BOARD OF COMMISSIONERS PUBLIC HEARINGS AND REGULAR MEETING FEBRUARY 17, 2025 5:00 PM

Bryant H. Womack Justice & Administration Building 4O Courthouse Street Columbus, NC 28722

1. Public Hearings - The public hearings were properly advertised in the Tryon Daily Bulletin.

   A. Public Hearing I.

      I. Call to Order the Public Hearing - The proposed text amendment to the Polk County Zoning Ordinance to permit temporary housing buildings to be provided to those in need for use as a temporary shelter during recovery from the state of emergency declared in Polk County. (A copy of the current and proposed draft of the Zoning Ordinance is available for review online at https://www.polknc.gov/ordinances.php or in the County Manager's office).

      II. Citizen Comments

      III. Adjourn Public Hearing

   B. Public Hearing II.

      I. Call to Order the Public Hearing - The proposed text amendment to the Polk County Subdivision Ordinance to update and clarify easements, road maintenance agreements, private roads, and minor subdivisions.(A copy of the current and proposed draft of the Subdivision Ordinance is available for review online at https://www.polknc.gov/ordinances.php or in the County Manager's office).

      II. Citizen Comments

      III. Adjourn Public Hearing

2. Call to Order the Regular Meeting - Chairman Yoder.

   A. Appointment of Clerk to the Board of County Commissioners, Kennedy Freeman.

   B. Administer Oath of Office for Clerk - Chairman Yoder.

3. Invocation - Chairman Yoder.

4. Pledge of Allegiance - Commissioner Melton

5. Approval of Agenda

   A. Items may be added or removed at this time.

6. Consent Agenda

   A. Approval of the January 13, 2025 Regular Meeting Minutes

   B. Schedule a Public Hearing for proposed new road names to be considered on Monday, March 17, 2025 at 5:00 pm in the R. Jay Foster Hall of Justice, Womack Building.

   C. Declare six Sheriff vehicles & miscellaneous equipment surplus to be sold electronically by public auction. Asset details attached.

   D. Adopt resolution of Polk County recognizing and approving of the Polk County official America 250 NC Committee

   E. Tax Refund Request through February 10, 2025 in the amount of $849.60

   F. Vaya Health Quarterly Financial Report for the period ending December 31, 2024

   G. 2024 Community Health Assessment (CHA) Briefing.

   H. Appoint Commissioner Hargett to the Community Child Protection Team (CCPT)

7. Citizen Comments on Agenda Items.

8. Regular Agenda Items

   A. Organization of the Polk County Regional Water Authority (PCRWA) - Discuss the creation of the PCRWA and review the next steps. Schedule a public hearing on the proposed resolution to organize the Polk County Regional Water Authority for Monday, March 17th at 5:00 p.m. in the Bryant H. Womack Justice & Administration Building, 40 Courthouse St. Columbus - Presented by Attorney Belton Zeigler.

   B. Review changes to the Voluntary Agricultural District & Enhanced Voluntary Agricultural District Ordinance and request to schedule a public hearing on the proposed resolution for Monday, March 17th, at 5:00 p.m. in the Bryant H. Womack Justice & Administration Building, 40 Courthouse St. Columbus - Kelly Gay, Director of Polk County Soil and Water Conservation District, and Dawn Jordan, Director of Polk County Agricultural Economic Development will be present.

C. Award Service Contracts for Brush Grinding and Hauling and to approve the associated Budget Amendment – Travis Ballard, Solid Waste Director.

D. Consideration and approval of the proposed Zoning Ordinance Amendment subsequent to the Public Hearing - Cathy Ruth, Polk County Planning and Economic Development Director.

E. Consideration and approval of the proposed Sub Division Ordinance Amendment subsequent to the Public Hearing - Cathy Ruth, Polk County Planning and Economic Development Director.

F. Discussion and approval of the 2025/2026 Budget Calendar - Sandra Hughes, Finance Director.

G. Disaster and Relief Recovery Update - Bobby Arledge, Emergency Management Director.

H. Public Information Officer, Kellie Cannon, Introduction - Manager Pittman.

9. Citizen Comments on Non-Agenda Items.

10. Volunteer Board Applications

A. Board of Adjustment - There are two vacancies and one applicant; Wendy Wipperman.

B. Equalization & Review Board - There are five vacancies and four applicants; Ray Gasperson, Jeff Miller, Tonya Walls, and Wendy Wipperman.

C. Library Board of Trustees - There are four vacancies and five applicants; Cathleen Cullen, Summer Flynn, Susannah Hogan, Libby Morris, and Jackson Rainer. (Please choose four applicants to appoint.)

D. Planning Board - There is one vacancy and three applicants; Carrie Federici, Teresa (Terri) Morrin, and Charles Noffke. (Please choose one applicant to be appointed as the At Large Alternate.)

11. Commissioner Comments.

12. Adjournment

BOARD OF COMMISSIONERS
AGENDA ITEM REPORT

MEETING DATE

February 17, 2025

AGENDA ITEM # 1.A

Public Hearing I.

ATTACHMENTS

1. Public Hearing Notice

NOTICE OF PUBLIC HEARING

Notice is hereby given that at 5:00 p.m., on Monday, February 17, 2025, in the R. Jay Foster Hall of Justice, Womack Building, 40 Courthouse Street, Columbus, NC 28722, the Polk County Board of Commissioners will hold two public hearings to receive citizen input on

1) The proposed text amendment to the Polk County Zoning Ordinance to permit temporary housing buildings to be provided to those in need for use as a temporary shelter during recovery from the state of emergency declared in Polk County.
2) The proposed text amendment to the Polk County Subdivision Ordinance to update and clarify easements, road maintenance agreements, private roads, and minor subdivisions.

Copies of the proposed ordinance are available for review or purchase (at a nominal cost) in the County Manager's Office in the Womack Building. They are also available online at www.polknc.gov. For additional information about this Public Hearing, contact the County Manager's office, at (828) 894-3301.

Ange' High
Acting Clerk to the Board of Commissioners

BOARD OF COMMISSIONERS
AGENDA ITEM REPORT

MEETING DATE

February 17, 2025

AGENDA ITEM # 1.A.I

Call to Order the Public Hearing - The proposed text amendment to the Polk County Zoning Ordinance to permit temporary housing buildings to be provided to those in need for use as a temporary shelter during recovery from the state of emergency declared in Polk County. (A copy of the current and proposed draft of the Zoning Ordinance is available for review online at https://www.polknc.gov/ordinances.php or in the County Manager's office).

ATTACHMENTS

1. Zoning Ordinance Text Amendment
2. Planning Board Zoning Ordinance Recommendation



Zoning Ordinance

02/05/2024 [xxviii]

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Article I. Authority and Enactment clause

For the purpose of promoting health, safety, morals and general welfare, and by authority granted by the General Assembly of the State of North Carolina, General Statutes, particularly Chapter 160D, the Polk County Board of Commissioners hereby ordains and enacts into law the following articles and sections. [xxv]

Article II. Short Title

This ordinance shall be known and may be cited as "The Zoning Ordinance of Polk County, North Carolina."

Article III. Applicability & Jurisdiction

Section 3.1 Jurisdiction.

The provisions of this ordinance shall be applicable to the unincorporated areas of the county lying outside of any extraterritorial zoning districts as specifically identified and delineated on the zoning map entitled "Official Zoning Map, Polk County, North Carolina." Parts of the county not identified as the zoning area shown on this map are not affected by these regulations.

Section 3.2 Exemption. [xix]

This ordinance shall in no way regulate, restrict, prohibit, or otherwise affect bona fide farms within the jurisdiction of this ordinance, now enacted, or hereafter amended or revised. Any use of such property for nonfarm purposes, however, shall be subject to this ordinance.

According to General Statute 160D-903, a building or structure that is used for agritourism is a bona fide farm purpose if the building or structure is located on a property that (i) is owned by a person who holds a qualifying farmer sales tax exemption certificate from the Department of Revenue or (ii) is enrolled in the present use value program. [xxv] Failure to maintain the requirements of this section for a period of three years after the date the building or structure was originally classified as a bona fide purpose shall subject the building or structure to applicable zoning and development regulation ordinances in effect on the date the property no longer meets the requirements. For purposes of this section, “agritourism” means any activity carried out on a farm or ranch that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities, including farming, ranching, historic, cultural, harvest-your-own activities, or natural activities and attractions. A building or structure used for agritourism includes any building or structure used for public or private events, including, but not limited to, weddings, receptions, meetings, demonstrations of farm activities, meals, and other events that are taking place on the farm because of its farm or rural setting.

Article IV. Application of Regulations.

Section 4.1 Use, occupancy and erection of buildings.

No building, structure, or land shall hereafter be used or occupied, and no building, structure or parts thereof shall be erected, moved or altered except in conformity with the regulations herein specified for the districts in which they are located, except as hereinafter provided. Please refer to Article 9 for administrative regulations and procedures.

Section 4.2 Limitation on number of principal buildings on one lot.

Except as hereinafter provided in Section 6.2.3, 6.2.5, 7.3, and 7.4[xiv], only one principal building and its customary accessory buildings may hereafter be erected on any lot. Except as otherwise provided in this Ordinance, a mobile home shall in no event be considered a customary accessory building.

Section 4.3 Sharing of yard requirements.

No part of a yard, court, or other open space provided about any building or structure for the purpose of complying with the provisions of this ordinance shall be included as a part of a yard or other open space required under this ordinance for another building or structure.

Section 4.4 Reduction of lot and yard areas prohibited.

No yard or lot existing at the time of passage of this ordinance shall be reduced in size of area below the minimum requirements set forth herein.

Section 4.5 Road access.

No building shall hereafter be erected on a lot unless there is legal access to such lot adequate to serve the purposes of the building.

Section 4.6 Off-street parking. [xii]

Off-street automobile parking or automobile storage space shall be provided on every lot at the time any principal building is enlarged or increased in capacity, or at the time one (1) type of use is converted to another, or whenever any of the following uses listed in Section 4.7 are hereafter established. Such space shall be provided with vehicular access to a street or alley and shall not be provided in a setback area required by the provisions of Article 7. Each automobile space shall consist of an improved hard-surface or crushed stone, unless otherwise specified, not less than one hundred sixty two (162) square feet (18’ by 9’) in an area exclusive of adequate access drives and maneuvering space.

Parking Lot Landscaping Requirements [xxvii]

Trees and shrubs are required in and around parking lots with more than ten spaces to provide attractive views from roads and adjacent properties, provide shade to reduce the heat generated by impervious surfaces, help absorb runoff, reduce glare from parking lots, and to help filter exhaust from vehicles.

1. Where parking areas with more than ten spaces adjoin a public right-of-way, a landscaped planting strip 10 feet wide shall be established and continuously maintained between the public right-of way and parking area(s). See example 1.

2. Parking areas within 50 feet of the right-of-way shall have a visually modifying screen or barrier that meets one of these standards:

   a. evergreen shrubs shall be planted 30 inches apart as measured from the center, and attain a height of at least 48 inches within four years of installation. See example 2a;

   b. the screen or barrier is of the same material as the principal building. See example 2b; or

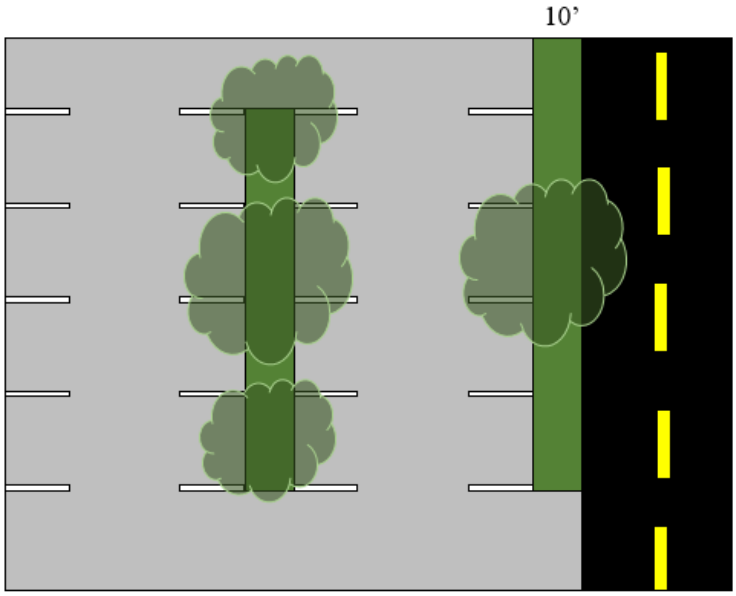
c. there is an earthen berm at least two feet high, with a minimum crown width of two feet and a width to height ratio of no greater than 2:1; shrubs shall be planted on top of the berm that will attain a height of at least 36 inches within four years of installation and shall be planted 30 inches apart. See example 2c.

No screen is required at parking lot entrances or exits, and no screen shall obstruct vision within 50 feet of an entrance, exit or intersection. The landscaped planting strip shall be covered with living material, including groundcover and/or shrubs, except for mulched areas directly around the trees, so that no soil is exposed.

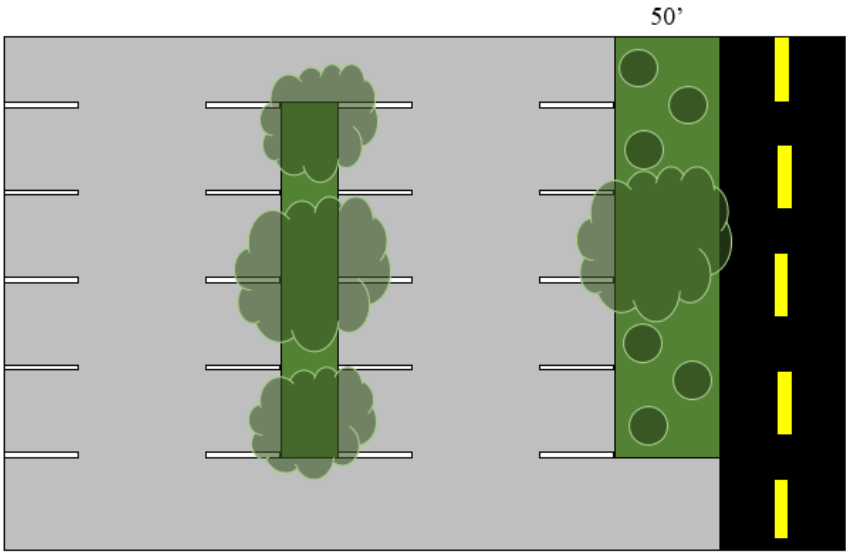
3. Parking areas with more than ten spaces shall have at least one deciduous tree for every five (5) parking spaces, with some appropriate clustering of trees permitted, and 6-foot by 18-foot projecting landscaped islands generally every 10 parking spaces. Whenever possible, interior parking spaces should have a continuous planter strip six (6) feet wide between rows of parking. Where appropriate, provisions shall be made to ensure that adequate pedestrian paths are provided throughout the landscaped areas. In all cases, at least one deciduous tree shall be provided for a parking lot regardless of the number of spaces provided.

4. Areas in a parking lot not used for driveways, maneuvering areas, parking spaces, or walks shall be permanently landscaped with suitable materials and permanently maintained.

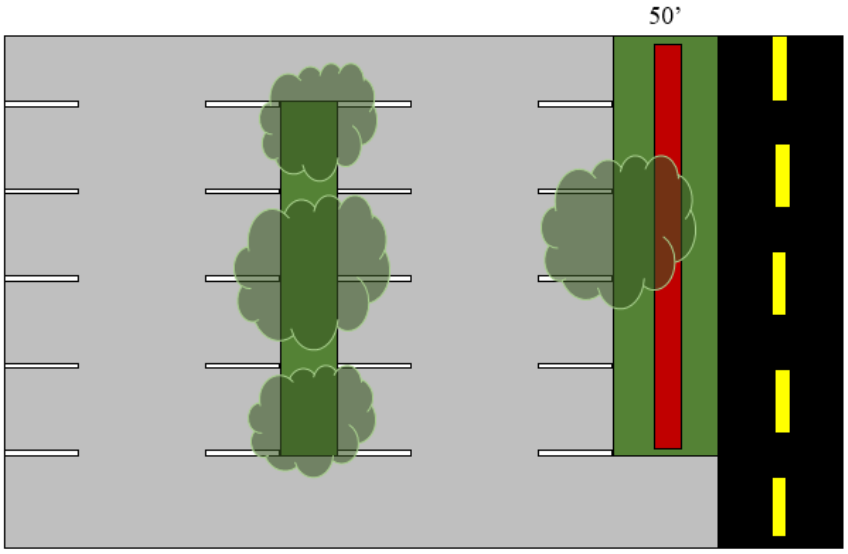
Law Enforcement Center – natural tree line buffers around the exterior of the parcel to be maintained, unless security issues will not allow. [xvi]



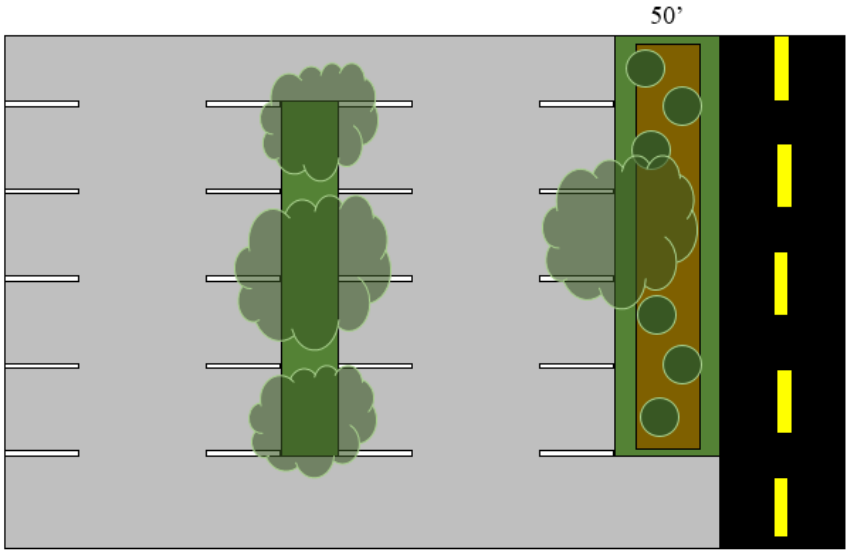
Example 1 – Parking area adjoins public right-of-way:
- 19 parking spaces
- 10’ landscaped planting strip, continuously maintained
- 1 deciduous tree for every 5 parking spaces



Example 2a – Parking area within 50’ of public right-of-way:
- 19 parking spaces
- Evergreen shrubs shall be planted 30 inches apart as measured from the center, and attain a height of at least 48 inches within four years of installation
- One deciduous tree for every 5 parking spaces



Example 2b – Parking area within 50’ of public right-of-way:
- 19 parking spaces
- The screen or barrier is of the same material as the principal building (brick building = brick screen, etc.)
- One deciduous tree for every 5 parking spaces



Example 2c – Parking area within 50’ of public right-of-way:
- 19 parking spaces
- There is an earthen berm, at least two feet high, with a minimum crown width of two feet and a width to height ratio of no greater than 2:1; shrubs will be planted on top of the berm that will attain a height of at least 36 inches within four years of installation and shall be planted 30 inches apart.
- One deciduous tree for every 5 parking spaces

Section 4.7 Minimum Parking Requirements. [xxvii]

The required number of off-street parking spaces shall be equal in number to at least the minimum requirements for the specific uses set forth below:`

Residential Uses	**Required Parking Spaces**
Single-family residence	2 spaces
Multifamily residence	1½ spaces per dwelling unit
Guest house	2 spaces
Mobile home	2 spaces for each mobile home

Public and Semi-Public Uses	**Required Parking Spaces**
Bowling alleys	1 space for each employee, 2 spaces for each lane
Churches	1 space for each 4 seats in the main sanctuary
Elementary school and junior high school	1 parking space for each classroom administrative office
Equestrian centers & facilities, multi-discipline [xii]	1 space per 5 fixed seats in the largest assembly room, provided that every one hundred sixty-two (162) square feet of fenced ground area (i.e. riding rings) shall count as 1 parking space without the necessity of an improved hard-surface or crushed stone.
Events, show & festivals [xii]	1 space per 5 fixed seats in the largest assembly room, provided that every one hundred sixty-two (162) square feet of fenced ground area (i.e. riding rings) shall count as 1 parking space without the necessity of an improved hard-surface or crushed stone
Hospitals and nursing homes	1 space for each 2 beds, exclusive of bassinets, and 1 space for bassinets, and 1 space for each physician and nurse, and 1 space for each 2 additional employees
Public or private libraries	1 space for each 150 square feet of gross floor area for public use, plus 1 space for each 2 employees on the shift of greatest employment
Public utility buildings	1 parking space for each 200 feet of gross floor area

Skating rinks (ice and roller skating)	1 space for each 100 square feet of floor (rink) areas used for amusement, plus 1 space for each 4 fixed seats in the principal building
Senior high school	1 parking space for each 20 students for which the building was designed plus 1 parking space for each classroom and administrative office
Rest and convalescent homes	1 space for each 6 beds plus 1 space for each staff or visiting doctor plus 1 space for each 4 employees
Spectator sports facilities, any size	1 space per 5 fixed seats in the largest assembly room, provided that every two (200) hundred square feet of fenced ground area (i.e. riding rings) shall count as 1 parking space without the necessity of an improved hard-surface or crushed stone
Theaters, community recreation centers	1 space per 4 fixed seats in the largest assembly room, or one space for each 40 square feet of floor area available for the accommodation of movable seats in the largest assembly room, or one space for each 150 square feet of gross floor area, whichever is needed by the facility

Business Uses	**Required Parking Lots**
Antique and gift shops	6 spaces per shop
Automobile sales and repair garages	1 space for each 2 employees at maximum employment on a single shift and 2 spaces for each 300 square feet of repair or maintenance space
Automobile washing establishments	1 space for each 2 employees at maximum employment on a single shift; 5 spaces shall be located at the entrance or exit of the facility
Courthouse [xvi]	1 space per 4 fixed seats in the, assembly room, or one space for each 40 square feet of floor area available for the accommodation of movable seats in the largest assembly room, or one space for each 150 square feet of gross floor area, whichever is needed by the facility. [xxv]
Customary home occupation I & II [xi]	Parking necessary to conduct business shall be provided. Parking must be off-street and on-site. Parking must be screened so as to obstruct views of the parking area from

	adjacent properties, streets or roadways, and to maintain the character of the neighborhood.
Doctor's or dentist's office	4 parking spaces per doctor in addition to 1 space for each employee
Drive-in restaurants	1 space per employee, plus parking space equivalent to 5 times the size of the main building
Drive in theaters	Reserved parking space off the street shall be provided for patrons awaiting admission in an amount not less than 30 percent of the vehicular capacity
Law Enforcement Center [xvi]	1 space per each 400 square feet of gross floor area for office areas plus 1 space for each 4 beds.
Motels, tourist homes, tourist courts	1 space for each sleeping room plus 1 additional space for each 3 employees
Offices, business	1 parking space for each 400 square feet of gross floor area
Public or private clubs, including golf courses (clubhouse)	1 parking space for each 200 square feet of gross floor space
Restaurants	1 space per employee, plus parking space equivalent to 1 space per 3 seats or stools
Roominghouses, boardinghouse, and hotels	1 space for each sleeping room plus 1 additional space for each 3 employees
Retail uses not otherwise indicated in this section	1 space for each 250 square feet indicated in this section of total floor area
Service stations	3 spaces for each grease rack plus 2 spaces for each gas pump
Roadside stands	6 off-street parking spaces
Wholesale and Industrial Uses	**Required Parking Lots**
Wholesaling, industrial plants and truck terminals	1 space per employee at peak shift

Vineyards/Winery	1 space per employee, plus 1 space for every 3 seats in any tasting room open to the public

4.7.1 *Shared Parking* [xx]

Where multiple uses exist within a building or a development project, an applicant will:

a. meet the required minimum parking requirements; or
b. provide documentation by a registered engineer or qualified professional to evaluate and certify shared parking using ULI (Urban Land Institute) or ICSC (International Council of Shopping Centers) International Guidelines for shared parking.

Section 4.8 Combined parking space.

The required parking space for any number of separate uses may be combined in one (1) lot but the required space for one (1) use may not be assigned to another use, except that one-half of the parking space required for churches, theaters, or assembly halls whose peak attendance will be at night or on Sundays may be assigned to a use which will be closed at night or Sundays.

Section 4.9 Parking spaces provided within four hundred (400) feet of principal use.

If the off-street parking space required cannot be reasonably provided on the same lot on which the principal use is located, such space may be provided within four (400) hundred feet of the main entrance to such principal use, provided such land is in the same ownership or long-term lease as the principal use. Said land shall be used for no other purpose so long as no other adequate provisions of this ordinance have been made for the principal use. In such cases, the applicant for a zoning compliance or zoning permit for the principal use shall submit with his application an instrument duly executed and acknowledged, which subjects said land to parking use in connection with the principal use or for which it is made available. Upon the payment of the necessary fee and the issuance of a zoning compliance or zoning permit, the Zoning Administrator shall cause said instrument to be registered in the office of the Register of Deeds of Polk County.

Section 4.10 Off-street loading and unloading spaces.

Every building or structure used for business, or wholesale or industry shall provide space as indicated below for the loading and unloading of vehicles. Such space shall have access to a public street or alley. For the purposes of this article, an off-street loading space shall consist of an improved hard-surface or crushed stone and have minimum dimensions of nine (9) feet wide, thirty (30) feet long, with fourteen (14) feet overhead clearance.

a. Retail business: One (1) space for each three thousand (3,000) square feet of floor area or fraction thereof, unless differently required by Section 4.8.
b. Wholesale or industry: One (1) space for each ten thousand (10,000) square feet of floor area or fraction thereof.

Section 4.11 Temporary use permits for manufactured/mobile homes.

In the event of a medical condition where a family member requires close supervision or constant care, the Zoning Administrator may issue a temporary use permit whereby the requirements are met according to NCGS 160D-915.

Article V. Establishment of Districts and Boundaries and Map.

Section 5.1 Establishment of districts.

For the purpose of the ordinance, the area designated on the zoning map is hereby divided into the following districts:

Residential (R)

Agricultural-residential (AR)

Residential estate/low density (RE-1)

Residential estate/low density (RE-2)

Residential estate/very low density (RE-5)

Multifamily residential (MR)

Neighborhood Commercial (NC)

Highway commercial (HC)

Industrial (I)

Multiple use (MU)

Family Farm (FF)

Agricultural-residential/very low density (AR-5)

Equestrian (E) [viii]

Equestrian Village (EV) [xiv]

Government and Public Facilities District (GPF) [xvi]

Section 5.2 District boundaries.

