



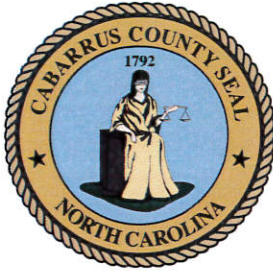
## **Cabarrus County Government**

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Cabarrus County Planning and Zoning Commission Meeting  
September 11, 2018 @ 7:00 P.M.  
Board of Commissioners Meeting Room  
Cabarrus County Governmental Center

### **Agenda**

1. Oath of Office to Newly Appointed Members
2. Selection of Chair and Vice-Chair, also appoint a member to be Chair of the Board in the absence of the Chair and Vice-Chair
3. Roll Call
4. Approval of May 16, 2018, HALUP Cabarrus Planning and Zoning Commission and Harrisburg Planning and Zoning Advisory Board Joint Meeting Minutes
5. Approval of July 10, 2018, Planning and Zoning Commission Meeting Minutes
6. **New Business – Planning Board Function:**
  - TEXT2018-00002** - Proposed Text Amendment to Zoning Ordinance, Model Floodplain Ordinance (Chapter 16 of the CCDO)
  - TEXT2018-00003** - Proposed Text Amendment to Zoning Ordinance, Chapter 10, Parking and Loading and Chapter 14, Nonconformities
7. Directors Report
8. Legal Update



## Cabarrus County Government

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Planning and Zoning Commission Minutes  
September 11, 2018

Ms. Susie Morris, Planning and Zoning Manager, called the meeting to order at 7:00 p.m. Members present were Mr. Jeffrey Corley, Mr. Adam Dagenhart, Mr. James Litaker, Mr. Andrew Nance, Mr. Charles Paxton, Mr. Chris Pinto, Mr. Brent Rockett, Mr. Stephen Wise and Mr. Jerry Wood, Jr. Attending from the Planning and Zoning Division were, Ms. Susie Morris, Planning and Zoning Manager, Ms. Arlena Roberts, Clerk to the Board and Mr. Richard Koch, County Attorney.

The Oath of Office was administered to reappointed members Mr. Adam Dagenhart, Mr. Andrew Nance, Mr. Stephen Wise and Mr. Jerry Wood, Jr.

Mr. Jeff Corley, **Nominated** Mr. Chris Pinto as the Chair of the Planning and Zoning Commission, **Seconded** by Mr. Brent Rockett. There being no other nominations, Mr. Pinto was appointed by Acclamation.

Mr. Adam Dagenhart, **Nominated**, Mr. Jeff Corley as the Vice-Chair of the Planning and Zoning Commission, **Seconded** by Mr. Stephen Wise. There being no other nominations, Mr. Corley was appointed by Affirmation.

Mr. Jeff Corley **Nominated**, Mr. Brent Rockett as the Chair of the Planning and Zoning Commission in the absence of both the Chair and Vice-Chair of the Planning and Zoning Commission, **Seconded** by Mr. James Litaker. There being no other nominations, Mr. Rockett was appointed by Affirmation.

### Roll Call

Mr. James Litaker **MOTIONED, SECONDED** by Mr. Brent Rockett to **Approve** the May 16, 2018, HALUP Cabarrus Planning and Zoning Commission and Harrisburg Planning and Zoning Advisory Board joint meeting minutes. The Vote was unanimous

Mr. James Litaker **MOTIONED, SECONDED** by Mr. Stephen Wise to **Approve** the July 10, 2018, Planning and Zoning Commission meeting minutes. The Vote was unanimous.

### New Business – Planning Board Function:

The Chair introduced the proposed text amendments to the Cabarrus County Development Ordinance.

### **Proposed Text Amendment to Cabarrus County Development Ordinance Text2018-00002 – Chapter 16, Model Floodplain Ordinance**

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Planning and Zoning Commission  
Minutes  
September 11, 2018

Ms. Susie Morris, Planning and Zoning Manager, addressed the Board stating that we have a series of text amendments this evening. The flood text is the most important that we have.

She said this process started back in 2016. She thinks it was in January 2017, the State had a meeting for the general public where they could come and make comments on the maps or if they thought there were errors on maps. We have been through that process and we have also been through the noticing process and through the formal 90 day appeal process.

Our maps are now ready to go with an effective date of November 18, 2018. Along with that, the State has pushed out a new model floodplain ordinance. If the Board remembers, Cabarrus County adopted the 2015 Model Ordinance that they pushed out, with the understanding that that was going to be the model ordinance that needed to be adopted with our 2016 maps.

If the Board had a chance to look at the information, you will see that not a lot of it has changed from what we had in 2015. So, a lot of people are going from the 2008 version now to a 2016 version. We were ahead of the curve, but behind the curve because the directions that they gave were how to go from 2008 to 2016.

Our freeboard is remaining the same at two feet. We had some discussions about whether or not to try to raise that for our CRS program. Our CRS auditors suggested that we try to raise the freeboard and then do some different things related to fill. But, from an engineering standpoint and with what we see in the county, it did not make a lot of sense to do that because it would pretty much render parcels that we have unusable and it would cost a lot of money for people to go through the process with FEMA to take care of that to be able to develop the parcel.

She said, the changes are mainly more related to a section that has been added in so that people understand that a tiny house is treated just like a RV, unless it is on a permanent foundation. If it is on a permanent foundation then it has to be elevated just like anything else would; it is also related to tanks.

We also had some discussions with the State and also with the assigned NFIP representative in Raleigh. The State was putting out some different definitions and saying if you are in the CRS Program you can do this and you can do that. But, when we were talking to the people that are actually the NFIP staff, they were like why are you doing that, this is going to cause a problem.

One of the things that the State said was, in the definition of substantial damage, it is 50 percent and it is one year. They said well, you can get more points if you either extend the number of years or lessen that percentage.

But, when we talked with our NFIP contact he said, I do not think you want to do that because then you are going to cause people to have to come into compliance a lot sooner and they are going to kind of be penalized for that and then when you talk about the increased cost of compliance, they would only get the 30 percent.

After a lot of back and forth with the State, we feel like this is the version of the Model Ordinance

that is best tailored to the situations that we see in Cabarrus County.

Our County Engineer was involved in those conversations and Ms. Morris also reached out to some of the Board members that have engineering backgrounds and that do this type of work on a daily basis for their opinions.

We will still allow fill in the floodplain as long as they follow the proper process. Freeboard is not changing, it is two feet and we are going with the standard definitions that FEMA put out, not the stuff that the State was suggesting to try to get a higher point rating classification for the CRS Program; so we are currently an eight.

If you are in our office please stop by to see our new plaque that we have finally acquired. Since 2007, we never received a new plaque, we now have our nice new plaque from FEMA.

Hopefully, we can get down to a seven when the County adopts the new building code, which is one of the things our auditor has been hung up on. The State has not adopted the right building code for us to get credit. Once we can get that credit, we feel like we can probably get to a seven which would then be a 15 percent discount for people with flood insurance.

She said if the Board is paying attention to what is happening in other parts of the state, when you have landslides and things like that, they are consider flood related and insurance does not cover that. We do have several properties here in Cabarrus County, we have about 165 policy holders, but overall impact is only about eight thousand dollars, which equates to about fifty dollars per policy. Once you look at it across the board to what our CRS Program discount is for those people, because we are not at the coast and we do not have thousands of policies.

We do what we can and they keep changing the program and we will see if we stay in the program. Regardless of our participation in CRS, to get funding if we do have a disaster, at a minimum we do have to participate in the NFIP Program and this gets us to those minimums and in some cases above the minimums. We may pick up some points, but again, that is not really the priority. The priority is to make sure we are doing what we need to do so that if we have a significant weather event we can apply for grant funding to help those folks that are impacted.

Ms. Morris said along with the Model Ordinance, you will see that that November 16, 2018, date is in here and it has to be adopted prior to the map date. It will be going to the Board of Commissioners next month for consideration so that we are on track and nobody loses insurance coverage. It could ultimately impact the whole County if we do not follow the right steps.

