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ARTICLE VII OVERLAY DISTRICT PROVISIONS AND SPECIAL PURPOSE REGULATIONS

7.01 Airport Height Overlay Requirements

- A. The Airport Protection Overlay (AP) District, as established in Section 4.04 A. is not intended to be utilized as a general use zoning district classification, but as a designation which identifies areas subject to regulations which are supplementary to the regulations of the zoning district to which such designation is attached, appended or overlaid. Regulations which apply to areas designated on the zoning map as being within such appended or overlaid designation must be determined by joint reference to the regulations of both the basic district classification and the overlay classification.
- B. It is the intent of this Section to restrain influences which are adverse to the airport property and safe conduct of aircraft in the vicinity of the Edenton Municipal Airport, to prevent creation of conditions hazardous to aircraft operation, to prevent conflict with land development which may result in loss of life and property, and to encourage development which is compatible with airport use characteristics within the intent and purpose of zoning. To this end, the AP designation, when overlaid to a basic district classification, is intended to coordinate the purpose and intent of this Section with other regulations duly established by the County of Chowan whose primary intent is to further the purposes set out above.
- C. The following definitions shall apply to this Section:
1. **Airport.** The Edenton Municipal Airport (Northeastern Regional Airport).
 2. **Airport Elevation.** The highest point of the airport's useable landing area measured in feet above mean sea level (19.0').
 3. **Approach Surface.** A surface longitudinally centered on the extended runway centerline of each runway, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in [Section D](#).
 4. **Approach Zone.** The inner edge approach zone coincides with the width of the primary surface and begins 200 feet from the runway end and is 500 feet wide for all runways. The approach zone expands outward uniformly to a width of 3,500 feet at a horizontal distance of 10,000 feet from the primary surface for runway 19. The approach zone expands outward uniformly to a width of 1,500 feet at a horizontal distance of 5,000 feet from the primary surface for runway 1. For runway 5, the approach zone expands outward uniformly to a width of 2,000 feet at a horizontal distance of 5,000 feet from the primary surface; and, the approach zone for runway 23 expands outward uniformly to a width of 1,250 feet at a horizontal distance of 5,000 feet. Its centerlines are the continuation of the centerlines of the respective runway.

5. **Conical Surface.** A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.
 6. **Conical Zone.** The conical zone is established on the area that commences at the periphery of the horizontal zone and extends outward therefrom for a distance of 4,000 feet, and upward at a slope of 20:1.
 7. **Hazard to Navigation.** An obstruction determined to have a substantial adverse effect on the safety and efficient utilization of the navigable airspace.
 8. **Height.** For the purpose of determining the height limits in all zones set forth in this Section and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.
 9. **Horizontal Surface.** A horizontal plane 150 feet above the established airport elevation, the perimeter of which in plan coincided with the perimeter of the horizontal zone.
 10. **Horizontal Zone.** The horizontal zone is established by swinging arcs of 10,000 feet radii from the center of the end of the primary surface of runways 1 and 19 and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.
 11. **Obstruction.** Any structures, growth, or other object, including a mobile object, which exceeds a limited height set forth in [Section D](#).
 12. **Primary Surface.** A surface longitudinally centered on a runway. The primary surface extends 200 feet beyond each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of the primary surface is 500 feet for all runways.
 13. **Runway.** A defined area on an airport prepared for landing and takeoff of aircraft along its length.
 14. **Structure.** An object, including a mobile object, constructed or installed by man, including but without limitation, building, towers, cranes, smokestacks, earth formations and overhead transmission lines.
 15. **Transitional Surfaces.** These surfaces extend outward at right angles (90 degree angles) to the runway centerline and extend at a slope of seven feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and/or conical surfaces.
 16. **Transitional Zones.** The transitional zones are the areas beneath the transitional surfaces.
- D. Except as otherwise provided in this Section, no structure shall be erected, altered or maintained, and no trees shall be allowed to grow in any zone created by this

Section to a height in excess of the applicable height limitations herein established for each zone in question as follows:

1. **Approach Zones, APA.**

- (a) For runway 19, the approach slopes 34 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance 10,000 feet along the extended runway centerline. The inner dimension is 500 feet and its outer dimension is 3,500 feet.
- (b) For runway 1, the approach zone slopes 20 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline. The inner dimension is 500 feet and its outer dimension is 1,500 feet.
- (c) For runway 5, the approach zone slopes 20 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline. The inner dimension is 500 feet and its outer dimension is 2,000 feet.
- (d) For runway 23 the approach zone slopes 20 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline. The inner dimension is 500 feet and its outer dimension is 1,250 feet.

2. **Transitional Zones, APT.** Slopes 7 feet outward for each foot upward beginning at the side of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation or 169 feet above mean sea level. In addition to the foregoing there are established height limits sloping 7 feet outward for each foot upward beginning at the sides and at the same elevation as the approach surface, and extending to where they intersect the horizontal surfaces.

3. **Horizontal Zone, APH.** Established at 150 feet above the airport or at an elevation of 169 feet above the mean sea level.

4. **Conical Zone, APC.** Slopes 20 feet outward for each foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to an elevation 369 feet above mean sea level.

E. Use Restrictions

Notwithstanding any other provisions of this Section, no use may be made of land or water within any zone established by this Section in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or

interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

F. Nonconforming Use

1. Regulations not Retroactive. The regulations prescribed by this Section shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of this Section, or otherwise interfere with the continuance of nonconforming use. Nothing contained herein shall require any change in the construction, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this Section, and is diligently prosecuted.
2. Obstruction, Marking and Lighting. Notwithstanding the preceding provision of subsection 1., the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the Chowan County Board of County Commissioners and the Edenton Municipal Airport to indicate to the operators of aircraft in the vicinity of the airport and the presence of such airport obstruction. Such markers and lights shall be installed, operated and maintained at the expense of the Edenton Municipal Airport.

G. Permits

The Zoning Administrator shall not issue a zoning permit within an 'APA', 'APH', 'APT' or 'APC' area until it has been determined that the proposal upon which he/she is requested to act is in compliance with the terms of these regulations.

1. Future Uses. Except as specifically provided in subsections (a), (b), and (c) hereunder, no material change shall be made in the use of land, no structure shall be erected or otherwise established, and no tree shall be planted in any zone hereby created unless a permit therefore shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted. No permit for a use inconsistent with the provisions of this Section shall be granted unless a variance has been approved in accordance with [Section 13.02 C](#).
 - (a) In the area lying within the limits of the horizontal zone and conical zone, no permit shall be required for any tree or structures less than 75 feet of vertical height above the ground, except when, because of terrain, land contour or topographic features, such tree or structure would extend above the height limits prescribed for such zones.
 - (b) In areas lying within the limits of the approach zones, but at a horizontal distance of not less than 4,200 feet from each end of the runway, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground, except when, because of

terrain, land contour or topographic features, such tree or structure would extend above the height limits prescribed for such zones.

- (c) In the areas lying within the limits of the transition zones, no permit shall be required for any tree or structure less than 75 feet above the ground, except when such tree or structure because of terrain, land contour or topographic features, would extend above the height limit prescribed for such transition zones.

Nothing contained in any of the foregoing exceptions, shall be construed as permitting or intending to permit any construction, alteration of any structure or growth of any tree in excess of any of the height limits established by this Section.

2. Existing Uses. No permit shall be granted that would allow the establishment or creation of any obstruction or permit a nonconforming use, structure or tree to become a greater hazard to air navigation than it was on the effective date of this Ordinance or any amendments thereto or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.
3. Nonconforming Uses Abandoned or Destroyed. Whenever the Zoning Administrator determines that a nonconforming tree or structure has been abandoned or more than 75 percent torn down, physically deteriorated or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations.
4. Variances. Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use of property, not in accordance with the regulations prescribed in this Section, may apply to the Board of Adjustment for a variance from such regulations ([See Section 13.02 C.](#)).

7.02 Flood Hazard District Overlay Requirements

The Flood Hazard Overlay District (FHO), as established in Section 4.04 B., is designed for the purpose of protecting people and property from the hazards of flooding in accordance with the authority provided in NCGS 153A-121. The provisions of this Section replace regulations contained in Chapter 5, Flood Damage Prevention Ordinance, of the Chowan County Code which has been repealed by Chowan County.

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 Chowan County North Carolina, does ordain as follows:

A. Findings of Fact

1. The flood prone areas within the jurisdiction of Chowan 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.

B. Purpose

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

1. Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
2. Require that uses vulnerable to floods, including facilities which 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 other development which may increase erosion or flood damage; and
5. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

B. Objectives

The objectives of this Section are to:

1. Protect human life 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 interruptions;
5. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in flood prone areas;
6. Help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas; and

7. Ensure that potential home buyers are notified that property is in a Special Flood Hazard Area.

C. 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 its most reasonable application.

1. **Accessory Structure (Appurtenant Structure).** A structure which is located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports and storage sheds are common urban accessory structures. Pole barns, hay sheds and the like qualify as accessory structures on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.
2. **Addition (to an existing building).** An extension or increase in the floor area or height of a building or structure.
3. **Appeal.** A request for a review of the Floodplain Administrator's interpretation of any provision of this Ordinance.
4. **Area of Shallow Flooding.** A designated AO or VO Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.
5. **Area of Special Flood Hazard.** See 'Special Flood Hazard Area (SFHA)'.
6. **Base Flood.** The flood having a one percent chance of being equaled or exceeded in any given year.
7. **Base Flood Elevation (BFE).** A determination, as published in the Flood Insurance Study, of the water surface elevations of the base flood. 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".
8. **Basement.** Any area of the building having its floor subgrade (below ground level) on all sides.
9. **Breakaway Wall.** A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

10. **Building.** See 'Structure'.
11. **CAMA.** North Carolina's Coastal Area Management Act. This act, along with the Dredge and Fill Law and the federal Coastal Zone Management Act, is managed through North Carolina Department of Environment and Natural Resources' (NCDENR's) Division of Coastal Management (DCM).
12. **Chemical Storage Facility.** A building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.
13. **Coastal High Hazard Area.** A Special Flood Hazard Area extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on a FIRM, or other adopted flood map as determined in Article 3, Section B of this code, as Zone VE or V1-30.
14. **Development.** Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.
15. **Disposal.** Defined as 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.
16. **Elevated Building.** A non-basement building which has its reference level raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.
17. **Encroachment.** The advance or infringement of uses, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.
18. **Existing Manufactured Home Park or Manufactured Home Subdivision.** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either 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.
19. **Flood or Flooding.** 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, (b) The unusual and rapid accumulation of runoff of surface waters from any source.
20. **Flood Boundary and Floodway Map (FBFM).** An official map of a community, issued by the Federal Emergency Management Agency, on

which the Special Flood Hazard Areas and the floodways are delineated. This official map is a supplement to and shall be used in conjunction with the Flood Insurance Rate Map (FIRM).