The boundaries of the districts as herein established are shown upon the map accompanying this ordinance entitled "Official Zoning Map, Polk County, North Carolina," and made a part thereof. The zoning map and all the notations, references and other information shown thereon is hereby made a part of this ordinance the same as if such information set forth on the map were all fully described and set forth herein. The zoning map properly attested is on file in the office of the Zoning Administrator and is available for inspection by the public.

Section 5.3 Rules governing boundaries.

Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the zoning map, the following rules shall apply:

a. Where district boundaries are indicated as approximately following the centerlines of streets or highways, street lines or railroad rights-of-way lines or such lines extended, such centerlines, street lines, or railroad right-of-way lines shall be construed to be said boundaries.

b. Where district boundaries are so indicated that they approximately follow lot lines, such lot lines shall be construed to be said boundaries.

c. Where district boundaries are so indicated that they are approximately parallel to the centerlines of streets, highways or railroads, or rights-of-way of same, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the zoning map.

d. In unsubdivided property or where a district boundary divides a lot, the location of such boundary, unless the same is indicated by dimensions shown on the map, shall be determined by use of the scale appearing in the map.

e. Where district boundaries are indicated as approximately following the centerline of stream beds, or river beds, such centerlines shall be considered to be such boundaries. [xxv]

Section 5.4 Statement of District Intents [xxvii]

5.4.1 *Residential district (R).*

The residential district (R) is intended to provide locations for residential purposes, and limited private and public uses which do not detract from the residential character of the neighborhood. This district is further intended to prohibit business and industrial land uses and any other uses that would interfere with the developing or continued use of land for residential purposes.

5.4.2 *Agricultural-residential district (AR).*

The agricultural-residential district (AR) is intended to provide areas for general agricultural purposes, and low density residential purposes. This district is further intended to protect from scattered and uncoordinated development, and to discourage any use that because of its size or character would create unusual requirements and costs for providing public services such as water supply, refuse, and sewerage disposal before such services are generally needed.

5.4.3 *Residential estate/low density district (RE-1).*

The residential estate/low density district (RE-1) is intended as a district in which the principal use of land is for low density residential purposes and for other residentially related facilities designed for serving the residents of these districts. These districts consist primarily of single-family detached dwelling units placed on relatively large lots with considerable open spaces between structures, thus creating a low density residential environment. Nonresidential uses are limited in order to maintain the low density character and to preserve the natural features of those areas. Likewise, dimensional requirements

pertaining to lot size, building setbacks, and yard requirements, have been established to promote the general welfare of the community.

5.4.4 ***Residential estate/low density district (RE-2).***

The residential estate/low density district (RE-2) is intended as a district in which the principal use of land is for low density residential purposes and for other residentially related facilities designed for serving the residents of these districts. These districts consist primarily of single-family detached dwelling units placed on relatively large lots with considerable open spaces between structures, thus creating a low density residential environment. Nonresidential uses are limited in order to maintain the low density character and to preserve the natural features of those areas. Likewise, dimensional requirements pertaining to lot size, building setbacks, and yard requirements, have been established to promote the general welfare of the community.

5.4.5 ***Residential estate/very low density district (RE-5).***

The residential estate/very low density district (RE-5) is intended as a district in which the principal uses of land are for (1) nonprofit private equestrian courses, nature centers and recreational facilities , (2) private stables and (3) very low density residential purposes and for other residentially related facilities designed for serving the residents of these districts. These districts consist primarily of single-family detached dwelling units placed on large lots with considerable forestation or open spaces between structures, thus creating a very low density residential environment. Nonresidential uses are limited in order to maintain the very low density character and to preserve the natural features of those areas. Likewise, dimensional requirements pertaining to lot size, building setbacks, and yard requirements have been established to promote the general welfare of the community.

5.4.6 ***Multifamily residential district (MR).***

The multifamily residential district (MR) is intended to provide an area for the development of single and multifamily uses such as apartments and condominiums.

5.4.7 ***Highway commercial district (HC).***

The highway commercial district (HC) is intended to provide for the orderly development and concentration of highway commercial uses at appropriate locations, and to encourage the development of these locations so as to minimize traffic hazards. The principal use of this district is to provide for the provision of products and services to tourists and the motoring public in areas adjacent to interstate and other major highways.

5.4.8 ***Industrial district (I).***

The industrial district (I) is intended to provide for the orderly development of industry which will provide increased employment and which will not be detrimental in terms of creating a damaging environment in the surrounding area.

5.4.9 ***Neighborhood Commercial (NC).***

The neighborhood commercial district (NC) is intended to provide suitable locations for limited, neighborhood-oriented, commercial businesses and service activities in close proximity to residential

neighborhoods, schools, and hospitals. This district is designed to allow for a mix of residential, commercial, business and service uses to serve the residents, occupants, patients, students, and visitors to the area, in limited areas, along major traffic arteries and at key intersections, to preserve the traffic carrying capacity of the streets, to provide for off-street parking, and to limit building illumination to minimum needed for safety. The type of uses allowed, and the standards established for development in this district, should be compatible with the residential character of the area, and not to encourage extensive development, but rather to provide concentrations of general commercial and business activities. This district should currently have water and sewerage services or be expected to have such services available in the foreseeable future.

5.4.10 ***Multiple Use (MU).***

The multiple use district (MU) is intended to provide locations for most types of land uses allowed in the other zoning districts. Uses in this district should not endanger the public health and safety, not substantially injure the surrounding property values, and be in harmony with the surrounding area. In light of historic development patterns in this district, and in consideration of the significant impact of large scale residential development within Polk County, special provision is made with respect to major subdivisions.

5.4.11 ***Family Farm (FF).***

The family farm district (FF) is intended to provide locations for most types of land uses allowed in the other zoning districts. Uses in this district should not endanger the public health and safety, not substantially injure the surrounding property values, and be in harmony with the surrounding area.

5.4.12 ***Agricultural Residential Very Low Density (AR-5)***

The agricultural-residential/very low-density district (AR-5) is intended to provide areas for general farming purposes (including agriculture, horticulture and forestland), support of farming activities, and very low-density residential purposes. The district consists primarily of rural residential properties with acreage and individual/family farming operations, for example, vineyards, orchards, soybeans, hay and timber production; beef, goat, pig, dairy and horse farms and stables; and small specialty farms such as produce gardening, flower/nurseries and beekeeping. This district is intended to protect from scattered and uncoordinated development, particularly higher-density, suburban-type subdivisions that are typically incompatible with farming activities (for reasons such as traffic, water demands, and objections to the noises, smells, hours and machinery of farming), and to discourage any use that because of its size or character would create unusual requirements and costs for providing public services such as water supply, refuse and sewerage disposal. The district is not intended to attract or support major agri-businesses such as corporate pig or poultry farming, cattle feed lots or fertilizer manufacturing plants. The district does allow small businesses, non-intrusive to neighboring properties, to be conducted on a resident's property; examples would include artist/craft studio; research/writing/transcription; farrier; carriage supply sales; acupuncture/massage; accounting; woodworking; technology/web design. Uses in this district should not endanger the public health and safety, not substantially injure the surrounding property values, and be in harmony with the surrounding area.

5.4.13 Reserved for Future Purposes. [xxvii]

5.4.14 *Equestrian (E).*

The Equestrian district is intended to provide locations for most types of land uses allowed in the other zoning districts, including, without limitation, residential uses (including but not limited to clustered developments and group developments), show and event uses, commercial uses, and other uses consistent with and beneficial to the orderly development of mixed-use equestrian communities and/or resorts. Uses in this district are intended (i) to create, preserve, maintain, and enhance equestrian community and/or resort developments in Polk County; (ii) to preserve, maintain, and enhance the lifestyle and activities associated with equestrian community and/or resort developments; and (iii) to identify and encourage the types of land uses that are supportive of mixed-use developments with such equestrian character.

5.4.15 *Equestrian Village (EV)* [xiv].

The Equestrian Village district is intended to provide locations for most types of land uses allowed in the Equestrian District, including, but not limited to, multi-family residential uses, show and events uses, commercial uses and other uses consistent with and beneficial to the orderly development of mixed-use equestrian communities and/or resorts and particularly those consistent with mixed-use village and resort developments. Uses in this district are intended (i) to create, preserve, maintain and enhance equestrian community and/or resort developments in Polk County; (ii) to preserve, maintain and enhance the lifestyle and activities associated with an equestrian community and/or resort developments; and (iii) to identify and encourage the types of land uses that are supportive of mixed-use developments with such equestrian character.

5.4.16 *Government and Public Facilities District (GPF)* [xvi]

Government and Public Facilities District is intended to accommodate public, quasi-public, and institutional facilities. It is intended for offices, storage, and other facilities for the operation of local, state, or federal government.

Article VI. Permitted Use Table.

- Land uses not specifically addressed in this ordinance shall apply the standards for a land use that is listed in this ordinance most closely related to proposed use and impacts. [xxvi]

P = Permitted

P* = Permitted with conditions

S = Allowed as a Special Use

Blank Space = Not Permitted

	EV	E	GPF	RE1	RE2	RE5	AR	R	MR	NC	HC	I	MU	FF	AR5
Accessory buildings	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**
Accessory dwelling unit [xiii]													**P**		
Agricultural building (10 acres or more) [xxi]	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**
Agricultural building (less than 10 acres) [xxi]	**S**	**S**	**S**	**S**	**S**	**S**	**S**	**S**	**S**	**S**	**S**	**S**	**S**	**S**	**S**
Animal Processing Facilities [xxvii]												**P**	**S**	**S**	
Arcades, Video Games [xxvii]	**P**	**P**					**S**		**S**	**S**	**P**	**P**	**S**	**S**	
Automobile, truck, & farm Implement sales & service [xii]		**P**					**S**			**S**	**P**	**P**	**P**	**P**	**S**
Bed & Breakfast	**P**	**P**					**P**		**P**	**P**	**P**		**P**	**P**	**P**
Carwash [xxvii]	**P**	**P**									**P**	**P**	**P**	**P**	
Cemetery **see 6.2.7 for restrictions*				**P***	**P***	**P***	**P***	**P***	**P***	**P**	**P**		**P**	**P**	**P***
Church, synagoge, temple, or other religious Building **see 6.2.1 for restrictions*	**P**	**P**		**P***	**P***	**P***	**P***	**P***	**P***	**P**	**P**		**P**	**P**	**P***
Clubs, public or private **see 6.2.1 for restrictions*	**P**	**P**		**P***	**P***	**P***	**P**	**P**			**P**		**P**	**P**	**P***
Courthouse [xvi]			**P**												
Convenience stores, including those that sell petroleum and petroleum products	**P**	**P**							**S**	**S**	**P**		**P**	**P**	
Data processing facilities [xxvii]												**S**			
Customary home occupations, Class I [ix]	**P**	**P**		**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**
Customary home occupation, Class II [ix]		**P**											**P**		**P**
Day care facility[i] **see 6.2.8 for restrictions*				**P***	**P***	**P***	**P***	**P***	**P***	**P**	**P***	**P***	**P***	**P***	**P***
Duplex [xii]		**P**					**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**

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Blank Space = Not Permitted

	EV	E	GPF	RE1	RE2	RE5	AR	R	MR	NC	HC	I	MU	FF	AR5
Equestrian centers & facilities, multi-discipline *see 6.2.11 for restrictions	**P**	**P***													
Events, shows & festivals	**P**	**P**													
Event Venues [xxvii]	**P**	**P**					**S**		**S**	**S**	**P**	**P**	**S**	**P**	
Funeral Home [xxvii]							**P**			**P**	**P**	**P**	**S**	**S**	**S**
Golf courses & country clubs		**P**		**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	
Guest House		**P**		**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**
Heliport, public & private*see 6.2.12 for restrictions		**P***													
Hospitals & clinics							**P**			**P**	**P**		**P**	**P**	**S**
Kennels[iv] *see 6.2.9 for restrictions					**P***	**P***	**S**			**S**	**S**		**S**	**P**	**S**
Laundry & dry cleaning services [xii]	**P**	**P**								**S**	**P**	**P**	**P**	**P**	
Law Enforcement Center [xvi]			**P**												
Libraries, public or private	**P**	**P**	**P**				**P**		**P**	**P**			**P**	**P**	**P**
Manufacturing, Light		**P**										**P**	**P**	**P**	**S**
Manufacturing												**P**	**S**	**P**	
Mobile or Manufactured Home, Individual*see Polk County Mobile Home Ordinance [xxvii]							**P**						**P**	**P**	**P**
Mobile or Manufactured Home Parks*see Polk County Mobile Home Park Ordinance [xxvii]							**P**		**P**				**P**	**P**	
Modular Home		**P**		**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**
Motels, Hotels, Boarding Houses, & Dormitories [xxvii]	**P**	**P**									**P**		**S**	**P**	
Museum	**P**	**P**													
Multifamily residences	**P**	**P**							**P**	**P**	**P**		**P**	**P**	

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Blank Space = Not Permitted

	EV	E	GPF	RE1	RE2	RE5	AR	R	MR	NC	HC	I	MU	FF	AR5
Nursery, Greenhouse, and/or Landscape Business [xxvii]							P			P	P		P	P	P
Outdoor Recreation, Motorized [xxvii]													S	S	
Outdoor Recreation, Nature Oriented, Non Motorized, see 6.2.4 [vi, xxvii]	P	P*	P	P*	P*	P*	S		S	S	P	P	P	P	
Offices, business, medical, professional & public, including banks	P	P	P							P	P	P	P	P	
Offices pertaining to permitted use	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Printing, publishing, & engraving establishments	P	P								S	P	P	P	P	
Public safety facilities (fire, police, etc…)	P	P	P				P			P	P	P	P	P	S
Quarantine Facilities [xxii]	P	P													
Radio & TV stations & studios [xii]	S	S									S	S	S	S	
Recreational Facilities, Centers [xxvii]	P	P		S	S	S		S	S	S	P	P	S	P	S
Recreational Vehicle (RV) [xv, xxii] *see 6.2.16 for restrictions*	P*	P*		P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*
Recreational Vehicle (RV) Park and/or Camp Areas [xv, xvii] *see 6.2.14 for restrictions*	P*	P*					S				P		S	P	
Restaurants, excluding fast food & drive thru services	P	P								P	P		P	P	S
Restaurants, including fast food & drive thru services, food trucks [xxvii]	P	P									P	P	P	P	
Rest & convalescent homes [xxvii]	P	P					P	P	P	P	P	P	P	P	S
Residential Vacation Rentals [ix, xix, xxv]	P	P								P			P		P
Retail trade, commercial services, sales and rental of merchandise & equipment	P	P								S	P	P	P	P	S
Retail business customarily serving residential neighborhoods & conducted within an enclosed building									S	P	P		P	P	
Roadside stands selling home grown products [xxvii]							P				P		P	P	P
Sawmill [xxvii]							P						P	P	S

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	EV	E	GPF	RE1	RE2	RE5	AR	R	MR	NC	HC	I	MU	FF	AR5
Schools, public or private [xxii, xxvii]	P	P	P	P	P	P	P	P	P	P			P	P	P
Schools; vocational schools, business schools, & special school [xxvii]	P	P	P	P						P		P	P	P	
Service stations [xii]	P	P									P	P	P	P	
Shooting Range – Indoor [xxvii]							S		S	S	P	P	S	S	
Shooting Range – Outdoor [xxvii]												S	S	S	
Single family residences		P		P	P	P	P	P	P	P	P	P	P	P	P
Solar Energy Generating Facility, Major[vii]												S	S		
Solar Energy Generating Facility, Minor[vii] *see 6.2.10*												P*	P*		
Spectator sport facilities 500 or more spectators [xxii] *see 6.2.13 for restrictions*	P*	P*										S	S	S	
Spectator sport facilities less than 500 spectators [xxii] *see 6.2.13 for restrictions*	P*	P*					S	S	S	S	S	S	S	P	
Stables [xxvii]	P	P		P	P	P	P						P	P	P
Storage & warehousing [xii]	S	S										P	S	P	
Temporary Housing	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Theaters	P	P								S	P		P	P	
Towers *see Polk County Wireless Telecommunication Ordinance [xix, xxiv]	P*	P*	P	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*
Towers (Non-Administrative Approval, Section 304 *Polk County Wireless Telecommunication Ordinance) [xix, xxiv]	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*
Truck terminals											P	P	P	P	
Utility buildings and facilities, public *see 6.2.6 for Restrictions*			P	P*	P*	P*	P*	P*	P*	P*	P	P	P	P	P*
Veterans' Affairs Office[ii]			P	P						P	P	P	P		

Veterinarian clinics, animal shelters [xii, xxii] **see 6.2.9 forRestrictions*	**P**	**P**			**P***	**P***	**S**			**S**	**S**		**S**	**P**	**S**

P = Permitted

P* = Permitted with conditions

S = Allowed as a Special Use

Blank Space = Not Permitted

	EV	E	GPF	RE1	RE2	RE5	AR	R	MR	NC	HC	I	MU	FF	AR5
Vineyard/Winery	**P**	**P**													
Waste Handling, Treatment, Processing, Management or Disposal Facility														**S**	
Wholesale sales, retail sales & supply houses											**P**	**P**	**P**	**P**	

Section 6.1 Reserved for Future Purposes

Section 6.2 Other Restrictions

6.2.1 Churches and clubs (public or private) provided they are located not closer than fifty (50) feet from any property line including parking lot, separated from side and rear property lines by a planted buffer strip at least ten (10) feet in width. The buffer strip shall be composed of two staggered rows of evergreen shrubs or sheared evergreen trees so that an effective screen year-round is present.

6.2.2 Reserved for Future Purposes [xxvii]

6.2.3 Reserved for Future Purposes [xxvii]

6.2.4 The parcel of land proposed for development shall contain no less than two hundred (200) acres; all structures shall be so placed as not to be closer than three hundred (300) feet from any property line; activities proposed shall in no way have deleterious affects (such as, but not necessarily limited to noise, excess traffic and other effects that go beyond the property line) on adjoining RE-1 and RE-5 developments; the parcel shall be so located as to provide for ingress and egress from the site directly onto a major thoroughfare having an existing or planned right-of-way at least sixty (60) feet in width and shall in no way traverse single-family subdivisions.

6.2.5 Reserved for Future Purposes [xxvii]

6.2.6 Provided all structures shall be set back at least thirty (30) feet from the property line and all exposed apparatus shall be safely enclosed and landscaped.

6.2.7 Only when associated with a church.

6.2.8 Provided all state and/or county regulations are met.

6.2.9 Animal shelters and kennels owned by non-profit corporations that serve the needs of the county and its citizens.

6.2.10 ***Solar Energy Generating Facilities.***[vii] Solar energy generating facilities shall be subject to the following restrictions.

6.2.10.1 All solar energy generating facilities shall require approval from all applicable state and federal agencies as well as the affected energy provider.

6.2.10.2 Placement of solar energy generating equipment shall be based on preserving existing site features to the extent practical.

6.2.10.3 Solar energy generating facilities are exempt from parking requirements if there is not a building component.

6.2.10.4 Perimeter setback requirements shall be a minimum of forty (40) feet from property lines and not closer than two hundred (200) feet of any residence other than that of the property owners. Necessary ingress and

egress from vehicles and utility and transmission lines may be located within the perimeter setback. Fences may not encroach into the setbacks.

6.2.10.5 Freestanding solar energy generating facilities shall be a maximum of twelve (12) feet in height as measured from the grade at the base of the structure (panel) to the apex of the structure (panel). Freestanding solar energy facilities shall not be visible from the interstate highways, US highways or scenic by-ways as designated by the North Carolina Department of Transportation or Polk County.

6.2.10.6 No more than 75% of a solar energy generating facility tract of property may be covered with panels (i.e. 20 acre tract required if 15 acres of panels to be installed.)

6.2.10.7 Copies of any lease agreement and plan for removal of facility/ equipment shall be provided to Polk County.

6.2.10.8 Glare resistant solar panels shall be used in all applications.

6.2.10.9 Rooftop solar energy generating facilities should not be considered as rooftop equipment on any building type and therefore, does not require screening.

6.2.10.10 All solar energy generating facilities shall be completely enclosed with a six (6) feet high:

(a) Black or green chain link fence or
(b) Masonry wall or
(c) Wooden fence that contains spacing no greater than six (6) inches.

If the solar energy generating facility is within two hundred (200) feet of a residence other than that of the property owners, a chain link fence is required with vegetation screening.

6.2.10.11 Lighting mitigation is required.

6.2.10.12 Solar energy generating facilities shall be maintained in good working condition and be free from debris and nuisances. When the facilities are no longer utilized for energy generation for a period of six (6) months or longer, the property owner shall have the panels and switch gear removed.

6.2.11 ***Equestrian centers & facilities, multi-discipline***. Equestrian centers & facilities, multi-discipline may be allowed pursuant to the use tables in Article VI, provided:

6.2.11.1 All buildings and accessory buildings (permanent or temporary) used or intended for "Equestrian centers & facilities, multi-discipline" uses (as opposed to buildings and accessory buildings for uses permitted in Multiple Use Districts) shall be placed so as to be at least one hundred feet (100') from any property line; and

6.2.11.2. The parcel shall be so located as to provide for ingress and egress from the site directly onto a major thoroughfare having an existing or planned right-of-way at least sixty (60) feet in width and shall in no way traverse any single-family subdivisions, except single-family subdivisions within the "Equestrian" district.

6.2.12 ***Heliports.*** Heliports may be allowed pursuant to the use tables provided in this Article, subject to the following restrictions:

6.2.12.1 The Heliport shall comply with all applicable Federal Aviation Administration aircraft operation requirements.

6.2.12.2 The Heliport shall be used for the operation of helicopters for emergency, medical, public safety, and transportation purposes.

6.2.12.3 The Heliport shall not be used to provide prospective lot purchasers "flyover" views, for any other real estate promotional or real estate marketing purposes, or for sight-seeing tours.

6.2.12.4 All helicopters traveling to or from the Heliport shall, to the fullest extent practicable, travel along the air corridors above Interstate I-26 or U.S. Highway 74 while traveling in Polk County airspace.

6.2.12.5 The hours of operation for the Heliport shall be limited to 7 a.m. to 10 p.m. The limitation on the hours of operation shall not be applicable to emergency, medical, fire or law enforcement services.

6.2.13 ***Spectator Sport Facility.*** Spectator sport facilities, whether accommodating less than 500 spectators or accommodating 500 or more spectators, may be allowed pursuant to the use table provided in this article. Uses permitted with conditions shall be subject to the following restrictions:

6.2.13.1 Lighting for outdoor spectator sport facilities shall meet the following standards:

a) Lighting installations shall be designed to achieve an average level no greater than the minimal illuminance levels for the activity as recommended by the Illuminating Engineering Society of North America (IESNA).

b) Lighting used to illuminate the surface shall be turned off by 11:30 pm.

c) Lighting shall be designed by a lighting professional having experience with lighting installations.

d) There shall be no maximum or minimum height restrictions relating to lighting installations on towers as defined by the Zoning Ordinance.

e) Commercial lighting in any stadium will employ engineered lighting which will mitigate spillover and direct lighting into the stadium area.

6.2.13.2 Spectator Sports Facility shall not include motorized sports.

6.2.14 ***Recreational Vehicle & Travel Trailer Parks, Service & Camp Areas.*** Recreational vehicle &

travel trailer parks, service & camp areas may be allowed pursuant to the use tables provided in this Article. Uses permitted with conditions shall be subject to the following restrictions:

6.2.14.1 Maximum of 15 units per acre

6.2.14.2 10% common space required

6.2.14.3 No site/space lease or continuous rental thereof shall exceed 6 months.

6.2.14.4 A 100 foot setback shall be required along property lines where the RV/Camp area meets or adjoins properties not owned by the Developer. The setback established pursuant to this section shall contain an earthen berm at least 2 feet high, with a minimum crown of 2 feet and a width to height ratio of no greater than 2:1, shrubs shall be planted on top of the berm that will attain a height of at least 72" within 4 years of installation and shall be planted 30" apart. In lieu of installing an earthen berm, Developer may utilize any natural berms, provided that any such natural berm meets or exceeds the criteria of this section.

6.2.14.5 Quiet hours shall be observed from 11 p.m. to 7 a.m.

6.2.14.6 All internal streets within RV/camp area shall be surfaced with a minimum of six inches of compacted stone and shall be maintained in a smooth, well-graded condition. All internal roads shall be capable of supporting the imposed load of fire apparatus in accordance with the Fire Apparatus Roads Standards in the North Carolina Fire Code.

6.2.14.7 Water – an accessible, adequate, safe and potable supply of water shall be required.

6.2.14.8 Sewer/Septic – approval by the Polk County Health Department shall be required for any installation, alteration or use of a sewage disposal system.

6.2.15 ***Reserved for Future Purposes*****.**

6.2.16 ***Recreational Vehicle.*** [xv]

6.2.16.1 ***Recreational Vehicle in Zoning Districts - E, EV, AR, HC, MU and FF zoning districts.*** [xxvii]

(1) One per parcel, provided:

a. the recreational vehicle has a valid operational permit from the Health Department for water and a wastewater disposal system, and connected to the wastewater disposal system,

b. the recreational vehicle is ready for highway use (defined as: fully licensed, own wheels or jacking system, attached to the site only by quick disconnect utilities, with no permanently attached additions, and has a current license plate, if applicable); or

(2) One per parcel during the construction of personal residence provided: [xxv]

a. the recreational vehicle is ready for highway use as defined above and has a valid operational permit from the Health Department for water and a wastewater disposal system, and connected to the wastewater disposal system,

b. the owner has a valid residential building permit for the parcel upon which the recreational vehicle is located; or

(3) One per parcel while stored upon the owner's property on which there is a residence built and is utilized for the owner's personal use; or

(4) In recreational vehicle and travel trailer parks or service and camp areas.

6.2.16.2 ***Recreational Vehicle in Zoning Districts RE1, RE2, RE5, R, MR, NC, I and AR5 zoning districts:***
One per parcel while stored upon the owner's property on which there is a residence built and utilized for the owner's personal use.

