existing spaces; and
  - c. The setbacks for home units built on newly created spaces shall not exceed the average setbacks of existing units located wholly or in part within 100 feet on each side of such new space and which front on the same road as the new space.
- (2) Other expansions. If expansion of a pre-existing subdivision involves new internal road construction, the new development will be considered a new phase and shall comply, to the extent possible, with the requirements of this division. The Administrator on a case-by-case basis shall determine such compliance; however, compliance will not require that any existing units be relocated.
- (3) In all respects, any division or subdivision of land that meets the definition of subdivision as found in Sec. 20-275 shall be recorded in Richmond County Register of Deeds in accordance with Sec. 20-291 of this Code

(Ord. of 7-12-1999, § IV(B); Ord. of 1-8-2001(3), § IV(B), Ord. 11-7-2005)

**Sec. 20-348. Waiver of requirements/variances.**

The Board of Adjustments is charged with hearing and deciding on Variances of the regulation found within this Article. The Board of Adjustment process and policies are found in Chapter 20, Article II of the Richmond County Code of Ordinances.

(Ord. of 7-12-1999, § IV(C); Ord. of 1-8-2001(3), § IV(C), Ord. 11-7-2005)

**Sec. 20-349. Appeals.**

Appeals from decisions of the Subdivision Administrator shall be made to the Board of Adjustments; appeals from decisions of the Board of Adjustments shall be made to the Superior Court of the county. An applicant shall file an appeal with the Board of Adjustments by giving written notice to the Subdivision Administrator within 30 days of the Subdivision Administrator's decision. An appeal to the Superior Court must be filed with the Clerk of Superior Court within 30 days after a decision by the Board of Adjustments. Unless otherwise ordered by a court of competent jurisdiction, this division may be enforced as provided in this division while any appeal under this section is pending.

(Ord. of 7-12-1999, § IV(D); Ord. of 1-8-2001(3), § IV(D))

**Sec. 20-350. Penalties for violations.**

Enforcement of this division is granted to the county under authority of G.S. 153A-123, and violation of this division is a misdemeanor, as provided by G.S. 14-4. The Subdivision Administrator, the Board of Adjustments, the County Manager, and the board of commissioners shall enforce this division in accordance with the provisions of this Code. Each day that a violation of this division exists constitutes a separate violation, pursuant to G.S. 14-4. This division may also be enforced by use of civil action, injunctive relief, and equitable relief, including, but not limited to, orders of abatement.

(Ord. of 7-12-1999, § IV(E); Ord. of 1-8-2001(3), § IV(E))

**Sec. 20-351. Powers and duties of the subdivision administrator.**

The Subdivision Administrator shall have the following powers and duties in addition to other powers and duties duly assigned:

- (1) To review and either approve, approve with conditions, or disapprove applications for new subdivisions, or expansions to existing subdivisions, under the applicable provisions of this division;
- (2) To take such actions as may be reasonably necessary and required to ensure compliance with and enforcement of the terms and provisions of this division;

- (3) To review all requests for waivers from the provisions of this division and submit all relevant information to the Board of Adjustments and county commissioners for their review and final decision; and
- (4) To make recommendations to the Planning Board on all proposed amendments to this division in accordance with the provisions of this division.

(Ord. of 7-12-1999, § IV(G); Ord. of 1-8-2001(3), § IV(F))

**Sec. 20-352. Powers and duties of the board of adjustment.**

Under this division, the Board of Adjustments shall have the following powers and duties, in addition to other powers and duties duly assigned to:

- (1) Review and either approve, approve with conditions, or disapprove, under the applicable provisions of this division, any applications referred to it by the Subdivision Administrator;
- (2) Hear and decide appeals where it is alleged that there is an error in an order, requirement, decision, determination or interpretation made by the Subdivision Administrator in the enforcement of this division;
- (3) Review all requests for variances from the provisions of this division;
- (4) Take such actions as may be reasonably necessary and required to ensure compliance with and enforcement of the terms and provisions of this division; and
- (5) Make recommendations to the board of commissioners on all proposed amendments to this division in accordance with the provisions of this division.

(Ord. of 1-8-2001(3), § IV(G))

**Sec. 20-353. Powers and duties of the board of commissioners.**

Under this division, the board of commissioners shall have the following powers and duties, in addition to the powers and duties duly assigned:

- (1) To take such actions as may be reasonably necessary and required to ensure compliance with and enforcement of the terms and provisions of this division; and
- (2) To review all proposed amendments to this division in accordance with this division.

(Ord. of 7-12-1999, § IV(I); Ord. of 1-8-2001(3), § IV(H))

**Sec. 20-354. Forms.**

Any forms or checklists listed in the appendices of the ordinance from which this division is derived are general in nature and may be modified by the administrator, county manager, or board of commissioners as necessary.

(Ord. of 7-12-1999, § IV(J); Ord. of 1-8-2001(3), § IV(J))

**Sec. 20-355. Fees.**

Reasonable fees for applications and revisions thereto, certificate of completion inspections, reinspections and variances under this division may be set by the county board of commissioners.

(Ord. of 7-12-1999, § IV(K); Ord. of 1-8-2001(3), § IV(K))

**Secs. 20-356--20-375. Reserved.**

**DIVISION 3. HIGHWAY DEVELOPMENT DISTRICT**

**Sec. 20-376. – Sec. 20-387. - Repealed**

(Ord. of 1-4-1999) (Ord 10/2004 – Book 1293, Page 446)

**Secs. 20-388--20-405. Reserved.**

**DIVISION 4 – ZONING**

Not yet Codified

**DIVISION 5 – AIRPORT HARZARD**

Not yet Codified

**ARTICLE VI. MANUFACTURED HOMES AND TRAILERS\***

\*Cross references: Environment, ch. 14; buildings and building regulations, § 20-61 et seq.; floods, § 20-166 et seq.; solid waste, ch. 23; streets, sidewalks and other public places, ch. 26.

## **DIVISION 1. GENERALLY**

**Secs. 20-406--20-420. Reserved.**

## **DIVISION 2. MANUFACTURED HOME PARKS\***

\*Editor's note: The following appendixes, mentioned throughout this division, are not printed herein, but are on file in the county offices:

Appendix A--Specifications for Road Design and Construction  
Appendix B--Manufactured Home Park Application Form  
Appendix C--Variance Application Form  
Appendix D--Fee Schedule

### **Subdivision I. In General**

#### **Sec. 20-421. Authority and enactment clause.**

Pursuant to the authority conferred by G.S. ch. 153 and G.S. ch. 160A, the board of commissioners does hereby ordain and establish into law this division.

(Ord. of 7-12-1999, § I(A); Ord. of 1-8-2001(1), § I(A))

#### **Sec. 20-422. Short title.**

This division shall be known as the "Manufactured Home Park Ordinance of Richmond County, North Carolina," and may be cited as the "County Manufactured Home Park Ordinance."

(Ord. of 7-12-1999, § I(B); Ord. of 1-8-2001(1), § I(B))

#### **Sec. 20-423. Jurisdiction.**

These regulations shall govern the establishment, operation and maintenance of each and every new manufactured (mobile) home park or recreational vehicle camp or park, and any addition or expansion of existing manufactured home parks or recreational vehicle camps or parks lying within the jurisdiction of the county.

(Ord. of 7-12-1999, § I(C); Ord. of 1-8-2001(1), § I(C))

#### **Sec. 20-424. Purpose.**

The purposes of this division are to:

- (1) Promote the orderly development of manufactured home parks;
- (2) Help secure safety from fire, floods, panic, congestion and other dangers in manufactured home parks;
- (3) Provide for adequate light, air, and open space in manufactured home parks;
- (4) Ensure that facilities for transportation, parking, water, sewer and recreation are provided to residents of manufactured home parks within this division's jurisdiction; and
- (5) Permit orderly implementation of a land use plan for the county.

(Ord. of 7-12-1999, § I(D); Ord. of 1-8-2001(1), § 1(D))

**Sec. 20-425. Definitions.**

For the purposes of this division, the following definitions shall apply, unless the context clearly indicates or requires a different meaning. The present tense is included in the future tense and the future tense is included in the present tense. The singular includes the plural and the plural includes the singular.

*Board of adjustments* means the County Board of Adjustments.

*Board of commissioners* means the county board of commissioners.

*Building code* means the State Building Code.

*Building permit and construction permit* mean a permit authorizing the owner or agent to make physical improvements to a piece of property based on a manufactured home park or subdivision plan that has received preliminary approval.

*Developer* means the person planning or proposing to develop, operate or maintain a manufactured (mobile) home park; this term includes any person operating, owning or maintaining a manufactured home park in existence on the effective date of the ordinance from which this division is derived.

*Health department* means the County Health Department.

*Lot* includes the words plot, parcel or tract and means a piece of land whose boundaries have been described by a legal instrument or map recorded with the Register of Deeds.

*Manufactured home* See Definitions found in Chapter 20, Article VI, Division 3, Section 20-555 of the Richmond County Code.

*Manufactured home lot.* A manufactured home lot is a piece of land within a manufactured home park:

- (1) Whose boundaries are delineated in accordance with the requirements of this division;  
and
- (2) That is designed and improved in accordance with this division to accommodate a single manufactured home.

*Manufactured home park* means a piece of land held in single or corporate ownership and developed in a unified manner for the placement of two or more manufactured homes to be occupied for living and sleeping purposes.

*Manufactured home space* means an area within an approved manufactured home park meeting all applicable requirements for the purpose of setting up a manufactured home.

*May* is permissive.

*Private drive, road or street* means an easement or right of way not publicly owned and maintained and used for access by the occupants or owners of a manufactured home park, their guests and the general public.

*Private driveway* means a roadway serving two or fewer lots, building sites or other divisions of land and not intended for public ingress or egress.

*Richmond County Manufactured Home Park Ordinance Administrator* means, in this division, the Administrator or similar designation. Until otherwise ordered by the board of commissioners, the County Planning Department shall act as the administrator.

*Setup* means the process of placement of a manufactured home on a manufactured home space and includes the minimum requirements for blocking, wiring, plumbing, and anchoring in accordance with applicable local, state and federal construction regulations.

*Shall and will* are mandatory.

*Steps* means a structural component bonded or fastened as one unit in accordance with the North Carolina Residential Building Code, Volume VII, Section 314 (Stairways) and § 315 (Handrails and Guardrails), and for the purpose of ingress and egress from manufactured homes.

*Street and road* shall be synonymous in meaning.

*Structure* means and includes the word "building." The term "structure" also means built for the support, shelter or enclosure of persons, animals, chattels or property.

*Tie-down* means the process of anchoring a manufactured home to the ground in accordance with applicable local, state, and federal construction regulations.

*Tract* means a piece of land whose boundaries have been described or delineated by a legal instrument or map recorded in the office or the county Register of Deeds.

*Vicinity map* means a drawing showing the general location of a manufactured home park or subdivision within the county.

(Ord. of 7-12-1999, § I(E); Ord. of 1-8-2001(1), § I(E); Ord. of 11-7-2005; Ord 10-1-2007)

Cross references: Definitions generally, § 1-2.

**Secs. 20-426--20-440. Reserved.**

## **Subdivision II. Procedure for Securing Approval of Manufactured Home Parks**

### **Sec. 20-441. Approval/authorization required.**

No person shall construct or engage in the construction of any manufactured home park or make any addition or alteration to a manufactured home park that either alters the number of lots for manufactured homes within the park; expands the size of the manufactured home park or affects the facilities required therein until a Conditional Use Permit for such activity has been issued by the Richmond County Board of Adjustment in accordance with the Richmond County Zoning Ordinance.

(Ord. of 7-12-1999, § II(A); Ord. of 1-8-2001(1), § II(A); (Ord 10-1-2007)

### **Sec. 20-442. Application procedure.**

Prior to the construction of a new manufactured home park or the expansion of an existing manufactured home park, the developer shall make application to the Administrator for a Conditional Use Permit to construct or expand such a park. The original drawing of the proposed or expanded park plan shall accompany the application. The Administrator will not accept incomplete applications and/or park plans for review. The Conditional Use shall follow the process as outlined in the Richmond County Zoning Ordinance.

(Ord. of 7-12-1999, § II(B); Ord. of 1-8-2001(1), § II(B); Ord. 10-1-2007)

### **Sec. 20-443. Manufactured home park plan requirements.**

The manufactured home park plan shall be drawn on reproducible sheets to a scale of not less than one inch equals 100 feet and shall show the following on one or more sheets:

(1) The name of the manufactured home park, the names and addresses of the owners and the designer of the park.

(2) Date, approximate north arrow, and scale.

- (3) The boundary line of the tract, with accurate linear and angular dimensions, drawn to scale and the area of the park in square feet or acres.
- (4) A location map showing the location of the manufactured home park.
- (5) The locations of existing and platted property lines, streets, buildings, watercourses, railroads, bridges, water mains, sewers, culverts, drainpipes, and any utility easements. The Administrator may require similar information to be shown on proposed park boundaries. The names of adjoining manufactured home parks or the names of recorded owners of adjoining parcels of land shall also be indicated.
- (6) The names, proposed location and approximate dimensions of proposed streets, alleys, driveways, entrances, exits, walkways, easements, recreation areas, parks and open spaces, reservations, manufactured home spaces, parking dimensions, and types of all required characteristics shall be shown in a manner that shall distinguish them clearly from the existing characteristics of the land.
- (7) The park plan shall show profiles of all proposed public or private streets or drives, showing natural and finished grades drawn to a legible scale.
- (8) Plans of proposed utility layouts (sewer lines, septic tank locations, septic tank drainfields, water lines and storm drainage) showing feasible connections to existing and proposed utility systems. The Administrator may require these proposed layouts to be prepared by a civil engineer, registered land surveyor, or registered professional engineer.
- (9) Proposed storm drainage for the entire manufactured home park, including all proposed grading and sewer installations which may be deemed necessary to insure proper drainage and elimination of ponding. Proper drainage requires a storm drainage capacity to the ten-year storm level.
- (10) Location and number of garbage receptacles.
- (11) An electrical, gas, cable, telephone and other such utility layout plans. All utilities provided shall be underground. Additional utilities provided to existing parks shall be installed underground.
- (12) Adequate and safe sewage disposal facilities shall be provided in all Manufactured Home Parks. Collection systems and sewage treatment plants complying with the requirements of the North Carolina Department of Health and Environment and the County Health Department shall be provided. Individual septic tank systems are permissible in accordance with the requirement of the County Health Department's Sewage Disposal Regulations. There shall be no more than one (1) manufactured home connected to an individual septic tank, unless permitted by the Richmond County Health Department.

- (13) A detailed drawing to scale of not less than 1 inch equals 10 feet shall be prepared of a typical manufactured home lot, showing the location of the manufactured home stand, all utilities, the patio, concrete footing, walks, parking spaces, driveways and all other improvements.

(Ord. of 1-8-2001(1), § II(C); Ord. 10-1-2007)

**Sec. 20-444. Review of the proposed manufactured home park plan.**

The Administrator shall present the application to the Richmond County board of Adjustments under the provision of the Richmond County Zoning Ordinance.

(Ord. of 1-8-2001(1), § II(D); Ord. 10-1-2007)

**Sec. 20-445. Issuance of the manufactured home park occupancy permit.**

- (a) Reserved.
- (b) An on-site inspection of the park before a Certificate of Occupancy is issued.
- (1) If the park conforms to the plan approved by the Richmond County Board of Adjustment, a Certificate of Occupancy Permit may be issued.
- (2) If the park does not conform to the approved plan, the issuance of the Occupancy Permit shall be delayed until it is brought into conformity with the approved plan.
- (c) The Conditional Use Permit shall constitute the authority for the developer to operate the manufactured home park.
- (d) When a manufactured home park is to be developed in stages, the proposed plan may be submitted for the entire development, and approved by the Board of Adjustments. Certificates of Occupancy may be made for each stage completed.
- (e) Violation of any of the division requirements constitutes grounds for refusing to issue a Certificate of Occupancy to any new home located in the park, or revoking an issued Certificated of Occupancy for any home located in the park, or revoking the parks overall Conditional Use Permit.

(Ord. of 1-8-2001(1), § II(E); Ord. 10-1-2007)

**Secs. 20-446--20-460. Reserved.**

**Subdivision III. Development Standards for the Development of Manufactured Home Parks**

**Sec. 20-461. Design standards for the development of manufactured home parks.**

The following design standards must be met on the park plan before a Manufactured Home Park Permit can be issued:

- (1) Each manufactured home space shall be clearly established on the ground by monuments or markers or stakes.
- (2) No more than one manufactured home may be parked or setup on any manufactured home space.
- (3) All manufactured homes within an authorized park shall rest upon supports, and be set-up in accordance with the State Department of Insurance Regulation for mobile homes and the provisions of this division.

(4) The following dimensional requirements shall be met:

Minimum manufactured home park area..... 2 acres  
Minimum park width..... 100 feet  
Maximum density..... 3 units per acre

(5) The following separation and building setback requirements shall apply to manufactured home parks:

- a. Within a manufactured home park, each manufactured home shall be separated from any other manufactured home by a minimum of 20 feet "short" end to "short" end, 30 feet "short" end to "long" side, and 30 feet "long" side to "long" side;
- b. Reserved
- c. All accessory buildings (detached from units) shall be at least 20 feet from any manufactured home or other building on a neighboring space within the park.
- d. Minimum setbacks for a manufactured home to external park boundaries:

Front yard: 40 feet  
Side and rear yards: 20 feet  
Maximum building height: 35 feet

Any attached accessory structure, such as room extensions, porches and porch roofs, and carports shall, for the purpose of this setback requirement, be considered to be part of the manufactured home.