21. **Flood Hazard Boundary Map (FHBM).** An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined as Zone A.
22. **Flood Insurance.** The insurance coverage provided under the National Flood Insurance Program.
23. **Flood Insurance Rate Map (FIRM).** An official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and risk premium zones applicable to the community.
24. **Flood Insurance Study (FIS).** An examination, evaluation, and determination of flood hazard areas, corresponding water surface elevations (if appropriate), flood insurance risk zones, and other flood data in a community issued by FEMA. The Flood Insurance Study report includes Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), if published.
25. **Floodplain or Flood Prone Area.** Any land area susceptible to being inundated by water from any source.
26. **Floodplain Administrator.** The individual appointed to administer and enforce the floodplain management regulations.
27. **Floodplain Development Permit.** Any type of permit that is required in conformance with the provisions of this ordinance, prior to the commencement of any development activity.
28. **Floodplain Management.** The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.
29. **Floodplain Management Regulations.** This Ordinance and other ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power which control development in flood-prone areas. This term describes federal, state or local regulations in any combination thereof, which provide standards for preventing and reducing flood loss and damage.
30. **Floodproofing.** Any combination of structural and nonstructural additions, changes, or adjustments to structures, which reduce or eliminate risk of flood damage to real estate or improved real property, water and sanitation facilities, or structures with their contents.

31. **Flood Prone Area.** See ‘Floodplain’.
32. **Floodway.** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. Floodways are located within areas of special flood hazard as defined herein.
33. **Flood Zone.** A geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.
34. **Floor.** See ‘Lowest Floor’.
35. **Freeboard.** The height added to the Base Flood Elevation (BFE) to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge openings, and the hydrological effect of urbanization of the watershed. The Base Flood Elevation (BFE) plus the freeboard establishes the “Regulatory Flood Protection Elevation”.
36. **Functionally Dependent Facility.** A facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, ship repair, or seafood processing facilities. The term does not include long-term storage, manufacture, sales, or service facilities.
37. **Hazardous Waste Management Facility.** A facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste as defined in NCGS Article 9 of Chapter 130A.
38. **Highest Adjacent Grade (HAG).** The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of the structure.
39. **Historic Structure.** 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.

40. **Lowest Adjacent Grade (LAG).** The elevation of the ground, sidewalk, patio slab, or deck support immediately next to the building after completion of the building. For Zone A and AO, use the natural grade elevation prior to construction.
41. **Lowest Floor.** The subfloor, top of slab or grade of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or limited storage in an area other than a basement area is not considered a building's lowest floor provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Section.
42. **Manufactured Home.** 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'.
43. **Manufactured Home Park or Subdivision.** A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
44. **Market Value.** The building value, excluding the land (as agreed to between a willing buyer and seller), as established by what the local real estate market will bear. Market value can be established by independent certified appraisal, replacement cost depreciated by age of building (Actual Cash Value), or adjusted assessed values.
45. **Mean Sea Level.** For purposes of the NFIP, the National Geodetic Vertical Datum (NGVD) as corrected in 1929, the North American Vertical Datum (NAVD) as corrected in 1988 or other vertical control datum used as a reference for establishing varying elevations within the floodplain, to which Base Flood Elevations (BFEs) shown on a FIRM are referenced. Refer to each FIRM panel to determine datum used.
46. **New Construction.** Structures for which the 'start of construction' commenced on or after the effective date of the original version of this Section and includes any subsequent improvements to such structures.
47. **Nonconforming Building or Development.** Any legally existing building or development which fails to comply with the current provisions of this Ordinance.

48. **Non-Encroachment Area.** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot as designated in the Flood Insurance Study report.
49. **Obstruction.** Includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.
50. **Post-FIRM.** Construction or other development which started on or after January 1, 1975 or on or after the effective date of the initial Flood Insurance Rate Map for the area, whichever is later.
51. **Pre-FIRM.** Construction or other development which started before January 1, 1975 or before the effective date of the initial Flood Insurance Rate Map for the area, whichever is later.
52. **Primary Frontal Dune.** A continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and over-topping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively steep slope to a relatively mild slope.
53. **Principally Above Ground.** At least 51% of the actual cash value of the structure is above ground.
54. **Public Safety and/or Nuisance.** Anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.
55. **Recreational Vehicle (RV).** A vehicle which is: (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) designed to be self-propelled or permanently towable by a light duty truck; and (d) designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.
56. **Reference Level.** The top of the lowest floor for structures within Special Flood Hazard Areas designated as Zone A1-A30, AE, A, A99 or AO .
57. **Regulatory Flood Protection Elevation.** The elevation to which all structures and other development located within the Special Flood Hazard Areas must be elevated or floodproofed, if non-residential. Within areas where Base Flood Elevations (BFEs) have been determined, this elevation

shall be the BFE plus two feet of freeboard. In areas where no BFE has been established, all structures and other development must be elevated or floodproofed, if non-residential, to two feet above the highest adjacent grade.

58. **Remedy a Violation.** To bring the structure or other development into compliance with State or local floodplain management regulations, or, if this is not possible, to reduce the impact 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 this Ordinance or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development.
59. **Repetitive Loss.** Flood-related damages sustained by a structure on two separate occasions during any 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.
60. **Retrofitting.** Measures, such as floodproofing, elevation, construction of small levees, and other modifications, taken on an existing building or its yard to protect it from flood damage.
61. **Riverine.** Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.
62. **Salvage Yard.** Property used for the storage, collection, and/or recycling of any type of equipment whatsoever, whether industrial or noncommercial, and including but not limited to vehicles, appliances and related machinery.
63. **Special Flood Hazard Area (SFHA).** The land in the floodplain subject to a one (1%) percent or greater chance of being flooded in any given year as determined in subsection D 2. This area shall comprise the Flood Hazard Overlay District established in Section 4.04 B.
64. **Solid Waste Disposal Facility.** Any facility involved in the disposal of solid waste, as defined in NCGS 130A-290(a)(35).
65. **Solid Waste Disposal Site.** Defined as in NCGS 130A-290(a)(36), any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.
66. **Start of Construction.** Includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the state 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.

67. **Structure.** A walled and roofed building, a manufactured home, a gas or liquid storage tank that is principally above ground.
68. **Substantial Damage.** Damage of any origin sustained by a structure during any one year period whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. See definition of 'substantial improvement'. *Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.*
69. **Substantial Improvement.** Any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one year period whereby the cost of which equals or exceeds 50 percent of the market value of the structure before the 'start of construction' of the improvement. This term includes structures 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.
70. **Variance.** A grant of relief to a person from the requirements of this Ordinance which permits construction in a manner otherwise prohibited by this Ordinance where specific enforcement would result in unnecessary hardship.
71. **Violation.** The failure of a structure or other development to be fully compliant with the County's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this Section is presumed to be in violation until such time as that documentation is provided.
72. **Watercourse.** A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.
73. **Water Surface Elevation (WSE).** The height, in relation to mean sea level,

of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

D. General Provisions

1. Applicability. The provisions of this Section shall apply to all Special Flood Hazard Areas within the planning and zoning jurisdiction of Chowan County.
2. Basis for Establishing the Special Flood Hazard Areas. The Special Flood Hazard Areas are those identified by the Federal Emergency Management Agency (FEMA) or produced under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its Flood Hazard Boundary Map (FHBM) or Flood Insurance Study (FIS) and its accompanying flood maps such as the Flood Insurance Rate Map(s) (FIRM) and/or the Flood Boundary Floodway Map(s) (FBFM), for Chowan County dated October 16, 2008, which ~~with accompanying supporting data, and any revision thereto, including Letters of Map Amendment or Revision, are adopted by reference and declared to be a part of this Section. The Special Flood Hazard Areas also include those defined through standard engineering analysis for private developments or by governmental agencies, but which have not yet been incorporated in the FIRM. This includes, but is not limited to, detailed flood data:~~
 - ~~(a) — Generated as a requirement of subsection O 11. and 12.;~~
 - ~~(b) — Preliminary FIRMs where more stringent than the effective FIRM; or~~
 - ~~(c) — Post-disaster Flood Recovery Maps.~~

~~Special Flood Hazard Areas also include those identified by the Town of Edenton in its Flood Insurance Study (FIS), dated October 16, 2008, which with accompanying data are adopted by reference and declared to be part of this ordinance. (OPTIONAL — If adopting additional Special Flood Hazard Area, list the names and dates of all referenced engineering studies and maps.)~~

~~[Strikethrough text in Subsection D.2. determined to be unconstitutional per Opinion Letter of the Office of Attorney General, NC Department of Justice, dated September 14, 2005.]~~

E. 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 subsection D (2) of this ordinance.

F. 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.

G. 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.

H. 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 governing body; and
- (c) deemed neither to limit nor repeal any other powers granted under State statutes.

I. Warning and Disclaimer of Liability.

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

J. Penalties for Violation

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

K. Administration

Designation of Floodplain Administrator;

The Building Inspector, hereinafter referred to as the "Floodplain Administrator", is hereby appointed to administer and implement the provisions of this ordinance.