Article VII. Dimensional Requirements

Section 7.1 General Provisions[xxv]

A. Along each property line which is adjacent to a residential district, the property owner or developer shall place and maintain a buffer strip fifteen (15) feet wide upon which shall be planted an evergreen screen hedge to provide appropriate screening against noise, glare, fumes, dust, and other harmful effects. The buffer strip may utilize existing evergreen vegetation.

B. All lots identified in a watershed must also meet the requirements of the Polk County Watershed Ordinance.

C. All new lots shall meet the requirements of *Subdivision Ordinance* except that the minimum lot sizes shall meet the dimensional requirements in the table below.

D. It is not permitted to average the lot areas to meet the minimum lot areas established in this Article. However, Cluster Developments shall be allowed in accordance with the Subdivision Ordinance, so long as the maximum density shall be equal to one dwelling unit per the minimum lot size listed in the dimensional table below. For example, if the minimum lot size is 43,560 square feet (1 acre), then the maximum density is one unit per acre.

Section 7.2 Dimensional Table [xxv]

District	Max. Building Height from main floor (Ft)	Min. District Size (Acres)	Min. District Frontage on all Thorough-fares (Ft.)	Min. Lot Size – No Public/ Water or Sewer (Sq. Ft.)	Min. Lot Size – With Public/ Water or Sewer (Sq. Ft.)	Min. Lot Width (Ft)	Min. Front (Ft) Setback	Min. Side (Ft) Setback	Min. Rear (Ft) Setback
Equestrian (E)	50[2]	900	-	43,560[1] (1 acre)	10,890[1] Plus 3,000 for each additional unit (max. 12 dwelling units per acre) for multi-family residential use; 21,780- (1/2 acre) for all other uses	70	25	15	25
Equestrian Village (EV)[xiv]	60[3]	25	-	-	Maximum average density of 12 living units per acre within the area in each site specific plan[4]		25	15	25
Government and Public Facilities (GPF) [xvi]	40	10	-	-	-	100	50	50	50
Residential Estate/Low Density (RE-1)	40	-	-	43,560[1] (1 acre)	43,560[1] (1 acre)	150	50	25	25
Residential Estate/Low Density (RE-2)	40	-	-	87,120[1] (2 acres)	87,120[1] (2 acres)	200	50	50	50
Residential Estate/Very Low Density (RE-5)	40	-	-	217,800[1] (5 acres)	217,800[1] (5 acres)	200	50	50	50
Residential (R)	40	-	-	43,560[1] (1 acre)	21,780[1] (½ acre)	70	25	15	25
Agricultural Residential (AR)	40	-	-	43,560[1] (1 acre)	21,780[1] (½ acre)	100	25	25	25
Multifamily Residential (MR)	40	-	-	-[1]	10,890[1] Plus 3,000 for each additional unit (max. 12 dwelling units per acre)	70	25	15	25

*These requirements also apply to existing nonconforming lots in the AR5 district.

[1] Any major subdivision of land in this category (as major subdivision as defined in the Subdivision Ordinance), shall subject all such subdivided land to the minimum lot area requirements and all other requirements for major subdivisions as set forth in the Subdivision Ordinance. (All references to the Subdivision Ordinance shall refer to the Subdivision Ordinance as the same may be amended from time to time.)

[2] For the purposes of Max. Building Heights for equestrian centers or facilities, multi-discipline, height shall be the vertical distance from the highest finished-grade ground level within 25 feet of the structure to the highest point on the structure.

[3] For the purposes of Max. Building Height for a building in the Equestrian Village (EV) District, the height shall be measured from the main floor to the highest eave of the building. [xiv]

[4] All lots and units in an Equestrian Village (EV) District shall have both public water and public sewer. The Min. Lot Size (density) in the Equestrian Village (EV) District shall be measured by the average density of living units per acre within the area in each site specific plan, without regard to the ownership of lots or units within that area. For the purposes of the Min. Lot Size (density) in the Equestrian Village (EV) District, the total number of living units in an Equestrian Village Development shall be that number calculated by adding (i) the number of all multi-family residential units to (ii) one-half the sum of all Bed & Breakfast guestrooms plus all Motel & hotel guestrooms. A minimum of 15% of the total area within the Equestrian Village (EV) district shall be Open Space dedicated on a recorded site specific plan. [xiv]

Section 7.2 Dimensional Table
(cont.)

District	Max. Building Height from main floor (Ft)	Min. District Size (Acres)	Min. District Frontage on all Thorough-fares (Ft.)	Min. Lot Size – No Public/ Water or Sewer (Sq. Ft.)	Min. Lot Size – With Public/ Water or Sewer (Sq. Ft.)	Min. Lot Width (Ft)	Min. Front (Ft) Setback	Min. Side (Ft) Setback	Min. Rear (Ft) Setback
Neighborhood Commercial (NC)	40	-	-	21,780[1] (½ acre)	21,780[1] (½ acre)	80	50 or 75 from road centerline whichever is greater	20	20 or 25 adjacent to a Resid. area
Highway Commercial (HC)	40	-	1,000 ft. and separated by 1/4 mile of resid. Zoned frontage	-[1]	-[1]	100	30	25	25
Industrial	40	1 acre	-	87,120[1] (2 acres)	87,120[1] (2 acres)	200	50	25	25
Multiple Use	40	1 acre	-	43,560[1] (1 acre)	43,560[1] (1 acre)	70	25	15	25
Family Farm	40	1 acre	-	43,560[1] (1 acre)	21,780[1] (½ acre)	70	25	15	25
Agricultural Residential Very Low Density (AR-5) *Family Subdivision	40	-	-	217,800[1] (5 acres) --- *43,560 (1 acre)	217,800[1] (5 acres) --- *43,560 (1 acre)	200 --- *150	50 --- *50	50 --- *25	50 --- *25

*These requirements also apply to existing nonconforming lots in the AR5 district.

[1] Any major subdivision of land in this category (as major subdivision as defined in the Subdivision Ordinance), shall subject all such subdivided land to the minimum lot area requirements and all other requirements for major subdivisions as set forth in the Subdivision Ordinance. (All references to the Subdivision Ordinance shall refer to the Subdivision Ordinance as the same may be amended from time to time.)

[2] For the purposes of Max. Building Heights for equestrian centers or facilities, multi-discipline, height shall be the vertical distance from the highest finished-grade ground level within 25 feet of the structure to the highest point on the structure.

[3] For the purposes of Max. Building Height for a building in the Equestrian Village (EV) District, the height shall be measured from the main floor to the highest eave of the building. [xiv]

[4] All lots and units in an Equestrian Village (EV) District shall have both public water and public sewer. The Min. Lot Size (density) in the Equestrian Village (EV) District shall be measured by the average density of living units per acre within the area in each site specific plan, without regard to the ownership of lots or units within that area. For the purposes of the Min. Lot Size (density) in the Equestrian Village (EV) District, the total number of living units in an Equestrian Village Development shall be that number calculated by adding (i) the number of all multi-family residential units to (ii) one-half the sum of all Bed & Breakfast guestrooms plus all Motel & hotel guestrooms. A minimum of 15% of the total area within the Equestrian Village (EV) district shall be Open Space dedicated on a recorded site specific plan. [xiv]

Section 7.3 Group Development.[xxv]

In the case of two (2) or more principal buildings to be constructed on a plot of ground of at least two (2) acres not subdivided into the customary streets and lots and which will not be so subdivided, the application of the terms of this ordinance may be waived by the county Zoning Administrator in a manner that will be in harmony with the character of the neighborhood, provided:

7.3.1 Such uses are limited to those permitted within the zoning district in which the project is located. In no case shall the board authorize a use prohibited in the district in which the project is to be located.

7.3.2 The overall intensity of land use is no higher and the standard of open space is no lower than that permitted in the district in which the project is located.

7.3.3 The distance of every building from the nearest property line shall meet the front yard setback, rear yard setbacks, and side yard setback requirements of the district in which the project is located.

7.3.4 The building heights do not exceed the height limits permitted in the district in which the project is located.

7.3.5 All sanitation and utility services shall be reviewed by and approved by the county sanitarian/ Environmental Health.

7.3.6 A design plan showing how the requirements of Subsection[s] 7.3.1-7.3.5 will be met is submitted along with the application for a group development. The procedure for approval of group development plans shall consist of the submission of a design plan showing the proposed layout, including the location of buildings, driveways, off-street parking spaces and recreation areas, etc., to the Zoning Administrator for study and final approval.

Section 7.4 Equestrian Village Development[xiv, xxii]

A plan showing the layout of the proposed buildings and internal roads of an Equestrian Village Development shall be reviewed by the Zoning Administrator. At the time of such review, the property owner or the developer shall also submit to the Zoning Administrator documentation from the North Carolina Department of Transportation approving the site's access to the public road; documentation from the public water and public sewer utilities or service providers confirming that there is sufficient capacity to service the proposed development; documentation from the Fire Marshal approving the access to and the layout of the proposed Development; and documentation from the Emergency Management Director confirming adequate public safety facilities and services exist, or can be reasonably provided to serve the needs of the proposed use. After approval by the Zoning Administrator, the plan shall be recorded in the Office of the Register of Deeds of Polk County, North Carolina.

Section 7.5 Equestrian District Development[xxii]

At the time of review of development, the property owner or the developer shall also submit to the Zoning Administrator documentation from the North Carolina Department of Transportation approving the site's access to the public road; documentation from the public water and public sewer utilities or service providers confirming that there is sufficient capacity to service the proposed development; documentation from the Fire Marshal approving the access to and the layout of the proposed Development; and documentation from the Emergency Management Director confirming adequate public safety facilities and services exist, or can be

reasonably provided to serve the needs of the proposed use. These requirements do not apply to single family residential.

Article VIII. Nonconforming Situations.[xxv]

Section 8.1 Purpose

The purpose of this Article is to avoid undue hardship by permitting the continued use of any building, structure, or property that was lawful at the time of the enactment of this Ordinance or any applicable amendment thereof even though such use, structure or property does not conform to the provisions of this Ordinance. Any nonconformity created by an establishment or change in the zoning districts or text of these regulations shall be regulated by the provisions of this Article. This Article is also established to require that non-conforming situations be terminated under certain circumstances.

Section 8.2 Extension or Enlargement of Nonconforming Situations

A. Except as specifically provided in this Section, no person may engage in any activity that causes an increase in the extent of nonconformity of a nonconforming situation.

B. A nonconforming use may be extended through any portion of a completed building that, when the use was made nonconforming by this Ordinance, was manifestly designed or arranged to accommodate such use. However, a nonconforming use may not be extended to additional buildings or to land outside the original building.

C. A nonconforming use may not be extended to cover more land than was occupied, or manifestly designed and arranged to be occupied, by that use when it became nonconforming. Per Subsection 8.2(G) below, nothing herein shall prevent the reconstruction, replacement, or expansion of a single-family dwelling unit that is nonconforming as to use.

D. The volume, intensity, or frequency of use of property where a non-conforming situation may be changed if these or similar changes amount only to changes in the degree of activity rather than changes in kind and no violations of other paragraphs of this Article occur.

E. Physical alteration of nonconforming structures or structures containing a nonconforming use is unlawful if it results in:

    1) An increase in the total amount of space devoted to a non-conforming use;

    2) Greater non-conformity with respect to dimension restrictions such as yard requirements, height limitations, or density requirements; and

    3) The enclosure of previously unenclosed areas, even though those areas are or were used in connection with the nonconforming activity.

F. Minor repairs to and routine maintenance of property where nonconforming situations exist are permitted and encouraged. Major renovations—work estimated to cost more than ten percent but less than 60 percent of the taxed value of the structure to be renovated—may be done provided that the work will not result in a violation of any other paragraph in this Article. In no case, however, shall work costing more

than 60 percent of the taxed value of the structure be done, singularly or cumulatively, within any five-year period.

G. Any structure used as a single-family dwelling unit and maintained as a nonconforming situation may be constructed, enlarged, or replaced, so long as the enlargement or replacement does not create new nonconformities or increase the extent of existing nonconformities with respect to such matters as setback and parking requirements. Nothing herein shall prevent the maintenance, repair, extension or construction of a residential accessory building or swimming pool, provided it is done in the conformance with the requirements of this Ordinance.

Section 8.3 Nonconforming Lots of Record

Where the owners of a legally existing lot of record at the time of the adoption of this Ordinance or his successor in title thereto does not own sufficient land to enable him to conform to the area or lot width requirements of this ordinance, such lot may be used as a building site provided all other dimensional and use requirements are met. This Section applies only to undeveloped nonconforming lots. A lot is undeveloped if it has no substantial structures upon it.

Section 8.4 Re-establishment of a Nonconforming Situation Prohibited

A. If a nonconforming use is abandoned for a period of one year or more, the use shall not be allowed to re-establish. All new uses in said structure shall thereafter be conforming.

B. Any nonconforming building or structure or any building or structure containing a nonconforming use for which major repair or reconstruction is proposed in any amount equal to 60 percent or more of the taxed value of the building or structure or which has been damaged by any cause to an extent equal to 60 percent or more of its taxed value shall only be repaired and/or constructed and used as a conforming structure and a conforming use.

C. Per Subsection 8.2(G) above, nothing herein shall prevent the reconstruction or replacement of a single-family dwelling unit that is nonconforming as to use.

Section 8.5 Nonconforming Uses

A. A nonconforming use may be changed to a conforming use. Thereafter, the property may not revert back to a nonconforming use.

B. A nonconforming use shall not be changed to another nonconforming use nor shall a nonconforming structure be replaced after it has been destroyed except upon approval by the Board of Adjustment.

C. If a nonconforming use and a conforming use, or any combination of nonconforming uses exist on one lot, the use made of the property may be changed only to a conforming use.

D. Conforming uses may be established or re-established in nonconforming buildings or structures provided that off-street parking is provided as required by this Ordinance and provided no other provisions of this Ordinance for the establishment of new uses is violated.

Article IX. Administration and Enforcement.[xxv]

Conflicts of Interest:

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

(b) Appointed Boards - Members of appointed boards shall not vote on any advisory or legislative decision regarding a development regulation adopted pursuant to this Chapter where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. An appointed board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.

(c) Administrative Staff - No staff member shall make a final decision on an administrative decision required by this Chapter if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship. If a staff member has a conflict of interest under this section, the decision shall be assigned to the supervisor of the staff person or such other staff person as may be designated by the development regulation or other ordinance.

No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under this Chapter unless the staff member is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with a local government to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the local government, as determined by the local government.

(d) Quasi-Judicial Decisions - A member of any board exercising quasi-judicial functions pursuant to this Chapter shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter.

(e) Resolution of Objection - If an objection is raised to a board member's participation at or prior to the hearing or vote on a particular matter and that member does not recuse himself or herself, the remaining members of the board shall by majority vote rule on the objection.

(f) Familial Relationship - For purposes of this section, a "close familial relationship" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.

Section 9.1 Zoning Administrator

To provide the general administration, interpretation and enforcement of this ordinance the Polk County Board of Commissioners shall appoint a Zoning Administrator who will be directly responsible to, and report periodically, to the Board.

It is the intent of this ordinance that all questions relative to its general administration, interpretation and enforcement shall be presented to the Zoning Administrator. Appeal from his determinations and decisions shall be made to the Board of Adjustment. Further recourse shall be taken to the courts as established by law. It is also the intent of this ordinance that the county commissioners shall not hear or pass on disputed questions

of interpretations or enforcement of it. The duties of the county commissioners in connection with this ordinance shall only include those related to the calling and holding of public hearings and voting upon any proposed amendments to or repeal of this ordinance, as provided by law.

If the Zoning Administrator finds that any of the provisions of this ordinance are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of the illegal use of land, buildings or structures; removal of illegal buildings or structures or of additions, alterations or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this ordinance to ensure compliance with, or to prevent violation of its provisions.

If a ruling of the Zoning Administrator is questioned, the aggrieved party or parties may appeal such ruling to the Board of Adjustment in accordance with Section 10.4 below.

Section 9.2 Certificate of zoning compliance required.

No buildings, or other structures shall be erected, moved, added to, or structurally altered until a certificate of zoning compliance has been issued by the Zoning Administrator. No certification of zoning compliance shall be issued except in conformity with the provisions of this ordinance.

Section 9.3 Application for certificate of zoning compliance.

All applications for certificate of zoning compliance shall be accompanied by two (2) sets of plans showing the dimensions and shape of the parcel to be built upon, the exact sizes, uses and locations on the parcel of buildings already existing, if any, and the locations, dimensions and uses of the proposed buildings or alterations. The application shall include such other information as may be necessary to determine conformance with and provide for the enforcement of this ordinance. A fee shall be charged for the processing of each such application. In addition, any other information called for on the application form shall also be included.

Section 9.4 Health department approval of water supply and sewage disposal facilities.

The Zoning Administrator shall not issue a certificate of zoning compliance for any use, building or purpose proposed for a location outside of any incorporated municipality without written approval of any and all needed or proposed water supply and sewage disposal facilities from the county sanitarian. Issuance and use of a certificate of zoning compliance shall be subject to all terms and qualifications imposed by the county sanitarian.

Section 9.5 Certificate of occupancy required.

A certificate of occupancy issued by the Zoning Administrator is required in advance of:

1. Occupancy or use of a building hereafter erected, altered or moved.

2. Change of use of any building or land.

A certificate of occupancy, either for the whole or a part of a building shall be applied for coincident with the application for a certificate of zoning compliance and shall be issued within ten (10) days after the erection or structural alteration of such building or part shall have been completed in conformity with the provision of

this ordinance. A certificate of occupancy shall not be issued unless the proposed use of a building or land conforms to the applicable provisions of this ordinance. If the certificate of occupancy is denied, the Zoning Administrator shall state in writing the reasons for refusal and the applicant shall be notified of the refusal. A record of all certificates shall be kept on file in the office of the Zoning Administrator and copies shall be furnished on request to any person having a proprietary or tenancy interest in the building or land involved.

Section 9.6 Fees.[v]

The Board of Commissioners shall adopt and periodically update a schedule of fees for application and processing as specified in this ordinance.

Section 9.7 Zoning violations.

Any of the following shall be a violation of this ordinance and shall be subject to the enforcement remedies and penalties provided herein and by North Carolina State Law.

9.7.1 ***Development without permit***. To engage in any development, site preparation, use, demolition, construction, remodeling, or other activity of any nature upon land or improvements thereon subject to the jurisdiction of this ordinance without all required permits, certificates, or other forms of authorization as set forth in this ordinance.

9.7.2 ***Development inconsistent with permit***. To engage in any development, site preparation, use, demolition, construction, remodeling, or other activity of any nature in any way inconsistent with any approved plan, permit, certificate, or other form of authorization granted for such activity.

9.7.3 ***Violation by act of omission***. To violate, by act of omission, any term, variance, modification, condition, or qualification placed by the Board of Commissioners or its agent boards upon any required permit, certificate, or other form of authorization for the use, development, or other activity upon land or improvements thereon.

9.7.4 ***Use in violation***. To erect, construct, reconstruct, alter, repair, convert, maintain, or use any building or structure, or to use any land, or to conduct any activity in violation or contravention of this ordinance or any other regulation made under the authority conferred thereby.

9.7.5 ***Continue a violation***. To continue any of the above violations is a separate and distinct offense.

Section 9.8 Inspections and investigations.

9.8.1 ***Inspections***. The Zoning Administrator shall have the right upon presentation of proper credentials, or inspection warrant if necessary, to enter on any premises within the planning jurisdiction of the County at any reasonable hour for the purposes of inspection, determination of plan compliance, or other enforcement actions under this ordinance and state law.

9.8.2 ***Investigations***. The Zoning Administrator shall have the power to conduct such investigations as he or she may reasonably deem necessary to carry out their duties as prescribed in this ordinance and, for this purpose, to enter at reasonable times upon any property, public or private, for the purpose of investigating and inspecting the sites of any complaints or alleged violations of this ordinance.

9.8.3 ***Supporting documentation***. The Zoning Administrator shall have the power to require written statements, certificates, certifications, or the filing of reports with respect to pertinent questions relating to complaints or alleged violations of this ordinance.

9.8.4 ***Administrative search warrants***. No person shall obstruct, hamper or interfere with the Zoning Administrator while carrying out his or her official duties. If the owner or occupant of any property refuses to permit inspections or otherwise obstructs an investigation or other actions of the Zoning Administrator in the performance of his or her duties, the Zoning Administrator shall proceed to obtain an administrative search warrant pursuant to G.S. 15-27.2 or its successor.

Section 9.9 Enforcement procedures.

9.9.1 ***Notify the owner or occupant of violation***. When the Zoning Administrator becomes aware of a violation of this ordinance, it shall be his or her duty to notify the owner or occupant of the land, building, structure, or use of the violation. The owner or occupant shall promptly remedy the violation.

9.9.2 ***Notice of violation***. If the owner or occupant of the land, building, structure, or use in violation fails to take prompt corrective action, the Zoning Administrator shall give the owner or occupant written notice (by certified or registered mail to his last known address, by personal service, or by posting notice conspicuously on the property) of the following:

A. That the activity, land, building, structure, or use is in violation of this ordinance;

B. The nature of the violation, and citation of the section(s) of this ordinance violated;

C. The measures necessary to remedy the violation; and

D. Mechanisms available to appeal the decision of the Zoning Administrator.

9.9.3 ***Appeal***. Any owner or occupant who has received a notice of violation may appeal in writing the decision of the Zoning Administrator to the Board of Adjustment in accordance with Section 10.4 below.

9.9.4 ***Notice of decision***. The decision of the Board of Adjustment may be delivered to the aggrieved party either by personal service or by registered mail, certified mail return receipt requested, or by posting notice conspicuously on the property. Such notice of decision shall inform the recipient of the timeframe within which compliance shall be required, and the remedies available to the County as provided by state law and this Ordinance.

9.9.5 ***Failure to comply with notice of violation, notice of intent, and decision of the board of adjustment***. If the owner or occupant of a property fails to comply with a notice of violation from which no appeal has been taken, or a final decision by the Board of Adjustment following an appeal, the owner or occupant shall be subject to such remedies and penalties as may be provided for by state law or by Section 9.7

Section 9.10 Remedies.

Any or all of the following procedures may be used to enforce the provisions of this ordinance.

9.10.1 ***Injunction***. Any violation of this ordinance or of any condition, order, requirement, or remedy adopted pursuant hereto may be restrained, corrected, abated, mandated, or enjoined by other appropriate proceedings pursuant to state law.

9.10.2 ***Civil penalties***. Any person who violates any provision of this ordinance shall be subject to the assessment of a civil penalty under the procedures provided in Section 9.13.

9.10.3 ***Denial of permit, application or certificate***. The Zoning Administrator shall withhold or deny any permit, application, certificate, or other authorization on any land, building, structure, or use in which there is an uncorrected violation of a provision of this ordinance, or of a condition or qualification of a permit, certificate, or other authorization previously granted.

9.10.4 ***Special use permit or temporary certificate***. The Zoning Administrator may condition the authorization of any permit or certificate upon the correction of the deficiency, payment of civil penalties within a specified time, or the posting of a compliance security bond approved by Zoning Administrator.

9.10.5 ***Stop work orders***. Whenever any land disturbing activity is commenced and/or a building, structure, or part thereof is being constructed, reconstructed, altered, or repaired in violation of this ordinance, the Zoning Administrator may order the work to be immediately stopped. The stop work order shall be in writing and directed to the owner, occupant, or person doing the work. The stop work order shall state the specific work to be stopped, the specific reasons for the stoppage, and the conditions under which the work may be resumed. Such action shall be in accordance with the applicable North Carolina Building Code.

9.10.6 ***Revocation of permits or certificates***. The Zoning Administrator may revoke and require the return of a permit or certificate by notifying the permit holder in writing, stating the reason for the revocation. Permits or certificates shall be revoked for any of the following: substantial departure from the approved application, plans, or specifications; refusal or failure to comply with the requirements of state or local laws; or for false statements or misrepresentations made in securing the permit or certificate. Any permit or certificate mistakenly issued in violation of an applicable state or local law may also be revoked.

9.10.7 ***Criminal penalties***. Violations of this ordinance shall not constitute a Class 1 Misdemeanor as provided by NCGS 14-4 but shall be civil in nature only.

Section 9.11 Civil penalties - Assessments and procedures.

9.11.1 ***Responsible parties***. The owner or occupant of any land, building, structure, use of land, or part thereof, and any architect, builder, contractor, agent, or other person who participates or acts in concert, assists, directs, creates, or maintains any condition that is in violation of this ordinance may be held responsible for the violation and subject to the civil penalties and remedies provided herein.

9.11.2 ***Notice***. No civil penalty shall be assessed until the person alleged to be in violation has been notified in accordance with Section 9.9. If after receiving a notice of violation under Section 9.9, the owner or other violator fails to take corrective action, a civil penalty may be imposed under this section in the form of a citation. The citation shall be served in the same manner as of a notice of violation. The citation shall state the nature of the violation, shall state the civil penalty to be imposed upon the violator, and shall direct the violator to pay the civil penalty within 15 days of the date of the citation.

9.11.3 ***Continuing violation***. For each day the violation is not corrected after the citation is issued, the violator will be guilty of an additional and separate offense and subject to additional civil penalties.

Section 9.12 Other powers and actions.

In addition to other enforcement provisions contained in this Article, the County may exercise any and all enforcement powers granted to it by state law or common law.

Section 9.13 Remedies - Cumulative and continuous.

9.13.1 ***Cumulative violations***. All remedies provided herein shall be cumulative. To the extent that North Carolina law may limit the availability of a particular remedy set forth herein for a certain violation or a part thereof, such remedy shall remain available for other violations or other parts of the same violation.

9.13.2 ***Repeat violations***. If an owner or occupant repeats the same violation within a five year period from the date of the initial violation, it shall be considered to be a continuation of the initial violation and shall be subject to additional penalties and remedies.

9.13.3 ***Penalties***. Any person who violates any provision of this ordinance shall be subject to assessment of a civil penalty in the amount of:

A. $50.00 for the first violation;

B. $100.00 for the second violation;

C. $200.00 for the third violation; and

D. $500.00 for the fourth and each succeeding violation.

9.13.4 ***Demand for payment***. The Zoning Administrator shall make written demand for payment upon the owner or the person in violation and shall set forth in detail a description of the violation for which the civil penalty has been imposed.

9.13.5 ***Nonpayment***. If payment is not received or equitable settlement reached within 30 days after demand for payment is made, the matter may be referred to legal counsel to institute a civil action for recovery of the civil penalty.

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Article X. Board of Adjustment. [x]

Section 10.1 Composition, Term and Qualifications of Members.