- (6) A driveway and parking space sufficient to accommodate at least two automobiles shall be constructed within or assigned to each manufactured home lot and shall be paved or covered with crushed stone.
- (7) The Board of Adjustments may require the developer to install sidewalks where considerable pedestrian traffic is expected (large scale manufactured home parks).
- (8) Reserved.
- (9) Every space within a manufactured home park must access to an internal park roadway.
- (10) All manufactured park entrances and other openings onto streets within the state's jurisdiction shall be constructed so that:
  - a. Vehicles can enter and exit from the lot in question without posing any substantial danger to themselves, pedestrians, or vehicles traveling in abutting streets;
  - b. Interference with the free and convenient flow of traffic in abutting or surrounding streets is minimized, and
  - c. Construction meets the NC Department of Transportation's policy of street and driveway access to North Carolina Highways. All access shall be approved by the District Engineer's office.
- (11) The street system of a manufactured home park shall be coordinated with existing, proposed, and anticipated streets outside the park or outside the portion of a single tract that is being divided into lots (hereinafter, "surrounding streets") as provided in this section.
- (12) Streets shall be related appropriately to the topography. In particular, streets shall be designed to facilitate the natural drainage and storm water runoff of the surrounding area and shall conform as closely as practicable to the original topography.
- (13) Notwithstanding any provisions contained in this division, street and road specifications for Manufactured Homes Parks can be found in appendix C of this Chapter.
- (14) The following roads standards for Manufactured Home Parks shall apply:

<u>Type of Park</u>	<u>Class of Internal Road</u>
Small Park (as defined)	Class C for parks with 5 to 10 units
Large Park (as defined)	Class B for all parks with more than 10 units

- (15) The developer or owner of the park shall adequately maintain all internal streets and roads. Such streets or roads shall have adequately lighting to ensure pedestrian and vehicular safety at night.
- (16) No manufactured home space within a manufactured home park shall have direct vehicular access to a public street.
- (17) Area to provide proper drainage ditches and a three-to-one back slope shall be provided where determined necessary by the Administrator upon recommendation by the County Building Inspector and/or County Engineer.
- (18) Closed ends of dead-end streets shall be provided with an adequately surfaced vehicular turning circle at least 60 feet in diameter.
- (19) When the manufactured home park has more than one direct access to a public street, the access driveways shall not be less than 200 feet apart or less than 200 feet from a public street intersection unless topographical or site conditions demand otherwise.
- (20) Adequate signs for the identification of manufactured home parks must be placed at all entrances from public roads.
- (21) The following utility standards shall apply. In every manufactured home park, all installations (other than those within the manufactured home itself) of plumbing and electrical wiring and all gas and oil appliances shall comply with the provisions of the building, plumbing, electrical, heating, and gas regulations of the state and county.
  - a. Utilities. All utilities shall be installed underground.
  - b. Manufactured home space utilities. Each manufactured home stand shall be equipped with plumbing and electrical connections grouped together within the manufactured home stand.
  - c. Water supply. Each manufactured home park shall obtain water from a public water supply when available, and when unavailable, from a source approved by the County Environmental Health Department and/or the state. The supply shall be adequate for the park requirements. The drinking, cooking, laundry, and general bathroom water supply for each individual manufactured home shall be obtained from faucets or other plumbing connections located within each manufactured home.
  - d. Sewage disposal. Adequate and safe sewage disposal facilities shall be provided in all Manufactured Home Parks. Collection systems and sewage treatment plants complying with the requirements of the North Carolina Department of Health and Environment and the County Health Department shall be provided. Individual septic tank systems are permissible in accordance with the requirement of the County Health

Department's Sewage Disposal Regulations. There shall be no more than one (1) manufactured home connected to an individual septic tank, unless permitted by the Richmond County Health Department.

- (22) Reserved
- (23) The manufactured home park may have a central structure containing a retail sales counter or coin-operated machines for the park residents' use only, provided they are completely enclosed within a building and there is no exterior advertising and provided that such structures shall not front on a public street. If such a structure is used it shall be available to residents as a severe weather shelter.
- (24) A storage building, not to exceed 120 square feet in floor space (10 feet by 12 feet), is permitted on each manufactured home lot. Storage buildings shall be located to the rear of the manufactured home, but no closer than five feet to the manufactured home lot line.
- (25) The storage of personal possessions and/or equipment in the area beneath the manufactured home is prohibited.
- (26) Reserved
- (27) All Manufactured Home Parks shall be screened or buffered from all adjoining properties and public streets. Such screening shall be located within the boundaries of the Manufactured Home Park and shall materially screen all structures within the Manufactured Home Park from all adjacent properties and public streets. When such a buffer strip is used, the width of said buffer strip may be included within the required setback area. A buffer strip shall consist of 1) a wall or fence designed to visually screen the park from adjoining property owners, or 2) a planted strip at least ten (10) feet in width, composed of deciduous or evergreen trees or a mixture of each, spaced not more than twenty (20) feet apart, and not less than one (1) row of dense shrubs, spaced not more than five (5) feet apart and five (5) feet or more in height after one growing season. Existing natural areas and plants may be incorporated into this planting strip as long as the intent of this provision is met

(Ord. of 1-8-2001(1), § III(A), Ord. 10-1-2007)

**Sec. 20-462. Operating standards.**

The following operating standards shall be conditions to the issuance of any Permit to operate a manufactured home park and, as such, must be maintained in order to qualify for a permit renewal.

- (1) It shall be unlawful to conduct, on a commercial basis, the sale of manufactured homes or travel trailers or recreational vehicles within a manufactured home park.

- (2) No manufactured home park shall permit a recreation vehicle or travel trailer as defined in this division to locate within its boundaries.
- (3) Reserved.
- (4) All refuse must be placed in refuse containers and it shall be the responsibility of the park operator to provide sufficient container capacity to meet the needs of the Manufactured Home Park. The owner or operator of the Manufactured Home Park shall be responsible for insuring the proper hauling and disposing of said trash in accordance with all County and State regulations. The burning of refuse within the Manufactured Home Park is not permitted.
- (5) Health regulations. All applicable state and county health regulations shall apply to manufactured home parks within the jurisdiction of the county except where such regulations are in conflict with the provisions of this section, in which case the more restrictive provisions shall apply.
- (6) Fire prevention and detection. In addition to any fire prevention regulations of the county, the following shall apply:
  - a. Reserved
  - b. The developer shall install and maintain a fire extinguisher labeled as suitable for class A, B, and C fires and of a type approved by the County Building Inspection Department in any building open to the public and any park office. The park staff shall be instructed in the proper use of any fire protection equipment available in the park, and their specific duties in the event of fire shall be defined.
  - c. The developer shall maintain the park area free of rubbish, dry brush, leaves, weeds, and any other materials, which might encourage the spreading of fire between manufactured homes and other buildings.
  - d. Empty liquefied petroleum gas containers and other objects and materials not approved by the County Building Inspection Department shall not be stored under manufactured homes.
  - e. The manufactured home park developer shall be responsible for payment of any applicable fee if a fire department is called to put out a fire.
- (8) Developers' responsibilities. Manufactured home park developers shall be required to maintain the park in compliance with the requirements of this division. Further, manufactured home park developers shall keep all park owned facilities, improvements, equipment and common areas in good repair and maintained in such a

manner as to prevent the accumulation or storage of materials which would constitute a fire hazard. The grounds of a Manufactured Home Park shall be kept free of trash, litter, debris, noxious weeds, open sewage or other unhealthy matter. Any septic tanks that fail shall be immediately repaired or replaced by the Manufactured Home Park owner. The Manufactured Home Park owner and/ or operator shall take all necessary steps to prevent infestation by rodents, vermin and insects. All grounds shall have proper drainage to prevent the accumulation of water. All internal roads shall be maintained and kept in good repair , being free from potholes, depressions and or humps in the roadway. It shall be the responsibility of the Manufactured Home Park owner or operator to maintain the Manufactured Home Park in accordance with these standards at *all* time

(Ord. of 1-8-2001(1), § III(B), Ord.10-2-2007)

**Secs. 20-463--20-490. Reserved.**

#### **Subdivision IV. Administration\***

\*Cross references: Administration, ch. 2.

**Sec. 20-491. Pre-existing/nonconforming manufactured home parks.**

- (a) Any manufactured home park existing on the effective date of the ordinance from which this division is derived, or any subsequent amendment thereto, may continue to operate without being subject to the requirements of this division, unless expansion or addition is proposed.
- (b) Manufactured home parks existing prior to the effective date of the ordinance from which this division is derived (pre-existing manufactured home parks) shall be registered with the County Code Administrator within six months of adoption of the ordinance from which this division is derived. Any pre-existing manufactured home park, which is not registered, may be subject to the provisions of this division. Pre-existing manufactured home parks registered with the Building Inspector may be expanded provided that any such expansion shall be in accordance with the requirements of this division.
- (c) A manufactured home park space shall be considered pre-existing if, on the effective date of the ordinance from which this division is derived, the space:
  - (1) Contains an occupied manufactured home, or
  - (2) Is defined on the ground by the presence of the following:
    - a. A water supply system service connection;

- b. A sewage disposal system service connection; and
- c. Electric service equipment.

(Ord. of 1-8-2001(1), § IV (A); Ord.10-1-2007)

**Sec. 20-492. Expansion of existing manufactured home parks.**

The addition of any new spaces to a manufactured home park existing prior to enactment of the ordinance from which this division is derived shall be considered an expansion of such park and shall be subject to the requirements of this division, including obtaining a Conditional Use Permit from the Richmond County Board of Adjustment, except as provided below.

For the purpose of this Section, replacement of a manufactured home or adding a manufactured home to a pre-existing lot as define in Sec.20-491(c) shall not constitute an expansion of the park. However, the Administrator shall require an existing layout plan in accordance with Section 20-443 of this Code be submitted. The Administrator shall review the plan, inspect the existing Park and issue a new Manufactured Home Park Certification prior to any replacement homes to be placed. No Certificate shall be issued unless all the internal roads are passable and each and all existing manufactured homes within the Park meet the requirements of Division 3 of this Article, specifically, but not limited to proper underpinning and anchorage and listing of the VIN or NCDMV numbers or title for tax purposes.

(Ord. of 1-8-2001(1), § IV(B); Ord. 10-1-2007)

**Sec. 20-493. RESERVERD**

(Ord. of 1-8-2001(1), § IV(C); Ord.10-1-2007)

**Sec. 20-494. Variances and Appeals.**

The Board of Adjustments is charged with hearing and deciding on Variances of the regulation found within this Article. The Board of Adjustment process and policies are found in Chapter 20, Article II of the Richmond County Code of Ordinances

(Ord. of 1-8-2001(1), § IV(D); Ord. 10-1-2007)

**Sec. 20-495. Penalties for violation.**

Enforcement of this division is granted to the county under authority of G.S. 153A-123, and violation of this division is a misdemeanor, as provided by G.S. 14-4. The Administrator, the County Manager, and the board of commissioners shall enforce this division in accordance with the provisions of this Code.

(Ord. of 1-8-2001(1), § IV(E))

**Sec. 20-496. Enforcement.**

If the Administrator finds that any of the provisions of this division are being violated, he or she shall provide written notice to the person responsible for the violation, specifying the nature of the violation and what corrective measures must be taken. The Administrator shall order the discontinuance of the illegal use of land, buildings, or structures; the removal of illegal buildings or structures or of additions, alterations, or structural changes thereto; the discontinuance of any illegal work being done; or shall take any other action authorized by law to ensure compliance with, or to prevent the violation of, the provisions of this division. This division, pursuant to G.S. 153-123, may be enforced using involving criminal action, civil action and/or court injunctions and orders of abatement.

(Ord. of 1-8-2001(1), § IV(F))

**Sec. 20-497. Forms.**

Any forms or checklists listed in the appendices of the ordinance from which this division is derived are general in nature and may be modified by the Administrator, County Manager, or board of commissioners as necessary.

(Ord. of 1-8-2001(1), § IV(G))

**Sec. 20-498. Fees.**

Reasonable fees for applications and revisions thereto, Certificate of Completion inspections, reinspections and variances under this division may be set by the board of commissioners.

(Ord. of 1-8-2001(1), § IV(H))

**Secs. 20-499--20-520. Reserved.**

**Subdivision V. Recreational Vehicle Parks**

**Sec. 20-521. Purpose.**

The intent of this subdivision is to establish minimum standards for the orderly layout of recreational vehicle parks; to secure safety from fire, panic and other dangers; to provide adequate light and air; and to insure that facilities for transportation, parking, water, sanitation and yard areas are provided.

(Ord. of 1-8-2001(1), § V(A))

**Sec. 20-522. Definitions.**

The following words, terms and phrases, when used in this subdivision, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Existing approved recreation vehicle park* means a park that is operating within areas where recreation vehicle parks are permitted and have been operating since before the adoption of the ordinance from which this division is derived.

*Existing nonconforming recreational vehicle park* means a park that is operating outside of areas where recreational vehicle parks are permitted and that has been operating since before the adoption of the ordinance from which this division is derived or any other previous manufactured home regulations.

*Recreational vehicle (RV)* means a vehicular, portable structure built on a chassis, designed to be used as a temporary residence for travel, recreational and vacation uses, permanently identified as a recreational vehicle by the manufacturers of the unit which either has its own motive power or is mounted on or drawn by another vehicle. The term "recreational vehicle (RV)" shall include, but is not limited to, travel trailer, camper, truck camper or motor home. Recreational vehicles shall not be used as permanent residences.

*Recreational vehicle park* means a parcel, tract, plat or lot, consisting of a minimum of one acre, which is designed and improved to accommodate two or more RVs and is permitted as a RV park.

*Recreation vehicle site (lot)* means a piece of land within a RV park whose boundaries are delineated in accordance with this division and designed and improved to accommodate a RV.

*Service building* means a structure housing a toilet, lavatory and other such facilities as the County Manager or Health Department may require.

(Ord. of 1-8-2001(1), § V(B))

Cross references: Definitions generally, § 1-2.

**Sec. 20-523. Design standards.**

Any site, tract of land or lot to be developed as a recreational vehicle park shall not be less than two acres. The following requirements also take into account the need for adequate space to prevent overcrowding, prevent fire hazards, provide sufficient light, air and the like:

- (1) Minimum space between each recreational vehicle shall be 20 feet;

- (2) Maximum density shall be 25 spaces per usable acre;
- (3) All streets serving the park shall at a minimum, be graveled;
- (4) All spaces shall have direct access to the interior streets of the park; and
- (5) Every park shall have adequate parking areas. If parking is not available on the lot, then provisions shall be made in other areas. Parking areas may be paved or graveled.
- (6) The use of cabins, as part of the RV parks amenities for sleeping and housing quarters shall be allowed under the following requirements:
  - The number of cabins shall not exceed 10 percent of the total number of RV spaces available on site within the RV Park;
  - The term of use of the cabins shall be not more than 14 days;
  - The total square foot of these cabins shall not exceed 1000 sq/feet;
  - Each cabin shall include full bath facilities within the unit itself.
  - Each cabin shall meet all NC State Building, Health and Environmental Health Codes.

(Ord. of 1-8-2001(1), § V(C)) (Ord. of 1-9-2004)

**Sec. 20-524. Facilities.**

- (a) Each RV lot shall be equipped with plumbing and electrical connections sufficient to safely meet demands.
- (b) At least one service building shall be provided.
- (c) All RV parks shall provide regular solid waste disposal. All disposal practices shall be in compliance with accepted practices established by the county.
- (d) All RV parks must provide a recreational area for its occupants. The minimum requirements shall be ten percent of the total park area up to a maximum of two acres. Recreational areas shall be located so as to be free of traffic hazards and easily accessible to all park occupants.
- (e) Water supplies and sewage disposal shall be approved by the County Health Department.

(Ord. of 1-8-2001(1), § V(D))

**Sec. 20-525. Requirements.**

The same development requirements for manufactured home parks shall apply to recreational vehicle parks or subdivisions as set forth in the above sections of this division.

(Ord. of 1-8-2001(1), § V(E))

**Secs. 20-526--20-550. Reserved.**

## **DIVISION 3. SAFETY AND APPEARANCE OF MANUFACTURED HOMES**

### **Subdivision I. In General**

#### **Sec. 20-551. Authority and enactment clause.**

Pursuant to the authority conferred by G.S. ch. 153 and G.S. ch. 160A, the board of commissioners does hereby ordain and establish into law this division.

(Ord. of 1-8-2001(2), § I(A))

#### **Sec. 20-552. Short title.**

This division shall be known as the "Ordinance to Regulate Safety and Appearances of Manufactured Homes," and may be cited as the "county ordinance to regulate the safety and appearance of manufactured homes."

(Ord. of 1-8-2001(2), § I(B))

#### **Sec. 20-553. Jurisdiction.**

These regulations shall apply within all unincorporated areas of the county that are not under the planning and regulatory jurisdiction of a municipality.

(Ord. of 1-8-2001(2), § I(C))

#### **Sec. 20-554. Purpose.**

The purposes of this division are to:

- (1) Promote the safe use and attractive appearance of manufactured homes not located within manufactured home parks and subdivisions governed by this Code;
- (2) Help secure safety from fire, floods, panic, congestion and other dangers in manufactured homes;

- (3) Provide for adequate light, air, and open space in manufactured homes;
- (4) Ensure that adequate water, sewer and other utilities are provided to residents of manufactured homes within this division's jurisdiction; and
- (5) Permit orderly implementation of the strategic land use plan of the county, dated July 2000.

(Ord. of 1-8-2001(2), § I(D))

**Sec. 20-555. Definitions.**

For the purposes of this division, the following definitions shall apply, unless the context clearly indicates or requires a different meaning. The present tense is included in the future tense and the future tense is included in the present tense. The singular includes the plural and the plural includes the singular.

*Accessory use or structure* means a use or structure on the same lot as a manufactured home or recreational vehicle park lot but of a nature customarily incidental or subordinate to the principal use or structure.

*Board of adjustments* means the county Board of Adjustment.