She said the maps now, are in that FRIS system that we have talked about. They do not give us paper copies of maps anymore, everything is digital. A prime example; today we were trying to get into the system and the system is down because everybody is trying to download information prior to this flooding event from the hurricane. It puts us at a little bit of a disadvantage, so we will have to kind of work through that because this is the first time that they have not rolled out paper copies of the maps. She thinks we can probably get them and we probably will, but for now, there is no set of maps in front of you or anything like that to adopt.

The Chair said who is the Floodplain Administrator?

Mrs. Morris said she is.

The Chair said can you make a designee?

Ms. Morris believes it says designee in there, so whoever she decides to appoint to help can also help.

Mr. Jeff Corley said he knows enough about this to know that it is not an easy or fun process. Every five years, it really is not fun to go through this. He said a lot of hard work went into this he knows that.

There being no further discussion, Mr. Jeff Corley **MOTIONED, SECONDED** by Mr. Brent Rockett, to recommend **APPROVAL** of TEXT2018-00002 – Chapter 16, Model Floodplain Ordinance as presented by staff to the Board of Commissioners. The vote was unanimous

**Proposed Text Amendment to Zoning Ordinance Text2018-00003 – Chapter 10, Parking and Loading and Chapter 14, Nonconformities**

Ms. Morris said this amendment includes two different chapters of Ordinance. The first is Chapter 10, Parking and Loading. The purpose is to include language related to interior access roads in the NC Fire Code requirements. The text has been reviewed by the Fire Marshal's Office and Emergency Management both. It has also been reviewed by the Text Amendment Committee.

The wedding facilities, the parks and multiple people who have asked for variances for interior roads, to go down to the actual Fire Marshal's requirement of 20 feet. This would actually codify that to where they would not have to seek variances anymore, as long as the Fire Marshal's Office is good with whatever it is. They were very clear with her, in the language that it needed to say that the Fire Marshal's Office could require it to go up or down.

On the table on page three, you see that it says additional width maybe required, where the isle serves as a principal access and that they have to meet emergency access standards. If it has to be more than that 24 feet, then they are going to require more and if they can accommodate the 20 feet and the applicant could show that it is still safe, then they could make that modification. It is only for interior access roads where they are connecting parking lots.

If it is a parking lot, they still have to do the 24 feet for people backing in and out. If it is a parking lot and then you are kind of going into the site and another parking lot, it would be that travel lane that they could ask for that reduction on.

Mr. Corley said the applicant would still have to ask for that reduction is that correct, regardless? They could not just come in and say 20 feet?

Ms. Morris said correct. It says the burden shall be on the applicant to show the Fire Marshal that

Planning and Zoning Commission  
Minutes  
September 11, 2018

the fire code requirements for life safety and access are being met. It would not be a given, they would have to show that based on traffic counts, access points and collection of traffic; that it could be reduced to that 20 foot and still be safe for traffic and emergency vehicles.

There being no further discussion, Mr. James Litaker, **MOTIONED, SECONDED** by Mr. Brent Rockett, to recommend **APPROVAL** of Text2018-00003– Chapter 10, Parking and Loading to the Board of Commissioners. The vote was unanimous.

Ms. Morris said several people asked after the meeting if we could go back and take a look at nonconforming structures, based on the case the Board had about the church and how it took them a lot longer to try to build back. The Text Amendment Committee had some discussion back and forth on this.

The proposed language says as long as they pull a building permit within one year, instead of having the construction completed at the end of that one year, as long as they pulled a building permit then they could build back. The way, that building permitting looks at it is, as long as you do one inspection per year, they consider it an active permit. The zoning permit is good for six months, with the option to renew it, but as long as they are showing that they are getting those inspections done periodically, then we will renew the zoning permit. We backed it into the building permit and away from construction being completed.

She said some other jurisdictions has six months or less. When she asked some of the local jurisdictions they said they did not have a time limit and that they probably need to do something about that. There may be some text amendments in the other jurisdictions based on the questions she was asking.

As long as they pull the building permit within a year, which would mean they would have to go through plan review or building review. Then they would still be able to build back on that foundation in that spot, whatever it is, as long as it was from natural causes and they did not demolish the building on their own or something like that.

Mr. Andrew Nance thinks that one year, even for building permits, can be tough at times. If it is an older structure, like we saw before, they may not have actual drawings or site plans showing exactly what was there. He thinks it may be really tough to try to go through and get all of the drawings done, get a building permit in a years' time stamp. He personally would suggest bumping it up to maybe two or three years.

The Chair sees some of that point; we do need some kind of cap. It is mainly going to be churches in the County. Those are the people who are not going to have that and they probably don't even have the stuff in a fire safe.

Mr. Steve Wise is trying to understand. The church burned completely to the ground and you have twelve months to call your first inspection in?

Ms. Morris said to pull a building permit; twelve months after that, to have your first inspection.

The Chair said that could be for grading.

Mr. Wise knows what Mr. Nance is saying it is tough. In a facility like that you would not have to submit too many site drawings. You would just have to do building plans.

Mr. Corley said is it worth discussing briefly, what the other options that were considered were?

Ms. Morris said what she presented is what the Text Amendment Committee came to a consensus on. Based on the research, there were three different options. We could keep what we have and maybe push it out eighteen months or we could do two years to where it has to be fully reconstructed. Then we went with the option of the building permit; is it one year, is it eighteen months or is two years. That is what we looked at and then keeping it that it had to be reconstructed within those same time frames. Keeping the language the same, but extending the time. After we talked about it from the building inspection side and being able to keep that alive, that is where the Committee came to a decision to go with pulling the building permit in the one year.

She said that is the point of having a meeting, to have additional discussion. If the Board feels differently, or if there is consensus for some other change, we can certainly amend this before it goes to the Board of Commissioners.

Mr. Nance said along with what he said before, like the small church we saw, you are backing them in a corner saying that they have to have a grading plan. That they have to have something permitted in that year time frame and it is a financial hardship. Once again, if it is a small church they may not have those funds set aside because they were not expecting this flood or fire or whatever it might be. He would be happier if this became a year and six months liked we talked about or possibly two years.

Ms. Morris said we do not actually issue the grading permit; this would be the actual building permit. They would go through the plan review for the new building and then getting a building permit within that year.

Mr. Wise asked if it would be the date from the catastrophic event.

Ms. Morris said yes.

Mr. Wise said by the time insurance settles, plans get done and we have to give Building Standards two months for plan review; that is really tight. He agrees with Mr. Nance and he would like to see eighteen months.

Mr. James Litaker said eighteen months is very reasonable because you cannot get anything done. You cannot even drive across town; everything now takes longer, much longer. He knows from being on other Boards that you have to ask this group and you have ask another group and it is not simple just to go get it done, approve and move on. He thinks eighteen months is still going to be troublesome for some people.

Planning and Zoning Commission  
Minutes  
September 11, 2018

Mr. Brent Rockett really likes the change to the permit as opposed to construction within a particular time frame. He thinks for a lot of reasons, including those that have been discussed here already. It is really difficult to have full construction complete. He said if eighteen months is the consensus, he thinks that is a fair and reasonable change to this to make it more feasible for the property owners.

Mr. Charles Paxton asked how many occurrences we have had like this in the past year or year and a half.

Ms. Morris said one that we have had to deal with.

Mr. Adam Dagenhart said this will be mostly for commercial not for residential structures?

Ms. Morris said it is only if it is a nonconforming structure; so something that is older. If it was a house, they would still have to get a building permit within whatever that time frame is; so it works the same for both.

Mr. Dagenhart said the only thing they would have to worry about is setbacks and lot size.

Ms. Morris said right. She thinks that this does not contemplate a total loss, it could, but she doesn't think it really does. She thinks it is more like part of the structure is damaged, not a hundred percent of it is damaged. Something that is damaged enough so that you have to remove the structure and start over.

She said based on the Fire Marshal's records, the church fire was undetermined. The Church thinks it was from lightning, but based on the official record it is undetermined. This would be if they know for sure it was a fire or a flood or something like that. Because the next part talks about if it is not of natural origin and it is more than seventy five percent, then they have to come into compliance. This is more geared toward a significant weather event like we are getting ready to experience and if we had a lot of damage and loss.

Mr. Rockett asked if a historical designation would change this whatsoever? Does that designation have any impact on the nonconforming structure ordinance?