L. Plans and 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 which must be presented to the Floodplain Administrator:

1. Plot plans and sites plans shall include, but shall not be limited to, the

following details of the proposed floodplain development:

- (a) The nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, the location of utility systems, proposed grading/pavement areas, fill materials, storage areas, drainage facilities, and other proposed development;
 - (b) The boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in subsection D 2. or a statement that the entire lot is within the Special Flood Hazard Area;
 - (c) Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in subsection D 2.;
 - (d) The boundary of the floodway(s) or non-encroachment area(s) as determined in subsection D 2.;
 - (e) The Base Flood Elevation (BFE) where provided as set forth in subsection D 2.; subsection O 11. and 12.; subsection T; subsection U; and subsection R 15.;
 - (f) The old and new location of any watercourse that will be altered or relocated as a result of proposed development;
 - (g) The boundary and effective date of COBRA zone or OPA, if applicable.
2. Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to:
 - (a) Elevation in relation to mean sea level of the proposed reference level (including basement) of all structures;
 - (b) Elevation in relation to mean sea level to which any non-residential structure will be flood-proofed;
 - (c) Elevation in relation to mean sea level to which any proposed utility systems will be elevated or floodproofed;
 3. If floodproofing, a Floodproofing Certificate (FEMA Form 81-65) 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.
 4. A Foundation Plan drawn to scale which shall include details of the proposed foundation system to ensure all provisions of this Section met. These details include but are not limited to:
 - (a) Proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on

columns/piers);

- (b) Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with Subsection S 4 C. (i) when solid foundation perimeter walls are used in Zones A, AO, AE, and A1-30.
- (c) In Coastal High Hazard Areas, the following must also be submitted prior to permit issuance. Specific requirements are detailed in subsection W and subsection L 4. (b).
 - (i) V-zone Certification form with accompanying plans and specifications verifying the engineered structure and breakaway wall designs as set forth in subsection L 4. (b);
 - (ii) Plans for lattice work or decorative screening, if applicable. Plans for any structures that will have lattice work or decorative screening must be submitted to the Zoning Administrator for approval prior to permit issuance;
 - (iii) Plans for non-structural fill, if applicable. Plans for placement of any non-structural fill must be submitted to the Zoning Administrator for approval prior to permit issuance. Requirements are detailed in subsection X 8.

- 5. Usage details of any enclosed areas below the lowest floor.
- 6. Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage;
- 7. Certification that all other Local, State and Federal permits required prior to permit issuance (i.e. Wetlands, Erosion and Sedimentation Control, CAMA, Riparian Buffers, Mining, etc.)
- 8. If permit is issued for placement of Recreational Vehicles and/or Temporary Structures, documentation to ensure subsection S 6. and 7. are met.
- 9. If a watercourse is proposed to be altered and/or relocated, a description of the extent of watercourse alteration or relocation; 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.

M. Permit Data Requirements

The following information shall be provided on the approved permit to ensure compliance with this Section:

- 1. A description of the development to be permitted under the floodplain development permit.

2. The Special Flood Hazard Area determination for the proposed development per available data specified in subsection D 2.
3. The regulatory flood protection elevation required for the reference level and all attendant utilities.
4. The regulatory flood protection elevation required for the protection of all public utilities.
5. All certification submittal requirements with timelines.
6. State that no fill material shall encroach into the floodway or non-encroachment area of any watercourse, if applicable.
7. If in an A, AO, AE or A1-30 zone, specify the minimum foundation opening requirements.
8. State limitations of below BFE enclosure uses (if applicable). (i.e., Parking, Building Access and Limited Storage only).
9. If in a VE or V1-30 zone, state that there shall be no alteration of sand dunes which would increase potential flood damage.
10. If in a VE or V1-30 zone, state that there shall be no fill used as structural support.

N. Certification Requirements

1. An Elevation Certificate (FEMA Form 81-31) or Floodproofing Certificate (FEMA Form 81-65) is required after the reference level is completed. Within seven (7) calendar days of establishment of the reference level elevation, or floodproofing, by whatever construction means, whichever is applicable, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, or floodproofed elevation, whichever is applicable in relation to mean sea level. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When floodproofing is utilized, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. 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 progressive work being permitted to proceed. Failure to submit the certification or failure to make said corrections required shall be cause to issue a stop-work order for the project.
2. A Final As-Built Elevation Certificate (FEMA Form 81-31) or Floodproofing Certificate (FEMA Form 81-65) 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 or floodproofed

elevation of the reference level and all attendant utilities. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When floodproofing is utilized, said 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 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 said corrections required shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.

3. Floodproofing Certificate

If non-residential floodproofing is used to meet the Regulatory Flood Protection Elevation requirements, a Floodproofing Certificate (FEMA Form 81-65), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to mean sea level. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. 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.

4. A V-Zone/Breakaway Wall Certification is required prior to issuance of a permit within coastal high hazard areas. It shall be the duty of the permit applicant to submit to the Floodplain Administrator said certification to ensure the design standards of this Section are met. A registered professional engineer or architect shall develop or review the structural design, plans, and specifications for construction and certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of this Section. This certification is not a substitute for an Elevation Certificate.

5. If a manufactured home is placed within an A, AO, AE, or A1-30 zone and the elevation of the chassis is above 36 inches in height, an engineered foundation certification is required per subsection S 3.

6. If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; 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

showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a permit.

7. Certification Exemptions. The following structures, if located within A, AO, AE or A1-30 zones, are exempt from the elevation/floodproofing certification requirements specified in items 1. and 2. above:
 - (a) Recreational Vehicles meeting requirements of subsection S 6. (a);
 - (b) Temporary Structures meeting requirements of subsection S 7. and
 - (c) Accessory Structures less than 150 square feet meeting requirements of subsection S 8.

O. Duties of the Floodplain Administrator

The duties of the Floodplain Administrator as they relate to the administration and enforcement of the provisions of Section 7.02 shall include, but not be limited to:

1. Review all applications and issue permits for all proposed development within flood prone areas to assure that the requirements of this Section have been satisfied.
2. Review all proposed development within Special Flood Hazard Areas to assure that all necessary Local, State and Federal permits have been received.
3. Notify adjacent communities and the North Carolina Department of Crime Control and Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
4. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
5. Prevent encroachments within floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of subsection W are met.
6. Obtain actual elevation (in relation to mean sea level) of the reference level (including basement) of all attendant utilities of all new or substantially improved structures, in accordance with subsection N.
7. Obtain the actual elevation (in relation to mean sea level) to which the new or substantially improved structures and all utilities have been floodproofed, in accordance with subsection N.
8. Obtain actual elevation (in relation to mean sea level) of all public utilities, in accordance with subsection N.
9. When floodproofing is utilized for a particular structure, obtain certifications

from a registered professional engineer or architect in accordance with subsection N. and subsection S 2.

10. Where interpretation is needed as to the exact location of boundaries of the Special Flood Hazard Areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this Section.
11. When Base Flood Elevation (BFE) data has not been provided in accordance with subsection D 2., obtain, review, and reasonably utilize any Base Flood Elevation (BFE) data, along with floodway data and/or non-encroachment area data available from a Federal, State, or other source, including data developed pursuant to subsection T 4., in order to administer the provisions of this Section.
12. When Base Flood Elevation (BFE) data is provided but no floodway nor non-encroachment area data has been provided in accordance with subsection D 2., obtain, review, and reasonably utilize any floodway data, and/or non-encroachment area data available from a Federal, State, or other source in order to administer the provisions of this Section.
13. When the exact location of boundaries of the Special Flood Hazard Areas conflict with the current, natural topography information at the site, the property owner may apply and be approved for a Letter of Map Amendment (LOMA) by FEMA. A copy of the Letter of Map Amendment issued from FEMA will be maintained by the Floodplain Administrator in the permit file.
14. Permanently maintain all records that pertain to the administration of this Section and make these records available for public inspection recognizing that such information may be subject to the Privacy Act of 1974, as amended.
15. Make on-site inspections of work in progress. As the work pursuant to a 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 this Section 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 Section, 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 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. Revocation of permits as required. The Floodplain Administrator may revoke and require the return of the permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit. Any permit mistakenly issued in violation of an applicable State or local law may also be revoked.
18. Make periodic inspections throughout all special flood hazard areas within the jurisdiction of Chowan County. The Floodplain Administrator and each member of the Department of Planning and Inspections shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of Chowan County at any reasonable hour for the purposes of inspection or other enforcement action.
19. Follow through with corrective procedures of subsection P.
20. Review, provide input, and make recommendations for variance requests.
21. Maintain a current map repository to include, but not limited to, the FIS Report, FIRM and other official flood maps and studies adopted in accordance with the provisions of Subsection D. 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).

P. Corrective Procedures

Violations of the provisions of this Section shall be subject to the enforcement procedures, remedies, and penalties delineated in Article XI, Enforcement and Judicial Review.

Q. Variance Procedures

Requests for variances from the provisions of Section 7.02 shall be reviewed by the Board of Adjustment in accordance with the procedures delineated in Article XIII, Appeals, Variance, and Interpretations.

1. The Board of Adjustment as established by Chowan 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 subsection C of this ordinance, provided provisions of subsection Q 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 subsection C 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 Base Flood Elevation (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 will result in increased premium rates for flood insurance up to \$25 per \$100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.
- 8. The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the State of North Carolina upon request.
- 9. Conditions for Variances:
 - (a) Variances shall not be issued when the variance will make the structure in violation of other Federal, State, or local laws, regulations, or ordinances.
 - (b) Variances shall not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge.
 - (c) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - (d) Variances shall only be issued prior to development permit approval.
 - (e) Variances shall only be issued upon:
 - (i) a showing of good and sufficient cause;
 - (ii) a determination that failure to grant the variance would

result in exceptional hardship; and

- (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

- 10. A variance may be issued for solid waste disposal facilities or sites, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in Special Flood Hazard Areas provided that all of the following conditions are met.
 - (a) The use serves a critical need in the community.
 - (b) No feasible location exists for the use outside the Special Flood Hazard Area.
 - (c) The reference level of any structure is elevated or floodproofed to at least the Regulatory Flood Protection Elevation.
 - (d) The use complies with all other applicable Federal, State and local laws.
 - (e) The County has notified the Secretary of the North Carolina Department of Crime Control and Public Safety of its intention to grant a variance at least thirty (30) calendar days prior to granting the variance.

R. General Standards for Flood Hazard Reduction

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

- 1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
- 2. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- 3. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damages.
- 4. Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. These include but are not limited to HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric meter panels/boxes, utility/cable boxes, appliances (i.e., washers, dryers, refrigerator, etc.), hot water heaters, electric outlets/switches.
- 5. All new and replacement water supply systems shall be designed to minimize

or eliminate infiltration of flood waters into the system.

6. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
7. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
8. Any alteration, repair, reconstruction, or improvements to a structure which is in compliance with the provisions of this Section, shall meet the requirements of 'new construction' as contained in this Section.
9. Non-conforming structures or other development may not be enlarged, replaced, or rebuilt unless such enlargement or reconstruction is accomplished in conformance with the provisions of this Section. Provided, however, nothing in this Section 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 that the bulk of the building or structure below the regulatory flood protection elevation in the floodway, non-encroachment area, or stream setback is not increased and provided that such repair, reconstruction, or replacement meets all of the other requirements of this Section.
10. New solid waste disposal facilities, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted in Special Flood Hazard Areas. A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated or floodproofed to at least the regulatory flood protection elevation and certified according to subsection N.
11. All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.
12. All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
13. All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.
14. All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
15. When a structure is partially located in a Special Flood Hazard Area, the entire structure shall meet the requirements for new construction and substantial improvements.