This Ordinance provides for the appointment and compensation of a Board of Adjustment consisting of five or more members, each appointed for three years. In the filling of vacancies caused by the expiration of the terms of existing members, the county commissioners shall, if practicable, have at least one resident of each designated zoning area as a member of the Board of Adjustment; otherwise, the provisions of G.S. 153A-25 regarding qualifications for appointive office shall apply to board of appointments. The county commissioners shall appoint and may provide compensation for five [xxiii] alternate members to serve on the Board in the absence or temporary disqualification of any regular member or to fill a vacancy pending appointment of a member. Alternate members shall be appointed for the same term, at the same time, and in the same manner as regular

members. Each alternate member serving on behalf of any regular member has all the powers and duties of a regular member.

Section 10.2 Duties.

The Board of Adjustment shall hear and decide Special Use Permits, requests for variances, and appeals of decisions of administrative officials charged with enforcement of this ordinance. As used in this section, the term "decision" includes any final and binding order, requirement, or determination. The Board of Adjustment shall follow quasi-judicial procedures when deciding appeals, requests for variances and Special Use Permits. The Board shall hear and decide all matters upon which it is required to pass under any statute or ordinance that regulates land use or development.

Section 10.3 Notice of Hearing.

Notice of hearings conducted pursuant to this article shall be mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels of land adjacent to the parcel of land that is the subject of the hearing; and to any other persons entitled to receive notice as provided by the zoning ordinance. In the absence of evidence to the contrary, the county may rely on the county tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the county shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way.

Section 10.4 Appeals.

The Board of Adjustment shall hear and decide appeals decisions of administrative officials charged with enforcement of the zoning ordinance and may hear appeals arising out of any other ordinance that regulates land use or development, pursuant to all of the following:

10.4.1 Any person who has standing under G.S. 160D-1402(c) or the county may appeal a decision to the Board of Adjustment. An appeal is taken by filing a notice of appeal with the County Clerk. The notice of appeal shall state the grounds for the appeal.

10.4.2 The official who made the decision shall give written notice to the owner of the property that is the subject of the decision and to the party who sought the decision, if different from the owner. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail.

10.4.3 The owner or other party shall have 30 days from receipt of the written notice within which to file an appeal. Any other person with standing to appeal shall have 30 days from receipt from any source of actual or constructive notice of the decision within which to file an appeal.

10.4.4 It shall be conclusively presumed that all persons with standing to appeal have constructive notice of the decision from the date a sign containing the words "Zoning Decision" or "Subdivision Decision" in letters at least six inches high and identifying the means to contact an official for information about the decision is prominently posted on the property that is the subject of the decision, provided the sign remains on the property for at least 10 days. Posting of signs is not the only form of constructive notice. Any such posting shall be the responsibility of the landowner or applicant. Verification of the posting shall be provided to the official who made the decision.

10.4.5 The official who made the decision shall transmit to the Board all documents and exhibits constituting the record upon which the action appealed from is taken. The official shall also provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner.

10.4.6 An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from unless the official who made the decision certifies to the Board of Adjustment after notice of appeal has been filed that because of the facts stated in an affidavit, a stay would cause imminent peril to life or property or because the violation is transitory in nature, a stay would seriously interfere with enforcement of the ordinance. In that case, enforcement proceedings shall not be stayed except by a restraining order, which may be granted by a court. If enforcement proceedings are not stayed, the appellant may file with the official a request for an expedited hearing of the appeal, and the Board of Adjustment shall meet to hear the appeal within 15 days after such a request is filed. Notwithstanding the foregoing, appeals of decisions granting a permit or otherwise affirming that a proposed use of property is consistent with the ordinance shall not stay the further review of an application for permits or permissions to use such property; in these situations the appellant may request and the Board may grant a stay of a final decision of permit applications or building permits affected by the issue being appealed.

10.4.7 Subject to the provisions of subdivision (6) of this subsection, the Board of Adjustment shall hear and decide the appeal within a reasonable time.

10.4.8 The official who made the decision shall be present at the hearing as a witness. The appellant shall not be limited at the hearing to matters stated in the notice of appeal. If any party or the county would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the Board shall continue the hearing. The Board of Adjustment may reverse or affirm, wholly or partly, or may modify the decision appealed from and shall make any order, requirement, decision, or determination that ought to be made. The Board shall have all the powers of the official who made the decision.

10.4.9 When hearing an appeal pursuant to G.S. 160D-947(e) or any other appeal in the nature of certiorari, the hearing shall be based on the record below and the scope of review shall be as provided in G.S. 160D-1402(j).

10.4.10 The parties to an appeal that has been made under this subsection may agree to mediation or other forms of alternative dispute resolution. The ordinance may set standards and procedures to facilitate and manage such voluntary alternative dispute resolution.

A majority of the members shall be required to decide to determine an appeal made in the nature of certiorari in accordance with Section 10.7 *et seq.* below.

Section 10.5 Special Use Permits.[xxv]

A Special Use Permit from the Board of Adjustment is required for all special uses. The Board of Adjustment shall hear and decide Special Use Permits in accordance with standards and procedures specified in this ordinance and may issue Special Use Permits in the classes of cases or situations and in accordance with the principles, conditions, safeguards, and procedures specified herein and may impose reasonable and appropriate conditions and safeguards upon these permits. Where appropriate, the

conditions may include requirements that street and utility rights-of-way be dedicated to the public and that recreational space be provided.

10.5.1 ***Application*****.** When a Special Use Permit is required by the terms of this Ordinance, application for such permit, along with a fee established by resolution of Board of Commissioners, shall be made in accordance with this Section. A completed application for a Special Use Permit must be received by the Zoning Administrator at least 30 days prior to the date of a Board of Adjustment meeting in order to be scheduled for such meeting.

10.5.2 ***Site Plan*****.** The application for a Special Use Permit shall be accompanied by a site plan conforming to the requirements of the Zoning Administrator.

10.5.3 ***Quasi-Judicial Hearings on Applications for Special Use Permits*****.** Once the Zoning Administrator is in receipt of a complete application and seven copies of a complete site plan, he or she will schedule the application for a public hearing before the Board. The Zoning Administrator shall mail the Notice of Hearing in accordance with Section 10.3 of this Article. The Board of Adjustment shall conduct a quasi-judicial hearing on the application and shall allow any interested party to appear, either in person or by agent or attorney.

10.5.4 ***Board action on applications for Special Use Permits*****.** After the public hearing, and on consideration of the record, the Board shall take action on the application, either (1) denying it, (2) approving it, or (3) approving it subject to one or more conditions. A majority of the members shall be required to decide an application for a Special Use Permit in accordance with Section 10.7 *et seq.* below. The Board shall not approve an application for a Special Use Permit, with or without conditions, unless it makes each of the following findings of fact:

(1) the proposed use complies with the standards for such use, if any, contained in this Zoning Ordinance;

(2) the proposed use will not adversely affect the health or safety of persons residing or working in the neighborhood of such proposed use;

(3) the proposed use will not be detrimental or injurious to property, property uses or property values, or to public improvements, in the neighborhood of such proposed use; and

(4) the proposed use is designed and will be operated in such a manner as to be in harmony with the neighborhood in which it is to be located.

10.5.5 ***Recordation/Effect of Approval.*** The Special Use Permit shall be filed with the Polk County Register of Deeds by the Clerk to the Board of Adjustment within one month from the date of approval. All Special Use Permits that are granted shall run with the property or structure for which the Special Use Permit is being sought and not with the owner of the property or structure.

Section 10.6 Variances.

When unnecessary hardships would result from carrying out the strict letter of the zoning ordinance, the Board of Adjustment shall vary any of the provisions of the ordinance upon a showing of all of the following:

(1) Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property;

(2) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance;

(3) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship; and

(4) The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

No change in permitted uses may be authorized by variance. Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance. Any other ordinance that regulates land use or development may provide for variances consistent with the provisions of this subsection.

10.6.1 ***Application*****.** When a variance is requested the applicant shall submit a completed application for such permit, along with a fee established by resolution of Board of Commissioners.

10.6.2 ***Quasi-Judicial Hearings on Applications for Variances*****.** Once the Zoning Administrator is in receipt of a complete application and a complete site plan, he or she will schedule the application for a public hearing before the Board. The Zoning Administrator shall mail the Notice of Hearing in accordance with Section 10.3 of this Article. The Board of Adjustment shall conduct a quasi-judicial hearing on the application and shall allow any interested party to appear, either in person or by agent or attorney.

10.6.3 ***Board action on applications for variances.*** After the quasi-judicial hearing, and on consideration of the record, the Board shall take action on the application, either (1) denying it, (2) approving it, or (3) approving it subject to one or more conditions. A concurring vote of four-fifths of the Board shall be necessary to grant a variance in accordance with Section 10.7, *et seq.*

10.6.4 ***Recordation/Effect of Approval*****.** The approved variance shall be filed with the Polk County Register of Deeds by the Clerk to the Board of Adjustment within one month from the date of approval. All variances that are granted shall run with the property or structure for which the variance is being sought and not with the owner of the property or structure.

Section 10.7 Voting.

The concurring vote of four-fifths of the Board shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For the purposes of this subsection, vacant positions on the Board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the Board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

10.7.1 ***Recusal.***

A member of the Board or any other body exercising quasi-judicial functions pursuant to this Article shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible conflicts include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

Section 10.8 Quasi-Judicial Decisions and Judicial Review.

10.8.1 ***Quasi-Judicial Decisions.***

The Board shall determine contested facts and make its decision within a reasonable time. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Each quasi-judicial decision shall be reduced to writing and reflect the Board's determination of contested facts and their application to the applicable standards. The written decision shall be signed by the Chair or other duly authorized member of the Board. A quasi-judicial decision is effective upon filing the written decision with the Clerk to the Board of Adjustment. The decision of the Board shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective. The person required to provide notice shall certify that proper notice has been made.

10.8.2 ***Judicial Review.***

Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to G.S. 160D-1402. A petition for review shall be filed with the Clerk of Superior Court by the later of 30 days after the decision is effective or after a written copy thereof is given in accordance with Section 10.8.1 of this subsection. When first-class mail is used to deliver notice, three days shall be added to the time to file the petition.

Section 10.9 Oaths.

The Chair of the Board or any member acting as Chair and the Clerk to the Board are authorized to administer oaths to witnesses in any matter coming before the Board. Any person who, while under oath during a proceeding before the Board of Adjustment, willfully swears falsely is guilty of a Class 1 misdemeanor.

Section 10.10 Subpoenas.[xxv]

The Board of Adjustment through the Chair, or in the Chair's absence anyone acting as Chair, may subpoena witnesses and compel the production of evidence. To request issuance of a subpoena, persons with standing under G.S. 160D-1402(c) may make a written request to the Chair explaining why it is necessary for certain witnesses or evidence to be compelled. The Chair shall issue requested subpoenas he or she determines to be relevant, reasonable in nature and scope, and not oppressive. The Chair shall rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the Chair may be appealed to the full Board of Adjustment. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the Board of

Adjustment or the party seeking the subpoena may apply to the General Court of Justice for an order requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties.

Article XI. Amendments

Section 11.1 Procedure. [xix]

This ordinance, including the zoning map, may be amended from time to time, but no amendment shall become effective unless it shall have been proposed by, or shall first have been submitted to, the Polk County Planning Board for review and recommendation. The planning board shall have thirty (30) days within which to submit its report. If the planning board fails to submit its report within the thirty-day period, it shall be deemed to have approved the proposed amendment prior to adopting or rejecting any zoning amendment, the Board of County Commissioners shall adopt one of the following statements which shall not be subject to judicial review:

(1) A statement approving the zoning amendment and describing its consistency with the comprehensive plan and explaining why the action taken is reasonable and in the public interest.
(2) A statement rejecting the zoning amendment and describing its inconsistency with the comprehensive plan and explaining why the action taken is reasonable and in the public interest.
(3) A statement approving the zoning amendment and containing at least all of the following:
    a. A declaration that the approval is also deemed an amendment to the comprehensive plan. The Board of County Commissioners shall not require any additional request or application for amendment to the comprehensive plan.
    b. An explanation of the change in conditions the Board of County Commissioners took into account in amending the zoning ordinance to meet the development needs of the community.
    c. Why the action was reasonable and in the public interest.

A public hearing shall be held by the Board of County Commissioners before adoption of any proposed amendment to this ordinance. A notice of such public hearing shall be given in accordance with state statutes.

Section 11.2 Planning board study. [xix]

Every proposed amendment or repeal of this ordinance shall be referred to the planning board for its recommendation and report, provided that no proposal shall be required to be considered by the planning board within ten (10) days from filing of the proposal with the Zoning Administrator. Prior to consideration of a proposed zoning amendment by the Board of Commissioners, the Planning Board shall advise and comment on whether the proposed amendment is consistent with the comprehensive plan. The planning board shall provide a written recommendation to the Board of Commissioners that addresses plan consistency and other matters as deemed appropriate by the Planning Board. Each application shall be signed and shall contain at least the following information:

a. The applicant's name in full, applicant's address, address or description of the property to be zoned or rezoned. When instituting a zoning change, the applicant must pay all advertising and mailing costs incurred by the County.
b. Applicant's interest in the property and the type of zoning or rezoning requested.
c. If the proposed change would require a change in the zoning map, an accurate diagram of the property proposed for rezoning showing:

1) All property lines with dimensions and directions shown on the map as north, east, west, and south (north arrow);
2) Adjoining streets with rights-of-way and paving widths;
3) The location of all structures, the use of all land;
4) Zoning classification of all abutting zoning districts, the names and addresses of current abutting property owners;
5) Comprehensive site plan if the application is for commercial, industrial, multifamily or mobile home developments.

d. A statement regarding the changing conditions, if any, in the area or in the county generally, that make the proposed amendment reasonably necessary to the promotion of the public health, safety and general welfare.

e. Any other relevant information which the Planning Board or Zoning Administrator may request.

Article XII. Definitions

Except where specifically defined below, all words used in the present tense include the future tense; the singular number includes the plural; the word "building" includes the word "structure"; the word "lot" includes the word "plot" or "parcel"; the term "shall" is always mandatory; the word "used" or "occupied," as applied to any land or building shall be construed to include the words "intended", arranged or designed to be used or occupied.

Accessory building. A building, subordinate to the main building on a lot and used for a purpose customarily incidental to that main or principal building.

Accessory dwelling unit. [xiii] A residential dwelling unit, including a mobile home (if permitted in zoning district), located on the same lot as a single-family dwelling unit, either within the same building as the single-family dwelling unit or in a detached building. The parcel must be a minimum of one acre in size or the minimum required lot size of zoning district, whichever is greater.

Agricultural building [xxi]. A structure on agricultural land designed, constructed, and used to house farm implements, livestock, or agricultural produce or products used by the owner, lessee, or sub-leasee or their immediate families, their employees, and persons engaged in the pick up or delivery of agricultural produce or products grown or raised on the premises. The term "agricultural building" shall not include dwellings.

Animal processing facilities. Commercial operations in which the animals are cut-up, skinned, boned, canned, salted, stuffed, rendered, or otherwise manufactured or processed. Animal processing for personal use is not included in this definition. [xxvii]

Arcades. The operation of business establishments, including but not limited to, video poker, gaming or sweepstakes establishments, that offer for use or otherwise allow persons to play video games, arcade games, pinball machines, or other computer, electronic or mechanical devices for amusement. [xxvii]

Automobile, truck, farm equipment & farm implement sales and service (Major and Minor). An establishment primarily engaged in the sales, repair, or maintenance of motor vehicles, motorized farm equipment, and farm implements. Major repairs and maintenance includes paint, body, fender repair and painting, and major engine overhaul. Minor repairs and maintenance include brake, muffler, upholstery work, tire repair and change, lubrication, tune-ups, and transmission work. Both major and minor repairs and maintenance are to be performed within a completely enclosed building.

Bed & Breakfast. A detached single-family dwelling occupied by the dwelling owner and containing eight or fewer guest rooms for rent for a period of less than two weeks. [xxvii]

Boarding house. A building arranged or used for lodging for compensation, with or without meals, and not occupied as a single-family unit. [xxvii]

Bona fide farm.[xv, xix] The production and activities relating or incidental to the production of crops, grains, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture:

(1) The cultivation of soil for production and harvesting of crops, including but not limited to fruits, vegetables, sod, flowers and ornamental plants.
(2) The planting and production of trees and timber.
(3) Dairying and the raising, management, care, and training of livestock, including horses, bees, poultry, and other animals for individual and public use, consumption, and marketing.
(4) Aquaculture as defined in G.S. 106-758.
(5) The operation, management, conservation, improvement, and maintenance of a farm and the structures and buildings on the farm, including building and structure repair, replacement, expansion, and construction incident to the farming operation.
(6) When performed on the farm, "agriculture", "agricultural", and "farming" also include the marketing and selling of agricultural products, agritourism, the storage and use of materials for agricultural purposes, packing, treating, processing, sorting, storage, and other activities performed to add value to crops, livestock, and agricultural items produced on the farm, and similar activities incident to the operation of a farm.
(7) A public or private grain warehouse or warehouse operation where grain is held 10 days or longer and includes, but is not limited to, all buildings, elevators, equipment, and warehouses consisting of one or more warehouse sections and considered a single delivery point with the capability to receive, load out, weigh, dry, and store grain.

For purposes of determining whether a property is being used for bona fide farm purposes, any of the following shall constitute sufficient evidence that the property is being used for bona fide farm purposes:

a. A farm sales tax exemption certificate issued by the Department of Revenue.
b. A copy of the property tax listing showing that the property is eligible for participation in the present use value program pursuant to G.S. 105-277.3.
c. A copy of the farm owner's or operator's Schedule F from the owner's or operator's most recent federal income tax return.
d. A forest management plan.

A building or structure that is used for agritourism is a bona fide farm purpose if the building or structure is located on a property that (i) is owned by a person who holds a qualifying farm sales tax exemption certificate from the Department of Revenue pursuant to G.S. 105-164.13E(a) or (ii) is enrolled in the present-use value program pursuant to G.S. 105-277.3. Failure to maintain the requirements of this subsection for a period of three years after the date the building or structure was originally classified as a bona fide farm purpose pursuant to this subsection subjects the building or structure to applicable zoning and development regulation ordinances adopted by a county pursuant to G.S. 160D-702 in effect on the date the property no longer meets the requirements of this subsection. For purposes of this section, "agritourism" means any activity carried out on a farm or ranch that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities, including farming, ranching, historic, cultural, harvest-your-own activities, hunting, fishing, equestrian activities, or natural

activities and attractions. A building or structure used for agritourism includes any building or structure used for public or private events, including, but not limited to, weddings, receptions, meetings, demonstrations of farm activities, meals, and other events that are taking place on the farm because of its farm or rural setting. [xxvii]

***Building*.** Any structure used or intended for supporting or sheltering any use or occupancy. [xxv]

***Building, principal*.** A building in which is conducted the main or principal use of the lot on which said building is situated.

Building height [xxi]**.** In measuring a building [xxiii], or part thereof, to determine compliance with the maximum height provisions, measurement will be taken from the level of the highest point, or part thereof, and shall not include ornamental cupolas, weathervanes, belfries, chimneys, flag or radio poles, unless otherwise defined.

Carwash. An area or structure equipped with facilities for washing vehicles. [xxvii]

***Cemetery*.** Land used or intended to be used for the interment of the dead and dedicated for cemetery purposes.

***Church, Synagogue, Temple, Or Other Religious Building*.** A building used for public religious worship.

Club, public or private. Buildings or facilities owned or operated by a corporation, association, or persons for a social, educational, or recreational purpose; but not for profit or to render a service that is customarily carried on as a business.

Cluster Development. A type of major subdivision that is intended is to allow smaller than minimum lot sizes with dwelling units clustered in smaller areas in order to preserve larger areas of open space and environmental resources.

Community Recreation Center. A place, structure, area, or other facilities used for and providing religious, fraternal, social, and/or recreational programs generally open to the public and designed to accommodate and serve significant segments of the community.

Convenience Stores, Including those that sell petroleum and petroleum products. Small franchised or un-franchised stores or markets that sell groceries, consumer goods, foods and petroleum products such as gasoline, diesel fuel, and motor oil.

***Customary home occupation, Class I*.** Any use conducted entirely within a dwelling and carried on by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling for residence purposes and does not change the character thereof, and in connection with which there is no display and no person, not a resident on the premises, is employed specifically in connection with the customary home occupation, except that not more than one (1) assistant may be employed; provided further, that no mechanical equipment is installed or used except such that is normally used for domestic or professional purposes, and that not over twenty-five (25) percent of the floor space of any structure is used for home occupations.

***Customary Home Occupation, Class II*.** Includes uses conducted entirely within dwellings as permitted under Customary Home Occupation, Class I, and adds permitted uses that are conducted entirely within an accessory building of:

(1) No greater than 2,500 square feet on a parcel size of 1 to 1.5 acres; or

(2) No greater than 4,000 square feet on a parcel size of over 1.5 acres.

Use restrictions as to mechanical equipment applicable to Customary Home Occupation, Class I shall not apply to uses conducted entirely within an accessory building. Permitted uses must be clearly incidental and secondary to the primary use of the parcel for residential purposes and should not change the character thereof. Outdoor displays are not permitted.

Permitted uses must be carried on by at least one occupant of the dwelling with no more than four nonresident employees.

Any uses allowed as a Special Use (S) in the Permitted Use Table (Article VI) will require a Special Use Permit. Uses that are blank in the Permitted Use Table are not permitted for Customary Home Occupation, Class II. [xxvii]

Reference Section 4.6, 4.7, 4.9 and 4.10 for Parking Requirement.

Data processing facilities. [xxvii] A building or dedicated space within a building used to house a large group of computer systems and associated components, such as telecommunications and data processing systems, to be used for the remote storage, processing, or distribution of large amounts of data. Such facilities may also include air handlers, power generators, water cooling and storage facilities, utility substations, and other associated utility infrastructure to support operations.

1) Submittal Requirements:
    a) A narrative describing the proposed data processing facility including an overview of the project;
    b) A site plan showing the proposed location and dimensions of all equipment, existing and proposed structures, screening, fencing, property lines, access roads, and turnout locations;
    c) A study prepared by an acoustical engineer that describes the anticipated noise level of the facility and any proposed mitigation efforts such as sound walls, baffles, ventilation silencers, additional separation from surrounding uses, etc.;
2) All roads shall be of sufficient width to accommodate emergency vehicle access as determined by the Polk County Fire Marshal.
3) The entire perimeter of the facility shall be screened from adjoining properties by a buffer yard.
4) No grid-connected data processing system shall be installed until evidence has been provided by the operator that installation of the system has been approved by the electrical utility provider. Off-grid systems shall be exempt from this requirement.
5) Security fencing, a minimum of eight (8) feet in height, shall be provided along the entire perimeter of the facility.
6) No signage shall be permitted on the perimeter fence, with the exception of one (1) sign not to exceed thirty-two (32) square feet that displays the name, address, and emergency contact information of the facility as well as appropriate warning signs.
7) The facility shall not impose a negligible impact on the surrounding environment by noise, vibration, smoke, dust or pollutants.
8) All exterior lighting shall be designed and constructed with cutoff and fully shielded fixtures that direct light downward and into the interior of the property and away from adjacent roads and adjacent properties.
9) It is the responsibility of the owner to notify Polk County and to remove all obsolete or unused systems. Any structure or equipment associated with the facility that is not operated for a continuous period of three hundred sixty-five (365) days shall be considered abandoned. The County may require

the owner to remove such structures and equipment within ninety (90) days after notice from the County. If the abandoned structure or equipment is not removed within ninety (90) days, the County may remove it and recover its costs from the owner. If the owner of the abandoned structure or equipment cannot be located or is no longer in business, the requirements of this section shall be the responsibility of the landowner on whose property the structure or equipment is located.

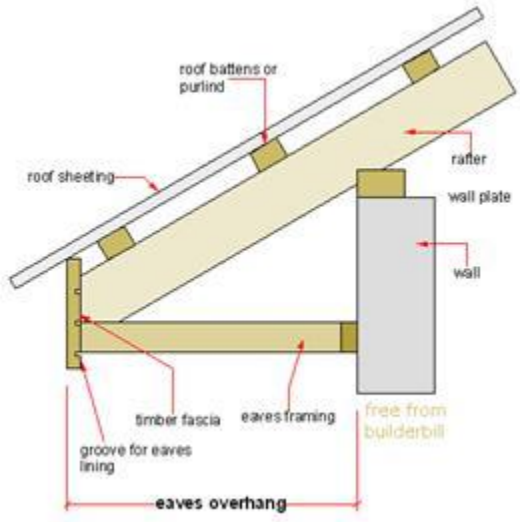
Day Care Facility. A place that provides for the care of children or adults. Those receiving care do not reside in the facility, are present primarily during daytime hours, do not regularly stay overnight, are not all related to each other by blood or marriage and are not legal wards or foster children of those providing care.

Dormitory. [xxvii] A space in a building where group sleeping accommodations are provided in one room, or in a series of closely associated rooms, for persons not members of the same family group, under joint occupancy and single management, as in college dormitories or fraternity houses.

Duplex. A single building consisting of two separate dwelling units (other than a two-family dwelling including accessory apartment), providing the two dwelling units are not simply attached by an unenclosed passageway (e.g., covered walkway). [xxv]

Dwelling Unit. A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation. [xxv]

Eaves. [xv] The projecting overhangs at the lower edge of the roof, located at the bottom of the fascia; not including dormers, chimneys or ornamental features (non-habitable).



Equestrian centers & facilities, multi-discipline. A building or group of building, structures, place, area or other facilities providing uses and services necessary or incidental to horsemanship/horse activities, shows, events, races, competitions, auctions, stabling (whether permanent structures or temporary or semi-permanent structures, such as tents); care and upkeep, including, but not limited to, Hunter, Jumper, Polo, Dressage, Cross Country, Western, Driving, Fox Hunting, Breed Shows, Young Horses, and endurance events.

Equestrian Village Development. [xiv] A group of two or more buildings built in a mixed-use village or resort format, either incorporating or located within one thousand feet of the main arena of a bona fide Equestrian center & facility, multi-discipline use. The Equestrian Village Development must be upon an area of land that includes not less than twenty-five (25) acres; that has direct and immediate access to a State road; that has both public

water and public sewer service; that has multifamily residential units constituting a minimum of 20% of the total units in the area; and that has Open Space dedicated on a recorded site specific plan constituting a minimum of 15% of its total area.