*Board of commissioners* means the county board of commissioners.

*Building code* means the State Building Code.

*Building inspector* means the County Building Inspector, who will be the Administrator of this division.

*Building permit and construction permit* mean a permit authorizing the owner or agent to make physical improvements to a piece or property by placing a manufactured home thereon.

*Health department* means the county health department.

*Lot* includes the words plot, parcel or tract. The term "lot" also means a piece of land the boundaries of which have been described by a legal instrument or map recorded with the Register of Deeds.

*Manufactured home* means any structure for the purposes of living and sleeping that does not meet the requirements of the North Carolina State Uniform Residential Building Code, Volume VII, that must be manufactured and approved under regulations of the Department of Housing and Urban Development Standards of 1976 and must have a registered title under state laws. The term "manufactured home" includes, but is not

limited to, a doublewide manufactured home, which is two or more portable manufactured housing units designated for transportation on their on chassis that connect on site for placement on a temporary or semipermanent foundation having a measurement of 32 feet or more in length and eight feet or more in width.

*Manufactured home lot* means an area within an approved manufactured home park meeting all applicable requirements for the purpose of setting up a manufactured home.

*Manufactured home park* means a piece of land held in single or corporate ownership and developed in a unified manner for the rental or leasing of three or more manufactured homes to be occupied for living and sleeping purposes.

*May* is permissive.

*Setup* means the process of placement of a manufactured home on a manufactured home lot, and includes the minimum requirements for blocking, wiring, plumbing, and anchoring in accordance with applicable local, state and federal construction standards.

*Shall and will* are mandatory.

*Steps* means a structural component bonded or fastened as one unit in accordance with the North Carolina Residential Building Code, Volume VII, Section 314 (Stairways) and Section 315 (Handrails and Guardrails), and for the purpose of ingress and egress from the manufactured home.

*Structure* means and includes the word "Building." The term "structure" also means built for the support, shelter or enclosure of persons, animals, chattels or property.

*Tie-down* means the process of anchoring a manufactured home to the ground in accordance with applicable local, state and federal construction regulations.

(Ord. of 1-8-2001(2), § I(E), Ord. of 11-7-2005)

**Secs. 20-556--20-580. Reserved.**

## **Subdivision II. Standards**

### **Sec. 20-581. Applicability.**

The standards of this subdivision shall apply to all manufactured homes located anywhere within the jurisdiction of the county. IN the event that thee requirements of this Division conflict with those in any other Division, Code, Ordinance, regulations, statute, or executive order, then the most restrictive shall apply.

(Ord. of 1-8-2001(2), § II(A); Ord. 10-1-2007)

**Sec. 20-582. Requirements for certificate of occupancy.**

Except as is otherwise provided, no Certificate of Occupancy for a manufactured home to be located within the jurisdiction of the county shall be issued unless all the requirements of this division have been satisfied.

(Ord. of 1-8-2001(2), § II(A); Ord. 10-1-2007)

**Sec. 20-583. Principal use.**

- (a) Two or more manufactured homes on the same lot, tract or parcel of land constitutes a manufactured home park as defined in this division as well as in section 20-425.
- (b) Reserved
- (c) Except in and on the premise of a bona fide Manufactured Home Sales Lot, storage of manufactured homes shall be prohibited. Any manufactured home not in use or setup for living and sleeping purposes as intended shall be removed from the jurisdiction of the County under the provision of this Division.

(Ord. of 1-8-2001(2), § II(C); Ord.10-1-2007)

**Sec. 20-584. Utilities, anchorage, and skirting.**

- (a) Water. Connection shall be made to system approved in writing by the County Health Department or the State Department of Natural Resources Public Water Supply Section.
- (b) Sewage. Connection shall be made to a system approved by the County Health Department in writing.
- (c) All manufactured homes placed outside bona fide manufactured home parks shall be placed upon a permanent foundation of either poured concrete or a pre-cast solid concrete pad. The bottom of the pad shall be below the frost line or 4 inches deep; whichever is greater.
- (d) The towing tongue or hitch (if applicable), the wheels, and the axle shall be removed upon final placement of unit.
- (e) Underskirting and permanent steps.
  - a. All manufactured homes governed by this division shall have the entire perimeter of each home enclosed from the ground to the bottom of the structure with material manufactured for this purpose in accordance with standards set by State Regulations for Manufactured Homes.

1. Building materials to be used as underpinning shall include brick, masonry, concrete block with stucco finish, natural or synthetic stone masonry, and metal or vinyl sidings. If vinyl or metal products or materials manufactured for the purpose of underpinning are used, the underpinning must have horizontal support of a maximum of every two feet on center, with treated lumber.
  2. The underskirting shall be vented in accordance with the State Building Code.
  3. There shall be a permanent means for ingress and egress of the crawlspace under the home; and that access area shall be located on the side of the home opposite the road or street.
  4. Outside air conditioning and heating units shall be placed on the side or end of the home opposite from the road or street.
- b. All manufactured homes governed by this division shall have steps and landings in accordance with the size, dimensions and constructions requirements as found in the North Carolina State Building Code.

**Sec. 20-585. Appearance criteria.**

(a) All manufactured homes governed by this division shall meet the following appearance criteria:

- (1) Reserved.
- (2) The roof of the manufactured home shall be the original roof as installed by the manufacturer. The original roof may be replaced only in accordance with the manufacturer's specifications or the North Carolina State Building Code.
- (3) Exterior finish. The exterior siding shall consist predominantly of vinyl or aluminum lap siding, wood or hardboard, comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction.

(Ord. of 1-8-2001(2), § II(E); Ord 10-1-2007)

**Secs. 20-586--20-600. Reserved.**

### **Subdivision III. Administration**

#### **Sec. 20-601. Building permit; certificate of occupancy.**

- (a) It shall be unlawful for anyone within the county's jurisdiction, to locate and/or to set up a manufactured home on that lot unless and until he or she shall first obtain a County Zoning Permit and a County Building Permit. Where applicable, VIN numbers and or a NCDMV title shall be required when applying for permits.
- (b) A certificate of occupancy shall not be issued unless and until the requirements of this division have been satisfied.
- (c) Once a certificate of occupancy has been issued, it shall be unlawful for a person to alter or make substantial changes in the location or structure of the manufactured home on the subject lot until a new County Building Permit has been issued.

(Ord. of 1-8-2001(2), § III(A--C); Ord. 10-1-2007)

#### **Sec. 20-602. Penalties for violation.**

If a lot owner sets up, or allows to be set up, a manufactured home on a lot in violation of this division, he or she shall be guilty of a misdemeanor as provided by G.S. 14-4; and this division shall be enforceable pursuant to G.S. 153A-123.

1. Every day that a manufactured home has been set up in violation of any provision of this division constitutes a separate and distinct violation pursuant to G.S. 14-4.
2. The Building Inspector, the County Manager, the County Engineer, and the board of commissioners shall enforce this division in accord with the Code of Richmond County Ordinance.
3. This division shall be enforceable by criminal or civil actions, including, but not limited to, actions for abatement, injunction, restoration and otherwise.

(Ord. of 1-8-2001(2), § III(D))

#### **Sec. 20-603. Forms.**

The Administrator, the County Manager, or the board of commissioners shall prepare and implement the use of any forms or checklists they deem reasonable and necessary for carrying out the spirit and intent of this division.

(Ord. of 1-8-2001(2), § III(E))

**Sec. 20-604. Fees.**

Reasonable fees for applications and revisions thereto, certificate of completion inspections, re inspections and variances under this division may be set by the board of commissioners.

(Ord. of 1-8-2001(2), § III(F))

**Chapter 21 - (RESERVED)**

**Chapter 22 - (RESERVED)**

## **Chapter 23 SOLID WASTE\***

\*Cross references: Environment, ch. 14; buildings and building regulations, § 20-61 et seq.; utility requirements in subdivisions, § 20-315; manufactured homes and trailers, § 20-406 et seq.

State law references: Authority to regulate solid waste collection and disposal, G.S. 153A-291 et seq.

### **ARTICLE I. IN GENERAL**

#### **Sec. 23-1. Burning, disposal or dumping of garbage or refuse near occupied building prohibited.**

- (a) No owner, occupant, tenant or lessee of any premises located within 1,000 feet of any dwelling house or business building in the county shall permit to be burned, placed, dumped or accumulated upon such premises any garbage or refuse unless stored in containers approved by the county board of health or burned in incinerators of a type approved by the county board of health.
- (b) For the purpose of this division the term "refuse" means garbage or rubbish. The term "garbage" means all putrescible solid waste, including vegetable matter, animal offal, and carcass of animals, including human body waste, animal manure, and recognizable industrial by-products, used milk cartons, or other discarded food containers that are not dry and clean. The term "rubbish" means nonputrescible solid waste and includes discarded appliances and automobiles. The term "person" means any individual, firm, governmental unit, partnership, corporation or company.
- (c) Any person who violates the provisions of this division shall be guilty of a misdemeanor punishable by a fine or not more than \$500.00 or imprisonment for not more than 30 days in the discretion of the court as provided by G.S. 14-4.
- (d) This section shall be a supplement to any existing rules and regulations of the county board of health and a supplement to any rules and regulations hereafter adopted by the county board of health and shall not operate to repeal or replace any rules or regulations of the county board of health.
- (e) This section shall not be construed to prevent any person from properly disposing of refuse from his own residence or business establishment by burning or burying it in a safe and sanitary manner approved by the county board of health.

(Ord. of 1-1-1971, §§ 1--5)

Cross references: Fire prevention, ch. 17.

## **Sec. 23-2. Abatement of Public Health Nuisances.**

### **(a) Nuisances Prohibited.**

It shall be unlawful for any person to cause permit, maintain, allow or create a nuisance.

### **(b) Enumeration Of Nuisances**

The maintaining, using, placing, depositing, leaving or permitting to be or remain on any public or private property any of the following items, conditions or actions are declared to be and constitute a nuisance; provided, however, this enumeration shall not be deemed or construed to be exclusive, limiting or restrictive:

1. Any open place of concentration of combustible items such as mattresses, boxes paper, automobile tires or tubes, garbage, trash, refuse, brush, old clothes, rags or any other combustible materials or objects of a like nature;\
2. Any property, which meets the following criteria concerning vegetative growth;
  - (1) Vacant lots that are adjacent to intersection of streets that pose a problem with the sight distance surrounding the intersection;
  - (2) Lots occupied by any structure (dwelling or commercial) that the height of growth is inconsistent with neighboring properties.
3. Any open place of collection of garbage, food waste, animal waste or any other rotten or putrescible matter of any kind;
4. Any dilapidated furniture, appliances, machinery equipment, building materials or any similar items not enclosed in a building with functional doors;
5. Any furniture, appliances or other metal products of any kind or nature openly kept which have jagged edges of metal or glass or areas of confinement;
6. Any motor vehicle located on private property, which is wholly or partially dismantled, and any related motor vehicle parts and tools not enclosed in a garage with functional doors or covered with a tarp or canvass when not actively being repaired.
7. Any other condition specifically prohibited in this subchapter or any other condition specifically declared to be a nuisance or a danger to the public health, safety, morals and general welfare of inhabitants of the county and a public health nuisance by the Board of County Commissioners.

(c) Investigation Of Conditions; Order Of Abatement; Notice

The Code Enforcement Officer, upon compliant from any person of any of the conditions described in this subchapter shall make or cause to be made such investigation as may be necessary to determine whether, in fact, such conditions constitute a public health nuisance as declared.

Upon a determination by the Code Enforcement Officer that such conditions constitute a public nuisance, as outline in subsection b (above) the Code Enforcement Officer shall notify, in writing, return receipt requested, the owner and occupant or person in possession of the premises in question of the conditions constituting such public nuisance and shall order the prompt abatement thereof.

(d) Contents Of Written Notice; Order To Abate

The notice to abate a nuisance issued under the provisions of this subchapter shall contain:

1. A statement that conditions exist on the property which constitute a public nuisance;
2. The conditions existing;
3. The location of such condition; and
4. A statement ordering the owner and the occupant or person in possession of the premises to abate the public nuisance, and that unless the condition is abated within 15 days from the mailing of the notice as specified, the conditions constituting a nuisance will be abated by the County and the cost of abatement shall constitute a lien against the premises.

(e) Appeal Notice.

Within the time period stated in the notice to abate, the owner or occupant of the property where the nuisance exists may appeal the findings of the Code Enforcement Officer to the Board of Adjustment and Appeal by giving written notice of appeal to such officer, such appeal to stay the abatement of the nuisance by the County until a final determination by the Board. In the event no appeal is taken, the County may proceed to abate the nuisance.

(f) Hearing.

The Board of Adjustment and Appeal, in the event an appeal is taken as provided herein, may, after hearing all interested persons and reviewing the findings of the Code Enforcement Officer, reverse or affirm the finding that a nuisance exists in the jurisdiction of the County. Any and all appeals from a decision by the Board of Adjustment and Appeal shall be filed with the Clerk of Superior Court of Richmond County within 30 days from the decision.

(g) Right Of Entry.

The Code Enforcement Officer and other designated personnel shall have all the rights and authority to enter upon premises upon which probable cause is established that a nuisance exists under the provisions of this subchapter for the purpose of abating the nuisance as provided in this subchapter. If at any time the right of entry is refused or denied, then the Code Enforcement Officer shall obtain an Administrative Search Warrant to continue the investigation.

(h) Cost Of Abatement Declared Lien.

After the abatement of a nuisance as provided in this subchapter, the cost of the abatement may become a lien against the premises upon confirmation of the cost thereof by the Board of County Commissioners. The confirmation shall take place only after ten days written notice to the owner of the premises where the nuisance existed of the proposed confirmation. Upon confirmation, the cost of abatement shall be a lien against the premises from which the nuisance was abated to be collected as unpaid tax.

(i) Legal Action May Be Taken

The Board of County Commissions may direct the Code Enforcement Office to pursue the matter of collection of the assessed penalties in a civil action court case.

(Ord. of 10/2/2006)

**Secs. 23-3--23-30. Reserved.**

## **ARTICLE II. COLLECTION AND DISPOSAL**

### **DIVISION 1. GENERALLY**

**Secs. 23-31--23-45. Reserved.**

### **DIVISION 2. MEDICAL, HAZARDOUS, AND/OR LOW-LEVEL RADIOACTIVE WASTE FACILITIES\***

**\*Cross references: Environment, ch. 14.**

(Ord. of 9/12/2006)

**Sec. 23-46. Title.**

The title of this division is the "Richmond County Comprehensive Ordinance for the Regulation of the Location, Operation, and Management of Medical, Hazardous and/or Low-Level Radioactive Waste Facilities." This division may be cited as the "Richmond County Medical, Hazardous, and or Low-Level Waste Ordinance."

(Ord. of 9-10-1990, § I; Ord. of 9/12/2006)

**Sec. 23-47. Purpose.**

The purpose of this division is to:

- (1) Regulate the location, operation and management of medical, hazardous and/or low-level radioactive waste facilities dealing with the storage, transfer, treatment and/or disposal of such waste in the county.
- (2) Assure that the best available management practices are used in the location, operation and management of medical, hazardous and/or low-level waste facilities in the county.
- (3) Assure that operation of such facilities in the county poses no threat to the water, land, and air resources of the county or to the public health and safety of its citizens.

(Ord. of 9-10-1990, § II; Ord. of 9/12/2006)

**Sec. 23-48. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Facility* means all land, buildings, and equipment which is used or intended to be used for the handling, storage, treatment, or disposal of waste, including necessary buffer zones.

*Hazardous waste* shall have the same definition as in G.S. 130A-290(8).

*Hazardous waste facility* shall have the same definition as in G.S. 130A-290(9).

*Incinerator* means a device or facility designed to burn solid, liquid or gaseous waste material. For the purposes of this division, this definition does not include on-site incineration at the point of generation, although it does include facilities, which burn wastes for other purposes, such as an energy source.

*Low-level radioactive waste* shall have the same definition as in G.S. 104E-5(9a).

*Low-level radioactive waste facility* shall have the same definition as in G.S. 104E-5(9b).

*Medical waste* shall have the definition as in G.S. 130A-290(18).

*Medical waste facility* means a facility for the storage, collection, processing, treatment, recycling, recovery, incineration or disposal of medical waste.

*Storage* shall have the same definition as in G.S. 130A-290(41) but does not include on-site storage at the point of generation for periods less than 30 days.

*Waste* for the purpose of this Division, waste means all types of medical, hazardous and low-level radioactive waste.

*Waste facilities* for the purposes of this Division waste facilities includes all facilities for the storage, transfer, treatment or disposal of medical, hazardous or low-level radioactive waste.

Words and phrases not otherwise defined shall have the same definitions as in state and federal statutes and regulations.

(Ord. of 9-10-1990, § III; Ord. 9/12/2006)

Cross references: Definitions generally, § 1-2.

#### **Sec. 23-49. Applicability.**

- (a) This division is applicable to all medical, hazardous, or low-level radioactive waste facilities, which operate within the boundaries of the county. This specifically includes, but is not limited to, hazardous waste treatment and disposal facilities, low-level radioactive waste disposal facilities, commercial incinerators, and similar facilities which receive medical, hazardous, or low-level radioactive waste from off-site for storage, treatment, or disposal. This division is expressly not applicable to solid waste facilities, which are regulated by the State pursuant to G.S. Chapter 130A, Article 9 and 15A NCAC 13B, and Division 3 of this Article.
- (b) This division supersedes and consolidates all previous ordinances regulating the location, operation and management of commercial incineration facilities, and site selection of hazardous waste facilities.
- (c) Sections 23-61 and 23-62 do not apply to facilities, which do not incinerate waste or otherwise emit air pollutants. When specifically stated, a section may be limited to certain types of facilities.