16. When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest Base Flood Elevation (BFE) shall apply.

S. Specific Standards for Flood Hazard Reduction

In all Special Flood Hazard Areas where Base Flood Elevation (BFE) data has been provided, as set forth in subsection D 2. or subsection O 11. and 12., the following provisions are required:

1. Residential Construction. New construction or 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.
2. Non-Residential Construction. New construction or 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. Structures located in A, AO, AE and A1-30 Zones may be floodproofed to the regulatory flood protection elevation in lieu of elevation provided that all areas of the structure below the required 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 standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in subsection N along with the operational plan and the inspection and maintenance plan.
3. Manufactured Homes.
 - (a) New or replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the regulatory flood protection elevation.
 - (b) Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement in accordance with the State of North Carolina Regulations for Manufactured/Mobile Homes, 2004 Edition, and any revision thereto adopted by the Commissioner of Insurance pursuant to NCGS §143-143.15 or a certified engineered foundation. Additionally, when the elevation would be met by an elevation of the chassis thirty-six (36) inches or less above the grade at the site, the chassis shall be supported by reinforced piers or other foundation elements of at least equivalent strength. When the elevation of the chassis is above thirty-six (36) inches in height, an engineering certification is required.
 - (c) All foundation enclosures or skirting shall be in accordance with

subsection S 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 Zoning 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) New construction or substantial improvements of elevated buildings that include fully enclosed areas that are below the regulatory flood protection elevation shall not be designed to be used for human habitation, but shall be designed to be used only for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises, be constructed entirely of flood resistant materials below the regulatory flood protection level and meet the following design criteria:
- (c) In A, AO, AE, and A1-30 zones,
 - (i) Measures for complying with this requirement shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. To meet this requirement, the foundation must either be certified by a professional engineer or architect or meet the following minimum design criteria:
 - (1) Provide a minimum of two openings on different sides of each enclosed area subject to flooding.
 - (2) The total net area of all openings must be at least one (1) square inch for each square foot of each enclosed area subject to flooding.
 - (3) If a building has more than one enclosed area, each area must have openings on exterior walls to allow floodwater to directly enter;
 - (4) The bottom of all required openings shall be no

higher than one (1) foot above the adjacent grade;
and,

(5) Openings may be equipped with screens, louvers, or other opening coverings or devices provided they permit the automatic flow of floodwaters in both directions.

(6) Foundation enclosures:

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.

(d) In Coastal High Hazard Areas (VE and V1-30 zones),

(i) Breakaway walls, lattice work or decorative screening shall be allowed below the regulatory flood protection elevation provided they are not part of the structural support of the building and are designed so as to breakaway, under abnormally high tides or wave action, without damage to the structural integrity of the building on which they are to be used and provided the following design specifications are met:

(1) Material shall consist of open wood lattice or mesh insect screening; or

(2) Breakaway walls meeting the following design specifications:

a. Design safe loading resistance of each wall shall be not less than 10 nor more than 20 pounds per square foot; or

b. If more than 20 pounds per square foot, a registered professional engineer or architect shall certify that the design wall collapse would result from a water load less than that which would occur during the base flood event, and the elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and non-structural). The water loading values used shall be those associated with the base flood. The wind loading values used shall be those

required by the North Carolina State Building Code.

5. Additions/Improvements.
 - (a) Additions and/or improvements to pre-FIRM structures whereas the addition and/or improvements in combination with any interior modifications to the existing structure
 - (i) are 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) are a substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
 - (b) Additions to post-FIRM structures with no modifications to the existing structure shall require only the addition to comply with the standards for new construction.
 - (c) Additions and/or improvements to post-FIRM structures whereas the addition and/or improvements in combination with any interior modifications to the existing structure
 - (i) are not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction.
 - (ii) are a substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
 - (d) Where a fire wall or independent perimeter load-bearing wall is provided between the addition and the existing building, the addition(s) shall be considered a separate building and only the addition must comply with the standards for new construction.
6. Recreational Vehicles. Recreation vehicles placed on sites within a Special Flood Hazard Area shall either:
 - (a) be on site for fewer than 180 consecutive days and be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and has no permanently attached additions); or
 - (b) meet all the requirements for new construction, including anchoring and elevation requirements of subsection L, subsection R and subsection S 3.

7. Temporary Structures. Prior to the issuance of a permit for a temporary structure, the following requirements must be met:
 - (a) Applicants must submit to the Floodplain Administrator a plan for the removal of such structure(s) in the event of a hurricane or flash flood warning notification. The plan must include the following information:
 - (i) 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;
 - (ii) the name, address, and phone number of the individual responsible for the removal of the temporary structure;
 - (iii) 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);
 - (iv) a copy of the contract or other suitable instrument with a trucking company to insure the availability of removal equipment when needed; and
 - (v) designation, accompanied by documentation, of a location outside the Special Flood Hazard Area to which the temporary structure will be moved.
 - (b) The above information shall be submitted in writing to the Zoning Administrator for review and written approval
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 work, 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 subsection R 1.
 - (f) All service facilities such as electrical and heating equipment shall be installed in accordance with subsection R 4. and
 - (g) Openings to relieve hydrostatic pressure during a flood shall be provided below regulatory flood protection elevation in conformance

with subsection S 4. (c).

- (h) An accessory structure with a footprint less than 150 square feet does not require an elevation or floodproofing certificate. Elevation or floodproofing certifications are required for all other accessory structures in accordance with subsection N.

T. Subdivisions, Manufactured Home Parks, and Major Developments

All subdivision, manufactured home park and major development proposals located within Special Flood Hazard Areas shall:

1. Be consistent with the need to minimize flood damage;
2. Have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
3. Have adequate drainage provided to reduce exposure to flood hazards; and,
4. Have Base Flood Elevation (BFE) data provided if development is greater than the lesser of five (5) acres or fifty (50) lots/manufactured home sites. Such Base Flood Elevation (BFE) data shall be adopted by reference per subsection D 2. to be utilized in implementing this Section.

U. Standards for Floodplains without Established Base Flood Elevations

Within the Special Flood Hazard Areas established in subsection D 2., where no Base Flood Elevation (BFE) data has been provided, the following provisions shall apply:

1. No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of twenty feet each side from top of bank or five times the width of the stream whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
2. The BFE used in determining the Regulatory Flood Protection Elevation shall be determined based on the following criteria:
 - (a) When Base Flood Elevation (BFE) data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this ordinance and shall be elevated or floodproofed in accordance with standards in subsections R and S.
 - (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 subsections R and W.

- (c) All subdivision, manufactured home park and other development proposals shall provide Base Flood Elevation (BFE) data if development is greater than five (5) acres or has more than fifty (50) lots/manufactured home sites. Such Base Flood Elevation (BFE) data shall be adopted by reference in accordance with subsection D and utilized in implementing this ordinance.
- (d) When Base Flood Elevation (BFE) data is not available from a Federal, State, or other source as outlined above, the reference level shall be elevated or floodproofed (nonresidential) to or above the Regulatory Flood Protection Elevation, as defined in subsection C. All other applicable provisions of subsection S shall also apply.

V. Standards for Riverine Floodplains with Base Flood Elevations but without Established Floodways or Non-encroachment Areas

Along rivers and streams where Base Flood Elevation (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 subsections R and S; 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.

W. Floodways and Non-encroachment Areas

Located within the Special Flood Hazard Areas established in subsection D 2. are areas designated as floodways or non-encroachment areas. 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 shall apply to all development within such areas:

- 1. No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood. Such certification and technical data shall be presented to the Floodplain Administrator prior to issuance of permit.

A Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained upon completion of the proposed encroachment.

2. If subsection W is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this Section.
3. No manufactured homes shall be permitted, except replacement manufactured homes in an existing manufactured home park or subdivision provided the following provisions are met:
 - (a) The anchoring and the elevation standards of subsection S 3; and
 - (b) The no encroachment standards of subsection W 1. are met.

X. Coastal High Hazard Areas (VE and V1-30 Zones)

Coastal High Hazard Areas are Special Flood Hazard Areas established in subsection D 2. and designated as Zones VE or V1-30. These areas have special flood hazards associated with high velocity waters from surges and, therefore, in addition to meeting all provisions in this Section, the following provisions shall apply to all new construction, substantial improvements and all other development:

1. All development shall
 - (a) Be located landward of the reach of mean high tide;
 - (b) Be located landward of the first line of stable natural vegetation, and
 - (c) Comply with all applicable CAMA setback requirements.
2. All development shall be elevated so that the bottom of the lowest supporting horizontal member (excluding pilings or columns) is located no lower than the regulatory flood protection elevation. Floodproofing may not be utilized on any structures in Coastal High Hazard Areas to satisfy the regulatory flood protection elevation requirements.
3. All space below the regulatory flood protection elevation shall be open so as not to impede the flow of water.
4. Open wood lattice work or mesh insect screening may be permitted below the regulatory flood protection elevation for aesthetic purposes only and must be designed to wash away in the event of abnormal wave action and in accordance with subsection S 4. (d). Design plans shall be submitted in accordance with subsection L 4. (c).
5. All development shall be securely anchored on pilings or columns.
6. All pilings and columns and the attached structures shall be anchored to resist flotation, collapse, and lateral movement due to the effect of wind and water loads acting simultaneously on all building components.

7. A registered professional engineer or architect shall certify that the design, specifications and plans for construction are in compliance with the provisions contained in subsection L and subsection X 4., 6., and 8.
8. There shall be no fill used as structural support. Non-compacted fill may be used around the perimeter of a building for landscaping/ aesthetic purposes provided the fill will wash out from storm surge, thereby rendering the building free of obstruction prior to generating excessive loading forces, ramping effects, or wave deflection. Design plans shall be submitted in accordance with subsection L 4. (c). The Floodplain Administrator may approve design plans for landscaping/aesthetic fill only after the applicant has provided an analysis by an engineer, architect, and/or soil scientist which demonstrates that the following factors have been fully considered:
 - (a) Particle composition of fill material does not have a tendency for excessive natural compaction;
 - (b) Volume and distribution of fill will not cause wave deflection to adjacent properties; and,
 - (c) Slope of fill will not cause wave run-up or ramping.
9. There shall be no alteration of sand dunes which would increase potential flood damage.
10. No manufactured homes shall be permitted except in an existing manufactured home park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring and elevation standards are in compliance with this section of code.
11. Recreational vehicles shall be permitted in Coastal High Hazard Areas provided that they meet the Recreational Vehicle criteria of subsection S 6. (a) and the Temporary Structure provisions of subsection S 7.