Events, shows & festivals. A building or group of buildings, structures, place, area or other facilities providing or facilitating uses and services necessary or incidental to any fair, festival, show, event, concert, performance, auction, pageant or similar activity where patrons are admitted to enjoy, engage or participate in entertainment or competitions.

Event venues. [xxvii] A facility that is leased or operated for special events that are typically private in nature, including but not limited to weddings, reunions, retreats, and organized gatherings.

Family. Any number of individuals living together as a single housekeeping unit and doing their cooking on the premises, as distinguished from a group occupying a boarding or rooming house or hotel.

Food trucks. [xxvii] Establishments that sell food and may include drive-in or drive-up facilities for ordering.

Funeral homes [xxvii]**.** An establishment where the dead are prepared for burial or cremation and/or visitations.

Golf Courses & Country Clubs**.** Land, buildings, and related facilities owned or operated by a for-profit or nonprofit corporation, association, or group of individuals or a municipality, operated for the social and/or recreational sports use of its public or private membership.

Group Development. A group of two (2) or more principal buildings built on a plot of land not less than two (2) acres not subdivided into the customary streets and lots and which will not be subdivided. Examples would be: row houses, apartment courts, housing projects, school and hospital campuses, shopping centers and industrial parks.

Guest House**.** A separate and complete dwelling unit located on the same lot as the structure of a single-family dwelling but not intended for year-around use.

Heliport, public or private**.** A building, place, area, structure, or other facilities, private or open to the public, designed or used for any or all phases of operation of helicopters, such as take-off, landing, taxiing, terminal operation, loading, unloading, hangar storage, maintenance, repair, and service thereof.

Hospitals & Clinics**.** Institutions designed for the diagnosis, treatment and care of human illness or infirmity and providing health services, primarily for inpatients and including as related facilities, laboratories, outpatient departments, training facilities and staff offices.

Internet cafes. [xxvii] *See Arcades*.

Kennels**.** Any premises, except where accessory to an agricultural use, where domestic animals, such as dogs and cats, are boarded, trained, or bred.

Laundry & Dry Cleaning Services**.** A dry cleaning, self-service laundry and/or laundry establishment which may have a pick-up and drop-off window for customer service and provided the operation and all chemicals related thereto shall be in compliance with all applicable standards and requirements of the Environmental Protection Agency (EPA) and all other applicable agencies.

Law Enforcement Center. [xvi] Law enforcement administration, training and detention facility.

***Libraries, Public or Private*.** Facilities or buildings where literary, musical, artistic, or reference materials are kept for public or private reference use.

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

Lot of record. A lot which is a part of a subdivision, a plat of which has been recorded in the office of the Register of Deeds of Polk County, North Carolina, or a lot described by metes and bounds, the description of which has been so recorded.

Lot width. The distance between side lot lines measured at the building line.

***Major Subdivision*.** Major Subdivision shall have the same meaning, and shall be defined, as set forth in the Subdivision Ordinance of Polk County as now adopted or as may be hereafter amended.

Manufactured home (Mobile home). A structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width, or 40 body feet or more in length, or, when erected on site, is 320 or more square feet; and which is built on a permanent chassis and designed to be used as a dwelling, with or without permanent foundation when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained therein.

For manufactured homes built before June 15, 1976, "manufactured home" means a portable manufactured housing unit designed for transportation on its own chassis and placement on a temporary or semipermanent foundation having a measurement of over 32 feet in length and over eight feet in width. "Manufactured home" also means a double-wide manufactured home, which is two or more portable manufactured housing units designed for transportation on their own chassis that connect on site for placement on a temporary or semipermanent foundation having a measurement of over 32 feet in length and over eight feet in width. [xxv]

Manufacturing. [xxvii] Any manufacturing other than light manufacturing as defined herein.

Manufacturing, Light. The manufacturing, compounding, processing, assembling, packaging or testing of goods or equipment, including research activities, conducted entirely within an enclosed structure, with no outside storage, serviced by a modest volume of trucks or vans and imposing a negligible impact on the surrounding environment by noise, vibration, smoke, dust or pollutants. (International Zoning Code ICC 2003)

Mobile home. *See Manufactured home.* [xxv]

Mobile Home Park. A parcel or contiguous parcels of land which have been so designated and improved that it contains four (4) or more manufactured or mobile home lots available to the general public for placement thereon of manufactured or mobile homes for occupancy.

***Modular Home*.** Single-family, detached housing of which the principal structural components are prefabricated off-site and in conformity with the North Carolina Residential Code IRC, and shall include structures commonly known as modular homes. As used in this Zoning Ordinance, regulations and provisions regarding "modular homes" only apply to single-family residences and do not restrict or regulate the construction of buildings for commercial, multifamily residential, or other uses[xiv].

Motels & Hotels. Any buildings or portions thereof containing ten or more lodging units, with or without separate restaurant facilities, primarily for transients, including hotels, tourist cabins and tourist courts, but not including bed and breakfast inns as defined herein.

Multifamily Residences. Buildings or portion thereof designed for occupancy by three or more families living independently in which they may or may not share common entrances and/or other spaces. Individual dwelling units may be owned as condominiums, or offered for rent.

Museum. A building or group of buildings, structures, place, area or other facilities operated as an institution for the acquisition, preservation, study and/or exhibition of works, materials or data of artistic, scientific and/or historical value.

Nature-Oriented Non-Motorized Outdoor Recreation.[vi] Recreational uses of land conducted outside of a building, characterized by moderate impacts on the natural environment. Such uses may be for-profit, not-for-profit or provided by a governmental entity and may be composed of a place, structure, area, or facility providing nature-oriented non-motorized recreational activities generally open to the public and designed to accommodate and serve significant segments of the community. Examples of nature-oriented non-motorized outdoor recreational activities include, but are not limited to, hiking, noise-suppressed zip-lining, canoeing, kayaking, mountain biking, horseback-riding and orienteering.

Nonconforming lot. A lot existing at the establishment or revision of this Ordinance (and not created for the purposes of evading the restrictions of this Ordinance) that does not meet the minimum area requirements of the district in which the lot is located.

Nonconforming use. A structure or land lawfully occupied by an existing use which does not conform with the permitted uses for the zoning district in which it is situated, either at the effective date of this ordinance or as a result of subsequent amendments to this ordinance. This term also refers to the activity that constitutes the use made of the property.

Nonconforming situation. A situation that occurs when, at the establishment or revision of this Ordinance, an existing lot or structure or use of an existing lot or structure does not conform to one or more of the regulations applicable to the district in which the lot or structure is located. Among other possibilities, a nonconforming situation may arise because a lot does not meet minimum acreage requirements, because structures exceed maximum height limitations, because the relationship between existing buildings and land (in such matters as density and setback requirements) is not in conformity with this Ordinance, or because land or buildings are used for purposes made unlawful by the Ordinance.

Nursery, Landscape Business, & Greenhouse. A nursery is a place where plants are propagated and grown to usable size. They can be retail nurseries which sell to the general public, wholesale nurseries which sell only to other nurseries and to commercial landscape gardeners and private nurseries which supply the needs of institutions or private estates.

A greenhouse is a permanent structure, designed to protect plants. This structure may or may not have a permanent heating system installed in it. For the purposes of this Ordinance, cold frames (temporary structures covered with plastic or other materials, supported by metal pipes) are included in this definition.
Landscaping is the business of improving the appearance of a piece of land by planting flora or altering the contours of the ground.

***Offices, Business, Medical, Professional, & Public buildings including banks*.** Land, buildings, and other facilities used by establishments primarily engaged in providing goods or services to business establishments or individuals on a contract or fee basis.

Open Space.[xiv] Areas having a predominantly pervious land surface providing spaces for landscaping and other visual enhancements, pedestrian circulation, waterways and water features, and wildlife habitat. Open space does not include automobile roadways, parking lots, paved service and maintenance areas, and buildings. Amenities and trails (whether pervious or impervious) accommodating pedestrians, bikes, golf carts and other low-speed vehicles, and horseback traffic are permitted in open spaces.

Parking space. A storage space of not less than one hundred sixty two (162') square feet for one (1) automobile plus the necessary access space. It shall always be located outside the dedicated street or highway right-of-way.

Planning board. The Polk County Planning Board.

Printing, Publishing, & Engraving Establishments. Establishments primarily engaged in rendering services to business establishments or individuals on a contract or fee basis such as**,** but not limited to, engraving**,** advertising, mailing, photocopying, duplicating, and providing business signs and plaques.

Public sewage system. A common sewer directly controlled by a public authority. [xxv]

Public Safety Facilities. Buildings and facilities used in providing public safety services such as police, fire, ambulance, and emergency services.

Public water supply system.

a. A system for the provision, to the public, of piped water for human consumption if such system has at least fifteen (15) service connections or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days out of the year. Such term includes:
   1. any collection, treatment, storage, and distribution facility under control of the operator of such system and used primarily in connection with such system; and
   2. any collection or pre-treatment storage facility not under such control which is used primarily in connection with such system.

b. A public water system is either a "community water system" or a "non-community water system":
   1. "Community water system" means a public water system which serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.
   2. "Non-community water system" means a public water system which is not a community water system.

Quarantine Facility. A facility at which animals regulated by local, state, or federal agencies are restricted and tested prior to being permitted to enter into the general population.

Radio & TV Stations & Studios. Land, buildings, and equipment used for the production, transmittal, or reception of signals or programming over the airwaves as a commercial or public service, including, without limitation, telephonic, radio, television, or cable television. For purposes of this ordinance, the term shall not include a non-commercial individual use such as residential television antennas, satellite dishes, or ham radio antennas, or a commercial use that is purely incidental to other business activities of the owner. The facilities may

include a tower, pole, or similar structure which supports or incorporates, or is intended to support or incorporate, one or antennas operated for commercial or public purposes above ground, whether freestanding, guyed, or affixed to a building. *Refer to Wireless Telecommunications Ordinance, if applicable. [xxv]

Recreation Facilities, Centers. [xxvii] A place, structure, area, or other facilities operated and providing religious, fraternal, social, and/or recreational programs generally open to the public and designed to accommodate and serve significant segments of the community.

Recreational Vehicle. A vehicular-type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. The basic entities are travel trailer, camping trailer, truck camper, motor home, recreational park trailer and park trailer (park models).

Recreational Vehicle (RV) Park and/or Camp Areas. An establishment primarily engaged in operating sites to accommodate camping (tent and/or cabin), park model homes and/or recreational vehicles. These establishments may provide access to facilities, such as laundry rooms, recreational halls, playgrounds, stores and snack bars. An RV park will generally contain two (2) or more park model homes or recreational vehicles.

Residential Vacation Rental (Tourist Homes). [xii] The rental of any single-family dwelling, duplex, guest house, timeshare, accessory/garage apartment or multi-family or any portion thereof, for occupancy, dwelling, lodging or sleeping purposes for any period of time less than 90 days. The term does not include other transient lodging such as hotels and motels, and bed & breakfast establishments, which are otherwise authorized under these regulations.

Exceptions. The following activities and / or uses shall not be deemed residential vacation rentals and the requirements of this section shall not apply to them.
- Incidental residential vacation rentals, defined to mean no more than two such rentals in any calendar year where the total annual rental period for both rentals does not exceed two weeks provided no advertisement of the availability of unit.

Restaurants, Excluding Fast Food & Drive-Through Services. Establishments that sell food not already prepared for consumption on or off the premises and do not include drive-in or drive-up facilities for ordering.

Restaurants, Including Fast Food & Drive-Through Services. Establishments that sell food already prepared for consumption, packaged in paper, Styrofoam or similar materials, and may include drive-in or drive-up facilities for ordering.

Rest & Convalescent Homes. [xxvii] Facilities for the care of the aged and infirm whose principal need is a home with such sheltered and custodial care as their age and infirmities require. Medical care is only occasional, such as may be required in the home of any individual.

Retail Trade, Commercial Services, Sales, & Rental of Merchandise & Equipment. Establishments engaged in selling or renting goods, merchandise, or services to the general public or businesses for personal, household, or commercial consumption. The establishments may also render services incidental to the sale of such goods. The establishment may process some of the products which it sells so long as such is processing incidental to such retail sales. The term shall not be deemed to include establishments in which the sale of goods or merchandise is incidental to another use, such as junk yards and wrecking yards as defined by NCGS 136-143.

Retail Business Customarily Servicing Residential Neighborhoods & Conducted within an Enclosed Building. Establishments engaged in selling goods, merchandise, or services to the general public for personal or household consumption. The establishments may also render services incidental to the sale of such goods. The establishment may process some of the products which it sells so long as such is processing incidental to such retail sales. The term shall not be deemed to include establishments in which the sale of goods or merchandise is incidental to another use, such as junk yards and wrecking yards as defined by NCGS 136-143.

Right of way (Easement). A grant by the property owner of a strip of land for a specified purpose and use by the public, a corporation, or persons, including access easements. For the purposes of this ordinance, right of way is included in the measurement of setbacks on federal, state, county, and municipal roads only. [xxv]

Roadside Stands Selling Home-Grown Products. A business establishment selling primarily home-grown or home manufactured products, operated next to a dedicated public or private right-of-way for vehicular traffic which affords the principal means of access to abutting property.

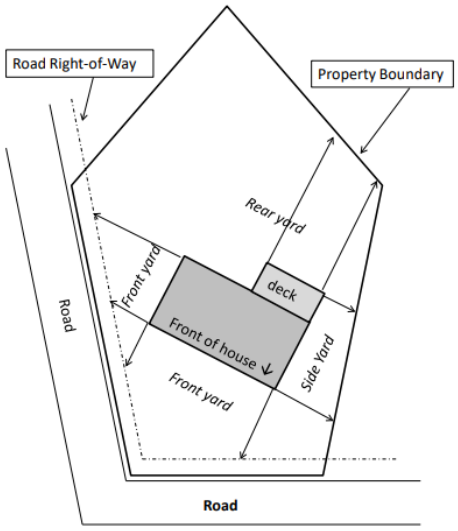
Sawmill. A facility in which logs are converted to lumber by running them through a saw.

Schools, Public or Private. Land, buildings, and facilities operated by publicly or privately elected or appointed school officials in which the complete educational curriculum program and activities are under the control of these officials and which is supported primarily by public or private funds.

School; Vocational Schools, Business Schools, & Special Schools. [xvii, xxvi] Land, buildings, and facilities that do not offer a complete educational curriculum.

Service Station. An establishment where flammable or combustible liquids or gases used as fuel are stored and dispensed from fixed equipment into the fuel tanks of motor vehicles. Such an establishment shall be permitted to offer for sale at retail other convenience items as a clearly secondary activity and shall be permitted also to include a free-standing automatic car wash.

Setback. A continuous strip of land, measured perpendicular from the plane of the building out to the closest property line or road right-of-way. [xxv]



Shooting range – indoor. [xxvii] An area totally enclosed designed and operated for the use of rifles, shotguns, pistols, silhouettes, , or any other similar sport shooting. This includes any such area owned and/or operated by an entity which requires membership dues to be a member, or which requires any remuneration (including "donations") in exchange for access to the area.

Shooting range – outdoor. [xxvii] An area outdoor designed and operated for the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder, or any other similar sport shooting. This includes any such area owned and/or operated by an entity which requires membership dues to be a member, or which requires any remuneration (including "donations") in exchange for access to the area. Private shooting that does not meet the above standards for commercial shooting ranges shall be allowed by right without a zoning permit.

Single family residence. A building or portion thereof providing complete living facilities for a family. The term "single family residence" shall not be deemed to include a motel, hotel, tourist home, mobile home, manufactured home, modular home or structure designed or, in fact, used for transient residence. A single family residence may also consist of another dwelling unit, such as an accessory apartment or garage apartment, provided the floor area of the accessory unit does not exceed forty percent of the floor area of the single-family dwelling unit, and further provided the accessory unit's exterior design and entry locations preserve the appearance of the single-family dwelling unit.

Single family residence (Multiple Use District Only). A building or portion thereof providing complete living facilities for a family. The term "single family residence" shall not be deemed to include a motel, hotel, tourist home, mobile home, manufactured home, modular home or structure designed or, in fact, used for transient residence.

Solar Energy Generating Facility. [xii] A solar electrical energy generating facility that is not an accessory solar energy device. The energy beneficiary(ies) shall not be located on the energy facility site. A *Solar Energy Generating Facility, Minor* tract shall not exceed twenty acres. A *Solar Energy Generating Facility, Major* tract shall measure more than twenty acres but shall not exceed fifty acres.

Special Use Permit. A permit issued to authorize development or land uses in a particular zoning district upon presentation of competent, material, and substantial evidence establishing compliance with one or more general standards requiring that judgment and discretion be exercised as well as compliance with specific standards. This definition includes permits previously referred to as "conditional use permits" or "special exceptions." [xxv]

Spectator Sport Facility (500 or More Spectators). An indoor or outdoor place, structure, area, arena, or other facility used for providing spectator seating, sanitation facilities, food, or parking for 500 or more sports spectators.

Spectator Sport Facility (Less than 500 Spectators). An indoor or outdoor place, structure, area, arena, or other facility used for providing spectator seating, sanitation facilities, food, or parking for 500 or less sports spectators.

Stable. [xxvii] A building that is divided into separate stalls for individual animals.

Storage & Warehouse Facility. Structures or premises in which goods, merchandise or equipment are stored for eventual use or distribution.

Street or road. A dedicated and accepted public right-of-way for vehicular traffic which affords the means of access to abutting properties.

Structure. Anything constructed or erected, the use of which requires more or less permanent location on the ground or which is attached to something having more or less permanent locations on the ground, excluding a conventional rail, plank, board, picket or wire fence so long as it is not located within the public or maintenance right of way of any road.

Subdivision. Subdivision shall all have the same meaning, and shall be defined, as set forth in the Subdivision Ordinance of Polk County as now adopted or as may be hereafter amended.

Temporary Housing/Shelter. Detached accessory buildings constructed and installed per the requirements of North Carolina Administrative Code for use as temporary housing during recovery from a declared disaster, under the Authority of North Carolina General Statute 143-138.

Occupancy and use of a detached accessory building as temporary housing, due to damage from the declared disaster, shall be permitted upon submittal of an affidavit by the owner of the real property to the county building inspection department.

Occupancy and use of a detached accessory building for temporary housing shall be limited to 180 days from the first day of occupancy. In the event the State of Emergency and the rule remain in effect at the expiration of 180 days, occupancy and use of the structure may continue upon good cause shown to the chief building inspector and the submittal of a new affidavit.

Theater. An indoor or outdoor facility used primarily for the presentation of live stage productions, performances or motion pictures.

Timeshare. A type or form of ownership of real property in which multiple parties hold rights to use and occupy certain real property, and each user is allotted a period of time in which they may use and occupy the subject property and as further defined in Article 4 of Chapter 93A of the North Carolina General Statutes which is incorporated herein by reference as if fully set forth herein.

Tower. A tower, pole, or similar structure, exceeding 20 feet in height, which supports or incorporates, or is intended to support or incorporate, one or more private, commercial or public sign, antenna, light, or other item above ground, whether freestanding, guyed, or affixed to a building. The term shall include mobile towers. *Refer to Wireless Telecommunications Ordinance. [xxv]

Truck Terminal. A building or area where cargo is loaded to and discharged from trucks.

Utility Buildings and Facilities, Public. A structure or facility used by a public or quasi-public utility agency to store, distribute, generate electricity, gas, telecommunications, and related equipment, or to pump or chemically treat water. This does not include storage or treatment of sewage, solid waste or hazardous waste.

Veterans' Affairs Office. A building or structure, or portion thereof, whose purpose is to assist veterans and their families in the presentation and processing of claims as they may be entitled to under Federal, State or local laws, and otherwise assist veterans.

Veterinarian Clinics, Animal Shelters. Veterinarian clinics are facilities where professionals skilled in diseases and care of animals and/or reptiles provide outpatient or inpatient care of chronically ill animals or

reptiles. Animal shelters are private, governmental or nonprofit organization facilities devoted to the welfare, protection and humane treatment of animals. The boarding of animals is an incidental use in such facilities.

Video games. [xxvii] *See Arcades.*

Waste Handling, Treatment, Processing, Management or Disposal Facility. [xxvii] Includes, but is not limited to, Sanitary Landfill, Municipal Solid Waste Sanitary Landfill, Construction/Demolition Landfill, Dump, Open Dump, Waste Incineration Facility, Hazardous Waste Landfill or Processing Facility, Radioactive Waste Processing or Disposal Facility, Medical Waste Processing or Disposal Facility, Waste Transfer Facility, State Regulated Compost Facility, Industrial Process Waste Landfill or Processing Facility, Industrial Solid Waste Facility, Waste Treatment and/or Processing Facility and Septage Management Facility (not including state approved land application sites), and Junkyards (see Junkyard Ordinance for additional requirements). Reference shall be made to the North Carolina General Statutes and to the North Carolina Administrative Code for further definition of each of the foregoing. (Exempts Polk County Government from these restrictions when operating a facility for the citizens of Polk County). This definition does not include Animal Processing Facilities.

Wholesale Sales, Retail Sales, & Supply Houses. Establishments engaged in retail sales of goods or merchandise directly to the general public for personal or household consumption or to retailers for resale to the general public and rendering services incidental to the sale of such goods. Such an establishment may process some of the products which it sells so long as such is processing incidental to such retail or wholesale sales.

Article XIII. Legal Status Provisions.

Section 13.1 Validity.

Should any section or provision of this ordinance be declared by the courts to be unconstitutional or invalid, such declaration shall not affect the validity of the ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

Section 13.2 Conflict with other laws.

In interpreting and applying the provisions of this ordinance, they shall be held to be the minimum requirements for the promotion of the health, safety, morals or general welfare of Polk County. Where the provisions of any other statute or local ordinance are in conflict, the more restrictive or that imposing the higher standards shall govern.

Section 13.3 Effective date.

This ordinance, and any amendment to it, shall take effect and be in force from and after its adoption by the Board of County Commissioners of Polk County, North Carolina.
Effective date of this ordinance shall be February 5, 2024; Adopted February 5, 2024.

_____
Chairman of the Board of Commissioners

ATTEST:

_____
Clerk to the Board of Commissioners

Approved as to content & form:

_____
County Attorney

Appendix

► Land uses not specifically addressed in this ordinance shall apply the standards for a land use that is listed in this ordinance most closely related to proposed use and impacts.

P = Permitted P* = Permitted with conditions S = Allowed as a Special Use Blank Space = Not Permitted	Examples of Uses (examples of some uses in Permitted Use Table, see Article VI)
Accessory buildings	Residential Garage (no living quarters) Pool House (no living quarters) Storage Shed Hobby workshop
Accessory dwelling unit	Pool House Apartment Garage Apartment Accessory SFR/MH Basement Apartment Apartment with separate entrance Barn Apartment
Agricultural building	Shed for equipment Silos Cold Storages Run-in shed Hay & Feed Storage Barns
Automobile, truck, & farm, implement sales & service	Farm Equipment Sales Vehicle Sales Vehicle services (alignment, auto body, auto paint, auto upholstery, towing service, auto detailing, battery Sales and installation, auto repair, brake repair, tire Sales and mounting)
Church, synagogue, temple, or other religious buildings	Church Synagogue Temple Place of Worship
Clubs, public or private	Kiwanis Club Rotary Club Lions Club 4-H Youth Club Bridge Club
Data processing facilities	Data processing Data mining

P = Permitted P* = Permitted with conditions S = Allowed as a Special Use Blank Space = Not Permitted	Examples of Uses (examples of some uses in Permitted Use Table, see Article VI)
Day care facility	In-Home Daycare Child Care Center Nursery School Preschool Adult Daycare
Hospitals & clinics	Blood/Plasma Donation Center Dialysis Center Rehabilitation Clinic Medical Center Medical Clinic Medical Laboratory Hospital Urgent Care/Emergency Medical Treatment Center
Kennels	Kennels Pet Daycares Overnight Pet Boarding
Motel, Hotels, Boarding Houses, & Dormitories	Motel Hotel Boarding House Dormitory Hostel Inn
Multifamily residences	Apartment Complex Condominiums Triplex Quadplex Townhomes
Offices, business, medical, professional & public including banks	Advertising Business Management Chiropractor Consulting Dental Financial Business Collection Agency Real Estate Insurance Medical Professional Services (Lawyer, accountant, bookkeeper, engineer, architect, sales office, travel agency, business incubator)

P = Permitted P* = Permitted with conditions S = Allowed as a Special Use Blank Space = Not Permitted	Examples of Uses (examples of some uses in Permitted Use Table, see Article VI)
Offices pertaining to permitted use	
Outdoor Recration, Motorized	Go Cart Race Car Motorcyle/Dirt Bike ATV
Outdoor Recreation, Nature-Oriented Non-Motorized	Hiking Noise-Suppressed Zip-Lining Canoeing Kayaking Mountain Biking Horseback Riding Orienteering Tubing Parks Playgrounds Nature Centers Equestrian Courses/Trails Walking Trails Non-Profit Gyms Memorial Gardens
Recreational Vehicle (RV)	RV Park Model RV 5th Wheels Motorhomes Campers Pop-ups
Recreational Facilities, Centers	Bowling Alleys Skating Rinks Gymnasiums Health Clubs Climbing/Jumping Gyms
Recreational Vehicle (RV) & Park and/or Camp Areas	RV Park Tent Sites Cabin Camping Treehouse Camping Yurt Camping Park model Homes Sites
Rest & convalescent homes	Nursing Home Assisted Care Facility Senior Home

P = Permitted P* = Permitted with conditions S = Allowed as a Special Use Blank Space = Not Permitted	Examples of Uses (examples of some uses in Permitted Use Table, see Article VI)
Retail trade, commercial services, sales and rental of merchandise & equipment	Stores: Antiques, Appliances, Art Supplies, Baked Goods, Bicycles, Books, Cameras, Floor Coverings, Crafts, Clothing, Computers, Dry Goods, Electronics, Flowers, Furniture, Garden Supplies, Gifts, Groceries, Hardware, Home Improvement, Household Products, Jewelry, Medical Supplies, Musical Instruments, Online Sales, Nail Salon, Pets, Pet Supplies, Pharmaceuticals, Photo Finishing, Picture Frames, Plans, Printed Materials, Produce, Repographics, Sporting Goods, Stationery, Vehicle Parts, Farmers Market Services: Hair Salon, Tailor, Appliance/Computer Repair, Shoe Repair, Locksmith, Tattoos, Massages, Construction Contractors
Storage & warehousing	Self-Storage Warehouses Bulk Storage, including nonflammable liquids, feed and grain storage, cold storage plants, including frozen food lockers, household moving and general freight storage, separate warehouse used by retail store such as furniture or appliance store Bus Barn Outdoor Storage Yard Parcel Services Stockpiling of sand, gravel, or other aggregate materials Transfer and storage business where there are no individual storage areas or where employees are the primary movers of goods to be stored or transferred.
Theaters	Movie Theatre Performing Arts Center Amphitheatre
Utility buildings and facilities, public	Electrical Substation Gas meter & Regulator Stations Phone Exchange