Ms. Morris said Cabarrus County has some historic structures, but Cabarrus County does not have any type of local ordinance that regulates those structures. So, if it is something that is on the National Register it would be up to that property owner to build back into compliance with the National Register if they wanted to maintain that designation.

She said this is more for things that were there prior to us having a zoning ordinance or it could be something that was built without proper permits that just happens to be out there that is now on the books. We have a lot of that kind of stuff.

There being no further discussion, Mr. Brent Rockett, **MOTIONED, SECONDED** by Mr. James Litaker, to recommend **APPROVAL** of Text2018-00003–Chapter 14, Nonconformities to the



Board of Commissioners and with the change to eighteen months from date of event to get the building permit and to adopt the other language as stated. The vote was unanimous.

Ms. Morris asked the Board if they were okay with her making the minor change and moving it to the Commissioners or if they wanted to see it back. It would read: and used as it was before the event provided that a building permit is issued for reconstruction within eighteen months of the date of the event.

It was the Consensus of the Board to allow Ms. Morris make the change and to move the text change forward to the Commissioners for approval.

**Proposed Text Amendment to Zoning Ordinance Text2018-00004 – Chapter 2, Accessory Structure and Accessory Dwelling Unit definition and Chapter 7, Accessory Structure Standards**

Ms. Morris said this is a proposed amendment to change our regulations related to accessory structures and accessory dwelling units. One change would be to Chapter 2, to change the actual definitions. It currently says that an accessory structure needs to be subordinate to the primary structure.

The Chapter 7 amendment is related to accessory dwelling units. She said there was some analysis done by the Tax Office, and at that time the average square footage of a house in Cabarrus County was 2,200 square feet, so we went with half of that.

That has significantly increased and we have people coming in now asking for accessory buildings that are 6,000 square feet, so that they can put their car collection in them or guest houses that are 1,500 square feet for Mom and Dad to live in now.

It is proposed to react to what product type that we are seeing (for a lack of a better way to explain it). It would allow those property owners flexibility. Right now with the accessory structures themselves, there is no regulation on that for height except for the base district.

As far as the accessory dwelling units, we point to a particular square footage on the tax card so that we have something to say this is what we are basing it on. We are not trying to guess, this is your base square footage, so you get fifty percent of that. Theoretically, it should end up being smaller than the primary structure. But, this one would still maintain that the height needs to be consistent with the primary structure. So, it could not be any taller than the primary structure.

She said with just the accessory piece, if I am building a garage, my garage potentially could be taller than my house. If I only have a one story house and I want a loft or something on top of my garage for storage, it could potentially end up being taller. The accessories structures now, would only have to meet setbacks and placement would not require them to be located behind the house or anything like that. The only one where it has that has that type of requirement still is the actual accessory dwelling unit. So it either goes to the side or it goes to the rear of the primary.

So, pretty much, if you want to put up an accessory structure, you just have to meet the primary setbacks if it is over fifteen feet tall. If it is less than fifteen feet, then you get an adjustment on the rear setback if you are putting it behind your house.

We had the over two acres, and under two acres and as long as you were one hundred feet off of the road. They would only be subject to the actual setbacks now, so they could put it in front of the house if they wanted too or behind the house where ever they think it needs to be.

The Chair said or around the ponds.

Ms. Morris said or around the ponds, maybe some tiny houses around the pond for the view.

Mr. Rockett asked if this includes barn structures as well.

Ms. Morris said if it is on a bona fide farm, they do not have to meet anything.

Mr. Rockett said a barn in the sense of a residence, with a few horses or equipment storage on the property it would? That accessory structure would be considered an accessory structure in that scenario right? If it were not a farm per se?

Ms. Morris said yes, if it did not have the horses. This would now allow you to build a barn and put a loft for storage or if someone wants a three bay garage and they want some space or a party room on top. You could not use it as mother-in-law suite because that puts it back into a dwelling unit.

The Chair said does the structure on Cold Springs Road, coming from Highway 73 on the left where they have a residence on top and a barn below fall under this?

Ms. Morris thinks the case Mr. Pinto is talking about was people who wanted to live on top of their stable. Typically, we would require a house and then we would require the barn, but in talking with the County Attorney, we said do we really care if they live on top of the barn. Our Attorney said we do not really care. It is allowed in both districts so that is how we got the stable with the house kind of on top.

There being no further discussion, Mr. James Litaker, **MOTIONED, SECONDED** by Mr. Andrew Nance, to recommend **APPROVAL** of Text2018-00004 - Chapter 2, Accessory Structure and Accessory Dwelling Unit definition and Chapter 7, Accessory Structure Standards, to the Board of Commissioner. The vote was unanimous

### **Directors Report**

Ms. Susie Morris, Planning Manager addressed the Board stating that they are still working through the violations for the solar farm. She expects that the Board will see that in the next month or two. As of today, we did not have any new cases to come in so, we may or may not have a meeting next month depending on what happens with that particular case.

Mr. Dagenhart said what about a site on Highway 601 where they have gone in and graded.

Ms. Morris said it is her understanding that they have had multiple conversations with Concord about service, because they would need utilities if that were develop and it would be very difficult to get utilities there. When we were asked about that by the Town of Midland, it was communicated to us from Forestry that they had a forestry plan and that they were clearing that property. The only project that the county has in that area is the solar farm and the new substation there on Joyner Road. That is the only thing that we have that is close to that area.

We did get a call that they are now hauling dirt off of that site, which we turned over to the DEQ in Mooresville. She has not personally been out there, but she has heard that they were taking truckloads of dirt out of there. The trees first was the issue and we are getting a lot of calls about a subdivision that Concord has, which is the Campbell Farm site; about trees and everything there.

We did get an email about the other one that they had now started taking dirt out of there. Our enforcement officer is getting in touch with Mooresville about it. Because for us, that would be mining. If that is really what they are doing. They have not come in and talked to us or anything about a mining permit and that would require a conditional use permit for them to that.

Even though it is just dirt, based on our definitions in the Ordinance, it is still earth extraction, which equates to mining. She said no one has approached us about doing anything out there, she does not know if they are going to talk with Concord about developing it or if it will be Midland. It is still unincorporated county right now, but ultimately it will be Midland annexation area, but Concord service area.

### **Legal Update**

Mr. Koch said we are trying to work out a way to get of the Shelly case. There is some movement on that but nothing he can report on as being definite on that.

We have been reporting on the Phillip Little case for years and years. Back in June, we got an order for his arrest for not having paid the penalties and the attorney fees back to the County. Mr. Little has been ducking the Sheriff, a lot of times when they come out to try to serve the Motions for Contempt and the Motion to Show Cause. In this last one, Mr. Koch got the Judge to agree in the order that basically, Mr. Little would have to post bond in the amount that he owes the County. If they did catch him, they would put him under arrest and his bond essentially would be the \$16,000.

He said yesterday, they caught up with him and they were about to arrest him and he went and got the money and gave it to his attorney and they paid it in the Clerk's office. It has been collected in full. We have been talking about this for about four years, now it is finally over. We finally caught up with him and he ended up having to pay.

Mr. Little was talking with Katie Barr, (the other Attorney in Mr. Koch's Office) and Mr. Jim Scarbrough has been representing him lately. They were having conversations back and forth and

Planning and Zoning Commission  
Minutes  
September 11, 2018

Mr. Little was trying to put it on a payment plan and we were not going to do that with him. He had to pay it full, just like the Order said, and that was the only thing that we were going to accept.

Mr. Koch was tired of dealing with him and having to report that they were not making significant progress. At this point Mr. Little is paid in full; he basically bonded his self out. Fighting the County on that turned out not to be too smart for him; it ended up being pretty expensive.

Mr. Koch has been working on the solar farm from the hospital. There is something happening almost every day. We are trying to get it in the best of shape for when it does come before the Board; so it won't be that much of a problem for the Board to deal with it. There are a lot of issues out there.

Ms. Morris has been working really hard on it. We met with them last week to try to make them aware of what they need to do to get it in the correct format. We are making them do an application amendment to their CUP. In order for them to do that, they need to provide a lot of information and they have got to show what all the violations were and how they are going to deal with them, so the Board will have all the information in front of you when it does come before you. We are trying to get it simplified as much as we can before it comes before the Board and to make sure they have everything that the Board needs to see.