(Ord. of 9-10-1990, § IV; Ord. 9/12/2006)

#### **Sec. 23-50. Permit required.**

It shall be unlawful for a medical, hazardous, or low-level radioactive waste facility to operate in the county without a permit issued by the board of commissioners pursuant to this division.

(Ord. of 9-10-1990, § V; Ord. 9/12/2006)

**Sec. 23-51. Application.**

(a) A permit applicant shall prepare and file an application for a permit with the board of commissioners. The permit application shall include all related documents submitted to the United States government and to the state as well as the following supplemental information:

(1) A description of the company, to include:

- a. Information on its financial capability;
- b. A detailed history of all its past activities in the handling various types of waste and the operation of waste facilities;
- c. A description of every other facility it has operated;
- d. A detailed account of all past and pending litigation, favorable and unfavorable;
- e. The record of any subsidiary or parent corporation having an interest greater than five percent of the outstanding shares of the applicant corporation; and
- f. A list of all past and present litigation, favorable and unfavorable, which any subsidiary or parent corporation has been involved in.

(2) Evidence of liability insurance, to include:

- a. Coverage in the amount of \$1,000,000.00 for sudden and \$10,000,000.00 for nonsudden;
- b. Evidence of \$10,000,000.00 liability insurance to cover closure and post-closure costs; and
- c. A history of any claims against the company at any site, including the record of any subsidiary or parent corporation as defined in subsection (a)(1) of this section.

(3) Justification for and anticipated benefits from the project.

- (4) A full description of the scope and design of the proposed project, including complete engineering details of the proposed facility.
- (5) An estimated schedule of how much and what kinds of waste the facility would accept and what corrective measures will be required of wastes unacceptable to the facility without additional handling.
- (6) The duration of the facility's operation, with yearly site operation expenses and an estimate of the costs for the lifetime of the project.
- (7) The proposed method of financing the project, including siting, development, operation, closure and post-closure stages, with a list of the financial institution name which will be funding each stage.
- (8) Provide resumes of management personnel and the proposed number of employees and types of positions, including information on the training and experience required for each position, and safety precautions undertaken for the protection of personnel.
- (9) The anticipated dates of the initiation of construction and operation.
- (10) A detailed estimate of the types and amounts of local government services required by the operator in each year.
- (11) A description of emergency procedures and safety and security precautions that will be in use at the facility, including details on emergency assistance and emergency medical treatment that will be required from the area's medical facilities, the county rescue squad, and community fire departments.
- (12) A description of the environmental protection measures to be taken by the applicant to prevent contamination in and around the facility site and the description of planned monitoring systems, with an estimated annual budget for each of these items.
- (13) A description of the environment protection measures to be used during transportation of materials to and from the facility, with an estimated annual budget for these arrangements and an estimate of the volume of material to be transported during each year of operation.
- (14) A description of the site closure plan for the facility and the anticipated date of closure.
- (15) A description of anticipated need for post-closure care.

- (16) A comprehensive listing of known, prospective or potential generators, so noted, from which waste will be received; volumes and type of wastes from each generator; and the method of transportation and the routes to be followed.
- (17) A provision for a buffer area of at least 1,250 feet in width from the area on the facility site in which materials are to be handled, stored, treated, or disposed of to the nearest adjacent property.
- (18) A description of on-site drainage systems to be designed to protect all surface water drainage, ground water movement, sanitary sewer systems and stormwater management systems from the probability of contamination.
- (19) A demonstration that no adverse effect to the health, welfare and safety of its citizens will result from the siting of the filing, using the following criteria:
- a. Hydrological and geological factors, including floodplains, depth to water table, groundwater travel time, soil pH, soil cation exchange, capacity, soil composition and permeability, cavernous bedrock, seismic activity, slope, mines and climate.
  - b. Environmental and public health factors, including air quality, quality of surface and groundwater, and proximity to public water supply watersheds.
  - c. Natural and cultural resources, including wetlands, gamelands, endangered species habitats, proximity to parks, forests, wilderness areas, nature preserves, and historic sites.
  - d. Local land uses.
  - e. Transportation factors, including the visibility, appearance, and noise level of the facility.
  - f. Availability and reliability of public utilities.
  - g. Availability of emergency response personnel and equipment.
  - h. Availability of a public water supply to the facility or a well with sufficient capacity to operate the facility and fight fire at the facility.
- (20) A detailed analysis of how the applicant will meet all of the requirements in this division, as well as all applicable state and federal requirements.
- (b) Maps and other written material attached to the application shall include but are not limited to the following information:
- (1) Ownership.

- a. Name, address and telephone number of legal owner and/or agent of the subject property.
  - b. Name, address and telephone number of professional persons responsible for plat or survey.
  - c. Description of any existing right-of-way or easements affecting the property.
  - d. Reference to any existing restrictive covenants on the property.
- (2) Description. Location of property by tax map and parcel number. This description should include a reference to the deed book and page of other evidence of title the current property owner may have.
- (3) Features. Each map shall contain the following information:
- a. Drawn to a scale of not less than 200 feet to the inch.
  - b. Location sketch map showing relationship of the project to the surrounding area within one-quarter mile.
  - c. Graphic scale, date, north arrow, and legend.
  - d. Location of property with respect to surrounding property and roads, and the names and addresses of adjacent property owners according to county tax records.
  - e. Zoning classification of proposed project and adjacent property.
  - f. The location of all boundary lines of the property.
  - g. The total acreage of land in the project.
  - h. The location of existing and/or platted streets, residences, easements, buildings, railroads, cemeteries, bridges, sewers, water mains, culverts, wells, gas lines, electric transmission lines, and other land uses.
  - i. The location of water bodies, watercourses, groundwater aquifers, springs and other pertinent features.
  - j. The location, dimensions, and acreage of all property proposed to be set aside for various uses in the applicant's property.
  - k. The location of all test wells and/or borings, with copies of the drilling logs.

- l. The location of the 500- and 100-year floodplain, and records of flood, including inundation due to dam break.
  - m. The location of historic properties and gravesites, including any plans for relation of graves and properties having historical significance.
- (4) Hydrological and geological maps. Maps showing location of faults, dikes, sills and other pertinent geologic features including bedrock type and strike and dip of any bedding; the depth and degree of weathering (saprolite); identification and location of clay as to thickness, type and permeability; and location of the water table as to approximate depth, gradient and surface configuration.
  - (5) Topographic map. A topographic map with contours at vertical intervals of not more than five feet at the same scale as the project site map shall be included. Date, method of preparation, and name of person preparing such survey shall be stated.
  - (6) Transportation map. A map showing proposed transportation routes to and from the facility site, including location of towns and emergency and safety facilities. Include an estimate of the volume of material to travel on each route during each month during the year.
- (c) The application shall additionally address the following factors if applicable:
- (1) Contaminant flow to water table including leachate monitoring, collecting and withdrawal systems; clay and synthetic liners (extra thickness, multiple liners); spill prevention and containment measures; and other engineered barriers.
  - (2) Contaminant movement in groundwater, including groundwater monitoring systems at the site, at engineered barriers, and in the potentially affected area; the need for subsurface "slurry wall" barriers; and monitoring at other groundwater withdrawals in the area.
  - (3) Predictability of contaminant movement, based on preconstruction borings and groundwater modeling.
  - (4) Potential effect on surface waters; planned collection systems for surface water runoff; planned exclusion systems for surface water run-on.
  - (5) Potential effect of aquifers; planned provisions for alternate water supply systems and facilities for immediate pumping and treatment of contaminated water.
  - (6) Potential effect on public water supply; planned runoff collection and treatment provisions for alternate supply systems; the need for planned oversized or redundant treatment capacity, effluent monitoring and automatic shutdown systems.

- (7) Possibility of site flooding; planned special facility design, special control dikes, and buffer zone setback in area of standard project flood area.
- (8) Potential human exposure to treated wastewater, including planned safety procedures, clothing, instruction, and practice for employees.
- (9) The prevailing wind current direction, the nature and predictability of pollution movement, including planned stack height for incinerators with continuous stack and plume monitoring and recording, until emission levels are predictable; planned segregation of incompatible wastes. This subsection is limited to incineration facilities and those which otherwise emit air pollutants.
- (10) Potential for noise impact from delivery vehicles, facility operation, including planned limitations on operating hours for high-noise operations.
- (11) Potential for impact on existing and future economic activity, including predicted negative impact on area property tax base expansion as related to property value and growth.
- (12) Post-use plans, including bonding, care liability, financial responsibility, and monitoring of community and environmental health.
- (13) Safety of transportation route, including evacuation and rerouting plans, planned training of emergency fire and medical personnel and local institutional support arrangements; planned training and certification of truck drivers and other waste handling personnel and truck safety features.
- (14) Proximity to residential areas or sensitive sites, including planned purchase of buffer zones on adjacent land, reduction in facility size and distance limitation between similar facilities.
- (15) Compatibility with existing land uses, including orientation and layout of site plans, planned buffer zone setback from use area to facility owner's exterior property line, referred to as "minimum interior buffer setback"; planned aesthetic design of facility and landscaping.
- (16) Compatibility with land use plans, if any.
- (17) Potential for seismic activity, including special facility design and evacuation plans to deal with such occurrences.
- (18) Other site-specific factors as requested by the environmental affairs board or its designee.

(Ord. of 9-10-1990, § VI)

**Sec. 23-52. Application and processing fees.**

- (a) Each application for a permit shall, at the time the application is filed, pay to the county an application fee of a minimum \$150,000.00, no part of which is refundable. The county shall pay from this fee the costs of any needed professional assistance that may be required to evaluate the permit application and amendments, verify its contents and evaluate the impact of such a permit on the community, public health and environment. This assistance may include, but shall not be limited to, the assistance of lawyers, biologists, geologists, engineers, accountants, chemists, hydrologists, emergency response, transportation and public health experts, land appraisers and professional testing laboratories. Cost of these services when exceeding the established minimum fee shall be reimbursed to the county by the applicant within 30 days.
- (b) Failure to provide these funds within 30 days of demand therefore shall result in termination of the permit process or cancellation of the permit. The board of commissioners may take legal action against the applicant for any costs incurred beyond the minimum fee up to the point of termination.
- (c) Upon petition by an applicant, the board of commissioners in its discretion may reduce the amount of the application if it finds that special circumstances warrant it. Special circumstances include but are not limited to the size and type of the facility, its proposed location, the types and quality of waste it proposes to handle, and the overall need for the county to review the application.

(Ord. of 9-10-1990, § VII)

**Sec. 23-53. Application procedures.**

- (a) The permit applicant shall submit to the board of commissioners copies of all information required by federal and state agencies for the facility for which it requests a county permit at the time such information is submitted to the state and federal government except facilities already located in the county. The review procedure shall not begin nor shall the application be designated as complete until such time as all required data are submitted and the appropriate fees are paid, or suitable arrangements for payment have been approved by the board of commissioners.
- (b) A designee of the board of commissioners shall compile copies of all reports, applications, minutes of the environmental affairs board meetings, reports by consultants and similar materials. These shall be placed in one location with free access by the public and availability of copying any portion or all of any document at cost.

- (c) Within 45 days of the submission of the application, the board of commissioners' designee shall hold a public hearing so that the applicant can present its plans to the environmental affairs board and answer questions regarding the application.
- (d) To be exempted from any section of the application, the applicant shall demonstrate to the satisfaction of the commissioners' designee, after consultation with the environmental affairs board, that the information is not relevant to the safe location, operation, and management of the proposed waste facility; that public health and safety, and the environment will not be threatened; and that special circumstances, such as the cost or feasibility of obtaining the information, otherwise warrant it.
- (e) After the first hearing, the commissioners' designee, after consultation with the environmental affairs board, shall have 60 days in which to determine if the application is complete and shall mail notice of its determination to the applicant. If it is not complete, the applicant will have six months to complete the application. However, the applicant may at the end of the six months make a showing of cause to the board of commissioners and if the board finds that the delay is justified and in good faith, they can grant the applicant a maximum three-month extension.
- (f) Each application shall require an analysis conducted by the county staff and a consultant or consultants selected by the board of commissioners upon the recommendation of the environmental affairs board. The analysis shall be completed within 90 days from the day the application is determined to be complete. In certain instances where the complexity of the application requires more than the usual 90 days, the county staff and/or consultant may request an additional 60 days from the board of commissioners and the proponent has the option of requesting the board of commissioners to extend the analysis period to allow time for responding to staff and/or consultant request for additional information on a completed application.
- (g) The board of commissioners' designee and each consultant shall make reports on the application to the environmental affairs board at their meetings.
- (h) The environmental affairs board shall call a public meeting for public comment on the completed application along with the analysis of county staff and consultants. The purpose of this meeting shall be for public review of the application. The staff shall give notice by regular mail of the time and place of the public meeting to the owner and adjacent property owners as specified on the map. Such notice shall be mailed not less than 14 days prior to the date specified thereon. Notice of a public meeting shall be posted by the applicant on the proposed facility property on each and every street of access not less than 14 days prior to the date specified thereon. Such posted notices shall be at intervals of not greater than 1,500 feet. Notices shall also be placed by the applicant in the county newspaper not less than 14 days prior to the dates specified thereon.
- (i) Within 45 days after receipt of the final analysis, completed application and public comment, the environmental affairs board shall make a recommendation to the board

of commissioners at a public meeting whether to accept the application, deny it, or accept it with modifications. This recommendation shall be made to the full board of commissioners; however, before making a recommendation to the board of commissioners to accept the proposal or accept it with modifications, the environmental affairs board shall make the following determinations:

- (1) That the construction and operation of the facility will not pose an unreasonable health or environmental risk to the surrounding locality.
  - (2) That the applicant or facility operator has the capability and financial resources to construct, operate and maintain the facility, including site closure and post-closure care.
  - (3) That the applicant or operator has taken or consented in writing to take any and all reasonable measures to comply with applicable federal, state and local regulations and ordinances.
  - (4) That the applicant's plan represents the best available technology for handling the waste for which the applicant will be permitted and that the applicant has demonstrated that it will employ the best management practices in handling the waste at the proposed facility.
  - (5) That the environmental impact statement required in section 23-54 is complete.
- (j) At its next scheduled meeting, the board of commissioners shall make its decision to grant the permit, deny it, or grant it with specified conditions. The board of commissioners may in its discretion condition the permit on any aspect of its construction and operation.
- (k) A permit shall be valid for no more than 18 months from the date it is granted by the board of commissioners unless the applicant begins construction of the facility prior to the expiration of the permit and continues to operate the facility according to specified conditions. If a permit becomes invalid and the application is unchanged from when the permit was granted, it shall follow the procedure of section 23-51 and the filing fee of section 23-50.

(Ord. of 9-10-1990, § VIII)

**Sec. 23-54. Environmental impact statement required.**

- (a) Pursuant to G.S. 113A-8, the applicant for a permit under this division is further required to submit detailed statements, as defined in G.S. 113A-4(2), of the impact of such projects. These statements shall be part of an environmental impact statement (EIS) and no permit under this division shall be granted until the environmental impact statement is deemed a sufficient statement by the board of commissioners upon advice of the environmental affairs board.

(b) In addition to the permit application described in each ordinance, the permit applicant shall submit to the environmental affairs board a proposed scope of the environmental impact statement to include specific issues relating to the following:

- (1) The environmental impact of the proposed action;
- (2) Any significant adverse environmental effects which cannot be avoided should the proposal be implemented;
- (3) Mitigation measures proposed to minimize the impact;
- (4) Alternatives to the proposed actions;
- (5) The relationship between the short-term uses of the environment involved in the proposed action and the maintenance and enhancement of long-term productivity;
- (6) Any irreversible and irretrievable environmental changes which would be involved in the proposed action should it be implemented; and
- (7) Other requirements for an environmental impact statement under G.S. 113A-4 and 1 NCAC 25.0107 et seq.

(c) The environmental affairs board shall hold a public hearing upon the scope of the environmental impact statement and then make the determination what issues relating to the factors above shall be included in the environmental impact statement. The environmental affairs board shall act as in an advisory role to the applicant during the preparation of the environmental impact statement. Following the completion of a draft environmental impact statement, the environmental affairs board shall hold a public hearing to solicit public comments regarding the sufficiency of the document. This hearing may be held simultaneously with the hearing regarding the completed application. The draft environmental impact statement shall also be submitted to the state clearinghouse for review and comment following the process outlined in 1 NCAC 25.0801 et seq. The comments by the public and agencies and the response by the applicant to the comments shall become part of the environmental impact statement. After consideration of the public and agency comments and the applicants response, the environmental affairs board shall make a recommendation to the board of commissioners that it accept the document as complete.

(d) The board of commissioners shall use the environmental impact statement, along with the permit application, in determining whether to accept, deny, or accept with modifications a permit under this division.

(Ord. of 9-10-1990, § IX)

**Sec. 23-55. Siting criteria and permit conditions.**

- (a) No permit for a low-level radioactive waste facility shall be granted until the applicant has met all siting criteria set forth by the G.S. 104E, and G.S. 104G, as amended, plus all criteria promulgated by the state low-level radioactive waste management authority and the state radiation protection commission in effect at the time of the application.
- (b) No permit for a hazardous waste facility shall be granted until the applicant has met all siting criteria set forth in G.S. 130A, any amendments hereafter enacted, and rules promulgated by the state health services commission. Additionally, if it is a facility sited under G.S. 130B, the facility shall fully comply with all criteria promulgated by the state hazardous waste management commission, and those set forth in G.S. 130B-11 as amended which may be in effect at the time of the application of the permit.
- (c) The site shall be accessible to the interstate highway system by a highway having not less than two travel lanes in each direction, i.e. a four-lane highway.
- (d) A site shall not be located in or on wetlands, sandy soils, existing state or national parks or forests, existing historical sites, existing wildlife refuges, or the Pinehurst aquifer.
- (e) A site shall not be located in or on land, which a fish hatchery is located, Indian reservations, or federal military reservations.
- (f) No waste facility shall be located within ten miles of a public water supply, school, hospital, nursing home, or other waste facility.
- (g) All hazardous and low-level radioactive wastes disposed of or placed into long-term storage shall be retrievable and identifiable using best management practice.
- (h) Mixed wastes, i.e., those wastes, which are both hazardous and radioactive, shall not be handled, treated, stored, or disposed of at the same facility or adjoining facilities.
- (i) The operator of the facility shall submit to the board of commissioners or its designee copies of all reports and documents which it is required to submit concerning the facility to the state department of environment, health and natural resources or any division therein, the United States Environmental Protection Agency, and any other state and federal agency.
- (j) Based upon its review of the facility's operations, the board of commissioners or its designee may limit the amounts and types of waste entering the proposed site, may limit or restrict types of treatment, handling and/or disposal activities or may require additional treatment or handling of the waste before entering, leaving, or being disposed of on the site.