P = Permitted P* = Permitted with conditions S = Allowed as a Special Use Blank Space = Not Permitted	Examples of Uses (examples of some uses in Permitted Use Table, see Article VI)
Waste Handling, Treatment, Processing, Management or Disposal Facility	Sanitary Landfill Dump Open Dump Waste Incineration Facility Hazardous Waste Landfill Processing Facility Radioactive Waste Processing or Disposal Facility Medical Waste Processing or Disposal Facility Waste Transfer Facility State Regulated Compost Facility Industrial Process Waste Landfill or Processing Facility Waste Treatment and/or Processing Facility Septage Management Facility
Wholesale sales, retail sales & supply houses	Wholesale sales of animals, animal products, agricultural chemicals, pesticides or fertilizers, chemicals and allied products, grain and field beans, livestock, lumber and other construction materials, construction and mining machinery, farm and garden machinery, minerals, petroleum and petroleum products, resins restaurant equipment, store fixtures, special trade tools, welding supplies, machine parts, electrical supplies, janitorial supplies, food, clothing, auto parts

[i] Replacing the use classification and definition of Child Care Facilities with Day Care Facility 8.31.09
[ii] Creating a new use classification of Veterans' Affairs Office 8.31.09
[iv] An Ordinance Amending the Zoning Ordinance of Polk County 8.16.10
[v] An Ordinance Concerning Zoning Administration and Enforcement. 10.3.11
[vi] An Ordinance Concerning Nature-Oriented Non-Motorized Outdoor Recreation 9.10.12
[vii] An Ordinance Concerning Solar Energy Generating Facilities 10.15.12
[viii] An Ordinance Establishing a New Zoning District Equestrian 4.22.13
[ix] An Ordinance Concerning Customary Home Occupation Class II and Residential Vacation Rentals 8.5.13
[x] An Amendment to Clarify and Modernize Zoning Ordinance Regarding Board of Adjustment 10.21.13
[xi] An Amendment to Define Parking Requirements for Customary Home Occupation Class I & II.2.3.14
[xii] An Amendment to Enlarge Equestrian District & Expanding Uses, Redefining Tourist Home, Parking.2.3.14
[xiii] An Amendment Concerning Accessory Dwelling Units; Authorize Dwelling Units in MU 4.20.15
[xiv]An Amendment Establishing Equestrian Village District, Amending Ordinance & Rezoning Map 11.16.15
[xv]An Amendment Concerning Bona Fide Farms, Recreational Vehicles & Eaves 2.8.16
[xvi]An Ordinance Establishing the Polk County Government and Public Facilities Zoning District 7.18.16
[xvii]An Ordinance Concerning Schools; Vocational Schools, Business Schools & Special Schools in RE1 10.3.16
[xviii]An Ordinance Rezoning Certain Areas EV 12.5.16
[xix] Zoning Ordinance Update 10.16.17
[xx] Shared Parking 12.18.17
[xxi] Agricultural Building 4.16.18
[xxii] E/EV Vet Clinics, Quarantine Facilities, Church, Schools & Map Amendment 4.16.18
[xxiii] Board of Adjustment Alternates; Building Height 2.4.19
[xxiv] Tower10.7.19
[xxv] 160D update.CU to SU.6.21.2021
[xxvi] Schools.7.18.2022
[xxvii] Zoning Ordinance Updates 8.21.2023
[xxviii] NC Automobile, truck sales and service; Special Use Permit 2.5.2024

To: Polk County Board of Commissioners

From: Planning Board and Staff

Date: January 9, 2025

Re: Polk County Zoning Ordinance Text Amendment

Project History & Analysis

The Planning Board, with support from staff and county attorney, have updated the Polk County Zoning Ordinance. A text amendment to the Polk County Zoning Ordinance to permit temporary housing buildings to be provided to those in need for use as a temporary shelter during recovery from the state of emergency declared in Polk County.

The proposed text amendment would only apply to the county's unincorporated areas. It would allow in all zoning districts detached accessory buildings constructed and installed per the requirements of North Carolina Administrative Code for use as temporary housing during recovery from a declared disaster, under the Authority of North Carolina General Statute 143-138.

Occupancy and use of a detached accessory building as temporary housing, due to damage from the declared disaster, shall be permitted upon submittal of an affidavit by the owner of the real property to the county building inspection department.

Occupancy and use of a detached accessory building for temporary housing shall be limited to 180 days from the first day of occupancy. In the event the State of Emergency and the rule remain in effect at the expiration of 180 days, occupancy and use of the structure may continue upon good cause shown to the chief building inspector and the submittal of a new affidavit.

Proposed Amendments

Amendments included in attached document (additions to existing text are indicated by the use of underlining, and deletions are indicated by strike-through). See attached document.

Plan Consistency

The Planning Board has found that this request is consistent with the Polk County 20/20 Vision Comprehensive Plan, adopted March 15, 2010, amended September 18, 2017:

a. I.47 As necessary, revise/update the Polk County Ordinances.

Recommendation

The Planning Board does recommend that the Board of Commissioners enact the Polk County Zoning Ordinance text amendments.

Votes:
Aye - 5
Nay - ____
Abstain - ____



Planning Board Chair

BOARD OF COMMISSIONERS
AGENDA ITEM REPORT

MEETING DATE

February 17, 2025

AGENDA ITEM # 1.B.I

Call to Order the Public Hearing - The proposed text amendment to the Polk County Subdivision Ordinance to update and clarify easements, road maintenance agreements, private roads, and minor subdivisions.(A copy of the current and proposed draft of the Subdivision Ordinance is available for review online at https://www.polknc.gov/ordinances.php or in the County Manager's office).

ATTACHMENTS

1. Subdivision Ordinance Text Amendment
2. Planning Board Subdivision Ordinance Recommendation



Polk County
Subdivision Ordinance

Adopted: November 21, 2011; Amended: April 7, 2014[1]; July 16, 2018[2]; October 7, 2019[3]; May 3, 2021[4]

DRAFT November 2024

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ARTICLE 1. PURPOSE AND APPLICABILITY

Article 1 – Purpose and Applicability

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ARTICLE 1. PURPOSE AND APPLICABILITY

SECTION 1.1 TITLE

This Ordinance shall be known and may be cited as the Subdivision Ordinance for Polk County, North Carolina, and may be referred to as the Subdivision Ordinance.

Section 1.2 Purpose

The purpose of this Ordinance is:

(A) To establish standards and procedures for the subdivision and resubdivision of land within the territorial jurisdiction of Polk County.

(B) To provide for the orderly and harmonious growth and development of the County.

(C) For the coordination of streets and roads within proposed subdivisions with existing and planned streets and highways, and with other public facilities.

(D) For the dedication or reservation of recreation or open space areas serving residents of the immediate neighborhood within the subdivision and of rights-of-way or easements for streets and utilities.

(E) For the distribution of population and traffic in a manner that will avoid congestion and overcrowding and will create conditions essential to public health, safety, and general welfare.

(F) To further facilitate adequate provisions of water, sewerage, parks and schools.

(G) To facilitate the further resubdivision of larger tracts into smaller parcels of land.

(H) To protect Polk County's natural assets/environment.

(I) To preserve Polk County's rural atmosphere.

SECTION 1.3 COMPREHENSIVE PLAN

This Ordinance is based, in part, on the Comprehensive Plan and its goals and objectives. It should be noted that due to: severe topographic conditions, inadequate road access, distance from services, unique natural areas, soils that do not easily support soil drainage systems and/or the proximity to existing and incompatible land uses/zoning, all land may not be suitable to be subdivided for the purpose of dense development. The reviewing agency should take into consideration the goals and objectives of the Comprehensive Plan when reviewing subdivisions.

ARTICLE 1. PURPOSE AND APPLICABILITY

SECTION 1.4 JURISDICTION

This Ordinance, the regulations, and the procedures contained herein shall apply to and govern the creation of each and every lot, parcel or tract of land within the County of Polk, outside the jurisdiction of any incorporated municipality or an incorporated municipality's extraterritorial jurisdiction (ETJ).

SECTION 1.5 AUTHORITY, ADOPTION, AND EFFECTIVE

The Polk County Board of Commissioners hereby adopt this Ordinance pursuant to the authority and provisions conferred by the General Statutes of the State of North Carolina, Chapter 160D, Article 8.[4]

This Subdivision Ordinance shall take effect and be in force from and after its adoption by the Board of Commissioners of Polk County this 3rd day of May, 2021.

This Subdivision Ordinance is duly adopted by the Board of Commissioners of Polk County, North Carolina, this 3rd day of May, 2021.

_____ _____

Clerk Chairman, Polk County Board of Commissioners

Approved as to Form: _____

County Attorney

ARTICLE 2. LEGAL PROVISIONS

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ARTICLE 2. LEGAL PROVISIONS

SECTION 2.1 GENERAL LEGAL PROVISIONS FOR SUBDIVISION PLAT APPROVAL

(A) After the effective date of this Ordinance, no plat of a subdivision of land within Polk County's jurisdiction shall be filed or recorded until it has been submitted to and approved by Polk County and until this approval is entered in writing on the face of the plat by the Chairman of the Planning Board or the Administrator.

(B) The Register of Deeds shall not file or record a plat of a subdivision of land located within the planning jurisdiction of the County that has not been approved in accordance with these provisions, nor shall the Clerk of Court order or direct the recording of a plat if the recording would be in conflict with this Ordinance.

SECTION 2.2 EXISTING AND FUTURE ORDINANCES

All proposed subdivisions of land must comply in all respects with the requirements of all Polk County, state, and federal regulations and requirements.

SECTION 2.3 PENALTIES FOR VIOLATION

(A) It shall be a violation of this Ordinance, for any person who being the owner or the agent of the owner of any land located within the territorial jurisdiction of this Ordinance, to subdivide his land in violation of this Ordinance or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under the terms of this Ordinance and recorded in the Office of the Polk County Register of Deeds. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this penalty. The County, through its attorney or other official designated by the Polk County Board of Commissioners, may enjoin illegal subdivision, transfer or sale of land by action for injunction. Violators of this Ordinance shall not be guilty of a Class III misdemeanor nor subject to fine and/or imprisonment as provided by NCGS 14-4.

(B) The violation of any provision of this Ordinance shall subject the offender to a civil penalty in the amount of 100 dollars to be recovered by the County. Violators shall be issued a written citation which must be paid within 10 days. Each day's continuing violation of this Ordinance shall be a separate and distinct offense.

(C) This Ordinance may be enforced by appropriate equitable remedies issuing from a court of competent jurisdiction.

(D) Nothing in this section shall be construed to limit the use of remedies available to the County. The County may seek to enforce this Ordinance by using any one, all, or a combination of remedies.

(E) For the purpose of this Ordinance, a Deed of Trust shall not be considered a transfer or conveyance of real property.

SECTION 2.4 SUBDIVISION VARIANCES[4]

(A) The Board of Adjustment may authorize a variance from these regulations when unnecessary hardships would result from carrying out the strict letter of the subdivision ordinance regulations. The Board shall hear and decide all variance requests in accordance with Article X, of the Polk County Zoning Ordinance.

(B) In granting any variance, the Board of Adjustment shall hold an evidentiary hearing. The Board of Adjustment shall take into account the nature of the proposed subdivision, the existing use of land in the vicinity, the existing environmental conditions, the number of persons to reside or work in the proposed subdivision, and the probable effect of the proposed subdivision upon traffic conditions in the vicinity.

(C) No variances shall be granted unless the Board of Adjustment finds a showing of all of the following:

(1) Unnecessary hardship would result from the strict application of the regulation. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

(2) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.

(3) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.

(4) The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured and substantial justice is achieved.

Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance. The concurring vote of four-fifths of the Board shall be necessary to grant a variance. For the purposes of this subsection, vacant positions on the Board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the Board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

(D) Any variance authorized by this ordinance is required to be entered in writing in the minutes of the meeting of the Planning Board and recorded on the final plat in the Office of the Register of Deeds of Polk County.

(E) Board of Adjustment decisions pertaining to variances shall be subject to review by the Superior Court Division of the General Courts of Justice of the State of North Carolina by proceedings in the nature of certiorari. Any petition for review by the Superior Court shall be duly verified and filed with the Clerk of Superior Court within 30 days after the decision is made and in writing.

SECTION 2.5 APPEALS[4]

Appeals from decisions of the Administrator or the Planning Board making an Administrative decision shall be taken to the Board of Adjustment. The Board of Adjustment shall hear and decide appeals in accordance with Article X, of the Polk County Zoning Ordinance.

Appeals from quasi-judicial decisions shall be subject to review by the superior court by proceedings in the nature of certiorari. The owner or other party shall have 30 days from receipt of the written notice of the determination within which to file an appeal. Any other person with standing to appeal shall have 30 days from receipt from any source of actual or constructive notice of the determination within which to file an appeal. In the absence of evidence to the contrary, notice given pursuant to G.S. 160D-4-3(b) by first-class mail shall be deemed received on the third business day following deposit of the notice for mailing with the United States Postal Service.

SECTION 2.6 AMENDMENTS

(A) *Authority.* This ordinance may be amended by the Board of Commissioners by approval, in the usual form, of an ordinance specifying the changes to be made.

(B) *Planning Board and Administration Review; Recommendation.*

(1) All proposed amendments to this Ordinance, except those initiated by the Planning Board, shall be submitted to the Planning Board for its recommendations as to approval, approval with specified alterations, or denial.[4]

(C) *Legislative Hearing and Notice.*[4] No proposed amendment to this Ordinance shall be acted upon by the Board of Commissioners until after a public hearing thereon. A notice of the public hearing shall be published once a week for two successive calendar weeks in a newspaper having general circulation in the county. The notice shall be published the first time not less than ten days nor more than 25 days before the date set for the hearing. In computing such period, the day of publication is not included, but the day of the hearing shall be included.

(D) *Limitation on Resubmittal.* Except when initiated by the Board of Commissioners or the Planning Board, no proposed amendment to this Ordinance failing of approval shall be considered in substantially the same form within one year of the date of failure to win approval.

ARTICLE 2. LEGAL PROVISIONS

SECTION 2.7 VALIDITY

Should any section or provision of this Ordinance be decided by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of this Ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

SECTION 2.8 ABROGATION

This Ordinance shall neither repeal, abrogate, annul, impair or interfere with any existing subdivisions, the plats of which are properly recorded in the Office of Register of Deeds prior to the effective date of this Ordinance nor with the existing easements, covenants, deed restrictions, agreements or permits previously adopted or issued pursuant to law prior to the effective date of this Ordinance.

SECTION 2.9 ADMINISTRATION

The County Manager or his designee is hereby appointed to serve as the Administrator until such time the County Commissioners create a separate position of Administrator.

SECTION 2.10 PLAT APPROVAL REQUIRED FOR BUILDING PERMIT

No building permit may be issued for any construction on any proposed lot shown on a development plan until a final plat has been approved and recorded, except that a building permit may be issued for one (1) structure on one (1) lot shown on any approved development plan prior to recordation of a final plat. The Building Inspector shall deny building permits for subdivision lots created in violation of the terms and conditions of this Ordinance. Denial of a building permit based on a subdivision violation may be appealed to the Board of Adjustment for interpretation of the subdivision ordinance violation.[4]

SECTION 2.11 PLAT REQUIRED FOR LAND SUBDIVISION

All subdivision of parcels requires recordation of a plat. Parcels may not be subdivided by deed alone.

SECTION 2.12 CONFLICT WITH OTHER LAWS

In interpreting and applying the provisions of this ordinance, they shall be held to be the minimum requirements for the promotion of the health, safety, morals or general welfare of Polk County. Where the provisions of any other statute or local ordinance are in conflict, the more restrictive or that imposing the higher standards shall govern.

SECTION 2.13 COMPUTATION OF TIME

Unless otherwise specifically provided, the time within which an act is to be done shall be computed by excluding the first and including the last day. If the last day is a Saturday, Sunday, or legal holiday, that

day shall be excluded. When the period of time prescribed is less than seven days, intermediate Saturdays, Sundays, and holidays shall be excluded.

SECTION 2.14 FEES

(A) Reasonable fees sufficient to cover the cost of administration, inspection, publication of notice and similar matters may be charged to applicants for all permits issued under this ordinance. The amount of fees charged shall be set forth in the County's fee schedule as established by the Board of Commissioners and filed in the office of the Clerk to the Board.

(B) All fees shall be paid upon submission of any signed application required by this Ordinance.

SECTION 2.15 PROPERTY OWNERS' ASSOCIATIONS

(A) No preliminary plat for a subdivision for which a property owners' association will exist shall be approved until all required legal instruments have been reviewed by the County as to legal form and effect and approved by the County.

(B) Property owners' associations or similar legal entities that are responsible for the maintenance and control of open space areas and common areas, including roads and infrastructure/drainage easements, shall be established by the developer who shall record in the Register of Deeds a declaration of covenants and restrictions that will govern the association or similar legal entity. All such agreements shall comply with applicable North Carolina state statutes. A copy of the recorded document shall be provided to the Administrator and such document shall include, but not be limited to, the following:

(1) Provision for the establishment of the association or similar entity is required before any lot in the development is sold or any building occupied and membership shall be mandatory for each homeowner and any successive buyer.

(2) The association or similar legal entity has clear legal authority to maintain and exercise control over such common open space areas.

(3) The association or similar legal entity has the power to compel contributions from residents of the development to cover their proportionate shares of the costs associated with the maintenance and upkeep of such common areas. Further, assessments levied can become a lien on the property if allowed in the master deed establishing the property owners' association or similar legal entity.

(4) The open space restrictions must be permanent, not just for a period of years.

(5) The association or similar legal entity must be responsible for liability insurance, applicable taxes, and the maintenance of open space, recreational facilities, private streets, infrastructure, and other facilities under its control.

(6) The association or similar legal entity must be able to adjust the assessment to meet changing needs.

(7) Covenants for maintenance assessments shall run with the land.

(8) Provision insuring that control of such association will gradually be vested in the property owners' association.

(9) All lands so conveyed shall be subject to the obligation of the grantee or grantees to enforce maintenance and improvement of all common facilities.

(C) The association shall be responsible for maintaining all public storm water drainage systems, private streets, easements, infrastructure and open space not being maintained by the County, State or other approved entity. The cost of such maintenance shall be an obligation of the association.

(D) The developer shall place in a conspicuous manner upon the final plat of the subdivision prior to final plat approval a notation concerning control of all common areas owned/controlled by the association.

(E) In the case of common ownership by a property owners' association, the restrictive covenants shall provide that, in the event the property owners' association fails to maintain the areas in common ownership according to the standards of this Ordinance, the County may, following reasonable notice, demand that deficiency of maintenance be corrected, or enter the open space to maintain it. The cost of such maintenance shall be charged to the property owners' association.

(F) It shall be expressly stated within the restrictive covenants/property owners' association documents that it will be the responsibility of the developer or successors or assigns to enforce such covenants or restrictions until such time as control has been transferred to the Property Owners' Association Board of Directors. It shall be the sole responsibility of the developer, successor or assigns to correct any deficiencies prior to transfer of control over to the Property Owners' Association Board of Directors.

ARTICLE 3. SUBDIVISION TYPES & REVIEW PROCEDURES

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REFERENCE TABLE

Approval Needed - Section:	2 lot	Family	Minor	Major Administrative	Major Quasi-judicial
3.2 - Technical Review Panel				**x***	**x***
3.5 - Pre-application meeting	**(x)**	**(x)**	**x**	**x**	**x**
3.6 - Two-Lot, Expedited Review for Three Lots[2], & Family Subdivisions	**x**	**x**			
3.7 - Minor Subdivisions			**x**		
3.8- Major Subdivisions				**x**	**x**
3.9 - Performance Guarantees				**x***	**x***
3.10- Presale of lots				**x***	**x***
4.2 - Sketch Plan for preapplication meeting	**(x)**	**(x)**	**x**	**x**	**x**
4.4 - Preliminary Plats			**x**	**x**	**x**
4.5 - Final Plats	**x**	**x**	**x**	**x**	**x**
4.6 - Information required on plats	**x***	**x***	**x***	**x***	**x***
4.7 - Certifications and Other Documentation	**x***	**x***	**x***	**x***	**x***
4.7.1 - Prelim Plats			**x**	**x**	**x**
4.7.2 - Final Plats	**x**	**x**	**x**	**x**	**x**
5.3 (B) - Environmental Impact Checklist				**x**	**x**
5.3 (C) - Environmental Impact Statement					**x***
5.4 - Traffic Impact Analysis					**x***
5.5 - Water & Sewer Requirements				**x***	**x***
5.6 - Lots	**x**	**x**	**x**	**x**	**x**
5.7 - Cluster			**x***	**x***	**x***
5.8 - Open Space			**x***	**x***	**x***
5.9 - Easements	**x**	**x**	**x**	**x**	**x**
5.10 - General Road Design	**x***	**x***	**x**	**x**	**x**
5.11 - Public Road Design			**x***	**x***	**x***
5.12 - Private Roads	**x**	**x**	**x**	**x**	**x**
5.13 - Private Water & Sewer	**x**	**x**	**x**	**x**	**x**
5.14 - Stormwater Drainage Facilities				**x***	**x***
5.15 - Dam Safety			**x***	**x***	**x***
5.16 - Flood Hazard Areas	**x**	**x**	**x**	**x**	**x**
5.17 - Fire Protection				**x***	**x***
5.18 Erosion & Sedimentation Control	**x***	**x***	**x***	**x***	**x***
5.19 - Stream Bank Erosion	**x***	**x***	**x***	**x***	**x***
5.20 - Clear Cutting	**x***	**x***	**x***	**x***	**x***
5.21 - Steep Slope	**x***	**x***	**x***	**x***	**x***
5.22 - Surveying	**x**	**x**	**x**	**x**	**x**

x* - if applicable (x) - recommended

ARTICLE 3. SUBDIVISION TYPES & REVIEW PROCEDURES

SECTION 3.1 PURPOSE AND APPLICABILITY

The purpose of this Article is to establish an orderly subdivision process for Polk County. It is also the intent of this Article to provide a clear and comprehensive approval process that is fair and equitable to all interests including the petitioners, affected neighbors, County staff, related agencies, the Planning Board, and the Board of Commissioners. Approved plans shall be the guiding documents for final approval and permitting.

SECTION 3.2 TECHNICAL REVIEW PANEL

(A) *Purpose.* The purpose of the Technical Review Panel (TRP) is to facilitate communication and coordination of administrative review and comment between departments and additional technical resources as requested by the Administrator.

(B) *Powers and Duties.* At the discretion of the Administrator, the TRP shall review applications for major subdivision preliminary plats and amendments including major cluster subdivisions. The Administrator shall provide TRP recommendations to the Planning Board.

(C) *Composition:*

(1) The members constituting the TRP, in any case where the Administrator exercises discretion under Section 3.2(B) to require TRP review, shall be selected by the Administrator, at the Administrator's discretion. Such members may be selected by the Administrator from:

County Departments:
Administrator (Planning Department)
County Manager
Building and Fire Inspections
Sheriff's Department
Health Department
Social Services Department
Polk County Agricultural Economic Development Director
Consulting Engineer (as designated by the County Manager)
Other County representatives appointed by the County Manager

Others, at the discretion of the Administrator, may include:
County Attorney
Professionally Recognized Technical Experts
Utilities Providers
Polk County Board of Education
Isothermal Planning & Development Commission
NC Department of Transportation (NCDOT)
NC Department of Environmental Quality (NCDEQ) [2]
NC Division of Water Quality
NC Wildlife Resources Commission
US Army Corps of Engineers
US Department of Agriculture
Any Other Agencies or Officials Designated by the Administrator and/or the Planning Board

(2) The Administrator shall coordinate the TRP review process, document the process, and may request the participation of professional experts or a representative from an adjacent municipality, county, regional or state agency if the Administrator determines that such entities can provide expertise concerning the proposed development.

(3) Determinations regarding new street names or changes in street names must be reviewed by the Polk County 911 Administrator.

(D) *Administrative Procedures.*

(1) Meetings of the TRP participants may be scheduled and held when necessary.

(2) The applicant and representatives may be invited by the Administrator to participate in the review process.

(3) Individual reviews may occur by TRP members and comments individually submitted to the Administrator.

(4) The Administrator shall provide TRP recommendations in writing to the applicant and appropriate body.

SECTION 3.3 SUBDIVISION TYPES

The following subdivision types, each of which is defined in Article 6 of this Ordinance, shall be administered in accordance with the provisions specified herein: two-lot subdivisions, expedited review for three lots[2], family subdivisions, minor subdivisions, major subdivisions, and cluster development subdivisions. In addition, any other subdivision of land which does not fall within a category designated above shall be subject to review by the Planning Board pursuant to procedures reasonably necessary to ensure compliance with this Ordinance.

SECTION 3.4 RECOMBINATIONS AND SUBDIVISION EXEMPTION PLATS

For plats implementing the recombination of previously subdivided land or for plats that do not meet the definition of a subdivision as set forth in Article 6, the following shall apply:

(A) *Review Process.* The Administrator shall confirm that the plat does not meet the definition of a subdivision, and that minimum zoning lot sizes are met, if applicable.

(B) *Recombination and Exemption Plat Special Requirements.*

(1) Prior to recording a plat for recombination, the applicant shall provide evidence to the Administrator that the recombination of all or portions of parcels of previously subdivided and recorded lands which have been recombined is in such a fashion where the resultant number of parcels is less than or equal to the original number of parcels and meets the requirements of this Ordinance, where applicable.