Mr. Jerry Wood, Jr. said back when we were talking about the Harrisburg Land Use Plan, the water commodity and their contract with Concord, did that every get ironed out? He kept an eye out for that and he never saw any details. Do we know what happened with their water contract? He thinks it was up in July and it had not been finalized. It was a critical element in that plan.

Ms. Morris said Katie Barr, the other County Attorney, has been working with the Town and she is not sure where they are with those negotiations. We still have not finalized the land use plan. Yesterday, she provided them the draft that they sent over to us; it needs a lot of work still, including some references in there that the Public Works Director had not seen, in the section that talks about water usage and paying tap fees and waiving tap fees, which was related to economic development, which is not a standard practice; it has to be approved by Town Council.

She is not sure where that is, they have some very controversial projects happening down there, which may become an issue for them sooner rather than later, based on the projects that are currently under consideration.

We received last week, a project down off Lower Rocky River, which would be tapping in off of a WSACC line. She does not know how that would go, because utilities are over here and the project is clearly on the other side.

Ms. Morris does not know if our folks from Concord are comfortable with providing an update.

Mr. Corley thinks it is resolved from a contractual water sale standpoint. We raised their volume allowance a little bit; we did some tweaks. It is not a real complicated rate structure but it is kind

Planning and Zoning Commission  
Minutes  
September 11, 2018

of too complicated to describe. There were some tweaks to that, as well as some intermediate thresholds for renegotiation.

He said with their continued use and development, we are going to be back at the table very shortly to have those discussions again. He thinks it was a good intermediate step and he truly believes that all parties kind of look at it as an intermediate step. It keeps them going, we are happy with it but again, they clearly understand that when we reach some of the additional thresholds, we are expecting some additional movement on their part.


There being no further discussion, Mr. James Litaker, **MOTIONED, SECONDED** by Mr. Andrew Nance, to **ADJOURN** the meeting. The vote was unanimous. The meeting ended at 7:55 p.m.

APPROVED BY:



Mr. Chris Pinto, Chair

SUBMITTED BY:



Arlena B. Roberts

ATTEST BY:



Susie Morris, Planning and Zoning Manager

# Memo

**To:** Cabarrus County Planning and Zoning Commission  
**From:** Susie Morris, AICP, CFM, CZO, Planning and Zoning Manager  
**CC:** File  
**Date:** 8/31/2018  
**Re:** Proposed Text Amendments (TEXT2018-00002 and TEXT2018-00003)

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Attached you will find proposed text amendments to the Cabarrus County Development Ordinance. The proposed changes relate to the following:

TEXT2018-00002

- This is a proposed amendment to replace the current Model Floodplain Ordinance (Chapter 16 of the CCDO) with the updated version provided by the North Carolina Department of Public Safety, Emergency Management Division.
- The amendment adds the new date for the National Flood Insurance Rate Maps into the text as the maps will transition from Preliminary to Effective November 16, 2018. The new Ordinance and Maps must be adopted prior to the new effective date.
- The proposed changes have been reviewed and approved by the NCDPS Western Branch NFIP Planner and the County Engineer.
- This proposed changes have also been reviewed by the Text Amendment Committee.

TEXT2018-00003

- This proposed amendment includes two different chapters of the Cabarrus County Development Ordinance.
  1. Proposed amendment to Chapter 10, Parking and Loading, to include language related to interior access roads and the NC Fire Code Requirements.
    - a. This text has been reviewed and approved by the Fire Marshal's Office, and Emergency Management.
    - b. The text has also been reviewed by the Text Amendment Committee.
  2. Proposed amendment to Chapter 14, Nonconformities, to allow additional time for structures destroyed by natural causes to be rebuilt.

Deletions are in strikethrough text. Additions and corrections are in red text.

Please be prepared to discuss the proposed changes and to make a recommendation to the Board of Commissioners.

# **Proposed Cabarrus County Development Ordinance Chapter 16**

## **PART 1. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES**

### **SECTION A. 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.

Therefore, the Board of Commissioners of Cabarrus County, North Carolina, does ordain as follows:

### **SECTION B. FINDINGS OF FACT**

- (1) The flood prone areas within the jurisdiction of Cabarrus 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.

### **SECTION C. STATEMENT OF PURPOSE**

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

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

### **SECTION D. OBJECTIVES**

The objectives of this ordinance are to:

- (1) Protect human life, safety, and health;
- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

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

## **PART 2. DEFINITIONS**

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance it's 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.

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

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

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

Area of Special Flood Hazard see Special Flood Hazard Area (SFHA).

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

Base Flood means the flood having a 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.

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

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.

Design Flood: See Regulatory Flood Protection Elevation.

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

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

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

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

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

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

Existing building and existing structure means any building and/or structure for which the start of construction commenced before November 2, 1994.

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:

- (a) The overflow of inland or tidal waters; and/or
- (b) The unusual and rapid accumulation or runoff of surface waters from any source.

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

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

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

Flood Insurance Study (FIS) means an examination, evaluation, and determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones, and other flood data in a community issued by the FEMA. The Flood Insurance Study report includes Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), if published.

Flood Prone Area see Floodplain

Flood Zone means a geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

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

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

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

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

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

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

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

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

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

Freeboard means the height added to the BFE to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge or culvert openings, and the hydrological effect of urbanization of the watershed. The BFE plus the freeboard establishes the Regulatory Flood Protection Elevation. **The freeboard for Cabarrus County is 2 feet.**

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

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

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

Historic Structure means any structure that is:

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

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

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

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

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

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

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 the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or limited storage in an area other than a basement area is not considered a building's lowest floor, provided that such an enclosure is not built so as to render the structure in violation

of the applicable non-elevation design requirements of this ordinance.

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

Manufactured Home Park or Subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

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

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

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

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

Post-FIRM means construction or other development for which the start of construction occurred on or after November 2, 1994, 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 November 2, 1994, the effective date of the initial Flood Insurance Rate Map.

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

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

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

- (a) Built on a single chassis;
- (b) 400 square feet or less when measured at the largest horizontal projection;
- (c) Designed to be self-propelled or permanently towable by a light duty truck;
- (d) Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use, and
- (e) Is fully licensed and ready for highway use.

For the purpose of this ordinance, Tiny Homes/Houses and Park Models that do not meet the items listed above are not considered Recreational Vehicles and are required to meet the standards of, and be permitted as, Residential Structures.

Reference Level is the top of the lowest floor for structures within Special Flood Hazard Areas.

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 2 feet of freeboard. In

Special Flood Hazard Areas where no BFE has been established, this elevation shall be at least **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 ordinance or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.

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

Salvage Yard means any 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 Part 3, Section B of this ordinance.

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 it's before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. See definition of substantial improvement. Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

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 and the alteration is approved by variance issued pursuant to Part 4 Section

E of this ordinance.

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

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

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

Variance is a grant of relief from the requirements of this ordinance.

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 Parts 4 and 5 is presumed to be in violation until such time as that documentation is provided.

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

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

### **PART 3. GENERAL PROVISIONS**

#### **SECTION A. LANDS TO WHICH THIS ORDINANCE APPLIES**

This ordinance shall apply to all Special Flood Hazard Areas within the unincorporated areas of Cabarrus County.

#### **SECTION B. 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 FIS dated November 5, 2008 for Cabarrus County and associated DFIRM panels dated November 5, 2008, March 2, 2009, June 16, 2009, February 19, 2014 and November 16, 2018, including any digital data developed as part of the FIS, which are adopted by reference and declared a part of this ordinance. Future revisions to the FIS and DFIRM panels that do not change flood hazard data within the jurisdictional authority of Cabarrus County are also adopted by reference and declared a part of this ordinance.

#### **SECTION C. ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT**

A Floodplain Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities within Special Flood Hazard Areas determined in accordance with the provisions of Part 3, Section B of this ordinance.

**SECTION D. COMPLIANCE**

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

**SECTION E. ABROGATION AND GREATER RESTRICTIONS**

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

**SECTION F. INTERPRETATION**

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

- (a) Considered as minimum requirements;
- (b) Liberally construed in favor of the Board of Commissioners; and
- (c) Deemed neither to limit nor repeal any other powers granted under State statutes.