- (k) No activity shall be allowed in the buffer zone, which shall be either owned or lease-controlled by the applicant for the useful life of the facility, including closure and post-closure care.
- (l) The soil under and within 75 feet of any storage, handling, treatment, or disposal of wastes, as well as approaching paved areas leading to the facility, shall not have a percolation rate in excess of 3.5 by 10.4 centimeters per second.

(Ord. of 9-10-1990, § X)

**Sec. 23-56. Monitoring and safety.**

- (a) Purpose. The purpose of this section is to supplement and complement the monitoring and safety activities of the federal and state governments. The board of commissioners recognizes the primary responsibility of the federal and state governments in this area. However, it also recognizes that appropriations and manpower to fulfill this responsibility have often been inadequate, and that county responsibility is therefore necessary and lawful for protection of life, health, property, and environment. The duties described in this section shall begin upon receipt of a permit.
- (b) Duties and powers of department. The county health, inspection and emergency management departments or whoever else the board of commissioners designates, hereafter referred to as the "department," shall have the following duties and powers:
  - (1) To monitor the air, surface water, and ground water during the operation of the facility.
  - (2) To monitor soil, plant, microbial, viral, and animal samples during the operation of the facility.
  - (3) To conduct human health surveys and monitoring in the area around the facility, including statistical surveys, blood samples, and other surveys which may be necessary to determine the effect of exposure to trace any accidental discharges of hazardous or low-level radioactive wastes or materials.
  - (4) To verify the content of shipments and storage of hazardous and/or low-level radioactive waste against shipping manifests and other records.
  - (5) To inspect the interiors of structures located on the waste facility site for hazardous, unhealthy, or otherwise unlawful conditions.
  - (6) To inspect and take samples within the site boundaries of any waste facility in the county.

- (7) To verify, by laboratory analysis, that samples taken by facility operators are in fact what they are claimed to be, and to check the accuracy of any laboratory facilities within the county which regularly test hazardous or low-level radioactive waste samples.
  - (8) To prepare an emergency response plan, and prepare adequate emergency medical equipment and personnel to handle emergencies arising out of the transportation, storage, treatment, or disposal of hazardous or low-level waste in the county, to the extent that such measures are not otherwise undertaken by the facility operator or the state and federal governments.
  - (9) To monitor traffic flows in conjunction with the department of transportation near facilities to minimize traffic disruption and accidents, with special consideration for the routing of school buses and the safety of the county's school children.
  - (10) To require any shipment of waste to be temporarily stored on the facility site while laboratory analysis is being performed. This waste may not be otherwise handled, treated or disposed of until the laboratory analysis is complete and the department verifies in writing to the site manager that the shipment may be processed.
  - (11) To perform such other duties as the board of commissioners or environmental affairs board may find necessary from time to time to safeguard the public health and welfare.
- (c) Authorization of designated department. In order to carry out the duties specified above, the department is authorized to do the following:
- (1) Immediately upon issuance of the first permit in the county, the department may hire or designate an individual or individuals trained to identify unsafe, unsanitary, or otherwise hazardous conditions in waste facility structures. This building inspector is charged with making periodic inspections for such unsafe, unsanitary, or otherwise hazardous and unlawful conditions during the construction and/or operation of any and all hazardous and/or low-level radioactive waste management facilities in the county. The building inspector shall also make unannounced inspections, by presenting his credentials at a reasonable hour, when he has reason to believe that hazardous or unlawful conditions may exist anywhere in such a structure.
  - (2) Immediately upon issuance of the first permit in the county, the department may hire or designate persons capable of performing a background health study on the people of the county. The department shall present a plan to the environmental affairs board for monitoring the people of the county in order that health effects of any hazardous waste management facility in the county could be detected sufficiently early in their development and in order that appropriate legal action could be taken. The environmental affairs board shall recommend to the board of

commissioners the plan for this task within six months, and the board of commissioners shall have one month thereafter to approve the plan and hire the appropriate services.

- (3) The department may hire or designate a chemist or other person qualified to sample wastes at the gate to the facility and to visually inspect the truck, the manifest forms and/or other documentation and a copy of the certificate of need and the condition of the waste before the waste enters the facility. The board of commissioners shall provide contract lab services sufficient to analyze such within a four-day period from the time of sample collection.
- (4) The department may hire or designate an individual or individuals trained to safely handle and sample hazardous waste and wastes and also to collect and safely handle and transport environmental samples for site monitoring and also for environmental monitoring off-site. This person shall make regular announced and unannounced inspections, by presenting his credentials at a reasonable hour, for the purpose of collecting such samples as the department, following the recommendations of the environmental affairs board shall deem necessary to adequately monitor the site.
- (5) The department is authorized to hire or designate an emergency medical technician who shall be fully trained to deal with emergency medical situations arising out of the operation of the waste facilities and transportation of waste to and from such facilities.
- (6) The department is authorized to require from the facility operator a list of trained emergency personnel at the facility, particularly persons trained in emergency response to spills or discharges of hazardous or low-level radioactive wastes.
- (7) The department is authorized to request administrative support from the county, including secretarial time, paper, telephone time, copying, and other support as may be necessary to carry out these functions through the county manager.
- (8) The department is authorized to purchase such equipment as may be necessary to carry out the monitoring and emergency preparedness duties of this section.
- (9) The department is authorized to prepare and disseminate educational materials and consult with adjoining landowners to the facility, farmers, schools, and other groups, which may be affected concerning health effects of hazardous and low-level radioactive waste.
- (10) The department is authorized to carry out such other duties as it or the environmental affairs board may find necessary from time to time to insure the public health, safety, and welfare.

- (d) Finance director to report defaults. The county finance officer is directed to see that applicants and permit holders furnish bonding, insurance, and other bonds required by this division and properly report defaults to the county commissioners.
- (e) County attorney's duties. The county attorney is directed to provide legal advice, drafting, and other assistance as needed by the county or any agency of it to enforce this division.
- (f) Board of commissioners to direct monitoring. The board of commissioners shall direct responsible officials of the county to undertake such other monitoring and safety actions as may be required by this and other sections of this division.

(Ord. of 9-10-1990, § XI)

**Sec. 23-57. Certificate of need required.**

- (a) All persons who operate facilities to handle, treat, transfer, store or dispose of solid, medical, hazardous, or low-level radioactive waste in the county, other than on-site storage and/or treatment at the point of generation, shall provide the environmental affairs board or its designee a certificate of need for each shipment of waste.
- (b) This certificate of need shall detail the generator's effort to reuse, recycle, reduce in volume, detoxify, neutralize, incinerate, or appropriately dispose of the waste at the point of generation, or subsequent efforts at some other waste management facility, before shipment to the county or within the county to such facilities. Such persons must also specify how treatment, handling, storage or disposal in the county employs best available technology for the disposal of such waste. The certificate must also include information regarding the condition and contents of the shipment, and proper visible labeling of the wastes on the vehicle, before the shipment enters the county.
- (c) This certificate of need shall be on file with the county along with a copy of the approval by the environmental affairs board or its designee prior to shipment to the county or within the county to such facilities.
- (d) If the environmental affairs board finds by majority vote that the shipment of waste does not conform to the waste management practices for which the county facility is permitted, the environmental affairs board is empowered to deny the shipment admittance to the facility. The facility operator may request a hearing before the board of commissioners to challenge the board's decision. The board of commissioners shall schedule a public hearing within ten days to hear such challenge. The facility operator shall have the burden of proof in any such hearing.

(Ord. of 9-10-1990, § XII)

**Sec. 23-58. Update of best management practices.**

- (a) The environmental affairs board shall perform all duties designated in this division and shall keep abreast of developments in waste management technology and practices.
- (b) If the environmental affairs board discovers a new management practice, not currently in use at facilities within the county covered by this division, which could be employed to recycle, reuse, neutralize, detoxify, incinerate, or reduce the volume of hazardous or low-level radioactive waste generated, stored, disposed, or transferred in the county, it shall prepare a report to that effect. The environmental affairs board shall include in the report a summary of the benefits and costs of the practice, the wastes affected by the practice, and a proposal for implementing it at facilities within the county. It shall then submit the report to all affected facility operators within the county. The facility operator shall reply in writing to the environmental affairs board within 45 days, specifying plans to implement the practice, or reasons why the facility operator believes the practice should not be implemented.
- (c) If after the exchange of reports, the environmental affairs board, by majority vote, finds that the practice should be implemented at facilities in the county, it shall prepare a report and order to that effect and submit them to the board of commissioners. The board of commissioners shall approve and publish the order, which shall be effective as an amendment to the permit. The facility operator may appeal the order within 30 days, by so requesting in writing to the county commissioners. The board of commissioners shall announce a public hearing within 30 days thereafter at which the environmental affairs board and the facility operator shall present their cases, and at which the facility operator shall be assigned the burden of proof. The board of commissioners shall then either reaffirm the order or remit the matter to the environmental affairs board for further study.

(Ord. of 9-10-1990, § XIII)

**Sec. 23-59. Privilege license tax.**

- (a) A privilege license tax will be required and paid annually in conformity with G.S. 153A and 153A-152.1. The privilege license tax will be in direct proportion to the costs incurred by the county to monitor the facility to ensure compliance with the regulations contained in this division and the amount necessary to prepare the county to respond to emergencies which may result from the operation of the facility. This fee will be calculated during the application fee process and updated annually.
- (b) The board of commissioners finds that the following costs are associated with waste facilities and their operations; the county is not otherwise compensated for such costs; and that such costs shall therefore properly be assessed under G.S. 153A-152.1(a) to the facility operator:

- (1) Emergency service needs, to include:

- a. The acquisition of special emergency equipment for dealing with hazardous and low-level radioactive substances, to include protective clothing, detoxification equipment, breath apparatus, collection apparatus, alarm systems, direct telephone or radio connection equipment, special medical vehicles, and other such equipment as the county may reasonably require.
- b. The cost of necessary maintenance and replacement of equipment as described in subsection (b)(1)a of this section.
- c. The cost of preparing, testing, disseminating, and implementing both on-site and off-site emergency evacuation plans, the cost of keeping such plans current, and the cost of carrying them out should the need arise.
- d. The cost of initial training for the county's emergency response personnel, to include psychological preparedness training, to deal with emergency situations involving hazardous or low-level radioactive waste, and the cost of expanding such training as necessary.
- e. The cost of updating such training as described in subsection (b)(1)d of this section from time to time, and the cost of training new personnel.
- f. Additional costs to the county's hospitals and clinics as a result of the need for special emergency units at those hospitals and clinics to handle hazardous and low-level radioactive waste emergencies.
- g. An additional amount to purchase insurance to cover the costs of emergencies caused by accidents involving the transportation of hazardous or low-level radioactive waste to or from such facilities, for accidents occurring between the site boundary and the county line.
- h. An additional amount to purchase insurance to cover the costs of emergency services required to handle emergencies caused by the waste facility during closure and post-closure care.
- i. The cost of other emergency services and preparedness which shall be required from time to time.

(2) Monitoring functions, to include:

- a. Salaries of county personnel and contracted services needed to carry out any of such monitoring functions.
- b. Administrative support costs which are reasonably necessary to fulfill the duties of the county monitoring personnel, to include office supplies, secretarial time, maintenance of a public document room, and other costs.

- c. The costs of training inspection and monitoring personnel and of updating such training from time to time.
- d. Costs incurred in hiring consultants and other persons to assist the county in monitoring.
- e. An additional sum, to be established by the board of commissioners after consulting with the facility operator, for maintaining monitoring of the environment and human health effects throughout the operation of the facility, including post-closure care. This money shall be placed into a nonreverting fund, with interest to accrue to the fund, which shall be managed by the county finance officer, who shall give an annual accounting of the fund to the board of commissioners.
- f. Other reasonable costs of monitoring as may be necessary.

(3) Other costs, to include but not limited to:

- a. Public information costs. The location of a waste facility is a matter of which the public should be completely informed and concerning which the public should have ready access to the relevant information. Therefore, the following costs shall be assessed to the facility operator:
  - 1. The cost of advising adjoining landowners as to their legal rights with respect to the facility, and as to health precautions.
  - 2. The costs of advising farmers in the surrounding area as to precautionary measures for their livestock and crops in the event of accidents or spills.
  - 3. The costs incurred to the extent not already provided for by county or school budgets in presenting instructional materials to county school children, on the facility, its potential hazards, and emergency preparedness.
  - 4. The costs incurred by the county health department in disseminating information concerning the facility and its effect on the public health.
- b. To the extent that the county is not otherwise compensated by the federal or state governments, costs incurred in improving or maintaining existing roads and rights-of-way, acquiring new rights-of-way, and constructing access roads, building parking areas, erecting warning signs, or signals, and other such expenses as the county may demonstrate are associated with the facility and the increased traffic associated with it.

- c. To the extent that the operation of the facility or off-site contamination from the facility, regardless of negligence on the part of the facility operator, reduces ad valorem revenues to the County, the loss to the county shall be compensated by the facility operator.
- d. The cost to the county of an annual review of this division and other laws and regulations in the field of waste management.
- e. The cost to the county of reasonable legal representation and attorney's fees in all cases arising out of the operation of the facilities in the county, or arising out of challenges to this division, provided that:
  - 1. The county is the prevailing party; or
  - 2. The county has had substantial justification for its position, and has not litigated vexatiously.
- f. The costs to the county of arranging suitable bonding or insurance or other financial security arrangements to cover the costs arising out of the location of facilities within the county.
- g. Other costs the county may incur, and which the county may demonstrate are associated with the operation of the facility, and for which the county is not otherwise compensated.

(c) The privilege license tax shall be calculated as follows:

- (1) Annual levy. There shall be levied and paid in advance an annual tax to pay all above stated expenses. The annual tax shall be estimated for the first year of operation and paid in advance before operations begin. Thereafter the annual tax shall be calculated by adding together all of the above enumerated expenses for the past year and estimated additional expenses anticipated in the next year. At the end of each tax year any amount over or under the actual cost incurred will be adjusted in the second year's tax. The taxpayer will be credited with excess and shall pay any deficiency within 30 days at the end of the year.
- (2) Due date. Each annual payment is due and payable on each anniversary of the first payment.
- (3) More than one facility. If there is more than waste facility in the county subject to this division, the total tax for each facility shall be prorated among the various facility operators according to the percentage of the gross receipts for the wastes each operator has handled, treated, stored, or disposed of in the county for that calendar year.

- (4) Negotiation. Should the facility operator have reason to believe that this privilege license tax would prohibit or have the effect of prohibiting the operation or continued operation of the facility, he shall specify in writing in a report to the environmental affairs board, setting forth the grounds for such belief with particularity, and stating the level of tax which would enable such operation. The environmental affairs board is empowered to negotiate the total tax, provided that:
- a. All such negotiations shall include at least one public meeting;
  - b. Any decision be reported in writing to the county commissioners, with the reason therefor; and
  - c. Such agreement must be approved by the board of commissioners before becoming final.

(Ord. of 9-10-1990, § XIV)

**Sec. 23-60. Waste clean-up fund additional privilege tax.**

- (a) Purpose. The purpose of this section is to establish an emergency response fund, to be funded by an additional privilege license tax, particularly for individual accidents, and other costs arising out of the location and operation of waste facilities in the county. The board of commissioners finds the establishment of this fund necessary, in order to:
- (1) Protect the health and welfare of the public;
  - (2) Provide for the safe and effective operation, management and operation of waste facilities; and
  - (3) Provide for costs resulting from inefficient clean-up of past accidents and closed waste facilities.

The board of commissioners recognizes the benefit of speedy clean-up, manifest in monetary savings, and in the prevention of permanent damage to life and property. The board of commissioners also recognizes that the clean-up fund established under G.S. 130-166.19A only covers on-site clean-up and care, and that the federal response fund established under the Comprehensive Emergency Response, Compensation and Liability Act, P.L. 96-150, 42 USC 9601 et seq. is inadequate to ensure speedy and adequate compensation, particularly for damages to individuals.

- (b) Establishment of fund. There is hereby established, pursuant to the authority vested in the county commissioners by the General Statutes, a special waste clean-up fund, to be disbursed liberally and speedily upon notification of any dangerous spill or leakage that is not immediately remedied by the part responsible or by the federal or state governments. The fund will supplement the state fund established under G.S. 130-

166.19A, and it is the intent of the county commissioners that it should be used first to cover personal injury costs and off-site contamination costs. Should the fund be found to be invalid for whatever reason, the moneys collected and accrued interest shall be returned to the facility operator in the same shares as it was paid in; otherwise, the fund shall be nonreverting.