Y. Legal Status Provisions

1. **Effect on Rights and Liabilities under the Former Flood Damage Prevention Ordinance**
 This Section in part comes forward by re-enactment of some of the provisions of the Flood Damage Prevention Ordinance enacted September 14, 1987 as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this Section shall not affect any action, suit or proceeding instituted or pending. All provisions of the Flood Damage Prevention Ordinance of Chowan County enacted on September 14, 1987, as amended, which are not reenacted herein are repealed.

The date of the initial flood damage prevention ordinance for each

municipal jurisdiction within Chowan County is as follows:

Town of Edenton; July 3, 1985.

Z. Effect upon Outstanding Building 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 permit has been granted by the Floodplain Administrator or his authorized agents before the time of passage of this Section; provided, however, that when construction is not begun under such outstanding permit within a period of six (6) months subsequent to passage of this Section or any revision thereto, construction or use shall be in conformity with the provisions of this Section.

7.03 Highway Corridor Overlay Requirements

The Highway Corridor Overlay (HCO) District, as described in Section 4.04 C., is established to provide specific appearance and operational standards for specifically designated highway corridors while accommodating development along the corridors. All nonresidential uses in the Highway Corridor Overlay District (HCO) shall require site plan approval from the Zoning Administrator. All other requirements of the underlying zoning districts shall also apply, with the more stringent regulations prevailing when standards conflict.

A. Procedures

1. The applicant shall submit a site plan of the parcel and the proposed nonresidential use to the Zoning Administrator. The Planning Director shall review the site plan in accordance with the provisions of this Section. Approval of the site plan and the proposed uses by the Planning Director authorizes the issuance of a zoning permit. For those uses that require a special use permit or a conditional use permit, the site plan shall be approved by the Planning Board or Board of Commissioners, respectively.
2. Permits are issued at each phase of development and only in accordance with the approved site plan.
3. If a site plan was approved and a use permit was issued for the development of a lot or lots, no subsequent change or expansion which was not shown on the site plan shall be allowed unless also approved by the Planning Director.

B. General Standards

1. A site development plan shall provide for the following:
 - (a) Convenient vehicular servicing of the buildings in the parking areas, and no undue interference with through traffic in gaining ingress to and egress from the proposed site;

- (b) A vegetative buffer not less than 20 feet wide where nonresidential development abuts a residential zoning district or residentially-used lots;
 - (c) A building group that is architecturally unified. Accessory buildings shall conform in appearance to the exterior design standards of the principal structure;
 - (d) Vehicular loading spaces in conformance with the requirements of Article X;
 - (e) Convenient and safely located pedestrian crosswalks;
 - (f) Signs in accordance with the requirements of Article IX; and
 - (g) A maximum building height of 50 feet.
2. A traffic analysis indicating the estimated effect of the proposed development on adjacent existing road traffic, including volume flows to and from the development prepared by a registered professional engineer.
 3. A preliminary plan or engineering feasibility report providing for the site grading, landscaping, storm drainage, sanitary sewerage, and water supply prepared by a licensed professional engineer.
 4. A brief listing of intended deed restrictions.

C. Usage of Required Setbacks

1. Sediment impoundments, boundary fences, gates and security stations may be located in any required yard.
2. Accessory buildings, other than as specified in subsection 1. shall not be located in any required road, side, or rear yard setback.
3. Parking and loading is permitted in any required yard, however, all parking and loading areas shall be a minimum of 20 feet from any lot line and 50 feet from any public road right-of-way. Loading areas shall be oriented such that they are not visible from any public road right-of-way.

D. Landscaping of Undeveloped Areas

1. Those portions of the road, rear, or side yards that are not devoted to the uses, buildings, parking lots, and structures that are permitted within this Section shall be landscaped in accordance with the following requirements:
 - (a) All site plan drawings shall include a landscaping plan which shows the area to be landscaped along with the types of trees, shrubs, or plants.
 - (b) When an area is required to be landscaped through vegetation, the requirements shall be met by the installation and maintenance of a combination of trees, shrubs, grasses and other ground cover. For

property lines adjacent to the rights-of-way of highways designated in Section 4.3.3 2. (a) as being within a highway corridor overlay district, a minimum 50-foot wide buffer is required along the entire adjoining property line.

- (c) No less than one tree shall be planted for each 2,000 square feet of landscaped area.
- (d) When planted, all canopy trees shall be at least 10 percent of their mature height and all understory trees shall be at least 20 percent of their mature height. A 'canopy tree' is a variety expected to reach a height in excess of 30 feet at maturity (e.g., oaks, pines, sycamores, etc. 'Understory tree' is a variety not expected to reach a height of 30 feet at maturity (e.g., dogwoods, crepe myrtles, certain types of maples, etc.)
- (e) All tree and plant material selections shall be native or adaptable to the Chowan County region and its climate.
- (f) When the required landscaping improvements have not been completed prior to the issuance of a building Certificate of Occupancy, the developer shall provide a guarantee in accordance with the requirements of [Section 3.15](#).

E. Outdoor Lighting

All outdoor lighting shall be shielded in such a manner that no direct glare from the light source can be seen from a major highway or from above.

F. Landscaping at Driveway and Road Intersections

To ensure that landscape materials do not constitute a driving hazard, a horizontal and vertical sight distance easement, as defined in [Article 15.0, Definitions and Interpretations](#), will be observed at all intersections of driveways with roads. Sight distance easements shall meet the requirements of this Ordinance or that of the North Carolina Department of Transportation, whichever is more stringent.

G. Lot Coverage

The maximum lot coverage by total impervious surfaces such as rooftops, paving, walkways, etc. shall be 70 percent of the lot area except when stormwater is retained or detained on the site. Any additional runoff resulting from lot coverage in excess of 70 percent must be compensated for by such on-site detention or retention measures.

H. Roads and Access

1. Each building lot shall be limited to two points of ingress to and two points of egress from the adjacent access or major highway. Points of ingress and egress may be combined into one two-way driveway with appropriate separation of lanes. Additional points of ingress to and egress from an access

road or highway shall not be allowed unless necessary to improve traffic movement or safety, increase sight distances, or similar reasons.

2. Ingress to and egress from a corner lot or lots may be limited to the feeder road and shall be prohibited within 175 feet of the intersection with the interchange along the highway for residential uses and 225 feet for industrial and commercial uses.
3. All points of ingress and egress to access roads or major highways shall be designed according to the applicable standards of the North Carolina Department of Transportation.
4. If the owners of two or more lots jointly provide a direct point of both ingress and egress to serve their lots, adequate provisions shall be made by dedication, covenants, restrictions, or other legal instruments for ensuring that such point of ingress and egress on such roads are provided and maintained consistent with the regulations and intent of this Section.
5. Driveway widths and design shall conform to the applicable standards of the North Carolina Department of Transportation.
6. All roads, including frontage roads, rear access roads, and culs-de-sac shall be approved by the North Carolina Department of Transportation and dedicated to the public.

I. Spacing Standards

The spacing standards of this Section are intended to improve the compatibility of roadside uses with adjacent highways by ensuring the separation and proper location of ingress and egress.

1. The spacing requirements for lots with direct points of ingress and egress to highways shall be a minimum of 150 feet.
2. The spacing requirements of this Section shall be measured from the centerline of the nearest points of ingress and egress. The spacing of direct points of ingress and egress for different lots shall be spaced as evenly as possible.
3. Where topography, line of sight distances of motorists, vegetation, geological formations, or other site characteristics are such that strict adherence to spacing dimensions would impose unnecessary hardship upon the permit applicant or undue hazard to the motoring public, the Zoning Administrator may authorize a decrease in the spacing dimensions of up to 20 percent, provided that a record of why such decrease is necessary is made a part of the permit.

J. Prohibited Uses

Outdoor advertising signs (billboards) are prohibited within HCO districts.

7.04 Regulations for Locating and Relocating Manufactured Homes

A. General Requirements

1. Any person locating or relocating a manufactured home in Chowan County must secure a building permit. The Building Inspector shall issue a building permit upon receipt of a building permit fee, as set by the Board of County Commissioners, together with an application which shall contain: (i) the name and mailing address of the owner(s) of the manufactured home, (ii) a description of the manufactured home, including the name of the manufacturer and year of construction, and (iii) the proposed location of the manufactured home. Dealers of manufactured homes who place manufactured homes upon their sales lots (when such manufactured homes are not to be occupied for residential use) are exempt from the requirements of this Section. The Building Inspector shall inspect each manufactured home to determine compliance with the following:
 - (a) All manufactured homes shall be anchored in a manner approved by the *State of North Carolina Regulations for Manufactured Homes*, as from time-to-time amended, published by the North Carolina Department of Insurance. The anchoring requirement herein shall be completed within thirty days after the issuance of a building permit.
 - (b) All manufactured homes shall be skirted, in accordance with [subsection B \(1\)\(e\) or B \(2\)\(e\)](#) as applicable, with a noncombustible, corrosive resistant material extending from the bottom of the unit to the ground. Such skirting shall contain an access door or removal panel measuring not less than eighteen inches by twenty-four inches.
 - (c) All manufactured homes shall be installed according to the manufactured home manufacturers' printed instructions designed by a licensed architect or engineer. They shall specify the location and required stabilizing devices (tie-downs, piers, blockings, etc.) on which the design of the fastening devices attached to the homes are based. If such instructions do not exist, standards included in the *State of North Carolina Regulations for Manufactured Homes*, shall apply.
 - (d) Manufactured homes which are HUD-approved (manufactured after 1976) and constructed after March 4, 1987, and which are located in Chowan County for the purpose of permanent set-up, and which meet the appearance criteria of [subsection B](#) shall be viewed as a permitted use. In addition, to qualify for relocation, the manufactured home must be listed in the Chowan County Tax Assessor's Office and all county ad valorem taxes must be current on the home.
 - (e) Manufactured homes constructed between January 1, 1977 and March 4, 1987 cannot be moved into or within Chowan County; unless the manufactured home is to be used as a residence, and has passed an inspection performed by a HUD inspector or other applicable inspection according to the *State of North Carolina Regulations for Manufactured Homes*, and meets the appearance criteria of [subsection B](#).