**SECTION G. WARNING AND DISCLAIMER OF LIABILITY**

The degree of flood protection required by this ordinance 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 ordinance 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 ordinance shall not create liability on the part of Cabarrus County or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

**SECTION H. PENALTIES FOR VIOLATION**

Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a Class 1 misdemeanor pursuant to NC G.S. § 143-215.58. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$100.00 or imprisoned for not more than thirty (30) days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent Cabarrus County from taking such other lawful action as is necessary to prevent or remedy any violation.

**PART 4. ADMINISTRATION**

**SECTION A. DESIGNATION OF FLOODPLAIN ADMINISTRATOR**

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

**SECTION B. FLOODPLAIN DEVELOPMENT APPLICATION, PERMIT AND CERTIFICATION REQUIREMENTS**

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

- (a) A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:
  - (i) The nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;
  - (ii) The boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in Part 3, Section B, or a statement that the entire lot is within the Special Flood Hazard Area;
  - (iii) Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in Part 3, Section B;
  - (iv) The boundary of the floodway(s) or non-encroachment area(s) as determined in Part 3, Section B;
  - (v) The Base Flood Elevation (BFE) where provided as set forth in Part 3, Section B; Part 4, Section C; or Part 5, Section D;
  - (vi) The old and new location of any watercourse that will be altered or relocated as a result of proposed development; and
  - (vii) The certification of the plot plan by a registered land surveyor or professional engineer.
- (b) Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to:
  - (i) Elevation in relation to NAVD 1988 of the proposed reference level (including basement) of all structures;
  - (ii) Elevation in relation to NAVD 1988 to which any non-residential structure in Zones A, AE, AH, AO, A99 will be floodproofed; and
  - (iii) Elevation in relation to NAVD 1988 to which any proposed utility systems will be elevated or floodproofed.
- (c) If floodproofing, a Floodproofing Certificate (FEMA Form 086-0-34) with supporting data, an operational plan, and an inspection and maintenance plan that include, but are not limited to, installation, exercise, and maintenance of floodproofing measures.
- (d) A Foundation Plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this ordinance are met. These details include but are not limited to:
  - (i) The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls); and
  - (ii) Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with Part 5, Section B(4)(d) when solid foundation perimeter walls are used in Zones A, AE, AH, AO, A99.
- (e) Usage details of any enclosed areas below the lowest floor.
- (f) Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage.
- (g) Certification that all other Local, State and Federal permits required prior to floodplain development permit



issuance have been received.

- (h) Documentation for placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure that the provisions of Part 5, Section B, subsections (6) and (7) of this ordinance are met.
- (i) A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.

(2) **Permit Requirements.** The Floodplain Development Permit shall include, but not be limited to:

- (a) A complete description of all the development to be permitted under the floodplain development permit (e.g. house, garage, pool, septic, bulkhead, cabana, pier, bridge, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials, etc.).
- (b) The Special Flood Hazard Area determination for the proposed development in accordance with available data specified in Part 3, Section B.
- (c) The Regulatory Flood Protection Elevation required for the reference level and all attendant utilities.
- (d) The Regulatory Flood Protection Elevation required for the protection of all public utilities.
- (e) All certification submittal requirements with timelines.
- (f) A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse unless the requirements of Part 5, Section F have been met.
- (g) The flood openings requirements, if in Zone AE.
- (h) Limitations of below BFE enclosure uses (if applicable). (i.e., parking, building access and limited storage only).
- (i) A statement, that all materials below BFE/RFPE must be flood resistant materials.

(3) **Certification Requirements**

(a) Elevation Certificates

- (i) An Elevation Certificate (FEMA Form 086-0-33) is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to NAVD 1988. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit.
- (ii) An Elevation Certificate (FEMA Form 086-0-33) is required after the reference level is established. Within seven (7) calendar days of establishment of the reference level elevation, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to NAVD 1988. Any work done within the seven (7) day calendar period and prior to submission of the certification shall be at the permit holder's risk. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being permitted to proceed. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop-work order for the project.

- (iii) A final Finished Construction Elevation Certificate (FEMA Form 086-0-33) is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit to the 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. The Finished Construction Elevation Certificate certifier shall provide at least 2 photographs showing the front and rear of the building taken within 90 days from the date of certification. The photographs must be taken with views confirming the building description and diagram number provided in Section A. To the extent possible, these photographs should show the entire building including foundation. If the building has split-level or multi-level areas, provide at least 2 additional photographs showing side views of the building. In addition, when applicable, provide a photograph of the foundation showing a representative example of the flood openings or vents. All photographs must be in color and measure at least 3 × 3. Digital photographs are acceptable.
- (b) Floodproofing Certificate
- (i) If non-residential floodproofing is used to meet the Regulatory Flood Protection Elevation requirements, a Floodproofing Certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.
- (ii) A final Finished Construction Floodproofing Certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the issuance of a Certificate of Compliance/Occupancy. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing certificate shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to Certificate of Occupancy. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to deny a Certificate of Compliance/Occupancy.
- (c) If a manufactured home is placed within Zone AE 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 Part 5, Section B(3)(b).
- (d) If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; a professional engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.

- (e) Certification Exemptions. The following structures, if located within Zone AE, are exempt from the elevation/floodproofing certification requirements specified in items (a) and (b) of this subsection:
  - (i) Recreational Vehicles meeting requirements of Part 5, Section B (6) (a);
  - (ii) Temporary Structures meeting requirements of Part 5, Section B (7); and
  - (iii) Accessory Structures that are 150 square feet or less meeting requirements of Part 5, Section B(8).

(4) **Determinations for existing buildings and structures**

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

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

**SECTION C. DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR**

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

- (1) Review all floodplain development applications and issue permits for all proposed development within Special Flood Hazard Areas to assure that the requirements of this ordinance have been satisfied.
- (2) Review all proposed development within Special Flood Hazard Areas to assure that all necessary local, state and federal permits have been received, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
- (3) Notify adjacent communities and the North Carolina Department of Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).
- (4) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained.
- (5) Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of Part 5, Section F are met.
- (6) Obtain actual elevation (in relation to NAVD 1988) of the reference level (including basement) and all attendant utilities

of all new and substantially improved structures, in accordance with the provisions of Part 4, Section B(3).

- (7) Obtain actual elevation (in relation to NAVD 1988) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with the provisions of Part 4, Section B(3).
- (8) Obtain actual elevation (in relation to NAVD 1988) of all public utilities in accordance with the provisions of Part 4, Section B (3).
- (9) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the provisions of Part 4, Section B(3) and Part 5, Section B(2).
- (10) Where interpretation is needed as to the exact location of boundaries of the Special Flood Hazard Areas, floodways, or non-encroachment areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in in Part 4, Section D.
- (11) When BFE data has not been provided in accordance with the provisions of Part 3, Section B, obtain, review, and reasonably utilize any BFE data, along with floodway data or non-encroachment area data available from a federal, state, or other source, including data developed pursuant to Part 5, Section D (2) (c), in order to administer the provisions of this ordinance.
- (12) When BFE data is provided but no floodway or non-encroachment area data has been provided in accordance with the provisions of Part 3, Section B, obtain, review, and reasonably utilize any floodway data or non-encroachment area data available from a federal, state, or other source in order to administer the provisions of this ordinance.
- (13) When the lowest floor and the lowest adjacent grade of a structure or the lowest ground elevation of a parcel in a Special Flood Hazard Area is above the BFE, advise the property owner of the option to apply for a Letter of Map Amendment (LOMA) from FEMA. Maintain a copy of the LOMA issued by FEMA in the floodplain development permit file.
- (14) Permanently maintain all records that pertain to the administration of this ordinance and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.
- (15) Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the Floodplain Administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the Floodplain Administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.
- (16) Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this ordinance, 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.
- (17) 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.
- (18) 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.

- (19) Follow through with corrective procedures of Part 4, Section D.
- (20) Review, provide input, and make recommendations for variance requests.
- (21) Maintain a current map repository to include, but not limited to, historical and effective FIS Report, historical and effective FIRM and other official flood maps and studies adopted in accordance with the provisions of Part 3, Section B of this ordinance, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify State and FEMA of mapping needs.
- (22) Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-Fs) and Letters of Map Revision (LOMRs).