- (c) How collected. The privilege license tax collected under this section shall be two percent of the gross annual receipts of all hazardous waste facilities in the county subject to this division, and shall continue until the principal of this fund shall reach \$25,000,000.00 with all interest to accrue to the fund.
- (d) Management. The county finance officer, the county manager and one member of the board of commissioners shall be appointed managers of the fund. The managers of the fund shall give an annual accounting of the fund to the board of commissioners and to all subject facility operators in the county. The county finance officer shall pursuant to this section prepare a report on the best means of investing these tax revenues within 30 days of the receipt of an application for a waste facility in the county. It is the intent of the board of commissioners that these revenues shall not be vested in the securities, obligations, or other instruments of industries which are major producers of hazardous or low-level radioactive waste.
- (e) Procedure for disbursement. The county attorney is directed when the first permit is granted under this division, to draw up a plan and procedures for disbursement, which shall be signed to:
  - (1) Ensure prompt response to individual claims and clean-up actions;
  - (2) Ensure that all disbursements are made in accordance with state and federal laws; and
  - (3) Ensure that there is provision for periodic disbursements where the nature of the injury so requires.
- (f) Authority to disburse. The environmental affairs board, by majority vote, shall be the disbursing authority for payments made from the fund. The environmental affairs board shall prepare a written report of any meeting at which such vote is taken, including the names of persons voting for and against, amount voted, and reason. The board of commissioners shall review such report at its next meeting.
- (g) Collection of expenditures. The county attorney, when the first permit is granted under this division, shall prepare a plan for collecting expenditures from the fund from parties responsible for discharges requiring such expenditures.
- (h) Procedures for closing of fund. The county finance officer shall prepare a plan for the closing of the fund within a reasonable time after the closure of the facility but shall

not take place until 15 years after the closing date of the facility.

(Ord. of 9-10-1990, § XV)

**Sec. 23-61. Emission standards.**

- (a) This section is applicable to incinerators only.
- (b) Emissions from all incinerators at a waste facility shall meet the regulations governing the control of toxic air pollutants at 15A NCAC 2D.1101 et seq. and 15A NCAC 2H.0610 et seq., as amended by the state environmental management commission. A waste facility shall comply with all other applicable air quality rules and standards.
- (c) Ambient air concentrations shall be determined by using appropriate Environmental Protection Agency dispersion modeling procedures or other methods specified by the director. Ambient air concentrations are to be evaluated for annual period over a calendar year, 24-hour periods from midnight to midnight, for one-hour periods beginning on the hour, and for 15 minute periods beginning on the hour of 15, 30, or 45 minutes after the hour. The identification of each toxic air pollutant emitted and its corresponding emission rate shall be determined using mass balancing analysis, source testing, or other methods acceptable to the director.
- (d) For incinerators at a plant site where the total incinerator capacity is greater than 250 pounds per hour, the emissions of:
  - (1) Hydrogen chloride shall not exceed four pounds per hour unless the emission is reduced by at least 99 percent by weight; and
  - (2) Mercury shall not exceed seven pounds per 24-hour period.

(Ord. of 9-10-1990, § XVI)

**Sec. 23-62. Civil penalty for exceeding emission limits.**

- (a) This section shall apply to incinerators only.
- (b) Any person, firm, or legal entity who permits an incineration facility in the county to exceed the emission limits set forth above shall pay to the county a penalty of \$150.00 for each day the violation occurs.

(Ord. of 9-10-1990, § XVII)

**Sec. 23-63. Grounds for revocation of permit.**

The board of commissioners, after due notice to the holder of a permit to operate a waste facility in the county and an opportunity to be heard, may revoke the permit upon any of the following grounds:

- (1) If the emission from an incineration facility exceeds for a period of more than ten continuous days, the air emission limits set forth in this division.
- (2) As a result of operation of the plant in such a manner, the emission limits or any other criteria set forth in this division or conditions upon the permit are exceeded and result in the impairment of the health of persons or livestock living in the area, or the contamination of real estate in the area.
- (3) Failure to pay any penalties, taxes or assessments due under this division or the laws of the state.
- (4) Negligent supervision, or operation, or monitoring of the operation by the permit holder.
- (5) Violations of state and federal laws which protect public health and safety and the environment.

(Ord. of 9-10-1990, § XVIII)

**Sec. 23-64. Owner or operator in residence.**

If the owner or operator of a waste facility in the county is a corporation, a corporate officer of at least the status of vice president and who is a stockholder in the corporation shall reside with his family within two miles of the facility. If the facility is owned or operated by an individual, the individual must reside with his family within two miles of the facility. If the facility is owned by a partnership or any other entity, a partner or senior officer of the entity shall reside with his family within two miles of the facility. If the facility is owned by a trust, an officer of the trust must reside with his family within two miles of the facility.

(Ord. of 9-10-1990, § XIX)

**Sec. 23-65. Notification of transportation.**

Any person transporting medical, hazardous, or low-level radioactive waste into the county by truck or motor vehicle shall notify the office of the sheriff of the county by telephone of his expected time of arrival at the county line. Before entering the county, the transporter shall wait for an escort by the sheriff's department. The sheriff shall dispatch a deputy to meet the truck at or near the county line. Before proceeding the driver shall furnish the deputy a copy of his manifest or other documentation. The deputy shall inspect the truck to determine that it complies with all rules and regulation for such transportation as required by this division and the laws and statutes of the state and

federal governments. If the truck is in compliance, the deputy shall then escort the truck to the waste facility. The deputy shall file the manifest with the county manager or his designee within 24 hours.

(Ord. of 9-10-1990, § XX; Ord. of 9/12/2006)

**Sec. 23-66. Criminal penalties.**

Any person, firm, or legal entity violating this division shall be guilty of a misdemeanor and, upon conviction, fined not more than \$500.00 for each offense or imprisoned for not more than 30 days for each offense. Each day this division is violated shall constitute a separate offense.

(Ord. of 9-10-1990, § XXI)

**Sec. 23-67. Civil remedies.**

- (a) Any person injured by failure of a permit holder to comply with this division shall have a civil cause of action against the permit holder, or anyone violating it, for any damages sustained as a result of the violation and the right to injunctive relief against the permit holder to enforce this division.
- (b) The county shall have the right to enforce this division by injunction, and shall have a cause of action for any damages the county sustains as a result of any violation of this division by the permit holder.
- (c) Any person or corporation violating this division by operating a waste facility in the county without a permit shall pay to the county a fine of \$1,500.00 per day for each day of operation. Each day shall be a separate offense.

(Ord. of 9-10-1990, § XXII)

**Secs. 23-68--23-85. Reserved.**

### **DIVISION 3. MANAGEMENT OF SOLID WASTE**

**Sec. 23-86. Purpose and statutory authority.**

The purpose of this division is to regulate the storage, collection, and disposal of solid waste in the county. This division is adopted pursuant to the authority contained in G.S. 153A-121, 153A-132.1, 153A-136, 153A-274--153A-278, and 153A-291--153A-293 and 130A-309.09A, 130A-309.09B, and 130A-309.09D. Unless otherwise indicated, the division applies to both publicly-owned and privately-owned municipal solid waste management facilities located in the county.

(Ord. of 9-14-1992, § I)

**Sec. 23-87. Definitions.**

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Bulky waste* means large items of solid waste such as furniture, large auto parts, trees, branches, stumps, and other oversize wastes whose large size precludes or complicates their handling by normal solid waste collection, processing, or disposal methods.

*Collection* means the act of removing solid waste (or materials that have been separated for the purpose of recycling) to a transfer station, processing facility, or disposal facility.

*Commercial solid waste* means all types of solid waste generated by stores, offices, restaurants, warehouses, and other nonmanufacturing activities, excluding residential and industrial waste.

*Construction and demolition waste* means solid waste resulting solely from construction, remodeling, repair, or demolition operations on buildings, or other structures, but does not include inert debris, land-clearing debris, yard debris, or used asphalt, asphalt mixed with dirt, sand gravel, rock, concrete, or similar nonhazardous material.

*County Solid Waste Management Plan* shall mean the plan developed by the County pursuant to G.S. 130A-309.09A

*Department* means the department of environment and natural resources.

*Garbage* shall have the same definition as in G.S. 130A-290(a)(7).

*Hazardous waste* shall have the same definition as in G.S. 130A-290(a)(8).

*Incineration* means the process of burning solid, semi-solid, or gaseous combustible wastes to an inoffensive gas and a residue containing little or no combustible material.

*Industrial solid waste* shall have the same definition as in G.S. 130A-290(a)(13a).

*Inert debris* shall have the same definition as in G.S. 130A-290(14).

*Institutional solid waste* means solid waste generated by educational, health care, correctional, and other institutional facilities.

*Land-clearing debris* shall have the same definition as in G.S. 130A-290(15).

*Landfill* shall have the same definition as in G.S. 130A-290(16).

*Landlord* means the owner of property utilized for a single-family dwelling such as houses, mobile homes, modular homes or apartments.

*Medical waste* shall have the same definition as in G.S. 130A-290(18).

*Municipal solid waste* shall have the same definition as in G.S. 130A-290(18a).

*Municipal solid waste management facility* shall have the same definition as in G.S. 130A-290(18b).

*Pathological waste* means human tissues, organs, and body parts and the carcasses and body parts of any animals that were known to have been exposed to pathogens that are potentially dangerous to humans during research, were used in the production of biologicals or in vivo testing of pharmaceuticals, or that died with a known or suspected disease transmissible to humans.

*Processing* means any technique designed to change the physical, chemical or biological character or composition of any solid waste so as to render it safe for transport; amenable to recovery, storage, or recycling; safe for disposal; or reduced in volume or concentration.

*Putrescible* means solid waste capable of being decomposed by microorganisms with sufficient rapidity as to cause nuisances from odors and gases, such as kitchen wastes, offal and animal carcasses.

*Radioactive waste* means waste containing any material, whether solid, liquid, or gas, that emits ionizing radiation spontaneously.

*Recycling* shall have the same definition as in G.S. 130A-290(27).

*Refuse* means solid waste, other than garbage or ashes, from residences, commercial establishments, and institutions.

*Regulated medical waste* means blood and body fluids in individual containers in volumes greater than 20 milliliters, microbiological waste, and pathological waste that has not been treated pursuant to rules promulgated by the department.

*Resource recovery* means the process of obtaining material or energy resources from discarded solid waste that no longer has any useful life in its present form and preparing the solid waste for recycling.

*Sanitary landfill* shall have the same definition as in G.S. 130A-290(31).

*Scrap tire* means a tire that is no longer suitable for its original, intended purpose because of wear, damage, or defect.

*Septage*. shall have the same definition as in G.S. 130A-290(32)

*Sharps* means needles, syringes, and scalpel blades.

*Sludge* shall have the same definition as in G.S. 130A-290(34).

*Solid waste* shall have the same definition as in G.S. 130A-290(35).

*Solid waste collection* means any person who collects or transports solid waste.

*Solid waste disposal site* shall have the same definition as in G.S. 130A-290(36).

*Solid waste receptacle* means a county-owned container used for the temporary storage of residential solid waste while awaiting collection.

*Source separation* means setting aside recyclable materials at their point of generation by the generator.

*Tire* means a continuous solid or pneumatic rubber covering encircling the wheel of a motor vehicle as defined in G.S. 20-4.01(23).

*Transfer station* means a site at which solid waste is concentrated for transport to processing facility or disposal site. A transfer station may be fixed or mobile.

*Used oil* means any oil that has been refined from crude oil or synthetic oil and, as a result of use, storage, or handling, has become unsuitable for its original purpose.

*White goods* shall have the same definition as in G.S. 130A-290(44).

*Yard trash* shall have the same definition as in G.S. 130A-290(45).

Words and phrases not otherwise defined in the Division shall have the same definitions as contained in Chapters 103A and 153A of the General Statutes and the Federal Solid Waster Disposal Act in Title 42 of the United States Code, as well as regulations duly promulgated by North Carolina federal agencies pursuant to those statutes, , and where and to the extent there is any conflict between the definition in the Division and those contained in those North Carolina and federal statutes and rules, those North Carolina and federal statutes and rules shall apply.

(Ord. of 9-14-1992, § II; Ord. 9/12/2005)

Cross references: Definitions generally, § 1-2.

## **Sec. 23-88. Storage and disposal.**

- (a) No owner, occupant, tenant, or lessee of any property may deposit, store, or permit to accumulate any solid waste on his property that is not stored or disposed of in a manner prescribed by this division.
- (b) The owner, occupant, tenant, or lessee of any property shall remove or cause to be removed all solid waste from his property at least once each week (seven-day period).
- (c) Refuse shall be stored in a manner that will resist harborage to rodents and vermin and will not create a fire hazard. Regulated refuse under this subsection includes, but is not limited to, lumber, boxes, barrels, bottles, cans, tires, paper, cardboard, rags, old furniture and other bulky waste, and white goods. Useful materials, such as firewood and building materials, may be stored on the premises, provided they are stored in a safe manner at a reasonable height above ground.
- (d) No owner, occupant, tenant or lessee of a building or dwelling, other than a licensed junk dealer, may place or leave, or cause to be placed or left, outside the building or dwelling any bulky waste for longer than seven days.
- (e) No owner, occupant, tenant, or lessee of any building or dwelling may leave outside the building or dwelling, in a place accessible to children, any abandoned or unattended icebox, refrigerator, or other receptacle that has an airtight door without first removing the door.
- (f) Solid waste shall be disposed of only in one of the following ways:
  - (1) In a landfill approved by the department;
  - (2) In an incinerator that has all required local, state, and federal control permits;
  - (3) By any other method, including recycling and resource recovery, that has been approved by the department.
- (g) In addition to the methods listed in subsection (f) of this section, residential solid waste may be disposed of in solid waste receptacles in accordance with Section 23-90 of this Division.
- (h) No person may discard, dispose, leave, or dump any solid waste on or along any street or highway or private property unless such solid waste is placed in a receptacle at a location designated for the deposit of solid waste.
- (i) Construction wastes must be disposed of at disposal sites approved and permitted by the department.
- (j) Regulated medical, hazardous, and radioactive waste must be disposed of according to written procedures approved by the department.

(k) Any person collecting and transporting solid waste generated on such person's property for disposal at an approved disposal site shall comply with subsection 23-92(f) concerning vehicles and containers.

(l) All sharps shall be placed in a sealed, puncture-proof container prior to disposal.

(m) Open burning of solid waste is prohibited.

(Ord. of 9-14-1992, § III; Ord. of 9/12/2005)

**Sec. 23-89. Solid waste management.**

(a) The county solid waste transfer station, convenience and recycle centers and demolition landfill may be used for the proper disposal of solid waste generated by county residents and nonresident property owners. These facilities shall be open not less than 44 hours weekly according to business hours established by the board of commissioners. Except when open during regular business hours, these facilities shall be kept locked, and entry shall not be permitted. Placement of solid waste at locked entrances to these facilities is prohibited and shall be considered a violation of this division.

(b) The following wastes may not be disposed of in the county sanitary landfill or in any municipal solid waste landfill:

- (1) Burning or smoldering materials, or any other materials that would create a fire hazard;
- (2) Hazardous waste;
- (3) Liquid waste;
- (4) Untreated waste;
- (5) Radioactive waste;
- (6) Lead-acid batteries;
- (7) Clean wood waste;
- (8) Used oil;
- (9) White goods;
- (10) Yard trash;

(11) Asbestos;

(12) Barrels;

(13) Sludges;

(c) The county shall provide facilities meeting the department regulations and permitted by the department as appropriate for the proper disposal of used tires. Operating rules and procedures shall be as established by the board.

(d) The county shall make provisions for composting all clean, unpainted wood waste, yard waste, trees, limbs and stumps. Municipal and industrial sludges approved by the department may also be disposed of by this or another approved method.

(e) Loitering, scavenging or rummaging through solid waste containers and/or facilities is prohibited.

(f) No person may deposit material at any county facility except where indicated by authorized employees or by official signs.

(g) No unauthorized person may discharge firearms, fireworks or explosives on county property.

(h) The maximum allowable speed of all vehicles through solid waste facilities is 15 miles per hour.

(Ord. of 9-14-1992, § IV)

**Sec. 23-90. Solid waste receptacles.**

(a) Solid waste receptacles are maintained at strategic sites throughout the county for the disposal of residential solid waste, maintained and serviced by the county. Solid waste may be deposited in the receptacles only in accordance with the provisions of this division.

(b) The following wastes may not be deposited in solid waste receptacles:

(1) Asbestos;

(2) Burning or smoldering materials, or any other materials that would create a fire hazard;

(3) Commercial waste;

(4) Construction waste;

- (5) Hazardous waste;
  - (6) Industrial waste;
  - (7) Institutional waste;
  - (8) Lead-acid batteries;
  - (9) Liquid waste;
  - (10) Radioactive waste;
  - (11) Regulated medical waste;
  - (12) Tires;
  - (13) Yard trash;
  - (14) Sludges;
  - (15) Barrels;
  - (16) Sharps not properly contained.
- (c) All residential solid waste intended for disposal in a solid waste receptacle shall be deposited inside the container. No solid waste may be left at the solid waste receptacle site outside the receptacle.
- (d) No person may remove any item from a solid waste container, climb on or into a container, or damage any container.
- (e) The board shall approve operating rules and procedures governing the daily operation of all county residential collection sites, manned or unmanned.

(Ord. of 9-14-1992, § V)

**Sec. 23-91. Flow control.**

- (a) All solid waste generated within the designated geographic area of the county solid waste management plan that is placed in the waste stream for disposal or recycling shall be collected, transported, and disposed of at the county solid waste facility or the county landfill, or a privately owned municipal solid waste facility for which the County has granted a franchise. The removal of solid waste from within the geographic area for disposal except by the county or a private entity, which has been granted a franchise from the county is prohibited. This section shall not be construed

to prohibit the source separation of materials from solid waste prior to collection of such solid waste for disposal.

- (b) No person, except licensed solid waste collectors and county or municipal collectors shall collect or remove any solid waste within the county for disposal.
- (c) The county shall establish a system of classification for classes of solid waste that shall be consistent with a system of classification in the county solid waste management plan. The classification system shall be used as a basis for requiring that solid waste be delivered to an appropriate county disposal facility in accordance with the county solid waste management plan.