- (f) Manufactured homes constructed prior to January 1, 1977 shall not be permitted (brought into or moved within) in Chowan County for any purpose.
- 2. Manufactured homes shall be used for the purpose of residence only. In no case shall a manufactured home be used for storage or any other means other than a principal or approved accessory residential dwelling unit.
- 3. After a building permit has been secured and the certificate of completion has been issued by the District Health Department, the manufactured home shall be properly connected to electrical utilities and approved by the Electrical Inspector.
- 4. It shall be unlawful for an individual, partnership, firm or corporation to allow any electric current for use in any manufactured home to be turned on or to continue to furnish electricity for use in such manufactured home without having first ascertaining that a label of compliance is permanently attached to said mobile manufactured or a certificate of compliance has been issued.

B. Appearance Criteria

- 1. All double-wide and multi-sectioned manufactured homes shall meet the following appearance criteria:
 - (a) **Length-width ratio.** The main portion of the building shall have a length not exceeding four times the building width.
 - (b) **Roof construction and pitch.** The pitch of the main roof of the building shall have a minimum rise of 2 feet for each 12 feet of horizontal run. The roof shall be finished with a type of shingle that is commonly used in standard residential construction.
 - (c) **Exterior Finish.** The exterior siding shall consist predominately of vinyl or aluminum lap siding (whose reflectivity does not exceed that of flat white paint, wood or hardboard, comparable in composition, appearance and durability to exterior siding commonly used in standard residential construction).
 - (d) **Placement of homes.** All homes shall be placed on the lot in harmony with the existing site-built structures. Where no neighboring structures are available for comparison, it shall be sited with the front running parallel to the road providing access to the site. On corner lots the side with the greatest road frontage shall be considered the front. On cul-de-sacs the home shall be sited with the front of the home being parallel to the road access.
 - (e) **Under skirting and permanent step.** All double wide and multi-sectioned manufactured homes shall be permanently placed on a brick, concrete block or other masonry foundation. The foundation shall be continuous and unpierced except for access and ventilation

as required by the *State of North Carolina Regulations for Manufactured Homes*.

All double wide and multi-sectioned manufactured homes, which are placed on rental lots shall have the entire perimeter of each home enclosed from the ground to the bottom of the structure with material manufactured for this purpose in accordance with the standards set by the *State of North Carolina Regulations for Manufactured Homes*. Examples of commonly recognized building materials suitable for use as underpinning shall include, but not limited to, the following: brick, masonry, natural or synthetic stone masonry, or vinyl. Assemblies, products and materials manufactured expressly for the purpose of underpinning shall be installed in accordance with the manufactured specifications.

All double wide and multi-sectioned manufactured homes shall have either a deck or porch with steps. This structure shall be located in front of the home. The minimum square footage shall measure at least 36 square feet. If the homeowner chooses to construct the deck or porch larger than 36 sq. feet, it must meet Volume VII of the NC Residential Building Code. The foundation shall be constructed of materials compatible with the masonry underpinning on the outer perimeter of the foundation. All steps, decks, porches, entrances shall be installed and constructed in accordance with the standards set by the *State of North Carolina Regulations for Manufactured Homes* or when applicable, Volume VII of the NC Residential Building Code.

- (f) **Chassis and tongue removal.** The towing tongue shall be removed upon final placement of the unit, under skirted, or screened with shrubbery. Such shrubbery shall be at a height to ensure a total visual barrier of the towing apparatus and maintained so as to continue their effectiveness.
2. All single-wide manufactured homes shall meet the following appearance criteria:
- (a) **Exterior Finish.** The exterior siding shall consist predominately of vinyl or aluminum siding (whose reflectivity does not exceed that of flat white paint), wood or hardboard, compatible in composition, appearance, and durability to the exterior siding commonly used in standard construction.
 - (b) **Roof construction and pitch.** The pitch of the roof must have a minimum vertical rise of three inches for each twelve inches of horizontal run and the roof shall be of materials that are commonly used in standard residential and/or manufactured home construction.
 - (c) **Placement of homes.** All homes shall be placed on the lot in harmony with the existing site-built structures. Where no neighboring structures are available for comparison, it shall be sited with the front running parallel to the street providing access to the site. On corner

lots the side with the greatest road frontage shall be considered the front. On cul-de-sac roads, the home shall be sited with the front of the home being parallel to the street access.

- (d) **Chassis and tongue removal.** The towing tongue shall be removed upon final placement of the unit, under skirted or screened with shrubbery. Such shrubbery shall be at a height to ensure a total visual barrier of the towing apparatus and maintained so as to continue their effectiveness.
- (e) **Under skirting, decks and permanent steps.**
 - (i) All single-wide manufactured homes shall have the entire perimeter of each home enclosed from the ground to the bottom of the structure with material manufactured for this purpose in accordance with the standards set by the *State of North Carolina Regulations for Manufactured Homes*. Examples of commonly recognized building materials suitable for use as underpinning shall include, but not limited to, the following: brick, masonry, natural or synthetic stone masonry, or vinyl. Assemblies, products and materials manufactured expressly for the purpose of underpinning shall be installed in accordance with the manufactured specifications.
 - (ii) The skirting shall be vented and shall allow for access to the crawl space in accordance with the *State of North Carolina Regulations for Manufactured Homes*.
 - (iii) All singlewide manufactured homes shall have either a deck or porch with steps. This structure shall be located in front of the home. The minimum square footage shall measure at least 36 square feet. If the homeowner chooses to construct the deck or porch larger than 36 sq. feet, it must meet Volume VII of the NC Residential Building Code. The foundation shall be constructed of materials compatible with the masonry underpinning on the outer perimeter of the foundation. All steps decks, porches, entrances shall be installed and constructed in accordance with the standards set by the *State of North Carolina Regulations for Manufactured Homes* or when applicable, Volume VII of the NC Residential Building Code.

C. Manufactured Home Parks

Additional specific standards for manufactured home parks are provided in [Section 8.53](#).

7.05 Regulations for Wireless Communications Towers and Facilities

In compliance with the Federal Communications Act of 1996 and all other relevant state and federal law, rules and regulations, it is the intent Chowan County to allow telecommunication providers the opportunity to locate wireless telecommunications antenna and related

facilities within its jurisdiction in order to provide an adequate level of service to its customers while protecting the health, safety, and welfare of its citizens, and the aesthetics of the community.

Wireless communications towers under 50 feet in height are allowed by right in B-1, B-2, B-3, I-1 and I-2 zoning districts and in R-5, R-15, R-25, RMH-25, R-40, and A-1 zoning districts provided that the development standards delineated in [Section 8.104](#) are met.

Wireless communications towers over 50 feet in height are allowed as a special use in A-1, B-1, B-2, I-1, and I-2 zoning districts. Such towers and facilities shall comply with the requirements of this Section.

A. Definitions

Alternative Antenna Support Structures (AASS). Structures which are functionally and legally capable of supporting wireless communication antennae, including, but not limited to buildings, water towers, and utility poles as an ancillary use of the primary structure.

American Mobile Telecommunications Association (AMTA). A Washington, D.C. based industry trade group which serves to support its specialized mobile radio (SMR) operator members through lobbying and networking efforts.

American National Standards Institute (ANSI). A private sector federation for voluntary standardization of measurements.

Camouflaged Tower. A tower which is designed to blend into the surrounding environment, such as a tower designed to resemble a tree or, if erected on an existing structure, an integral part of the building.

Co-location. The siting of two (2) or more wireless telecommunication antennae on the same wireless telecommunication support structure.

Cellular Telecommunications Industry Association (CTIA). A family of representative companies that support the cellular, PCS, and enhanced SMR carriers industry through lobbying, research and policy efforts.

Environmental Assessment (EA). An assessment of a project's environmental impact as defined in the National Environmental Policy Act of 1969.

Federal Aviation Administration (FAA). The Federal Agency responsible for regulating aviation in the United States.

Fall radius. A physical radius prescribed by the total effective height of any tower, including an area which theoretically could be penetrated by the collapse of that tower.

Federal Communications Commission (FCC). The Federal Agency responsible for regulating telecommunications in the United States.

High Definition Television (HDTV). Digital television signals transmitted in the very

high frequency band by national and local television stations.

Lattice-type structure. A self-supporting, three- or four-sided open steel frame structure used to support telecommunications equipment.

Local and State Government Advisory Committee (LSGAC). An FCC-established group which works with both carriers and communities on antenna siting solutions.

Monopole Towers. A slender, open telescoping, self-supporting tower used to support telecommunications equipment.

NEPA. The National Environmental Policy Act of 1969.

Personal Communications Industry Association (PCIA). A trade group which represents PCS, SMR, private radio and other wireless users and carriers.

Telecommunications Act of 1996. A broad-scoped federal act which regulates the placement of wireless communications antennae and their facilities, and which provides certain mandates on local authorities while preserving considerable local zoning authority.

TOW AIR. Landing facility slope calculations designed to avoid obstruction by towers to aircraft.

Wireless Telecommunications Support Structure (WTSS). All freestanding monopole, self-supported, guyed, or similar structures whose primary design is to provide for support and placement of wireless telecommunications antennae.

Wireless Telecommunications Attachments (WTA). Devices mounted onto a support structure, principally intended to radiate or receive a source of non-ionizing electromagnetic radiation (NIER), and accessory equipment related to broadcast services, including but not limited to private radio services, cellular or digital telephone services, pagers, beepers, wireless data repeaters and common carriers (as regulated by the FCC), including AM, FM, two-way radio, fixed point microwave dishes, commercial satellite, HDTV, cellular and PCS communication systems. The term WTA does not include electrical or telephone transmission lines or supporting distribution structures, antennae of amateur radio (ham) operators, and amateur club services licensed by the FCC.

B. Applicant's Responsibilities and Conformance

1. It shall be the responsibility of all applicants and operators of the telecommunications equipment described herein to make all possible efforts to maintain consistency with the characteristics of Chowan County.
2. No WTA or WTSS shall be constructed or modified from and after the effective date of this Ordinance except in conformance to the provisions stated herein.

C. Certification of Need

Any applicant(s) requesting a new WTA or WTSS or any modification to an existing WTA or WTSS shall be required to provide substantial evidence of need for such structures both in terms of coverage and capacity.

D. Co-location

WTA placement on an existing structure (either AASS or WTSS) is required unless the applicant(s) can clearly demonstrate with substantial, clear and convincing evidence that all co-location opportunities have been exhausted. The County will attempt to maintain by its own efforts or through its agents an up-to-date inventory of buildings and structures suitable for WTA installations. Maps are available showing these locations, as well as relative flood zones and flight approach vectors to neighboring airfields.