#### **SECTION D. 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 the Flood Damage Prevention Ordinance, he or 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 ninety (90) calendar days. Where the Floodplain Administrator finds that there is imminent danger to life or other property, he or she may order that corrective action be taken in such lesser period as may be feasible.
- (4) Appeal: Any owner who has received an order to take corrective action may appeal the order to the Board of Adjustment by giving notice of appeal in writing to the Floodplain Administrator and the Planning and Zoning Commission 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 Board of Adjustment 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 Board of Adjustment following an appeal, the owner shall be guilty of a Class 1 misdemeanor pursuant to NC G.S. § 143-215.58 and shall be punished at the discretion of the court.

## SECTION E. VARIANCE PROCEDURES

- (1) The Board of Adjustment as established by Cabarrus County, hereinafter referred to as the “appeal board,” shall hear and decide requests for variances from the requirements of this ordinance.
- (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 Part 2 of this ordinance, provided provisions of Part 4, Section E(9)(b), (c), and (e) have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety; or
  - (c) Any other type of development provided it meets the requirements of this Section.
- (4) In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:
  - (a) The danger that materials may be swept onto other lands to the injury of others;
  - (b) The danger to life and property due to flooding or erosion damage;
  - (c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - (d) The importance of the services provided by the proposed facility to the community;
  - (e) The necessity to the facility of a waterfront location as defined under Part 2 of this ordinance as a functionally dependent facility, where applicable;
  - (f) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
  - (g) The compatibility of the proposed use with existing and anticipated development;
  - (h) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  - (i) The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - (j) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
  - (k) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.
- (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 ordinance, the appeal board may attach such

conditions to the granting of variances as it deems necessary to further the purposes and objectives of this ordinance.

- (7) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the BFE and the elevation to which the structure is to be built and that such construction below the BFE increases risks to life and property, and that the issuance of a variance to construct a structure below the BFE may result in increased premium rates for flood insurance up to \$25 per \$100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.
- (8) The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the FEMA and the State of North Carolina upon request.
- (9) Conditions for Variances:
  - (a) Variances shall not be issued when the variance will make the structure in violation of other federal, state, or local laws, regulations, or 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.

## **PART 5. PROVISIONS FOR FLOOD HAZARD REDUCTION**

### **SECTION A. GENERAL STANDARDS**

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

- (1) All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.
- (2) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage in accordance with the FEMA Technical Bulletin 2, *Flood Damage-Resistant Materials Requirements*.
- (3) All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.
- (4) All new electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall be located at or above the Regulatory Flood Protection Elevation (RFPE) or designed and installed to prevent water from entering or accumulating within the components during the occurrence of the base flood. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes,

utility/cable boxes, hot water heaters, and electric outlets/switches.

- (a) Replacements part of a substantial improvement, electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall also meet the above provisions.
  - (b) Replacements that are for maintenance and not part of a substantial improvement, may be installed at the original location provided the addition and/or improvements only comply with the standards for new construction consistent with the code and requirements for the original structure.
- (5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
  - (6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into flood waters.
  - (7) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
  - (8) Nothing in this ordinance shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this ordinance and located totally or partially within the floodway, non-encroachment area, or stream setback, provided there is no additional encroachment below the Regulatory Flood Protection Elevation in the floodway, non-encroachment area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this ordinance.
  - (9) 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 Part 4, Section B (3).
  - (10) All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.
  - (11) All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
  - (12) All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.
  - (13) All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
  - (14) When a structure is partially located in a Special Flood Hazard Area, the entire structure shall meet the requirements for new construction and substantial improvements.
  - (15) When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest BFE shall apply.

## **SECTION B. SPECIFIC STANDARDS**

In all Special Flood Hazard Areas where BFE data has been provided, as set forth in Part 3, Section B, or Part 5, Section D, the following provisions, in addition to the provisions of Part 5, Section A, are required:

- (1) Residential Construction. New construction and substantial improvement of any residential structure (including



manufactured homes) shall have the reference level, including basement, elevated no lower than the Regulatory Flood Protection Elevation, as defined in Part 2 of this ordinance.

- (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 Part 2 of this ordinance. Structures located in Zone AE, 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. A registered professional engineer or architect shall certify that the floodproofing standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in Part 4, Section B (3), along with the operational plan and the inspection and maintenance plan.
- (3) Manufactured Homes
  - (a) New and replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the Regulatory Flood Protection Elevation, as defined in Part 2 of this ordinance.
  - (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 Part 5, Section B (4).
  - (d) An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the 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 not be temperature-controlled or conditioned;
  - (c) Shall be constructed entirely of flood resistant materials
  - (d) Shall include, in Zone, AE flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria:
    - (i) A minimum of two flood openings on different sides of each enclosed area subject to flooding;

- (ii) The total net area of all flood openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding;
  - (iii) If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;
  - (iv) The bottom of all required flood openings shall be no higher than one (1) foot above the higher of the interior or exterior adjacent grade;
  - (v) Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and
  - (vi) Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.
- (f) Property owners shall be required to execute and record a non-conversion agreement prior to issuance of a building permit declaring that the area below the lowest floor shall not be improved, finished or otherwise converted to habitable space ; Cabarrus County will have the right to inspect the enclosed area . Cabarrus County will conduct annual inspections. This agreement shall be recorded with the Cabarrus County Register of Deeds and shall transfer with the property in perpetuity.

(5) Additions/Improvements.

- (a) Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
  - (i) Not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure.
  - (ii) A substantial improvement, with modifications/rehabilitations/improvements to the existing structure or the common wall is structurally modified more than installing a doorway, both the existing structure and the addition must comply with the standards for new construction.
- (b) Additions to pre-FIRM or post-FIRM structures that are a substantial improvement with no modifications/rehabilitations/improvements to the existing structure other than a standard door in the common wall, shall require only the addition to comply with the standards for new construction.
- (c) Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
  - (i) Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction consistent with the code and requirements for the original structure.
  - (ii) A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
- (d) Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a 1 year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started must comply with the standards for new construction. For each building or structure, the 2 year period begins on the date of the first improvement or repair of that building or structure subsequent to the effective date of this ordinance. Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of

the market value of the structure before the damage occurred. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The requirement does not, however, include either:

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

(6) Recreational Vehicles. Recreational vehicles shall either:

(a) Temporary Placement

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

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

(7) Temporary Non-Residential Structures. Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the 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 Part 5, Section A(1);
- (f) All service facilities such as electrical shall be installed in accordance with the provisions of Part 5, Section A(4); and
- (g) Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below Regulatory Flood Protection Elevation in conformance with the provisions of Part 5, Section B(4)(d).

An accessory structure with a footprint less than 150 square feet or that is a minimal investment of \$3,000 or less and satisfies the criteria outlined above is not required to meet the elevation or floodproofing standards of Part 5, Section B (2). Elevation or floodproofing certifications are required for all other accessory structures in accordance with Part 4, Section B(3).

- (9) Tanks. When gas and liquid storage tanks are to be placed within a Special Flood Hazard Area, the following criteria shall be met:
  - (a) Underground tanks. Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty;
  - (b) Above-ground tanks, elevated. Above-ground tanks in flood hazard areas shall be elevated to or above the Regulatory Flood Protection Elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area;
  - (c) Above-ground tanks, not elevated. Above-ground tanks that do not meet the elevation requirements of Section B (2) of this ordinance shall be permitted in flood hazard areas provided the tanks are designed, constructed, installed, and anchored to resist all flood-related and other loads, including the effects of buoyancy, during conditions of the design flood and without release of contents in the floodwaters or infiltration by floodwaters into the tanks. Tanks shall be designed, constructed, installed, and anchored to resist the potential buoyant and other flood forces acting on an empty tank during design flood conditions.
  - (d) Tank inlets and vents. Tank inlets, fill openings, outlets and vents shall be:
    - (i) At or above the Regulatory Flood Protection Elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and
    - (ii) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.
- (10) Other Development. 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) Fences in regulated floodways and NEAs that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of Part 5, Section F of this ordinance.
  - (b) Retaining walls, sidewalks and driveways in regulated floodways and NEAs. Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of Part 5, Section F of this ordinance.