(Ord. of 9-14-1992, § VI, Ord. of 9/12/2005)

**Sec. 23-92. Licensing of solid waste collectors.**

- (a) No person may engage in business as a solid waste collector except as defined in this division and without possessing a license issued by the county pursuant to this division.
- (b) Applications for licenses to engage in the business of solid waste collector shall be filed with the county solid waste superintendent on forms approved by the county. The applicant shall furnish the following information:
  - (1) Name and address of the applicant and whether a sole proprietorship, corporation, or partnership, with disclosure of the ownership interests;
  - (2) A list of the equipment possessed, available, or to be obtained by the applicant, including motor vehicle license tag numbers;
  - (3) Number of employees the applicant expects to use in the business;
  - (4) Experience of the applicant in solid waste collection;
  - (5) Map of the planned routes and areas of the county the applicant expects to serve;
  - (6) Schedule of fees the applicant expects charge;
  - (7) Evidence of liability insurance coverage;
  - (8) Names and addresses of all residential customers updated semi-annually.
- (c) Before issuing a license pursuant to this section, the county may inspect or cause to be inspected all facilities and equipment the applicant plans to use in the solid waste collection business.

(d) The county solid waste superintendent may issue the applicant a license only when he finds that the applicant's facilities, equipment, and proposed operating methods are in compliance with this division and applicable rules of the department and that the applicant will perform solid waste collection in an efficient and sanitary manner. A condition of the license shall be that the licensee shall serve every person who contracts with him for solid waste collection in such a manner that the licensee does not cause the person to be in violation of this division.

(1) If the county denies an applicant a license, the applicant may request a hearing before the county manager. The county manager shall keep summary minutes of the hearing and within 30 days after the hearing shall give the applicant written notice of his decision either granting the license or affirming his denial of the license. The applicant may appeal the county manager's decision to the board of commissioners by giving written notice of appeal to the county manager within five days of receipt of the county manager's decision following the hearing. After a hearing on the appeal, the board shall either affirm the denial or direct the county manager issue the license.

(2) A license shall be valid for a period of one year from the date of issuance.

(e) A licensee shall submit a semi-annual report to the county manager containing the following information:

(1) Number with names and addresses of customers added or deleted;

(2) Changes in routes;

(3) New and replacement equipment;

(4) Any other information requested by the county and pertinent to the solid waste collection business.

(f) Vehicles and containers used for the collection and transportation of solid waste shall be:

(1) Covered, leakproof, durable, and easily cleaned. They shall be cleaned as often as necessary to prevent a nuisance and insect breeding and shall be maintained in good repair. Vehicles shall display in numbers at least three inches high the county license number of the licensee and the license sticker issued by the county.

(2) Loaded and moved in such a manner that the contents will not fall, leak, or spill, and shall be covered to prevent the blowing of material. If spillage or leakage should occur, the material shall be recovered immediately by the licensee and returned to the vehicle or container, and the area properly cleaned.

- (g) When the county solid waste superintendent finds that a licensee has violated this division or the conditions of the license, he shall give the licensee written notice of the violation and inform him that if another violation occurs within 30 days, or in the case of a continuing violation, if it is not corrected within ten days, the license will be revoked. If another violation occurs within the 30-day period, or, if the continuing violation is not corrected within ten days, the county shall give the licensee written notice that the license is revoked. Upon receipt of the notice of revocation, the licensee shall stop collecting, transporting or disposing of solid waste. The county may reinstate a revoked license after the revocation has been in effect for 30 days if the solid waste superintendent finds that the conditions causing the violation have been corrected. A licensee whose license has been revoked may appeal the revocation to the county manager by giving written notice of appeal to the county manager within ten days of receiving notice of revocation from the county solid waste superintendent. After a hearing on the appeal, the county manager shall either affirm the revocation or direct the county solid waste superintendent to reinstate the license.
- (h) No license issued pursuant to this division shall be assignable.
- (i) The county shall assesses and collect a \$150.00 licensee applications fee. There shall be a nonrefundable annual renewal fee of \$75.00.
- (j) A provision is made for a landlord to collect garbage from his rental properties and dispose of such garbage at the solid waste disposal facilities in accordance with the following conditions:
- (1) If collection is from less than 25 residential dwellings, garbage may be taken to the nearest convenience center or landfill for disposal.
  - (2) No license shall be required of a landlord servicing 25 or less residential dwellings. No additional fee will be assessed by the county for this provision.
  - (3) If a landlord services more than 25 dwellings, he shall be required to obtain a license as outlined in this section and transport the collected waste to the landfill or the transfer station for disposal. The landlord may not dispose of such waste at a county dumpster site or convenience center.
  - (4) A landlord providing collection for more than 25 dwellings and having been issued a license may apply for a credit of \$36.00 per residential household served annually as a result of not utilizing the county collection system. This adjustment shall be effective for as long as the service is provided and/or the license is current.
- (k) The county will monitor the monthly tonnage of residential waste disposed of by all licensed haulers.

(Ord. of 9-14-1992, § VII)

**Sec. 23-93. Fees and collection.**

The county shall establish fees for the collection, transporting and disposal of solid waste services provided by the county. All residential fees established shall be billed and collected as provided in G.S. 153A-292. Any solid waste fee imposed by the board may be billed and collected in the same manner as property taxes according to the provisions of G.S. 153A-293, with such fees becoming delinquent on January 6. The following July 1 shall serve as the date of attachment of liens for those accounts continuing being delinquent.

(Ord. of 9-14-1992, § IX)

**Sec. 23-94. Littering and enforcement.**

Any person found to be violating the disposal provisions or improperly disposing of solid waste as defined in G.S. 14-399 shall be subject to the penalties listed therein.

(Ord. of 9-14-1992, § X)

**Sec. 23-95. Enforcement.**

- (a) Criminal penalty. Any person in violation of this division shall be guilty of a misdemeanor punishable by a fine of not to exceed \$500.00 or imprisonment for not more than 30 days, or both. Each day's violation shall be treated as a separate offense.
- (b) Civil penalty. Any person who is found in violation of this division shall be subject to a civil penalty of \$500.00 as provided in G.S. 153A-123. Each day's violation shall be treated as a separated offense.
- (c) Remedies. This division may be enforced by equitable remedies, and any unlawful condition existing or in violation of this division may be enforced by injunction and order of abatement in accordance with G.S. 153A-123.
- (d) Any solid waste disposed of in violation of this ordinance that can be identified as having last belonged to, been in the possession of, sent to or received by or to have been the property of any person prior to being disposed of, such identification shall be presumed to be prima facia evidence that such person disposed of or caused the be disposed of such solid waste in violation of this ordinance.

(Ord. of 9-14-1992, Ord. of 5-2-05)

**Chapter 24 - (RESERVED)**

**Chapter 25 - (RESERVED)**

## **Chapter 26**

### **STREETS, SIDEWALKS AND OTHER PUBLIC PLACES\***

\*Cross references: Any ordinance dedicating, naming, establishing, locating, relocating, opening, widening, paving, etc., any street or public way in the county saved from repeal, § 1-9(6); any ordinance providing for local improvements and assessing taxes for such improvements saved from repeal, § 1-9(9); any ordinance establishing or prescribing street grades in the county saved from repeal, § 1-9(15); environment, ch. 14; land development, ch. 20; buildings and building regulations, § 20-61 et seq.; floods, § 20-166 et seq.; road names, § 20-321; manufactured homes and trailers, § 20-406 et seq.; telecommunications, ch. 32.

State law references: General ordinance-making powers, G.S. 153A-121; authority to regulate roads and bridges, G.S. 153A-238 et seq.

#### **ARTICLE I. IN GENERAL**

##### **Sec. 26-1. Posting of signs to prohibit concealed handguns on county property.**

- (a) Posting of signs required. The County Manager is hereby ordered to post appropriate signage on each park, parking lot, building or portion of a building owned, leased as lessee, operated, occupied, managed or controlled by the county, as well as the appurtenant premises to such buildings, indicating that concealed handguns are prohibited on such property.
- (b) Location of signs. Such signs shall be visibly posted on the exterior of each entrance by which the general public can access the building, appurtenant premises, park or parking lot. The County Manager shall exercise discretion in determining the necessity and appropriate location for other signs posted on the interior of the appurtenant premises or park.
- (c) Exemptions. This section shall not apply to law enforcement officers.

(Ord. of 12-4-1995, §§ 1--3)

**State law references: Concealed weapons, G.S. 14-415.11 et seq.**

##### **Sec. 26-2. Smoking in county buildings.**

- (a) Definition. The term "smoking" means the inhaling, exhaling, burning or carrying of a lighted pipe, cigar, cigarette or other combustible tobacco product.
- (b) Smoking prohibited in county buildings. It shall be unlawful for any person to smoke in any building or facility or portion of a building or facility or within 20 feet of the front entrance of any building or facility owned, leased, operated, occupied, managed

or controlled by the county except in a designated smoking area provided in subsection (c) of this section.

- (c) Description of smoking area. The County Manager is authorized and directed within 60 days after adoption of the ordinance from which this section is derived to designate and mark a total area not to exceed 20 percent of the floor space of each building as smoking area. The total smoking area need not be contiguous and may be relocated from time to time by order of the board of commissioners.
- (d) Report. The County Manager shall file with the board of commissioners at the December 1993 meeting a report describing the smoking areas designated and marked. Upon acceptance of the report the designated areas shall be the designated smoking area referred to in subsection (b) of this section.
- (e) Penalty. Violation of this section shall constitute a misdemeanor punishable by a fine of \$500.00 in accordance with G.S. 153A-121.

(Ord. of 10-4-1993, §§ 1--5)

Cross references: Buildings and building regulations, § 20-61 et seq.

**Secs. 26-3--26-30. Reserved.**

## **ARTICLE II. ROADS AND BRIDGES**

**Sec. 26-31. Fishing from bridges.**

Pursuant to the authority granted by G.S. 153A-242, it shall be unlawful to fish from the bridge over Ledbetter Lake on Graham Bridge Road (SR 1489).

(Ord. of 2-4-1991, § 1)

**Secs. 26-32--26-60. Reserved.**

## **ARTICLE III. STREET NUMBERING\***

\*Cross references: Property addressing in subdivisions, § 20-323.

(Ord. 6/4/2007)

**Sec. 26-61. Purpose**

The purpose of these procedures is to provide a uniform building / property address system for Richmond County along both private and public streets and roadways in order to facilitate provisions of adequate public safety and emergency response services

**Sec. 26-62. Authority.**

- (a) Under authority of G.S. 153A-240, the County Planning Department is hereby assigned the responsibility of devising, administering, implementing, and enforcing the provision of the Article.
- (b) Any person applying for a building permit, septic system permit, or other permit for improvement of or on a lot or parcel of land must first obtain address number for each lot or parcel of land for which a permit has been applied, which assigned address number (or numbers, as the case may be) shall appear on all applications and documentation relating to such improvement.

(Ord. of 12-2-1991, § 2)

**Sec. 26-63. Addressing and Street Naming Policy**

The Planning Department is hereby authorized to develop a *Property Address and Street Naming Policy* that will identify the processes by which property addresses are created and assigned, streets and roads are named, and the standards by which these process are accomplished. This effort shall be done in accordance with Chapter 153A, Article 12 of the North Carolina General Statutes. The *Property Address and Street Naming Policy* may provide for coordinating activities with other County Departments (E-911 and permitting agencies) as well as the creation of a Master Address Repository.

**Sec. 26-64. Number identification and enforcement.**

- (a) The owner of each lot or parcel of land upon which a building or unit is located shall permanently affix and display on each building and/or unit the address number which has been assigned in the manner specified in this *the Property and Address Naming Policy*.
- (b) Display of unassigned numbers.
  - (1) The display of any address number other than that assigned is expressly prohibited.
  - (2) It shall be the responsibility of the building or unit owner (or the lessee, where applicable) to maintain at all times such number display as required by and in accordance with the provisions of this article.
- (d) Building inspection; certifications.
  - (1) New construction. Owners, or agents of owners, of all lots or parcels for which new construction has been approved (as evidenced by issuance of a permit) shall

temporarily or permanently display their assigned address numbers prior to the performance of any construction inspection.

- (2) Completed construction. No Certificate of Occupancy shall be issued until the assigned address number is permanently displayed in accordance with the provisions of this article.

(e) Noncompliance; enforcement.

- (1) The owner (or owners jointly or severally) of each lot or parcel of land, building or unit failing to properly display an assigned address number as prescribed under the provisions of this article shall be deemed to be a violation of this article.
- (2) Upon the determination of any such violation, the Planning Department shall issue a Notice of Violation to the owner and/or occupant of the lot or parcel of land, in accordance with Section 1-6 of this Code.

(Ord. of 12-2-1991, § 4)

**Sec. 26-65. New street names.**

Every proposed subdivision plat shall be submitted to the Planning Department for their approval after the effective date of the ordinance from which this article is derived and shall show the proper names of any and all streets and these street designations shall be approved by the Planning Department before such new streets are officially named and prior to the recording of the plat.

(Ord. of 12-2-1991, § 5)

## **Chapter 27 - (RESERVED)**

**Chapter 28 - (RESERVED)**

## **Chapter 29 TAXATION\***

\*Cross references: Any ordinance or resolution promising or guaranteeing loans or the payment of money for the county or authorizing the issuance of any bonds of the county or any evidence of the county's indebtedness saved from repeal, § 1-9(2); any ordinance providing for local improvements and assessing taxes for such improvements saved from repeal, § 1-9(9); any ordinance levying or imposing taxes not included herein saved from repeal, § 1-9(14); administration, ch. 2; businesses, ch. 5.

### **ARTICLE I. IN GENERAL**

**Secs. 29-1--29-30. Reserved.**

### **ARTICLE II. AD VALOREM TAXES**

**Sec. 29-31. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Manufactured home* means a structure, transportable in one or more sections, which, in the traveling mode, is eight feet or more in width or is 40 feet or more in length or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein.

*Manufactured home dealer and dealer* mean any person engaged in the business of buying or selling manufactured homes or offering or displaying manufactured homes for sale in the state. Any person who buys or sells three or more manufactured homes in any 12-month period, or who offers or displays for sale three or more manufactured homes in any 12-month period shall be presumed to be a manufactured home dealer. The terms "selling" and "sale" include lease-purchase transactions. The term "manufactured home dealer" does not include banks and finance companies that acquire manufactured homes as an incident to their regular business.

(Ord. of 1-7-1975, § I)

Cross references: Definitions generally, § 1-2.

**Sec. 29-32. Duty of owner or person in possession.**

Every owner or person in possession thereof, if other than the owner, of a manufactured home located within the county, except:

- (1) A manufactured home temporarily located within the county with the express predetermined intent and purpose of conveyance outside of the county within 30 days after arrival;
- (2) A manufactured home held for display or exhibition purposes by a manufactured home dealer licensed by the state as such and displaying such license; and
- (3) A manufactured home passing through the county on a public street, road or highway for conveyance elsewhere;

shall register such mobile home during the regular ad valorem tax-listing period of each year with the tax supervisor's office of the county; provided that registration as referred to in this section shall not relieve any person from the obligation to list all property for ad valorem tax purposes in the manner required by law, and more particularly the Machinery Act of 1971 (G.S. 105-271 et seq.) and provisions contained in such Act, including but not limited to G.S. 105-316.

(Ord. of 1-7-1975, § II)

#### **Sec. 29-33. Registration.**

Registration shall occur when the manufactured home is properly listed with the county Tax Supervisor's office for ad valorem tax purposes; and upon such listing, the Tax Supervisor's office shall deliver a numbered plate, sticker or other appropriate device to the person registering or listing such manufactured home, which device shall be displayed on the manufactured home on or near the main door or exit so as to be clearly visible from the exterior; provided, however, that any manufactured home otherwise required to be registered pursuant to this article or state statute shall not be deemed exempted from the provisions of this article, if listing for ad valorem tax purposes is not required.

(Ord. of 1-7-1975, § III)

#### **Sec. 29-34. Registration after January 1.**

Manufactured homes moved into or located within the county after January 1, 1975, and each year after that shall likewise be registered within 30 days after such manufactured home becomes located within the county; and in such event, registration shall be made by application to the county Tax Supervisor's office. No permit provided pursuant to the county zoning resolution, including but not limited to a special use permit, or the State Building Code shall be issued until the mobile home shall be registered as required in this article.

(Ord. of 1-7-1975, § IV)

**Sec. 29-35. Information.**

Registration shall consist of delivery of a sticker or decal or other appropriate device upon receipt of the following information to be obtained from the owner or other person registering the vehicle:

- (1) Names of the owner or person to be in possession if other than the owner;
- (2) Year, make, and model of the manufactured home or vehicle; and
- (3) Place, meaning tax block and lot where the manufactured home is or will be located.

(Ord. of 1-7-1975, § V)

**Sec. 29-36. Registration period.**

The period of registration for manufactured homes shall be for the 12-month period of January 1 through December 31 of each year, and such manufactured homes shall be registered annually thereafter, in the manner required in this article. The decal or other device shall show the year for which issued and the date of expiration.

(Ord. of 1-7-1975, § VI)

**Sec. 29-37. Issuance of evidence of registration.**

For every registered manufactured home, the county Tax Supervisor's Office or other department referred to in this article shall issue the person registering the manufactured home an appropriate numbered plate, sticker or decal. Upon satisfactory evidence that any such registration numbered plate, sticker or decal has been lost or destroyed, the registrar shall issue a duplicate to the owner or person listing.

(Ord. of 1-7-1975, § VII)

**Sec. 29-38. Display of evidence of registration.**

Every manufactured home located in the county, except as otherwise provided in this article, shall, throughout the current issue year, display the assigned numbered plate, sticker or decal as required in this article and in such manner as to be visible from the exterior at all times.