(2) Any plat or any part of a plat may be vacated by the owner at any time before the sale of any lot in the subdivision by a written instrument to which a copy of such plat shall be attached, declaring the same to be vacated. Such an instrument shall be approved by the map review officer.[4]

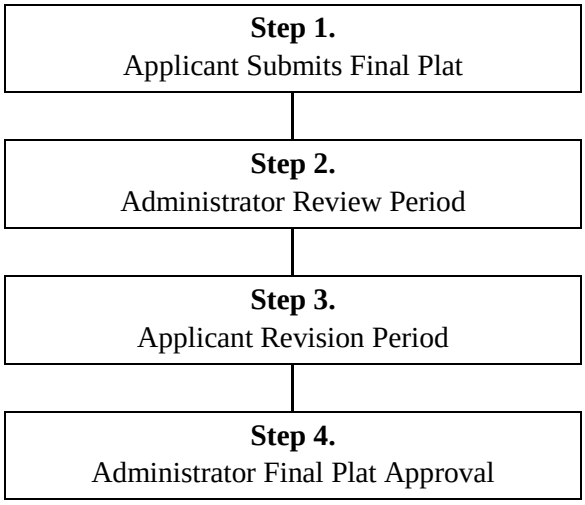
SECTION 3.5 PRE-APPLICATION MEETING

(A) *Two Lot, Expedited Review for Three Lots*[2]*, and Family Subdivisions.* It is recommended that the subdivider meet with the Polk County Administrator in a pre-application conference to informally discuss this ordinance and the subdivision of land in Polk County. It is recommended that a sketch plan of the proposed plat be provided to the Administrator for preliminary review.

(B) *Minor, Major and Cluster Subdivisions.* The subdivider is required to meet with the Polk County Administrator in a pre-application conference to informally discuss this ordinance and the Minor or Major Subdivision of land in Polk County. A sketch plan for minor and major subdivisions and an environmental checklist for major subdivisions shall be provided to the Administrator for review. Requirements for the sketch plan are in Section 4.2. The environmental checklist regulations are in Section 5.3(B). The Administrator will determine if a traffic impact analysis will be required as specified in Section 5.4.

SECTION 3.6 TWO-LOT, EXPEDITED REVIEW FOR THREE LOTS[2], AND FAMILY SUBDIVISIONS

(A) *Two-Lot, Expedited Review for Three Lots[2], and Family Subdivision Review Process*. This is an administrative process. A subdivider may apply to the Administrator, for a final plat review process for Two Lot, Expedited Review for Three Lots[2], and Family Subdivisions. The steps in the boxes below correspond with a detailed description of each step of the process on the following pages.



Step 1. Applicant Submits Final Plat.

(1) The applicant shall submit a final plat in accordance with the requirements set forth in Section 4.5.[4]

(2) The Administrator may request reports from the Polk County Health and Human Services Agency[3], the Polk County Soil and Water Conservation District, and other local, state, or federal officials, agencies, or consultants as deemed necessary.

Step 2. Administrator Review Period.

(1) The Administrator shall review the plat in accordance with the requirements of this Ordinance and any other applicable ordinance. This review shall take not more than 15 working days. After conducting an application completeness review, the Administrator will notify the applicant of any deficiencies. The receipt of a revised application will restart the 15 day review period.

(2) The Administrator may have any other applicable local, state, and federal officials, agencies, or consultants review the plat. The 15 working day limit may be extended up to 45 days if these agencies have been consulted and the Administrator is awaiting a reply.

(3) Failure of the Administrator to act, in writing, on the preliminary plat within the specified response time shall be deemed as a basis for appealing to the Polk County Board of Adjustment.

Step 3. Applicant Revision Period. The applicant shall revise the plat in accordance with the Administrator's review. All necessary revisions shall be made prior to approval by the Administrator. If no revisions are necessary, the final plat may be approved (see Step 4).

Step 4. Administrator Final Plat Approval. Following successful revision of the Final Plat by the applicant (if necessary), the Administrator shall approve the Final Plat by obtaining the applicable signatures as required by Section 4.7.2.

(B) ~~*Family*~~ *Subdivision Special Requirements.*

(1) The subdivider shall submit with his application for a Family Subdivision written evidence that the subdivision is a division of land by a property owner among his immediate family, to wit: spouse, children, or their lineal descendants or ascendants, or the lineal descendants or ascendants of said property owner as a gift, or as a settlement of the property owners estate.

(2) The ~~family~~ subdivision shall ~~provide that each lot or parcel of land shall have direct access from an existing recorded right-of-way or shall have a recorded access easement from a public road~~meet the requirements of Section 5.9 and/or 5.12. If a grantor has a recorded access easement, it must transfer along with the property.

~~(C) *Expedited Review for Three Lots*[2, 4]~~

~~(1) The Applicant shall submit an application with a plat for recordation for the division of a tract or parcel of land in single ownership if all of the following criteria are met:~~

~~a. The tract or parcel to be divided is not already exempt according to the Subdivision definition~~

~~b. No part of the tract or parcel to be divided has been divided in the 10 years prior to the division~~

~~c. The entire area of the tract or parcel to be divided is greater than five acres~~

~~d. After division, no more than three lots result from the division~~

~~e. After division, all resultant lots comply with all of the following:~~

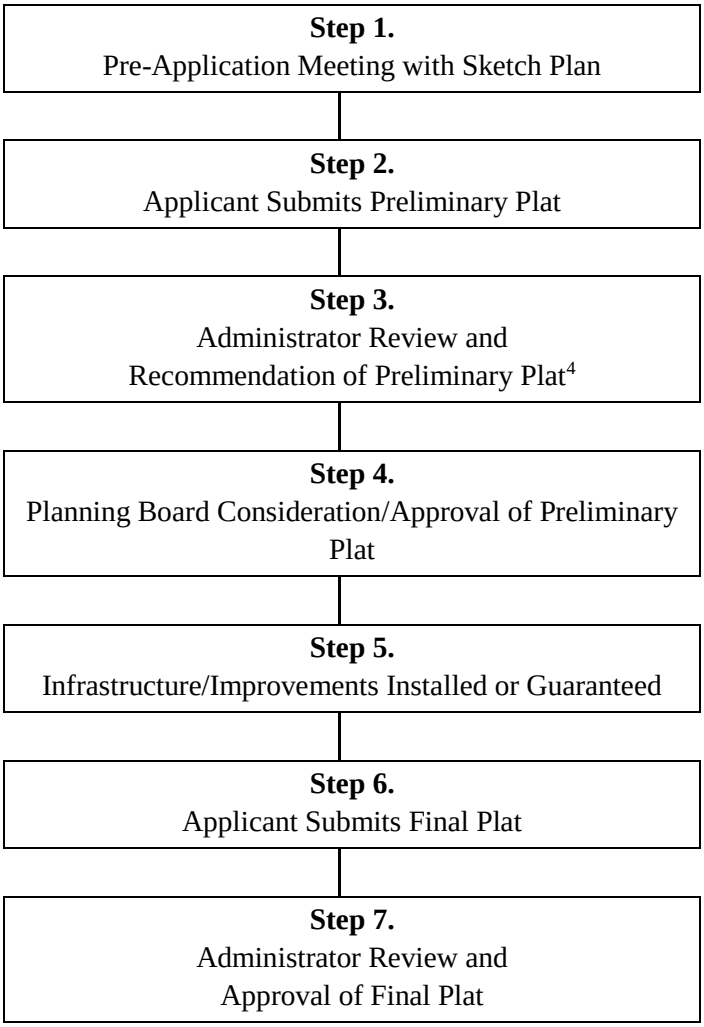
~~i. Any lot dimension size requirements of the applicable land-use regulations, if any~~

~~ii. The use of the lots is in conformity with the applicable zoning requirement, if any~~

~~iii. A permanent means of ingress and egress is recorded for each lot.~~

SECTION 3.7 MINOR SUBDIVISIONS

Minor Subdivision Review and Approval Process. This is an administrative process. The steps in the boxes below correspond with a detailed description of each step of the process on the following pages.



Step 1. Pre-Application Meeting with Sketch Plan. The applicant shall schedule a pre-application meeting with the Administrator. The applicant shall bring a Sketch Plan of the proposed development to the meeting that meets the requirements set forth in Section 4.2.

Step 2. Applicant Submits Preliminary Plat. The applicant shall submit an application, fee, Preliminary Plat that meets the requirements of Section 4.4, and other required materials.

Step 3. Administrator Review & Recommendation of Preliminary Plat.

(A) The Administrator shall review the plat in accordance with the requirements of this Ordinance and any other applicable ordinances. This review shall take not more than 15 working days. The

Administrator will conduct an application completeness review and notify the applicant of any deficiencies. The receipt of a revised application will restart the 15 day review period.

(B) The Administrator may have any other applicable local, state, federal officials, agencies, or technical experts as specified in Section 3.2(C) (1). The 15 working day limit may be extended to a total of 45 days if these agencies have been consulted and the Administrator is awaiting a reply.

(C) The Administrator shall make a written recommendation to the Planning Board regarding the preliminary plat to either (1) approve it, (2) approve it with modifications, or (3) deny it.

(D) The Administrator shall notify the applicant of their recommendations and allow the applicant to resubmit the application, if modifications are required. If resubmittal is desired by the applicant, the revised application will be submitted for Step 3.

Step 4. Planning Board Consideration of Preliminary Plat.[4]

(A) Following completion of Preliminary Plat review, the Administrator shall place the item on the agenda 15 days prior to the next regularly scheduled Planning Board meeting.[4]

(B) The Planning Board shall review the plat in accordance with the requirements of this Ordinance, if applicable.

(C) The Planning Board shall have 60 days within which to approve, approve with modifications, or deny the Preliminary Plat.

(D) The Administrator shall notify the applicant, in writing, of the Planning Board's action.

(E) Once notification of preliminary plat has been provided by the Administrator in writing, work may commence on roads and infrastructure.

Step 5. Infrastructure/Improvements Installed or Guaranteed. If public improvements are required, said improvements shall be installed and approved by the appropriate state or local agencies, or guarantees for their installation shall be secured before final plat approval in accordance with Section 3.9.

Step 6. Applicant Submits Final Plat. The applicant shall submit a Final Plat that meets the requirements of Section 4.5. This submittal shall include copies of any required NCDEQ[2] or NCDOT permit approvals.

Step 7. Administrator Review & Approval of Final Plat.

(A) The Final Plat shall be submitted not more than one year after the date on which the Preliminary Plat was approved; otherwise, such Preliminary Plat approval shall be null and void unless a written extension of this limit is granted by the Planning Board on or before the one (1) year anniversary of the approval.

(B) The Administrator shall review the plat in accordance with the requirements of this Ordinance and any other applicable ordinances. If the final plat conforms to the approved preliminary plat, all preliminary conditions of approval, and all other applicable requirements, the Administrator shall administratively approve the final plat within 15 working days from receipt of a complete final subdivision submittal. All required improvements shall be complete or a performance guarantee package shall be submitted in accordance with Section 3.9 and subsequently approved by the Planning Board.

(C) The final plat must be recorded within fourteen (14) days and a copy of the recorded plat submitted to the Administrator.

SECTION 3.8 MAJOR SUBDIVISIONS

Review and Approval Process for Single Phase and Multi-Phase Major Subdivisions. The Administrative and Quasi-Judicial Processes as specified in the boxes below correspond with a detailed description of each step of the process on the following pages. Major subdivisions that do not require a traffic impact analysis or the preparation of an environmental impact statement will be reviewed and approved through an Administrative Process. Major subdivisions that require a traffic impact analysis or the preparation of an environmental impact statement will be reviewed and approved through a Quasi-Judicial Process.

Administrative Process	***Quasi-Judicial Process***
Step 1. Pre-Application Meeting with Sketch Plan	**Step 1.** Pre-Application Meeting with Sketch Plan and Environmental Checklist
Step 2. Applicant Submits Preliminary Plat & Applicable Documentation, including Master Plan (if multi-phase development)	**Step 2.** Applicant Submits Preliminary Plat & Applicable Documentation, including Environmental Impact Statement (if required) and Master Plan (if multi-phase development)
Step 3. Administrator Review and Recommendation on Preliminary Plat and Multi-Phased Subdivision Master Plan	**Step 3.** Administrator Review and Recommendation on Preliminary Plat and Multi-Phased Subdivision Master Plan
Step 4.[4] Planning Board Consideration/Approval of Preliminary Plat and Multi-Phased Subdivision Master Plan	**Step 4.**[4] Planning Board Evidentiary Hearing and Consideration/Approval of Preliminary Plat and Multi-Phased Subdivision Master Plan
Step 5. Infrastructure/Improvements Installed or Guaranteed	**Step 5.** Infrastructure/Improvements Installed or Guaranteed
Step 6. Applicant Submits Final Plat	**Step 6.** Applicant Submits Final Plat and Supporting Documentation
Step 7. Administrator Review and Approval of Final Plat	**Step 7.** Administrator Review and Approval of Final Plat

Step 1. Pre-Application Meeting with Sketch Plan. The applicant shall schedule a required pre-application meeting with the Administrator. The applicant shall provide a Sketch Plan of the proposed

development that meets the requirements set forth in Section 4.2, and an environmental checklist as specified in Section 5.3(B). Multi-phase developments must include a Master Plan showing individual phases in accordance with Section 4.3.

Step 2. Applicant Submits Preliminary Plat & Applicable Documentation, including Environmental Impact Statement (if required) and Master Plan (if multi-phase development).

(A) The applicant shall submit a Preliminary Plat in accordance with the requirements set forth in Section 4.4.

(B) The applicant shall also submit with the plat an application, fee, and any other required documentation as set forth in Section 4.6.

(C) For multi-phase development, Master Plan phase lines shall be shown on the Preliminary Plat.

(D) For multi-phase development, when a subdivider proposes to construct new roads without initially subdividing lots, the subdivider may present a Preliminary Plat to the Planning Board for approval of the roads only. This option is provided to allow developers the flexibility of designing and platting lots after road construction in order to adjust the subdivision to the existing terrain. A second preliminary plat providing lot subdivision must be submitted for administrative approval by the Planning Board.

(E) Preliminary plats for the phases shall be submitted not more than two (2) years after the date on which the Master Plan was approved, otherwise, such approval shall be null and void unless extended vested rights have been granted in accordance with NCGS 160D.108 or a development agreement has been approved in accordance with NCGS160D.1001-12.[4]

(F) Approval of a Master Plan need not be renewed unless an increase in the number of lots, or overall density or a change in the connectivity to adjacent parcels or roads is proposed.

Step 3. Administrator Review and Recommendation on Preliminary Plat and Multi-Phased Subdivision Master Plan (if required).

(A) The Administrator shall review the plat and multi-phased subdivision master plan in accordance with the requirements of this Ordinance and any other applicable ordinances. This review shall take not more than 15 working days. The Administrator will conduct an application completeness review and notify the applicant of any deficiencies. The receipt of a revised application will restart the 15 day review period.

(B) The Administrator may have the TRP review the plat and multi-phased subdivision master plan. The 15 working day limit may be extended to a total of 45 days if these agencies have been consulted and the Administrator is awaiting a reply.

(C) The Administrator shall make recommendations in writing to the Planning Board to approve, approve with modifications, or deny the Preliminary Plat and Multi-Phased Subdivision Master

Plan (if required). If the quasi-judicial approval process applies, the recommendations shall be presented to the Planning Board as evidence at the evidentiary hearing by the Administrator. If the administrative approval process applies, the preliminary plat shall be presented to the Planning Board as specified in Section 3.7, Step 4.[4]

Step 4. Planning Board Quasi-Judicial Approval Process (if required).

(A) Major subdivision preliminary plat approvals are quasi-judicial decisions approved by a simple majority vote of the Planning Board.

(B) Once a recommendation of the Administrator on the preliminary plat, environmental impact statement, and master plan (if required) has been prepared, or the 45-day period elapses without a recommendation, the Planning Board shall hold an evidentiary hearing to consider action of the preliminary plat at its next regularly scheduled meeting. A quorum of the Planning Board is required for this hearing. In addition, notice shall be given to other potentially interested persons by publishing a notice once a week for two successive calendar weeks in a newspaper having general circulation in the area. The first notice shall be not less than ten (10) or more than twenty-five (25) days prior to the hearing. All owners of the proposed subdivision parcel(s) and all owners of parcels of land abutting the proposed subdivision parcel(s) as shown on the Polk County tax listing shall be mailed a notice of the public hearing by first class mail at the last address listed for such owners on the Polk County tax abstracts.[4]

(C) In approving a preliminary plat, the Planning Board may attach fair and reasonable conditions to the approval. The petitioner will have a reasonable opportunity to consider
and respond to any additional requirements prior to approval or denial by the Planning Board. In no instance shall any of these conditions be less restrictive than any requirements which would pertain to that particular subdivision.

(D) The applicant has the burden of producing competent, material and substantial evidence to establish the facts and conditions relating to preliminary subdivision plat approval including, but not limited to, an environmental impact statement, if required.

(E) The Planning Board shall approve the preliminary plat if it has evaluated the application for approval through a quasi-judicial process and determined that the applicant has demonstrated the following:

(1) The proposed subdivision complies with all applicable standards and regulations of the ordinance and with all other applicable federal, state and county regulations.

(2) The proposed subdivision is in harmony with the County's currently adopted Comprehensive Plan as well as other plans adopted by the Board of Commissioners.

(3) Adequate facilities exist or will be provided prior to the time they are needed. For the purposes of this section, adequate facilities constitute those necessary for the functionality

of the subdivision in compliance with this Ordinance and include, without limitation, roads, utilities, stormwater management, and waste and wastewater treatment facilities.

(4) The proposed subdivision shall not result in significant negative environmental impacts, whether direct, secondary, or cumulative. When making this determination, the Board shall give due consideration to any appropriate effective mitigating action(s) proposed or agreed to by the applicant.

(5) The road system in the subdivision will connect to segments of the public road system with adequate capacity to handle the projected traffic flow, both on an average basis and at peak hours. Furthermore, the subdivision shall be so located and designed as to provide direct access to the subdivision without creating substantial additional traffic in residential neighborhoods outside the subdivision.

(6) From a hydrological perspective, the proposed subdivision is not expected to interfere with any presently existing legal use of water nor is it expected to impact the long-term sustainable supply of groundwater. Any discharges of wastewater to surface waters or to the ground shall meet the pretreatment requirements of the state, as well as any requirements of a municipality if the discharge is going to a municipal treatment facility.

In making these determinations, the Planning Board may take into consideration any fair and reasonable conditions imposed pursuant to Step 4(C), above.

(F) The Planning Board shall have up to 60 days to approve, approve with modifications, or deny the Preliminary Plat.

(G) The Administrator shall notify the applicant, in writing, of the Planning Board's action. Once Preliminary Plat has been approved, work may commence on roads and infrastructure.

(H) *Evidence/Presentation of Evidence at Evidentiary Hearing.* The provisions of this section apply to all evidentiary hearings. [4]

(1) All persons who intend to present evidence to the Planning Board shall be sworn in by the Chairman at the beginning of the hearing.

(2) All findings and conclusions necessary to the issuance or denial of the requested preliminary plat shall be based upon competent evidence (evidence admissible in a court of law).

(3) The Planning Board Chair has the authority to limit testimony that is irrelevant.

(4) The entirety of an evidentiary hearing and deliberation shall be conducted in open session.

(5) Parties to an evidentiary hearing have a right to cross-examine anyone presenting evidence.

(6) Factual findings must not be based on hearsay evidence which would be inadmissible in a court of law.

(7) If a Planning Board member has prior or specialized knowledge about a case, that knowledge shall be disclosed to the rest of the Board and parties present at the beginning of the hearing.

(8) Members of appointed boards shall not vote on any administrative, advisory or legislative decision regarding a development regulation where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member.

Quasi-Judicial Decisions. - A member of any board exercising quasi-judicial functions shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter.

(9) The Planning Board, in conducting the hearing, has the authority to issue subpoenas to compel testimony or the production of evidence deemed necessary to determine the matter.

(I) *Modification of Application at Hearing.*

(1) In response to questions or comments by persons appearing at the hearing or to suggestions or recommendations by the Planning Board, the applicant may agree to modify the request for preliminary plat approval, including the plans and specifications submitted.

(2) Unless such modifications are so substantial or extensive that the Planning Board cannot reasonably be expected to perceive the nature and impact of the proposed changes without a revised preliminary plat, the Planning Board may approve the preliminary plat with the stipulation that the plat will not be approved until plans reflecting agreed upon changes are submitted to the Administrator within 45 days.

Step 5. Infrastructure/Improvements Installed or Guaranteed. Prior to approval of the final plat, the subdivider shall have installed the improvements specified in this Ordinance or guaranteed their installation as provided in Section 3.9.

Step 6. Applicant Submits Final Plat. The applicant shall submit a Final Plat that meets the requirements of Section 4.5.

Step 7. Administrator Review and Approval of Final Plat.

(A) The Final Plat shall be submitted not more than two (2) years after the date on which the Preliminary Plat was approved through either the administrative or quasi-judicial approval process, otherwise, such approval shall be null and void unless a written extension of this limit (not to exceed six months) is granted by the Planning Board on or before the two (2) year anniversary of the approval. Final plat approval may occur in stages, not exceeding four (4) final plat recordings per each subdivision phase.

(B) The Administrator shall review the Final Plat for compliance with the approved Preliminary Plat and Master Plan (if applicable), verify that all required infrastructure improvements have been completed or guaranteed in accordance with Section 3.9, and ensure that the Final Plat meets the requirements of Section 4.5.

(C) The final plat must be recorded within fourteen (14) days and a copy of the recorded plat submitted to the Administrator.

SECTION 3.9 PERFORMANCE GUARANTEES

In lieu of requiring the completion, installation and dedication of all improvements prior to final plat approval, Polk County may enter into an agreement with the subdivider whereby the subdivider shall agree to complete all required improvements as specified by the approved preliminary plat for that portion of the subdivision to be shown on the final plat within a mutually agreed upon specified time period not to exceed one (1) year. Once agreed upon by both parties and the security required herein is provided, the final plat may be approved by the Polk County Planning Board, if all other requirements of this Ordinance are met. The Planning Board shall require a certified cost estimate from a licensed contractor or engineer for the cost of completion of such improvements.

(A) The subdivider shall provide one of the following Performance Guarantees, elected at the subdivider's discretion, in lieu of installation:

(1) *Surety Performance Bond(s).* The subdivider shall obtain a performance bond(s) from a surety bonding company authorized to do business in North Carolina. The bond(s) shall be payable to Polk County, and shall be in an amount not to exceed 1 ¼ times the entire cost, as estimated by the subdivider in conjunction with the Planning Board, and approved by the Planning Board for installing all required improvements. The duration of the bond(s) shall be until such time as the improvements are completed and accepted as such by Polk County.

(2) *Cash or Equivalent Security*. The subdivider shall deposit cash, an irrevocable letter of credit, or other instrument readily convertible into cash at face value, either with the County or in a non-interest bearing escrow account with a financial institution designated as an official depository of the County. The use of any instrument other than cash shall be subject to the approval of the Planning Board. The amount of deposit shall not exceed 1 ¼ times

the cost, as estimated by the subdivider in conjunction with the Planning Board for installing all required improvements. If cash or other instrument is deposited in escrow with a financial institution as provided above, then the subdivider shall file with the Planning Board an agreement between the financial institution and himself guaranteeing the following:

That said escrow account shall be held in trust until released by the Planning Board and may not be used or pledged by the subdivider in any other matter during the term of the escrow; and

That in the case of a failure on the part of the subdivider to complete said improvements, the financial institution shall, upon notification by the Planning Board and submission by the Planning Board to the financial institution of an engineer's estimate of the amount needed to complete the improvements, immediately either pay to Polk County the funds estimated to complete the improvements, up to the full balance of the escrow account, or deliver to the county any other instruments fully endorsed or otherwise made payable to the County.

(B) Upon default, meaning failure on the part of the subdivider to complete the required improvements in a timely manner as spelled out in the performance bond or escrow agreement, then the surety, or the financial institution holding the escrow account shall, if requested by the County, pay all or any portion of the bond or escrow fund to Polk County up to the amount needed to complete the improvements based on an engineering estimate. Upon payment, the Polk County Board of Commissioners, in its discretion, may expend such portion of said funds as it deems necessary to complete all or any portion of the required improvements. The County shall return to the subdivider any funds not spent in completing the improvements.

(C) The Planning Board may release a portion of any security posted as the improvements are completed and recommended for approval by the Administrator. Within thirty (30) days after receiving the Administrator's recommendation, the Planning Board shall approve or not approve said improvements. If the Planning Board approves said improvements, then it shall immediately release any security posted.

SECTION 3.10 PRESALE OF LOTS

Pre-sale and pre-lease contracts are allowed only after a preliminary plat has been approved. The closing and final conveyance of lots subject to pre-sale and pre-lease contracts may not occur until after the final plat is approved and recorded. The buyer must:

(A) Be provided a copy of the preliminary plat at the time the contract is executed;

(B) Be notified that no final plat has been approved;

(C) Be advised that there is no guarantee that changes will not be made to the plat before final approval;

(D) Be provided a copy of the final plat before final approval by the county; and

(E) Be informed that the contract or lease may be terminated by the buyer/leasee if the final plat differs in any material way from the preliminary plat.

SECTION 3.11 AGGREGATION

Two or more subdivisions shall be aggregated and treated as a single subdivision under this ordinance when (1) they are determined to be part of a unified plan of development, (2) they are physically proximate to one another and (3) there is a reasonable closeness in time between the completion of some or all of one subdivision and the submission of an application for authorization of another subdivision which is indicative of a common developmental effect. Each of the criteria listed below is indicative of a unified plan of development. Whenever one or more are found to exist, the reviewing authority may, but is not required to, determine that two or more projects are part of a unified plan of development.

(A) The same person has control of the developments;

(B) The same person has ownership or a significant legal or equitable interest in the developments;

(C) There is common management controlling the form of physical development or disposition of parcels of the development;

(D) A master plan or series of plans or drawings exists covering the developments sought to be aggregated;

(E) There is a voluntary sharing of infrastructure that is indicative of a common development effort or is designated specifically to accommodate the developments sought to be aggregated;

(F) There is a common advertising scheme or promotional plan in effect for the developments sought to be aggregated.

ARTICLE 4. SUBDIVISION PLAN REQUIREMENTS

Article 4 – Subdivision Plan Requirements

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ARTICLE 4. SUBDIVISION PLAN REQUIREMENTS

SECTION 4.1 PURPOSE

The purpose of this Article is to establish the requirements for plat and plan submittal for Subdivisions in accordance with the processes set forth in Article 3.

SECTION 4.2 SKETCH PLANS FOR PRE-APPLICATION MEETINGS

Sketch Plan Contents. A Sketch Plan shall be required for the pre-application meeting with the Administrator. Two (2) copies of the Sketch Plan shall be submitted for the pre-application meeting. The plan shall be scaled and show the approximate proposed layout of streets, lots, buildings, open spaces, and other features in relation to existing conditions. The Sketch Plan shall contain the information specified in Section 4.6.