- (c) Roads and watercourse crossings in regulated floodways and NEAs. Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of Part 5, Section F of this ordinance.

**SECTION C. RESERVED**

**SECTION D. STANDARDS FOR FLOODPLAINS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS**

Within the Special Flood Hazard Areas designated as Approximate Zone A and established in Part 3, Section B, where no BFE data has been provided by FEMA, the following provisions, in addition to the provisions of Part 5, Section A, shall apply:

- (1) No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of twenty (20) feet each side from top of bank or five times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- (2) The BFE used in determining the Regulatory Flood Protection Elevation shall be determined based on the following criteria:
  - (a) When BFE data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this ordinance and shall be elevated or floodproofed in accordance with standards in Part 5, Sections A and B.
  - (b) When floodway or non-encroachment data is available from a Federal, State, or other source, all new construction and substantial improvements within floodway and non-encroachment areas shall also comply with the requirements of Part 5, Sections B and F.
  - (c) All subdivision, manufactured home park and other development proposals shall provide BFE data if development is greater than five (5) acres or has more than fifty (50) lots/manufactured home sites. Such BFE data shall be adopted by reference in accordance with Part 3, Section B and utilized in implementing this ordinance.
  - (d) When BFE data is not available from a Federal, State, or other source as outlined above, the reference level shall be elevated or floodproofed (nonresidential) to or above the Regulatory Flood Protection Elevation, as defined in Part 2. All other applicable provisions of Part 5, Section B shall also apply.

**SECTION E. STANDARDS FOR RIVERINE FLOODPLAINS WITH BASE FLOOD ELEVATIONS 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:

- (1) Standards of Part 5, Sections A and B; and
- (2) Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community.

## **SECTION F. FLOODWAYS AND NON-ENCROACHMENT AREAS**

Areas designated as floodways or non-encroachment areas are located within the Special Flood Hazard Areas established in Part 3, Section B. The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in Part 5, Sections A and B, shall apply to all development within such areas:

- (1) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless:
  - (a) It is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood discharge, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the 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 within six months of completion of the proposed encroachment.
  - (c) In addition to subsection (a) and (b), the following standards apply to all fill activities in special flood hazard areas:
    - a. Fill material must be graded to drain, provide such is protected against erosion. When expected velocities during the occurrence of the base flood are greater than five feet per second armoring with stone or rock protection shall be provided. When expected velocities during the base flood are five feet per second or less protection shall be provided by covering them with vegetative cover.
    - b. Any fill material on which is structure is to be located shall be extended at grade 10 feet beyond the limits if the structure foundation and shall have a side slope no steeper than one foot vertical to two feet horizontal.
    - c. Fill shall be composed of clean granular or earthen material.
- (2) If Part 5, Section F(1) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this ordinance.
- (3) No manufactured homes shall be permitted, except replacement manufactured homes in an existing manufactured home park or subdivision, provided following provisions are met:
  - (a) The anchoring and the elevation standards of Part 5, Section B(3); and
  - (b) The encroachment standards of Part 5, Section F(1).

## **SECTION G. STANDARDS FOR AREAS OF SHALLOW FLOWING (ZONE AO)**

Located within the Special Flood Hazard Areas established in Part 3, Section B, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to Part 5, Sections A and B, all new construction and substantial improvements shall meet the following requirements:

- (1) The reference level shall be elevated at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, plus a freeboard of 2 feet, above the highest adjacent grade; or at least 4 feet where a depth is not provided above the highest adjacent grade if no depth number is specified.
- (2) Non-residential structures may, in lieu of elevation, be floodproofed to the same level as required in Part 5, Section I(1) so that the structure, together with attendant utility and sanitary facilities, below that level shall be watertight

with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required in accordance with Part 4, Section B(3) and Part 5, Section B(2).

- (3) Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

**PART 6. LEGAL STATUS PROVISIONS**

**SECTION A. EFFECT ON RIGHTS AND LIABILITIES UNDER THE EXISTING FLOOD DAMAGE PREVENTION ORDINANCE**

This ordinance in part comes forward by re-enactment of some of the provisions of the Flood Damage Prevention Ordinance enacted November 2, 1994 as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this ordinance shall not affect any action, suit or proceeding instituted or pending. All provisions of the Flood Damage Prevention Ordinance of Cabarrus County enacted on November 2, 1994, as amended, which are not reenacted herein are repealed.

The date of the initial Flood Damage Prevention Ordinance for each municipal jurisdiction within Cabarrus County is as follows:

*Mount Pleasant: November 2, 1994*  
*Town of Harrisburg: October 13, 2008*  
*Town of Midland: November 10, 2008*

*City of Locust: September 3, 2008*  
*City of Kannapolis: December 17, 1990*  
*City of Concord: February 14, 1983*

**SECTION B. EFFECT UPON OUTSTANDING FLOODPLAIN DEVELOPMENT PERMITS.**

Nothing herein contained shall require any change in the plans, construction, size, or designated use of any development or any part thereof for which a floodplain development permit has been granted by the Floodplain Administrator or his or her authorized agents before the time of passage of this ordinance; 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 ordinance.

**SECTION C. SEVERABILITY**

If any section, clause, sentence, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

**SECTION D. EFFECTIVE DATE**

This ordinance shall become effective upon the adoption by the Cabarrus County Board of Commissioners.

**SECTION E. ADOPTION CERTIFICATION**

I hereby certify that this is a true and correct copy of the Flood Damage Prevention Ordinance as adopted by the Board of Commissioners of Cabarrus County, North Carolina, on the \_\_\_\_\_day of \_\_\_\_\_, 2018.

WITNESS my hand and the official seal of \_\_\_\_\_this the \_\_\_\_\_day of \_\_\_\_\_, 2018.

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

### Section 10-1 Purpose

The intent of these regulations is twofold:

- to assure the adequacy and safety of parking and loading in all land use situations,
- to assure that parking for multiple vehicles is accomplished on lots that are both aesthetically pleasing and conducive to proper erosion and run-off control practices

### Section 10-2 Compliance

The regulations for parking and loading as set forth in this Chapter shall apply when any structure or building is hereafter erected, structurally altered or placed on a lot or if there is a change of use on a lot.

Failure to comply will result in a denial of a zoning compliance permit.

### Section 10-3 How to use this Chapter

PART I. OFF-STREET PARKING REQUIREMENTS: General and specific design standards, Table of Parking Space Requirements, Satellite Parking, Miscellaneous Parking Requirements.	Sections 10-4 to 10-11
PART II. OFF-STREET LOADING REQUIREMENTS: Access, Minimum Requirements.	Sections 10-12 to 10-16

## **PART I OFF-STREET PARKING REQUIREMENTS**

### Section 10-4 General design standards

Off-street parking shall be developed and arranged so that:

1. Vehicles may exit such areas without backing onto a public street;
2. Sanitation, emergency and other public service vehicles can use them without backing unreasonable distances or making other hazardous turning moves;
3. Vehicles can be moved without the necessity of moving other vehicles (attendant parking situations and single-family dwellings exempt);
4. Vehicles cannot extend beyond the perimeter of a parking area onto adjacent properties or public rights-of-way, nor shall they extend over sidewalks or tend to bump against or damage walls, vegetation, or other structures;
5. Adjacent parking lots connect with each other to eliminate the need to use abutting streets for cross movement; and



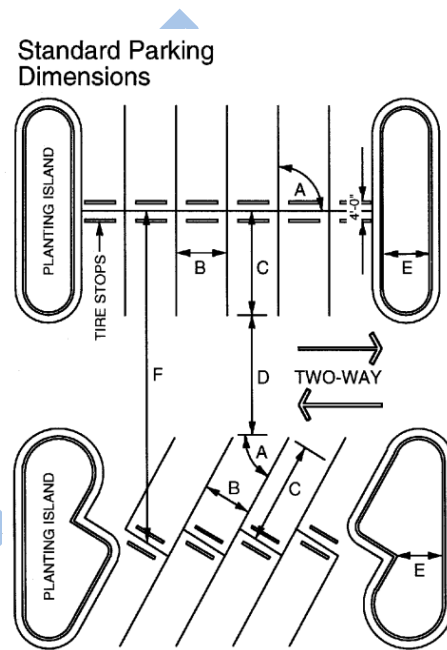
CABARRUS COUNTY DEVELOPMENT ORDINANCE  
 CHAPTER 10 PARKING AND LOADING

- 6. Lighting sources are shielded or arranged as to not produce glare on rights-of-way nor be a nuisance to neighboring residential properties.