E. New Construction Provision for Co-location(s)

All new WTSS shall be constructed to permit a minimum of three (3) new WTA. The owner(s) of the new WTSS shall submit a notarized letter to the County declaring that these additional sites shall be available to new tenants and shall be negotiated in good faith at reasonable terms to other providers, and that if good faith negotiations fail, both parties may be subject to commercial arbitration. They shall further state that as a condition of sale or transfer of the proposed structure to any new owner(s), operator(s), or agent(s) that a statement of intent to provide for shared use of tower shall be required of any new owner(s), operator(s), or agent(s) and shall be delivered to the County prior to closing.

F. Federal Certification

Any new WTA or WTSS, or any modification to an existing structure, which would effect an increase in height shall require certification in writing by the FAA that such addition or modification constitutes 'No Hazard' to air navigation both by its physical structure and by its potential for radio frequency interference with aviation communication signals. The proposed structure shall also satisfy all TOW AIR requirements. If operator(s) of the proposed structure can reasonably show that the FAA cannot produce such certification, then certification of 'No Hazard' to air navigation from a certified private agency shall suffice.

G. Certification of Compliance with FCC's Implementation of NEPA of 1969

The applicant(s) for any new WTA or WTSS or modification to any existing WTA or WTSS are required to file with the FCC if the structure location is within any definition provided in Section 1.1307 of the NEPA. If the structure is located in any area defined by this Act, full compliance with the Act's requirements for environmental assessments shall be required.

H. Radio Frequency

Radio frequency exposure levels shall not exceed the lesser of FCC and ANSI exposure standards at any potential point of exposure to the general public. The owner(s) and operator(s) of all WTA shall make all reasonable attempts by design,

fencing, signage, and the like to limit the public's exposure. An engineer prepared and sealed document attesting to the fact that the calculated and proposed radio frequency levels shall remain at the lesser of the FCC and ANSI standards is required. This letter shall be required following completion of the structure's construction, and before a certificate of occupancy is issued.

I. Structural Integrity

An engineer's prepared and sealed complete site plan document which denotes compliance with all technical specifications provided in federal and state regulations and this Ordinance, and a certification that the proposed structure and all proposed and potential occupant structures are stable and capable of withstanding a fifty-year hurricane is required.

J. Insurance Requirements

New WTSS shall require a minimum of two million dollars (\$2,000,000.00) general liability insurance with a letter from the insurer attesting to this fact shall be required prior to receipt of a certificate of occupancy. This same letter shall acknowledge that the insurer shall notify the County thirty days prior to cancellation of this insurance.

K. Statement of Financial Responsibility

The owner(s) and their representative(s) shall be required to provide proof of financial responsibility for all wireless telecommunication structures constructed or maintained within the County. This statement shall be completed upon initial application, and renewed each year. If full financial responsibility cannot clearly be demonstrated to the full satisfaction of the County, a surety bond for one hundred ten (110) percent of the total cost of all structure(s) removal and associated cleanup may be required by the County. The owner(s) and their representative(s) shall be fully responsible for all maintenance, and continued assurance that the structure(s) continually remain in compliance with this Ordinance.

L. New Construction or Modification of Wireless Telecommunication Support Structures (WTSS)

1. New Construction

- (a) Monopole type structures not exceeding 199 feet may be permitted provided they are painted a neutral gray or brown. Lattice and guy tower structures are not permitted.
- (b) Monopole wireless communication towers may be sited no closer than 1,000 feet to any primary highway or secondary road.
- (c) A new monopole tower may not be located closer than three (3) miles to another wireless communications tower.
- (d) Notwithstanding subsections (a), (b), and (c) above, lattice and guy tower structures no taller than 500 feet may be permitted no closer than 4 miles to the right-of-way of any US Highway if the WTSS is

owned by a local, state, or federal government agency and operated primarily for public safety purposes. Privately owned WTAs may be co-located on the structure as long as the WTSS's primary purpose is to serve public safety purposes.

- (e) After demonstration of exhaustion of all co-location opportunities as described in subsection (d) and after showing through substantial, clear, and convincing evidence that in order to provide continuous and non-interruptive cellular or digital telephone, pager, or beeper service in all areas of Chowan County, an owner may locate a lattice and guy tower structure not exceeding 500 feet.

2. Demonstration of Need

- (a) Applicants shall provide substantial evidence as to the current need for the proposed WTSS both in terms of coverage area and capacity, and must demonstrate why all available WTSS and AASS co-location opportunities cannot provide adequate coverage and capacity.
- (b) New WTSS shall be permitted only after clear demonstration that all potential opportunities for co-location have been exhausted, and that no suitable existing support structures exist within the coverage area which may be used, including all WTSS and AASS. The applicant(s) shall identify and assess all potential opportunities for co-location within a 3-mile radius around the proposed point of construction for the new WTSS.
- (c) An engineer's prepared and sealed letter shall be required, attesting to the fact that it is technically impossible to co-locate on any existing WTSS and all other AASS within the search area, with a map showing all potential sites, and stating why each is technically unfeasible.
- (d) A detailed feasibility study from the applicant(s) demonstrating all technically feasible sites, noting for each site that the applicant(s) attempted, in good faith, to negotiate terms of co-location with the owner(s) of the potential site, and negotiation has failed. The feasibility shall also demonstrate that the applicant is unable to co-locate on existing WTSS and provide functioning service for Chowan County.

3. Minimum Lot Area

Parcels used for placement of new or modified WTSS shall be the greater of a minimum of ten thousand (10,000) square feet or a minimum size lot necessary to accommodate the minimum setback requirements defined below.

4. Minimum Setbacks

The proposed structure shall be located no closer than 1,000 feet from the nearest residential property line, a Primary Highway, or any other adjacent development. The proposed wireless communications tower shall be located not closer than three (3) miles to another wireless communications tower.

5. Support Structure Type

Except as provided in subsection 1. (d) and (e) above, only 'stealth' WTSS or monopole support structures shall be used. Structures involving the use of guy wires for either internal or external bracing and support, or lattice type structures, or any other type of support structure shall be prohibited.

6. Height

Except as provided in subsection 1. (d) and (e) above, the WTSS may not exceed the maximum height of one hundred and ninety-nine (199) feet.

7. Illumination

No WTSS or WTA shall be illuminated unless specifically directed by the FAA or other federal agency. If required, lighting must be to the minimum specified by a federal agency. Strobe lights shall be prohibited unless specifically required. When strobe lights are required by the specifying agency, they shall be dual strobes, with white strobes for daytime use, and red strobes for nighttime use. All lighting shall be directed toward the structure, and upward and outward from any public areas. A copy of the FAA lighting requirements letter shall be submitted with the application.

8. Color

Unless otherwise specified by a federal agency, all WTSS shall be painted a flat gray color.

M. Applicant Requirements: New Construction or Modification of Wireless Telecommunication Support Structures (WTSS)

1. Limitation

Every special use permit for freestanding WTSS shall be limited to the applicant(s). Any assignment or transfer of the special use permit or any of the rights there under may be made only upon the approval of Chowan County.

2. Complete Application

The requirements for a complete application for a WTSS are provided below:

- (a) Application Fee
- (b) Complete application for WTSS.
- (c) Copy of FCC license.
- (d) Copy of all applications filed with federal and state agencies.
- (e) FAA letter ascertaining 'No Hazard' to air navigation.
- (f) Statement of financial responsibility or surety bond.
- (g) Engineer's letter describing lack of technically feasible co-location opportunities within a three thousand-foot radius of the proposed site location.

- (h) Owner(s) detailed feasibility satisfactory to the Zoning Administrator describing inability to negotiate in good faith co-location on all possible sites which are technically feasible.
- (i) Owner(s) detailed feasibility satisfactory to the Zoning Administrator describing and the availability and opportunity for co-location sites on the proposed structure.
- (j) Engineer's site plan for the proposed WTSS depicting the location parcel, its size, zoning, adjacent zoning, and fall radius.
- (k) FAA or other federal agency letter describing minimal lighting and color requirements for the proposed WTSS.
- (l) Engineer's letter denoting structural integrity of the proposed WTSS and all potential tenants, and certification of its integrity in a fifty-year storm.
- (m) Engineer's letter attesting to the fact that exposures to the public of any radio frequency levels will at or below the lesser of the FCC and ANSI standards.
- (n) Letter from insurer that the owner(s) will have a minimum two million dollar (\$2,000,000.00) general liability policy, and that the insurer will notify the County thirty days prior to cancellation of this insurance.
- (o) Engineer's scaled site plan including elevations, visual analysis, rendering, or photo simulation of the proposed WTSS from varying distances as viewed by the public.
- (p) Engineer's site plan, including elevations, and showing total heights of the proposed WTA and its support structure, and the WTA proposed color(s) and illumination scheme.

N. Co-location on Existing Structures

1. Height Limitation

WTA located on an existing WTSS or AASS shall not exceed fifteen (15) feet above the structure's apex.

2. Color

The color of all WTAs shall match the color of the supporting WTSS or AASS.

3. Illumination

Illumination requirements for new WTA co-located on existing structures shall be subject to the same requirements for freestanding WTSS.

4. Lease Agreement

A copy of the lease agreement between the owner(s) of the WTA and the owner(s) of the support structure shall be submitted with the application. The financial terms of the agreement need not be disclosed, however, review by the Planning Board and/or County attorney shall be required for initial lease agreement and all future lease transfers.

5. Complete Application

The checklist of requirements for New Telecommunication Antenna (WTA) is listed below:

- (a) Application fee.
- (b) Complete application for WTA.
- (c) Copy of FCC license or other appropriate documentation satisfactory to the Zoning Administrator.
- (d) Copy of all applications filed with federal and state agencies.
- (e) FAA letter ascertaining 'No Hazard' to air navigation.
- (f) FAA or other federal agency letter describing minimal lighting and color requirements for the proposed WTA.
- (g) Engineer's letter denoting structural integrity of the proposed WTA and all potential tenants, and certification of its integrity in a fifty-year storm.
- (h) Engineer's letter attesting to the fact that exposures to the public of any radio frequency levels will at or below the lesser of the FCC and ANSI standards.
- (i) A copy of the lease agreement between the owner(s) of the WTA and the owner(s) of the structure on placement is proposed.
- (j) Engineer's depiction of the minimal size and other requirement for equipment housing structures.
- (k) Engineer's site plan, including elevations, and showing total heights of the proposed WTA and its support structure, and the WTA proposed color(s) and illumination scheme.