(Ord. of 1-7-1975, § VIII)

**Sec. 29-39. Violation.**

Any owner or person in possession of a manufactured home who shall violate or fail to comply with any of the provisions of this article, or any person who shall counsel, aid, or abet any such violation or failure to comply shall be guilty of a misdemeanor punishable by a fine of not to exceed \$500.00, or by imprisonment for not more than 30 days.

(Ord. of 1-7-1975, § IX)

**Sec. 29-40. Dealers to comply with tax listing.**

Nothing in this article shall relieve mobile home dealers from complying with tax listing requirements on the manufactured homes located in the county in January 1 of each year.

(Ord. of 1-7-1975, § X)

**Secs. 29-41--29-60. Reserved.**

**ARTICLE III. SALES AND LEASING TAX**

**Sec. 29-61. Tax on gross receipts derived from rental shortterm motor vehicle leases or rentals.**

The county hereby imposes and levies a tax of 1 1/2 percent of the gross receipts from the short-term lease or rental of vehicles at retail to the general public.

(Res. of 6-5-2000, § 1)

**Sec. 29-62. Administration.**

The county will administer and collect from operators of leasing and rental establishments the taxes levied hereby and the county may promulgate additional rules and regulations necessary for implementation of the taxes.

(Res. of 6-5-2000, § 2)

Cross references: Administration, ch. 2.

**Sec. 29-63. Payment of taxes and filing of returns.**

The taxes levied hereby are due and payable to the county in monthly installments on or before the 15th day of the month following the month in which the tax accrues. Every taxable establishment required to collect the tax shall, on or before the 15th day of each month prepare and render a return to the county. The county shall design, print, and furnish to all taxable establishments the necessary forms for filing returns and instructions to insure the full collection of the tax. A return filed for this purpose is not a

public record as defined by G.S. 132-1 and may not be disclosed except as required by law.

(Res. of 6-5-2000, § 3)

**Sec. 29-64. Penalties.**

In case of failure or refusal to file a return or pay the tax for a period of 30 days after the time required for filing the return or paying the tax, there shall be an additional tax, as a penalty, of five percent of the tax due, with an additional tax of five percent for each additional month or fraction thereof until the tax is paid. The board of commissioners for good cause shown, may compromise or forgive any penalty or additional tax imposed under this article.

(Res. of 6-5-2000, § 4)

**Sec. 29-65. Misdemeanor for willful violation.**

Any person, firm, corporation, or association who willfully attempts in any manner to evade a tax imposed in this article or who willfully fails to pay the tax or make and file a return shall, in addition to the penalties provided by law and this article, be guilty of a misdemeanor punishable by a fine of \$500.00 as provided by law.

(Res. of 6-5-2000, § 5)

**Chapter 30 - (RESERVED)**

**Chapter 31 - (RESERVED)**

## **Chapter 32 TELECOMMUNICATIONS\***

\*Cross references: Streets, sidewalks and other public places, ch. 26.

State law references: General ordinance-making power, G.S. 153A-121.

### **ARTICLE I. IN GENERAL**

**Secs. 32-1--32-30. Reserved.**

### **ARTICLE II. TELECOMMUNICATION TOWERS**

#### **DIVISION 1. GENERALLY**

**Sec. 32-31. Title.**

This article shall be known as "The Tower Ordinance of Richmond County, North Carolina."

(Ord. of 5-24-1999, § I(A))

**Sec. 32-32. Authority.**

This article is adopted under the authority and provisions of G.S. 153A-121.

(Ord. of 5-24-1999, § I(B))

**Sec. 32-33. Purpose.**

- (a) Wireless facilities and wireless support structures are of such substantially different character from other permitted uses that specific and additional standards are hereby established to assist in approving appropriate locations. Construction of towers may cause unusual problems and hazards to the residents and visitors of the county. The purpose of this article is to regulate the construction of towers to avoid potential damage to adjacent properties from tower failure, and falling ice or other such debris, to maximize the use of existing and new towers in order to reduce the number of towers needed, to minimize potential hazards to low flying law enforcement and medical helicopters, to restrict towers that adversely detract from the natural beauty of the county by discouraging visual eyesores and to minimize the negative economic impact on tourism and property values
- (b) The board of commissioners specifically avers that this article is not enacted with any consideration of the environmental health effects of radio frequency emissions.

- (c) The board of commissioners specifically avers that this article is not enacted for purposes of regulating or interfering with any individual's use of his personal telephone unit (mobile, analog, digital or otherwise).
- (d) Wireless facilities and wireless support structures regulations are needed in order to promote the health, safety, and general welfare of the public by minimizing the impacts of wireless facilities and wireless support structures on surrounding areas by establishing standards for location, structural integrity, and compatibility. Richmond County wishes to accommodate the growing need and demand for wireless communication services. This section establishes predictable and balanced codes governing the construction and location of wireless facilities and wireless support structures, within the confines of permissible local regulations.
- (e) This section establishes review procedures to ensure that applications for wireless facilities and wireless support structures are reviewed and acted upon within a reasonable period of time. The regulations herein this section helps protect the character of the County while meeting the needs of its citizens to enjoy the benefits of wireless communications services. This section will be updated with the consideration of land compatibility with the goals and objectives of any adopted land use plan for Richmond County

(Ord. of 5-24-1999, § I(C))

**Sec. 32-34. Jurisdiction.**

This article, the regulations, and the procedures contained in this article shall apply to and govern each and every lot, parcel or tract of land within the county, outside of the jurisdiction of any incorporated municipality.

(Ord. of 5-24-1999, § I(D))

**Sec. 32-35. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Antenna* Communications equipment that transmits and receives electromagnetic radio signals used in the provision of all types of wireless communications services

*Application* – A formal request submitted to the county to construct or modify a wireless support structure or a wireless facility.

*Building permit.* – An official administrative authorization issued by the county prior to beginning construction consistent with the provisions of G.S. 153A-357.

*Collocation* – The installation of new wireless facilities on previously approved structures, including towers, buildings, utility poles, and water tanks.

*Construction* means any new construction, reconstruction, alteration or expansion of a new or existing tower.

*Equipment enclosure* – An enclosed structure, cabinet, or shelter used to contain radio or other equipment necessary for the transmission or reception of wireless communication signals.

*Fall area* means a circle whose center is the base of a telecommunications tower and whose radius is equal to 100% of the height of the tower

*Person* means any individual, partnership, firm, association, joint venture, public or private institution, utility, cooperative, interstate body, the state of North Carolina and its agencies and political subdivisions or other legal entity.

*Structure* means anything constructed or erected, including, but not limited to, buildings, that requires location on the land or attachment to something having permanent location on the land.

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

*Telecommunications tower* means any tower or structure erected for the purpose of supporting one or more antennas designed to transmit or receive signals (e.g., telephonic, radio, television or microwave). Below are definitions of the subclass of this element:

1. Class I: Structures used for services that are optional or where a delay in returning the services would be acceptable such as: residential wireless and conventional 2-way radio communications; television, radio and scanner reception; wireless cable and internet; amateur and CB radio communications. These are structures that due to height, use or location represent a low hazard to human life and damage to property in the event of failure.
2. Class II: Structures used for services that may be provided by other means such as: commercial wireless communications; cellular, PCS, CATV, and microwave communications. These are structures that due to height, use or location represent a substantial hazard to human life and/or damage to property in the event of failure.
3. Class III: Structures used primarily for essential communications such as: television and radio broadcasting; civil or national defense; emergency, rescue or disaster

operations; military and navigation facilities.

*Tower height* means the vertical distance measured from ground to the uppermost point of the tower.

*Tower Permit* – a permit issued in accordance with this Article by the Planning and Zoning Board of Adjustment

*Utility pole* – A structure that is designed for and used to carry lines, cables, or wires for telephone, cable television, or electricity, or to provide lighting.

*Wireless facility* – The set of equipment and network components, exclusive of the underlying support structure or tower, including antennas, transmitters, receivers base stations, power supplies, cabling, and associated equipment necessary to provide wireless data and telecommunications services to a discrete geographic area.

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

(Ord. of 5-24-1999, § II, Ord 5-12-2010)

Cross references: Definitions generally, § 1-2.

**Secs. 32-36--32-55. Reserved.**

## **DIVISION 2. REGULATION OF TOWERS**

### **Sec. 32-56. Tower Permits required.**

No tower over 50 feet (90 feet for Amateur (HAM) Radio Tower,[NCGS 153A-341.2]) shall be constructed, altered, reconstructed or expanded until a county tower permit is obtained as provided in this article. No tower permit shall be issued that is not in compliance with this article. No building permit shall be issued for any tower subject to this article that has not received a tower permit.

(Ord. of 5-24-1999, § III(A))

### **Sec. 32-57. Enforcement officer.**

For purposes of this article, the County Planning Director shall be the Enforcement Officer of this article. The Enforcement Officer or his appointee shall administer and enforce all provisions of this article.

(Ord. of 5-24-1999, § III(B))

**Sec. 32-58. Permit application.**

Tower permit applications are available from the County Planning Department.

(Ord. of 5-24-1999, § III(C))

**Sec. 32-59. Application fee.**

All tower permits issued in accordance with this Chapter, shall be subject to the following fee schedule telecommunication tower class as defined:

Class I - \$150 – In connection with a Conditional Use Permit

Class II - \$2,500 – In connection with a Conditional Use Permit

Class III - \$150 – In connection with a Conditional Use Permit (Governmental – No Fee

(Ord. of 5-12-2101)

**Sec. 32-60. Issuance of permit.**

Following the approval of any tower permit application by the Richmond County Planning and Zoning Board of Adjustment, the Enforcement Officer shall issue a tower permit. All conditions of the approval shall appear on the face of the Tower Permit. The applicant shall acknowledge and agree to permit conditions as approved. If a building permit is not obtained within 12 months after the tower permit is issued, the tower permit shall expire.

(Ord. of 5-24-1999, § III(E))

**Sec. 32-61. Variances, Enforcements and Appeals**

The Board of Adjustments is charged with hearing and deciding on cases involving Variances of the regulation found within this Article. The Board of Adjustment also charged with hearing and deciding on any appeals brought from any order or decision from the enforcement officer. The Board of Adjustment process and policies are found in Chapter 20, Article II of the Richmond County Code of Ordinances

(Ord 5-12-2010)

**Sec. 32-62. Criminal sanctions.**

Please refer to Section 1-6 of the Richmond County Code of Ordinances

(Ord 5-12-2010)

**Sec. 32-63. Remedies.**

Please refer to Section 1-6 of the Richmond County Code of Ordinances

(Ord 5-12-2010)

**Sec. 32-64. Appeals.**

The Board of Adjustments is charged with hearing and deciding on cases involving Variances of the regulation found within this Article. The Board of Adjustment also charged with hearing and deciding on any appeals brought from any order or decision from the enforcement officer. The Board of Adjustment process and policies are found in Chapter 20, Article II of the Richmond County Code of Ordinances

(Ord 5-12-2010)

**Secs. 32-65--32-80. Reserved.**

**DIVISION 3. PROCEDURES**

**Sec. 32-81. Application submission and review process.**

- (a) A completed tower permit application and five copies of all supporting documentation identified in section 32-82, below shall be submitted to the Enforcement Officer for review.
- (b) The Enforcement Officer shall review the completed tower permit application for compliance with section 32-82. Any application not containing all information required by section 32-82 shall be returned to the applicant for correction and resubmission.
- (c) The Enforcement Officer shall submit the application and all materials to the Richmond County Planning and Zoning Board of Adjustment to be heard as a Conditional Use Application. All procedures and requirements of the quasi-judicial hearing shall be observed in accordance with standard practices.

(Ord. of 5-24-1999, § IV(A), Ord 5-12-2010))

**Sec. 32-82. Requirements for site development tower design plans.**

The site development plan and preliminary design plan shall contain the following information and be part of the tower permit application:

(1) For Class I Towers as defined the site development plan shall be prepared and contain the following:

- a. The tower applicant's name and property owner's name and their addresses, scale, north arrow, vicinity map, tax parcel identification number, and the tower's latitude and longitude coordinates;
- b. The name, address, person preparing the site development plan;
- c. The boundary lines of the parcel that will contain the proposed tower and its fall area;
- d.
- e. All identifiable structures located on the parcel, all private and public roads, highways, and underground and overhead utilities;
- f. All existing towers on the property or any towers whose fall area encroaches onto the property;
- g. The proposed tower's location, the proposed fall area and the location of all support structures and guy line anchors;
- h. The latitude and longitude of the proposed location of the tower
- i. The ground elevation of the proposed tower's base, all proposed support structures, property corners, and a permanent site benchmark. All elevations shall be determined by using the National Geodetic Vertical Datum of 1988; and
- j. All proposed access roads, easements or rights-of-way on or to the site, and any other improvements to the site.

(2) For Class II and III Towers as defined, the preliminary tower design and site plan shall be prepared by a Registered Professional Engineer and contain the following the items in subsection 1 above as well as:

- a. The tower permit applicant's name and address, scale, north arrow, vicinity map and tax parcel identification number;
- b. The name, address, signature and seal of the engineer preparing the preliminary tower design plan;
- c. A plan showing the base of the tower and the foundations for all guy line anchors and support structures, all proposed buildings and any other proposed

improvements including access roads and utility connections within and to the proposed site;

- d. A tower elevation showing the proposed lighting, all proposed antennas and other appendages;
  - e. An elevation of each proposed set of guy line anchors; and
  - f. The proposed tower design loads.
  - g. The latitude and longitude of the proposed location of the tower
  - h. A vicinity map illustrating the location of other towers over 35 feet above ground level (agl) within a 3-mile (search ring) area surrounding the proposed site.
- (3) A map and description showing the service area for the proposed tower's antenna and/or other devices.
- (4) The applicant shall provide written statements from the Federal Aviation Administration (FAA) and the Federal Communications Commission (FCC) showing that the proposed tower complies with all permit regulations administered by that agency or evidence that the proposed tower is exempt from those regulations.
- (5) The applicant shall identify all other possible alternatives considered within the service area for the proposed tower's antenna and/or other devices and explain why the proposed tower is necessary and why existing towers and structures (e.g., Duke Power or Carolina Power and Light transmission towers) cannot accommodate the proposed antenna and/or other devices.
- (6) The applicant shall identify and illustrate on the site plan any variance to this Article, the reason for seeking the variance and any measures that are proposed to mitigate possible adverse affects of the proposed variance.

(Ord. of 5-24-1999, § IV(B), ORd 5-12-2010))

**Sec. 32-83. Tower approval standards.**

- (a) Any proposed tower shall provide a needed service or benefit to the residents of the county and the surrounding area that cannot otherwise be met.
- (b) Towers shall be sited to contain all debris from tower failure on-site. The minimum distance from the tower's base to the property line or legal area of easement shall be equal to the fall radius as defined herein.
- (c) *removed*

- (d) Tower lighting shall not exceed the minimum standards of the Federal Aviation Administration for a red obstruction lighting system contained in Advisory Circular No. 70/7460-IF, dated September 27, 1978, as amended.
- (e) To defeat unauthorized access, the base of the tower shall be surrounded by a fence or wall at least eight feet in height unless the tower is constructed entirely on a building over eight feet in height.
- (f) Any telecommunications tower shall be engineered and constructed to accommodate two additional antennas that are at least as large as the largest proposed antenna identified in subsection 32-82(2)d.
- (g) *removed*
- (h) Tower may not exceed 200 feet in height, unless approved by the Richmond County Planning and Zoning Board of Adjustment after illustrating a public need..
- (i) Towers shall be blended with the natural surroundings as much as possible. Colors and materials shall be used that are compatible with the surrounding area, except when otherwise required by applicable federal or state regulations.
- (j) The tower and equipment shall be located, designed, and/or screened to blend with the existing natural, or built surroundings to reduce the visual impacts as much as possible, and to be compatible with neighboring land uses and the character of the community.
- (k) Any tower not in use for two continuous years shall be removed within 120 days after the tower owner and the current property owner have received written notice by the Enforcement Officer or the County Manager. The written notice, mailed return receipt requested, shall be delivered to both the tower owner identified on the tower permit application and the current property owner.
- (l) Property located within the tower's fall area shall not be subdivided as long as the tower is standing.
- (m) A sign identifying the owner and/or operator of the tower and an emergency telephone number shall be displayed in a clearly visible location on the tower's premises.
- (n) Co-location: Prudent and reasonable efforts must be made to co-locate a new cellular antenna on existing wireless support structures, or other structures. A co-location analysis is required whenever a tower is within 3 miles of the proposed tower site.. The co-location analysis report shall be submitted and made part of the application record. The report shall consist of the following items:

- i. Detailed description of the purpose of proposed site, i.e., capacity or coverage, and area designed to cover (search ring);
  - ii. Site Plan showing wireless support structure location, wireless support structure height, ground elevation, and type of wireless support structure;
  - iii. Detailed description of all existing wireless support structures or other structures of significant height within a 3-mile radius of the proposed tower, including height of structure, ground elevation, number of existing users, height available for co-location, if any, and structural deficiencies, if any;
  - iv. Propagation maps showing coverage without proposed tower, coverage with proposed tower, and coverage for each co-location possibility. Base maps should include roads and other physical features at a minimum, and;
- (o) Access and Orientation: Any road accessing a wireless facility and/or wireless support structure shall be kept clear of debris and remain passable, at least 15 feet wide. Access to the compound shall be from the interior of the site and from a separate driveway connection to a public or private street.
- (p) Signage: Commercial advertising shall not be allowed on the wireless support structure or any of its related buildings. However a wall sign may be placed on any equipment enclosure provided it not exceeds 10% of the wall area. Freestanding signs are prohibited.
- (q) Lighting: No lighting shall present a glare to any adjoining properties or into any public right-of-way or a nuisance to pilots

(Ord. of 5-24-1999, § IV(C), Ord 5-12-2010))