Section 10-5 Specific design standards for off-street parking

Automobile parking spaces shall adhere to the following design standards. The graphic below and corresponding key illustrate how the dimensional tables should be used for parking area design.

- A. Parking Angle
- B. Stall Width
- C. Stall Depth
- D. Aisle Width
- E. Planting Island Width (minimum)
- F. Parking Bay Width
- G. Bumper Overhang



Standard spaces

A	B	C	D	E	F*	G
45	9.0'	18'	12.0' One Way	9.0	51	2.0'/4.0'
60	9.0'	18'	18.0' One Way	9.0	58	2.0'/4.0'
90	9.0'	18'	24.0' Two Way	9.0'	60	2.0'/4.0'

\* Additional width may be required where the aisle serves as a principal vehicular access to on-site uses or structures or serves two-way traffic. All travel ways must meet emergency access standards.

**Compact spaces**

Automobile parking spaces for compact cars shall adhere to the following:

A	B	C	D*	E	F	G
45	8.0'	16.0'	12' One Way	9.0'	-	1.5/3.0'
60	8.0'	16.0'	18' One Way	9.0'	-	1.5/3.0'
90	8.0'	16.0'	24' Two Way	9.0'	-	1.5/3.0'

\* Additional width may be required where the aisle serves as a principal vehicular access to on-site uses or structures or serves two-way traffic. All travel ways must meet emergency access standards.

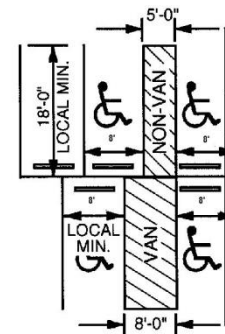
**1. Handicapped accessible spaces**

All parking lots or facilities must provide handicap spaces as a part of the required number of spaces. See the table below for the number of handicap spaces required for the number of regular parking spaces.

Handicapped parking spaces shall be a minimum of 13 feet by 18 feet for a single non-van space (8 feet in width in addition to a 5 foot access aisle); a minimum of 16 feet by 18 feet for a single van space (8 feet in width in addition to an 8 foot access aisle); or 24 feet by 18 feet for a double van space, or a non-van and van double space (8 feet in width for each space with an 8 foot access aisle between spaces).

**Handicapped Parking Dimensions**

See North Carolina Accessibility Code



Parking spaces for handicapped or disabled persons shall comply with Section 1106 of the North Carolina State Building Code, Parking and Passenger Loading Facilities.

**Location**

Accessible parking spaces shall be located on the shortest accessible route of travel from adjacent parking to an accessible building entrance. Where buildings have multiple accessible entrances with adjacent parking, accessible parking spaces shall be dispersed and located near the accessible entrances.

CABARRUS COUNTY DEVELOPMENT ORDINANCE  
CHAPTER 10 PARKING AND LOADING

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<u>Number of Spaces</u>	<u>Accessible Required</u>
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 or over	2% of total

**Interior Access Roads**

Where access roads are proposed interior to the site and are not associated with parking areas, a reduction may be allowed or an increase may be required to the 24 feet requirement for two-way traffic by the Fire Marshal. The burden shall be on the applicant to show the Fire Marshal that the Fire Code requirements for life safety and access are being met. The minimum reduction allowed is to 20 feet wide.

**Required Setbacks for Off-Street Parking and Loading Areas**

No parking shall be located within the required landscape buffer yards. No parking shall be located within ten (10) feet of property line.

Required parking lot landscaping shall be installed in accordance with Chapter 9.

2. **Off-street parking surfaces**

Parking lots of four spaces or more must be paved with concrete, asphalt, permeable pavers, permeable pavement or permeable asphalt.

Exceptions to paving may be granted by the Administrator for the following site conditions:

Overflow Parking

Overflow parking areas shall be defined as off-street parking areas in excess of the maximum number of spaces permitted by this Ordinance. Overflow parking areas shall not be used more than ten (10) times per calendar year. Overflow parking areas shall use turf or gravel. Applicants seeking to use this exception for site design shall provide information in the form of a signed, notarized letter stating the number of times per year that the overflow parking areas will be used. Number of uses per year shall be noted as part of the zoning permit.

Low Traffic Storage Yards

established for the Medium Density Residential Open Space subdivision option in Chapter 5.

2. To the greatest extent possible, the new lot lines shall be established such that the setbacks for the existing structure meets the setbacks for the Medium Density Residential Open Space subdivision. In no case shall a setback of less than 5 feet be established for existing structures.
3. Each resultant lot and primary structure must be served by utilities in the form of an approved individual well and septic system or a combination of existing governmental utilities and an approved individual private well or septic system.
4. A note shall be placed on the plat to be recorded stating that the lots were created using this section of the Zoning Ordinance.

#### **Section 14-6 Nonconforming use of premises (land with or without structures)**

A. Limitations

There shall be no enlargement, increase in intensity or changes to the use unless a Certificate of Nonconformity Adjustment is obtained. See Section 14-10.

B. Cessation of use

If the use ceases for more than six (6) months, subsequent use of the land must conform to district regulations.

C. Changing from one nonconforming use to another

The owner/operator of a nonconforming use may change to another nonconforming use of the same or lesser intensity, however, approval must be obtained from the Planning & Zoning Commission acting as a Board of Adjustment. The burden of proof of showing that the new nonconforming use is the same or lesser intensity than the existing nonconforming use will rest completely with the applicant. A process similar to that used in conditional use permitting will be used when changing from one nonconforming use to another. Accordingly, the Planning & Zoning Commission acting as a Board of Adjustment may impose conditions upon the proposed use.

D. Maintenance and repair

Before a building permit may be issued, the owner/user of the nonconformity must apply for and receive a Certificate of Nonconformity Adjustment.

E. Reconstruction of damaged structures

1. ~~When a nonconforming structure (excluding signs) or structure that contains a nonconforming use is damaged by fire, wind, flood, or any other natural cause, such structure may be reconstructed and used as it was before the event, provided such reconstruction takes place within one year of the date of the~~

~~event.~~ When a nonconforming structure (excluding signs) or structure that contains a nonconforming use is damaged by fire, wind, flood, or any other natural cause, such structure may be reconstructed and used as it was before the event, provided that a building permit is issued for reconstruction within one year of the date of the event.

2. If the cause of damage is not of natural origin and the repair costs will equal or exceed 75 percent or more of the tax assessed value it must, if reconstructed, conform in all ways to this Ordinance.

a. Calculation of the cost of damage will be that determined by the owner/operator's insurance carrier. If uninsured or no insurance claim is filed, the amount of damage will be estimated by a County Tax Assessor appraiser.

F. Unsafe nonconforming structures

When a nonconforming structure becomes unsafe due to lack of maintenance or damage from either a natural or manmade event, it will be cited by the Zoning Administrator. After having reached this extreme state of disrepair, a structure may only be restored or repaired in such a way as to make it a conforming structure. The Zoning Administrator will notify the owner by written notice. The owner shall then have a period of ninety days in which to either repair the structure to make it conforming or have it demolished.

G. Expansion

See "Limitations" above.

H. Additions to nonconforming single family detached structures in Limited or General Industrial Zones

Single family detached structures that exist in either the limited or general industrial zones may be enlarged provided the dimensional standards of the zone are met.

**Section 14-7 Nonconforming characteristics of uses**

Nonconforming characteristics of use, for example, inadequate parking and loading facilities, inappropriate landscaping, lighting, emissions, etc., may continue to exist, but shall not be expanded, altered, changed or relocated in such a manner as to increase the degree of nonconformity without either a Certificate of Nonconformity Adjustment or approval by the Board of Adjustment.

**Section 14-8 Nonconforming manufactured homes**