O. Equipment Housing Structures

1. Visibility

The base of the support structure to a minimum height of six (6) feet shall not be visible from any public right-of-way or area of public congregation, and must be hidden from view either by natural vegetation or by vegetative screening. All equipment necessary for the functional operation of the technology employed shall be located in either a lawfully pre-existing structure, or in an equipment housing structure. The colors and external characteristics of the equipment housing structures shall be harmonious with, and blend with, the natural features, buildings, and structures surrounding it.

2. Access Drives

Roads and drives used to gain access from public right-of-way to the equipment housing structures shall be designed to minimize, as much as possible, viewing of the equipment housing structures by the public.

3. Size

Equipment housing structures shall be the minimum size necessary to accommodate the closed storage of all ground-based equipment, and necessary materials for the primary occupant's technical needs, and for the technical needs of all potential tenants. Depiction of the minimum size necessary to accomplish these technical objectives shall be included in the engineer's site plan details.

4. Fencing and Screening

The accessory building and its fencing shall be fully surrounded (excepting a single point of access) by a planted vegetative screening, as described below, or by a minimum of ten (10) feet buffer of natural or planted vegetation. Whether natural or planted, the vegetative buffer shall have the effect of fully obscuring the structure and its fencing from public view. All planted buffers shall be at least eight (8) feet tall at planting, and shall be a combination of evergreen trees and shrubs. Continued maintenance and replacement of the vegetative buffer, as needed, shall be required for the permitted life of the structure. A security fence shall be installed along the full perimeter of the support structure and shall be no less than six (6) feet and no more than eight (8) feet high. The fencing shall incorporate designs for structure security and for making all possible efforts to minimize public exposure to radio frequency radiation. Any and all accessories and all materials relating to the use of the WTA or WTSS shall be installed within the building, unless technically impractical. All road or drive, gate, fence, and vegetative screening details shall be noted within the engineer's site plan.

5. Signage

No advertising signs are permitted on the support structure, the fence, building, or at any location on the site, with the exception of one sign which is attached to the gate, and one sign which is attached to the gate-face of the building for the purposes of safety and information. These two signs shall clearly identify the dangers, and shall provide the names of emergency contact persons and their phone numbers. The sign regulations in this section do not apply to signs required by local, state, or federal agencies.

6. Two-way and Microwave Antennae

Two-way and microwave antennae shall be located within accessory buildings whenever technically feasible.

7. Outdoor Storage

Storage of any equipment or materials on the accessory building site or support structure site is prohibited.

8. Noise Producing Equipment

Noise producing equipment shall be sited and/or insulated to minimize to the maximum practicable extent any increase in noise above ambient levels as measured at the property line.

9. Electrical and Phone Connections

Electrical connections and land phone lines to and from the accessory building shall be installed underground.

P. Application and Review Process

1. Fees

Fees for the review process for each WTSS or co-located WTA shall be one-hundred dollars (\$100.00) for the initial application, and fifty dollars (\$50.00) for each annual renewal. Irrevocable payment of all fees shall be due with each appropriate application or annual renewal. Except that, as needed, the County may require remuneration for fees charged by outside technical consultants to assist the County in their review of an application.

2. Review and Approval Process

All applications shall be reviewed in accordance with the special use permit review and approval procedures delineated in [Sections 3.12-3.14](#).

In determining whether a WTSS application should be approved or denied, the Planning Board shall take into account the structure's harmony with the surrounding area, its compatibility with adjacent properties, and the availability, or lack thereof of more suitable sites. The aesthetic effects of the WTSS, as well as any mitigating factors concerning aesthetics, may be used to evaluate the application. In reaching a decision, the Planning Board may request modification of the height, design, screening, placement, or other characteristics of the WTSS to produce a more harmonious situation.

3. Notice

Notice of approval or disapproval will be provided in writing to the applicant by the Planning Board following its decision. All discussion and review notes from the Planning Board shall be maintained in writing as part of the public record, and shall be available for review by all interested parties.

4. Building Permits

Following approval by the Planning Board, the Planning & Inspections Department shall issue a building permit. Construction of the WTA or WTSS shall commence within one (1) year from the date of issue of the building permit. Entire construction of the tower and all its supporting structures shall be completed within one (1) year and six (6) months of the issuance of the building permit, if the construction is not fully completed, the building permit shall be considered null and void. An application for a one-time extension of six (6) months may be made by petition to the Planning Board. If the construction has not commenced by the end of this extension period, then the permit shall be considered null and void and a new application shall be required to begin the review process again. The Planning & Inspections Department shall issue a certificate of occupancy following satisfactory completion of the structure and all other site improvements according to design and stated intent. Any unapproved changes to the structure shall prohibit issue of a certificate of occupancy, and shall require a new application and fees to reinstate the entire review process.

Q. Informal Dispute Resolution Process and Appeals

All parties shall attempt to adhere to the agreement adopting an informal dispute resolution process as described in the 1998 meeting between the LSGAC, the CTIA, the PCIA, and the AMTA. This process is designed to arrive at a mutual agreement while avoiding lengthy and costly court proceedings. Both parties retain their full legal rights should this remediation process fail. Decisions of the Planning Board regarding special use permit requests shall be subject to review by the Superior Court of Chowan County by proceedings in the nature of certiorari (see [Section 11.07, Judicial Review](#)).

R. Annual Review

1. Annual Review Required

The County on an annual basis shall review all WTA and WTSS. An application for annual renewal must be submitted to the County no later than ninety (90) days prior to the date of last renewal or the date of the original certificate of occupancy. Structures will be re-permitted for the next three hundred sixty-five (365) days following review by the inspections office, the Planning Board.

2. Application for Renewal

The checklist of requirements for renewal of Wireless Telecommunications Antennae and Wireless Telecommunication Support Structures is listed below:

- (a) Renewal application fee.
- (b) Complete renewal application form.
- (c) Letter of continued insurance coverage for minimal general liability.
- (d) Letter from the inspections department that the WTSS or WTA has remained in compliance with ordinance since the later of the last renewal or the certificate of occupancy.
- (e) Engineers letter stating that the WTSS or WTA had remained in compliance with all federal, state, and ordinance requirements for structural integrity, and for radio frequency exposure requirements.
- (f) Letter from the owner(s) that the WTSS or WTA has remained in compliance with all FCC, FAA, and NEPA requirements since the later of either the last renewal or the certificate of occupancy.
- (g) Letter from the owner(s) that they intend to maintain full financial responsibility for the WTSS or WTA for the entire renewal period.

S. Abandonment

Any WTA or WTSS that is not operated for a continuous period of one hundred eighty (180) consecutive days, or that is not maintained according to this Ordinance for one hundred eighty (180) cumulative during the calendar year, or any structure for whom the owner(s) or representative(s) fail to make annual renewal shall be considered abandoned. Removal of the abandoned structure to the satisfaction of the Planning & Inspections Department shall be required within ninety (90) days. The owner(s) shall be responsible for all costs of removal. If the abandoned tower is not removed within the allotted time frame, Chowan County shall take actions to remove such tower and the applicant's expense. Petition for a one-time extension of ninety (90) days may be made to the Planning Board.

7.06 Stormwater Management

A. Natural Drainage System Utilized to Extent Feasible

To the extent practicable, all development shall conform to the natural contours of the land and natural and pre-existing man-made drainage ways shall remain undisturbed.

B. Developments Must Drain Properly

1. All developments shall be provided with a drainage system that is adequate to prevent the undue retention of surface water on the development site. Surface water shall not be regarded as unduly retained if:
 - (a) The retention results from a technique, practice or device deliberately installed as part of an approved sedimentation or storm water runoff control plan; or
 - (b) The retention is not substantially different in location or degree than that experienced by the development site in its pre-development stage, unless such retention presents a danger to health or safety.
2. No surface water may be channeled or directed into a sanitary sewer.
3. Whenever practicable, the drainage system of a development shall coordinate with and connect to the drainage systems or drainage ways on surrounding properties or roads.
4. All developments shall be constructed and maintained so that adjacent properties are not unreasonably burdened with surface waters as a result of such developments. More specifically:
 - (a) No development may be constructed or maintained so that such development unreasonably impedes the natural flow of water from higher adjacent properties across such development, thereby unreasonably causing substantial damage to such higher adjacent properties; and
 - (b) No development may be constructed or maintained so that surface waters from such development are unreasonably collected and channeled onto lower adjacent properties at such locations or at such volumes as to cause substantial damage to such lower adjacent properties.

7.07 Soil Erosion and Sedimentation Control

- A. No zoning, special use, nor conditional use permit may be issued with respect to any development that would cause land disturbing activity requiring prior approval of an erosion and sedimentation control plan by the Land Quality Section, Division of Land Resources, NC Department of Environment and Natural Resources under NCGS 113A-57(4) unless the Land Quality Section has certified to the City, either that::

1. An erosion control plan has been submitted to and approved by the Land Quality Section; or
 2. The Land Quality Section has examined the preliminary plans for the development and it reasonably appears that an erosion control plan can be approved upon submission by the developer of more detailed construction or design drawings. However, in this case, construction of the development may not begin (and no building permits may be issued) until the Land Quality Section approves the erosion control plan.
- B. For purposes of this Section, 'land disturbing activity' means any use of the land by any person in residential, industrial, educational, institutional or commercial development, highway and street construction and maintenance that results in a change in the natural cover or topography and that may cause or contribute to sedimentation except activities that are exempt under NCGS 113A-52(6). Sedimentation occurs whenever solid particulate matter, mineral or organic, is transported by water, air, gravity, or ice from the site of its origin.

7.08 Compliance with State Guidelines for Areas of Environmental Concern

Prior to the issuance of any initial zoning permit, zoning change permit, special use permit, or conditional use permit, the Zoning Administrator and local AEC Permit Officer shall determine whether the proposed use or structure is located within an Area of Environmental Concern. This determination shall result from an on-site investigation. If the proposed use or structure is located in an Area of Environmental Concern, the Zoning Administrator and local AEC Permit Officer shall certify that the proposed use or structure complies with development standards of the State Guidelines for Areas of Environmental Concern (15 NCAC 7H) prior to issuing any zoning permit, special use, or conditional use permit.

7.09 Coordination with the US Army Corps of Engineers Regarding Wetlands

If a developer, corporation, private landowner or other person proposes to perform construction/filling activities in or near a lake, stream, creek, tributary or any unnamed body of water and its adjacent wetlands, Federal permit authorization may be required from the US Army Corps of Engineers prior to commencement of earth-disturbing activities. The US Army Corps of Engineers shall be notified by the developer or person proposing such earth-disturbing activities for possible issuance of Section 404 or other permits.