SECTION 4.3 MASTER PLANS FOR PHASED MAJOR SUBDIVISIONS

(A) *Master Plan Contents.* All phased Major Subdivision Master Plans shall include the information provided in Section 4.6.

(B) *Master Plan Submittal Requirements*. Three (3) full-size copies for staff review; three (3) full-size copies and one (1) reduced (11 x 17) copy for the Planning Board.

(C) Master Plans shall be submitted with the Preliminary Plat for the initial phase.

SECTION 4.4 PRELIMINARY PLATS FOR MINOR AND MAJOR SUBDIVISIONS

(A) *Preliminary Plat Contents*. The Preliminary Plat shall depict or contain the information provided in Section 4.6. Where "proposed/actual" is noted, the proposed information shall be shown on the preliminary plat and the actual information shall be shown on the Final Plat. Preliminary Plats shall be clearly and legibly drawn at a scale of not less than two hundred (200) feet to one (1) inch acceptable to the Register of Deeds of Polk County.

(B) *Certificates and Other Documentation.* All preliminary plats shall contain the certifications outlined in Section 4.7.

(C) *Preliminary Plat Submittal Requirements.* Three full-size copies for staff review; three (3) full-size copies and one (1) reduced (11 x 17) copy for the Planning Board.

ARTICLE 4. SUBDIVISION PLAN REQUIREMENTS

SECTION 4.5 FINAL PLATS FOR ALL SUBDIVISIONS[1]

(A) *Final Plat Contents.* The final plats shall depict or contain the information provided in Section 4.6. Final plats shall be clearly and legibly drawn by a registered land surveyor currently licensed in the State of North Carolina by the NC State Board of Registration for Professional Engineers and Land Surveyors. The plat shall also be drawn at a scale of not less than two hundred (200) feet to one (1) inch and shall be drawn on a sheet acceptable to the Register of Deeds of Polk County.

(B) *Certifications.* The final plat shall contain the certifications outlined in Section 4.7.

(C) *Minor and Major Subdivision Final Plat Submittal Requirements.* Three (3) full-size paper copies for staff review; three (3) full-size paper copies and one (1) reduced (11 x 17) copy for distribution to the Planning Board; one (1) copy for signature; and one (1) full-size copy of the recorded plat.

SECTION 4.6 INFORMATION TO BE PROVIDED ON SKETCH PLANS/PRELIMINARY & FINAL PLATS[1, 4]

The sketch plan, preliminary plat, and final plats shall depict or contain the information indicated in the following table. An X indicates that the information is required.

Information	***Sketch Plan***	***Master Plan***	***Preliminary Plat***	***Final Plat***
Name of proposed development	X	X	X	X
Location (including township, county, and state)	X	X	X	X
Name and address of owner of record		X	X	X
North arrow	X	X	X	X
Boundaries of the property, distinctly and accurately represented with all bearings and distances shown (drawn to scale)	X	X	X	X
Tax map number(s) of the property	X	X	X	X
Adjacent property owners and tax map numbers	X	X	X	X
The zoning classifications of the property to be developed and of adjoining properties (if applicable)	X	X	X	
Existing topographic conditions of the property	X	X	X	
Water courses, watershed, and preserved areas	X	X	X	
Date(s) of survey(s)			X	X
Original submittal date		X	X	
Revision dates		X	X	

ARTICLE 4. SUBDIVISION PLAN REQUIREMENTS

Information	*Sketch Plan*	*Master Plan*	*Preliminary Plat*	*Final Plat*
A sketch vicinity map showing the relationship between the proposed development and surrounding area	X	X	X	X
Scale of drawing in feet per inch in words or figures (no smaller than 1" = 200')		X	X	X
Graphic bar scale	X	X	X	X
Phase lines	X	X	X	
Proposed timetable for development	X	X	X	
Proposed lot lines and corners, lot and block numbers and other dimensions including acreage		X	X	X
Name, address, and registration number of registered land surveyor			X	X
Building setbacks in table format		X	X	X
Existing buildings or structures, railroads, and bridges on the property		X	X	X
Boundaries of floodplains or note stating that property is not within the floodplain	X	X	X	X
Designation of slopes greater than 50%		X		
A statement regarding the proposed amount of grading to take place (see Section 5.18)			X	
A statement regarding the proposed method of stormwater management		X	X	
Existing uses of the land within the proposed subdivision		X	X	
Proposed school sites, parks, or other open spaces		X	X	X
Environmental assessment checklist (see Section 5.3)	X			
Environmental impact statement (see Section 5.3)			X	
Landscaping plan, if applicable			X	
Lighting plan, if applicable			X	
The following data concerning streets:				
Existing street layout and right-of-way/access easement width	X		X	X
Proposed street types	X	X		

Information	*Sketch Plan*	*Master Plan*	*Preliminary Plat*	*Final Plat*
Proposed street types, including cross-sections			X	X
Road name(s) and designation of private or public dedication			X	X
NCDOT written approval of any public road plans, if applicable			X	
~~For Family Subdivisions, a~~A road maintenance agreement ~~signed by all affected parties~~				X
Subdivision Roads Disclosure Statement prepared in accordance with NCGS 136-102.6(f)				X
Utilities:				
Utility and other right-of-ways or easements of record on and abutting to the subdivision			X	X
Transmission lines			X	X
Approximate location of natural gas lines			X	X
Approximate location of water and sanitary sewers existing, size and plans for connection to private community or public community or public systems			X	X
Storm sewers, culverts, detention ponds, and other drainage facilities, if any (proposed/actual)			X	X
Other infrastructure details deemed necessary by the Administrator			X	X
Site calculations:				
Total acreage	X	X	X	X
Total number of lots and/or units	X	X	X	X
Area of each lot in acres		X	X	X
Proposed acreage in street right-of-way		X	X	X
Proposed acreage & percent of overall development in open space		X	X	
Proposed acreage in parks, lakes, or other public land usage		X	X	
Average lot size			X	X

ARTICLE 4. SUBDIVISION PLAN REQUIREMENTS

Information	*Sketch Plan*	*Master Plan*	*Preliminary Plat*	*Final Plat*
Overall density per acre		X	X	
Overall percentage and acreage of open space		X	X	
Location of control corners				X
Location and description of all monuments, reference markers and property and lot corners designation of any and all wetlands				X

SECTION 4.7 CERTIFICATIONS AND OTHER DOCUMENTATION

4.7.1 Preliminary Plats for Minor and Major Subdivisions

(A) *Certificate of Approval for Preliminary Plat*. This certifies that the Polk County Planning Board approved the preliminary plat of the _____ subdivision on the _____ day of _____, 20___.

_____
Chairman, Polk County Planning Board

(B) Grading and Erosion Control Plan and a North Carolina Department of Environmental Quality (NCDEQ)[2] written approval, if applicable.

(C) NCDEQ[2] written approval for a community or public sanitary sewer system, if applicable.

(D) NCDEQ[2] written approval for a public or community water system, if applicable.

(E) A written statement, if applicable, that:

"The Polk County Health and Human Service Agency[3] has expressed no opinion as to the suitability of private septic systems or water systems on this property. Each lot is subject to individual inspection and approval of septic systems."

(F) A copy of any required NCDOT driveway permit application.

(G) Any other information considered by the subdivider, the Planning Board, the TRP, and/or Administrator to be pertinent to the review of the plat.

4.7.2 Final Plats for All Subdivisions[1, 4]

(A) *Certificates for All Plats.* The following certificates shall appear on all final subdivision plats. Refer to Section 4.7.2(B), (C), (D), and (E) for additional certificates required depending upon subdivision type.

(1) *Certificate of Survey and Accuracy.* I, _____, certify that this plat was drawn under my supervision from an actual survey made under my supervision (deed description recorded in Book _____, page_____ etc.) (other); that the boundaries not surveyed are clearly indicated as drawn from information found in Book ___, page ___ that the ratio of precision or positional accuracy as calculated is ___, that this plat was prepared in accordance with G.S. 47-30 as amended. Witness my original signature, license number and seal this _____ day of _____A.D., 20___.

_____ Official Seal
Professional Land Surveyor

_____
License Number

_____ County, North Carolina

(2) *Certificate of Ownership and Dedication.* I hereby certify that I am (we are) the owner(s) of the property shown and described hereon, and that I (we) hereby adopt this plan of subdivision with my (our) free consent, and dedicate all roads and other easements to public use, where applicable.

_____ _____
Owner(s) Date

(3) *Certification of Private Water/Septic Systems (if applicable).* If the Health Department has not approved private water or septic systems, then the following written statement shall be included on the Plat:

"The Polk County Health and Human Services Agency[3] has expressed no opinion as to the suitability of private septic or water systems on this property. Each lot is subject to individual inspection and approval of septic systems."

(B) *Certificates for Two-Lot, Expedited Review for Three Lots[2], and Family Subdivisions.*

(1) *Certificate of Approval for Recording Final Plat*. I hereby certify that the subdivision plat shown hereon has been found to comply with the Polk County, North Carolina Subdivision Ordinance and that this plat has been approved for recordation with the Polk County Register of Deeds.

_____ _____
Administrator Date

(C) *Certificates for Minor Subdivision Final Plats.*

(1) *Certificate of Approval for Recording Final Plat*. I, _____, Administrator, certify that the said Board fully approved the final plat of the Subdivision entitled _____.

_____ _____
Administrator Date

(D) *Certificates for Major Subdivision Final Plats.*

(1) *Certificate of Approval of Design and Installation of Streets, Utilities, and Other Required Improvements (if applicable).* I hereby certify that all streets, public utilities and other required improvements have been installed in an acceptable manner and according to NC

Department of Transportation and/or Polk County specifications and standards or as otherwise provided for in this Ordinance, or that guarantees for the installation of the required improvements in an amount and manner satisfactory to Polk County have been submitted.

_____ _____

Professional Engineer Date

_____ Official Seal

Registration Number

(2) *Private Road Maintenance Statement (if applicable).* A maintenance statement for private roads shall be submitted to the Planning Board with the Final Plat and recorded at the Register of Deeds at the time the Plat is recorded.

(3) *Watershed Certificate of Approval for Recording.* I certify that the plat shown hereon complies with the County's Watershed Protection requirements and is approved by Polk County for recording in the Register of Deeds office.

_____ _____

Administrator Date

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

(4) *Flood Damage Prevention Certificate of Approval for Recording.* I certify that the plat shown hereon complies with the County's Flood Damage Prevention Ordinance requirements and is approved by Polk County for recording in the Register of Deeds office.

_____ _____

Administrator Date

(5) *Certificate of Approval for Recording Final Plat.* I, _____ , Administrator, certify that the said Board fully approved the final plat of the Subdivision entitled _____.

_____ _____

Administrator Date

ARTICLE 5. SUBDIVISION DESIGN STARDARDS

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ARTICLE 5. SUBDIVISION DESIGN STARDARDS

SECTION 5.1 PURPOSE

The purpose of this Article is to establish the requirements for subdivision lot configuration, lot access, roadway layout, easements, and utilities to ensure sustainable and adequate subdivision design.

SECTION 5.2 GENERAL PROVISIONS

(A) Each subdivision shall contain the improvements specified in this article, which shall be installed in accordance with the requirements of this Ordinance or guaranteed pursuant to an approved performance guarantee pursuant to Section 3.9 of this Ordinance.

(B) Land shall be dedicated and reserved in each subdivision as specified in this Article.

(C) Each subdivision shall be constructed in accordance with minimum county, state and federal design standards, as applicable.

(D) In order to lessen possible confusion which could hamper the response time for emergency vehicles, the name of a subdivision shall not duplicate nor closely approximate the name of an existing subdivision within Polk County. The applicant is required to check with the Administrator prior to submission of the preliminary plat to avoid name duplication/similarity issues.[1]

(E) *Air Quality.* As required by NCGS Chapter 143, Article 21, all subdivisions shall show proof of compliance, if applicable, with air quality guidelines established by the Division of Environmental Management and NCDEQ[2].

(F) *Farmland Preservation District Setback.* Where a major subdivision of land occurs, a minimum 100 foot setback for all buildings or other structures is required from any Farmland Preservation District. The County strongly encourages any subdivision located adjacent to a Farmland Preservation District to use the Conservation Subdivision Option (NCGS 200A-86, Conservation Subdivisions (Option)). The minimum 100 foot setback from Farmland Preservation Districts, where applicable, must be noted on development plans and final plats.

(G) *Notice of Farmland Preservation District*. If the property proposed for a major subdivision lies within one-half (1/2) mile of any land in a Farmland Preservation District, the applicant must submit an affidavit certifying that the applicant is aware of existing Farmland Preservation Districts as identified on maps provided by the Polk County Office of the Natural Resource Conservation Service. In addition, a note on the final plat for a major subdivision shall state that the property lies within one-half (1/2) mile of land in a Farmland Preservation District.

SECTION 5.3 ENVIRONMENTAL IMPACT STATEMENT

(A) *Preserving Environmental Quality*. In concert with enhancing and preserving environmental quality, the policy of Polk County shall be to use all practicable means and measures to create and maintain conditions under which man and nature can exist in productive harmony and fulfill the social, economic, and other requirements of present and future generations. Every citizen has a responsibility to contribute to the preservation and enhancement of the quality of the environment. There is a need to understand the relationship between the maintenance of high-quality ecological systems and the general welfare of the people of Polk County, including their enjoyment of the natural resources of the County. Social, economic, and environmental factors shall be considered together in reaching decisions on proposed activities. In order to carry out the provisions of this chapter, it is the continuing responsibility of the County to use all practicable means, consistent with other essential considerations, to improve and coordinate plans, facilities, programs, and resources to the end that the County may:

(1) Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;

(2) Assure for all citizens safe, healthful, productive and aesthetically and culturally pleasing surroundings.

(3) Attain the widest range of beneficial uses of the environment without degradation, risk to health or safety or other undesirable and unintended consequences;

(4) Preserve important historic, cultural, and natural aspects of the County's heritage, and maintain, wherever possible, an environment which supports diversity and variety of individual choice;

(5) Achieve a balance between growth and resource use which will permit high standards of living and wide sharing of life's amenities;

(6) Enhance the quality of renewable resources and approach the optimum attainable recycling or sustaining of depletable resources; and

(7) Support the implementation of the County's currently adopted Comprehensive Plan.

(B) *Environmental Impact Statement Required*. An environmental impact statement is required at the Preliminary Plat stage for all Major Subdivisions, if indicated by the following environmental checklist.

ENVIRONMENTAL CHECKLIST

An environmental impact statement is required if the following environmental assessment rating results in a total of **100 points** or more: [1]

Item		Points
(1)	100 acres or greater, not including open space (defined in Section 5.8)	100
(2)	Dependent on non-public groundwater supply	50
(3)	33% or greater of total project parcel(s) includes slopes of 30% or greater	30
(4)	33% or greater of total project parcel(s) located in a designated WS-II, WS-III, or WS-IV water supply area	25
(5)	Not connected to a central public sewage treatment system	25
(6)	33% or greater of non-open space area located in a floodplain	25
(7)	Parcel(s) located adjacent to a farmland preservation area	20
(8)	Located adjacent to or surface water drains into designated state trout waters[4]	20
(9)	33% or greater of total project parcel(s) includes hydric soils as defined by the US Department of Agriculture	20
(10)	33% or greater of total project parcel(s) includes prime farmland soils as defined by the US Department of Agriculture	15
(11)	33% or greater of total project parcel(s) includes slopes between 20% and <30%	15
(12)	Includes a natural heritage area(s)	15
(13)	Adjacent to land trust/conservation properties	15
(14)	Includes or located within 2,500 feet (direct distance) of a historic property	15
	TOTAL POINTS	**390**
(15)	Cluster subdivision incentive	-50
TOTAL POINTS WITH INCENTIVE		**340**

(C) *Required Information.* The environmental impact statement must include the following when the Administrator determines the information is applicable:

Section 1

Description of the following:

- Proposed action;
- Existing environmental setting;
- Favorable and adverse environmental impacts;
- Identification and cost estimates of alternatives to the adverse impacts;
- Consistency with the County's currently adopted Comprehensive Plan;
- Adequacy of public facilities;
- Soil conditions/limitations and soil disturbing activities;
- Sensitive wildlife habitat areas and/or endangered animal and vegetative species;
- Sustainability of developed area for proposed density;
- Proposed open space, if applicable; and
- Consideration of any traffic impact analysis recommendations and their environmental impact (see Section 5.4).

Section 2

Descriptions of the following are required if there are points assigned to that item in the Environmental Checklist or requested by the Administrator:

- Impact on the agricultural resources (Section 5.3B - 7, 10);
- Impact on conservation/preservation areas (Section 5.3B - 12, 13, 14);
- Surface and/or groundwater hydrological impact analysis (Section 5.3B - 2, 3, 5, 11);
- Proposed wastewater treatment facilities and applicable agency approvals (Section 5.3B - 5);
- Impact on natural resources (Section 5.3 B - 3, 4, 6, 8, 9, 11).

Section 3

(1) *Mitigation.* For each potential cumulative, direct or secondary negative impact which is identified in Section 1 and 2, the alternatives which were considered must be described and specific alternative actions explained. The proposed mitigation action(s) must be identified.

(2) *Technical Basis*. The environmental impact statement must be prepared by and/or include people technically competent to assess impacts, including licensed/ commonly recognized experts when necessary. Such expertise may include, but not be limited to, hydrologists, engineers, economists, etc.

SECTION 5.4 TRAFFIC IMPACT ANALYSIS

(A) *Purpose.* A traffic impact study shall be required for any major subdivision generating more than 800 trips per day, as defined by the most current edition of Trip Generation (Institute of Transportation Engineers). The study will enable Polk County to assess the impact of a proposed subdivision on the highway system when that system is at or near capacity or a safety problem exists. Its purpose is to ensure that proposed developments do not adversely affect the highway network and to identify any traffic problems associated with access from the subdivision to the existing transportation network. The purpose of the study is also to identify solutions to potential problems and to present improvements to be incorporated into the proposed development.

(B) *Conduct.* A traffic impact study shall be prepared by a qualified professional traffic engineer and/or certified transportation planner with previous traffic study experience. The procedures and standards for the traffic impact study are set forth in Section 5.4(E) of this Article.

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

(C) [*Reserved for future purposes.*] [4]

(D) *Capacity Analysis of the Existing System.* An indication of the adequacy of the existing street system is a comparison of traffic volumes versus the ability of the streets to move traffic freely at a desirable speed. The ability of a street to move traffic freely, safely, and efficiently with a minimum delay is controlled primarily by the spacing of major devices utilized. Thus, the ability of a street to move traffic can be increased by restricting parking and turning movements, using proper sign and signal devices, and by the application of other traffic engineering strategies.

Capacity is the maximum number of vehicles which has a "reasonable expectation" of passing over a given section of roadway, during a given time period under prevailing roadway and traffic conditions. The relationship of traffic volumes to the capacity of the roadway will determine the level of service (LOS) being provided. Six levels of service have been selected for analysis purposes. They are given letter designations from A to F with LOS A representing the best operating conditions and LOS F the worst.

(1) *LOS A.* Describes primarily free flow conditions. The motorist experiences a high level of physical and psychological comfort. The effects of minor incidents of breakdown are easily absorbed. Even at the maximum density, the average spacing between vehicles is about 528 feet or 26 car lengths.

(2) *LOS B.* Represents reasonably free flow conditions. The ability to maneuver within the traffic stream is only slightly restricted. The lowest average spacing between vehicles is about 330 feet or 18 car lengths.

(3) *LOS C.* Provides for stable operations, but flows approach the range in which small increases will cause substantial deterioration in service. Freedom to maneuver is noticeably restricted. Minor incidents may still be absorbed, but the local decline in service will be great. Queues may be expected to form behind any significant blockage. Minimum average spacings are in the range of 220 feet or 11 car lengths.

(4) *LOS D.* Borders on unstable flow. Density begins to deteriorate somewhat more quickly with increasing flow. Small increases in flow can cause substantial deterioration in service. Freedom to maneuver is severely limited, and the driver experiences drastically reduced comfort levels. Minor incidents can be expected to create substantial queuing. At the limit, vehicles are spaced at about 165 feet or nine car lengths.

(5) *LOS E.* Describes operation at capacity. Operations at this level are extremely unstable, because there are virtually no usable gaps in the traffic system. Any disruption to the traffic stream, such as a vehicle entering from a ramp, or changing lanes, requires the following vehicles to give way to admit the vehicle. This can establish a disruption wave that propagates through the upstream traffic
flow. At capacity, the traffic stream has no ability to dissipate any disruption. Any incident can be expected to produce a serious breakdown with extensive queuing. Vehicles are spaced at approximately six car lengths, leaving little room to maneuver.

(6) *LOS F.* Describes forced or breakdown flow. Such conditions generally exist within queues forming behind breakdown points.

(E) *General Requirements and Standards.* The traffic impact study shall contain the following information:

(1) *General Site Description.* The site description shall include the size, location, proposed land uses, number of units and gross square footage by land use, existing land use and zoning, construction staging, and completion date of the proposed subdivision to the extent known or able to be described at the time the application is prepared. Types of dwelling units and number of bedrooms shall also be included. A brief description of other major existing and proposed land developments within the study area shall be provided. The general site description shall also include probable socio-economic characteristics of potential site users to the extent that they may affect the transportation needs of the site (i.e., number of senior citizens).

(2) *Transportation Facilities Description.* The description shall contain a full documentation of the proposed internal and existing external transportation system. This description shall include proposed internal vehicular, bicycle, and pedestrian circulation; all proposed ingress and egress locations; all internal roadway widths and rights-of-way, turn lanes,

parking conditions, traffic channelizations; and any traffic signals or other intersection control devices at all intersections within the subdivision.

The report shall describe the entire external roadway system within the study area. Major intersections in the study area and all intersections or driveways adjacent to or within 800 feet of the site shall be identified and sketched. All existing and proposed public transportation services and facilities within one-mile of the site shall also be documented. Future highway improvements, including proposed construction and traffic signalization, shall be noted. All proposed traffic signals shall be approved by the NCDOT Division 14 Office. This information shall be obtained from North Carolina's Transportation Improvement Program and the Polk County Thoroughfare Plan. Any proposed roadway improvements due to proposed surrounding developments shall also be noted.

(3) *Existing Traffic Conditions*. Existing traffic conditions shall be documented for all roadways and intersections in the study area. This shall include documentation of traffic accident counts as recorded by the NC Department of Transportation District Engineers Office, County law enforcement, and the NC Highway Patrol. Existing traffic volumes for average daily traffic, peak highway hour(s) traffic, and peak development generated hour(s) traffic, if appropriate, shall be recorded. Manual traffic counts at major intersections in the study area shall be conducted, encompassing the peak highway and development generated hour(s), if appropriate, and documentation shall be included in the report. Existing average daily or peak-hour traffic counts made within one year of the study date may be used subject to Administrator approval. A volume/capacity analysis based upon existing volumes shall be performed during the peak highway hour(s) and the peak development generated hour(s), if appropriate, for all roadways and major intersections expected to be impacted by development traffic. Levels of service shall be determined for each signalized intersection or roadway segment analyzed above.

This analysis will determine the adequacy of the existing roadway system to serve the current traffic demand. Roadways and/or intersections experiencing levels of service E or F shall be noted as congestion locations (see Section 5.4(D)).

(4) *Transportation Impact of the Development*. Estimation of vehicular trips to result from the proposed subdivision shall be completed for the average weekday, the average daily peak hours of highway travel in the study area, and if appropriate, the peak hour of traffic generation by the subdivision. Vehicular trip generation rates to be used for this calculation shall be obtained from an accepted source such as the most current edition of Trip Generation (Institute of Transportation Engineers). These subdivision-generated traffic movements, as estimated, and the reference source(s) and methodology followed shall be documented. These generated volumes shall be distributed to the study area and assigned to the existing roadways and intersections throughout the study area. Documentation of all assumptions used in the distribution and assignment phase shall be provided. All average daily traffic link volumes within the study area shall be shown graphically. Peak hour turning movement volumes shall be shown for signalized and other major intersections, including all access points to the development. Pedestrian and bicycle volumes at school

crossings and as otherwise applicable shall be reported. Any characteristics of the subdivision that will cause trip generation to vary significantly from average rates available in published sources shall be documented, including such factors as diversion of passer-by traffic, internal capture, staggered work hours, or use of transit.

(5) *Analysis of Transportation Impact.* The total traffic demand that will result from construction of the proposed subdivision shall be calculated. This demand shall consist of the combination of the existing traffic, traffic generated by the proposed subdivision, and traffic due to other developments and other growth in traffic that would be expected to use the roadway at the time the proposed subdivision is completed. If staging of the proposed subdivision is anticipated, calculations for each stage of completion shall be made. This analysis shall be performed for average weekday traffic, the peak highway hour(s) and, if appropriate, peak development-generated hour(s) for all roadways and major intersections in the study area. Volume/capacity calculations shall be completed for all major intersections. It is usually at these locations that capacity is most restricted.

All access points and pedestrian crossings shall be examined for adequate sight distance and for the necessity of installing traffic signals. The traffic signal evaluation shall compare the projected traffic and pedestrian volumes to the warrants for traffic signal installation.

(6) *Conclusions and Recommended Improvements.* Levels of service for all roadways and signalized intersections serving 10% or more of peak-hour project traffic shall be reported. All roadways and/or signalized intersections showing a level of service below D in urban or developed areas or below C in rural areas shall be considered deficient, and specific recommendations for the elimination of these problems shall be listed (see Section 5.4(D)). This listing of recommended improvements shall include, but not be limited to, the following elements: internal circulation design, site access location and design, external roadway and intersection design and improvements, traffic signal installation and operation including signal timing, and transit service improvements. All physical roadway improvements shall be shown on the preliminary plat.

(F) *Submission and Implementation.* The traffic impact study will be submitted to the Administrator with, and as a part of, the major subdivision preliminary plat. The Administrator and such other agencies or officials as may appear appropriate in the circumstances of the case shall review the traffic impact study to analyze its adequacy in solving any traffic problems that will occur due to subdivision proposed on the preliminary plat. The Administrator may recommend that certain improvements on or adjacent to the site or on roadways or intersections for which the improvements are needed to adequately and safely accommodate subdivision traffic are mandatory for preliminary plat approval and may recommend that these improvements be included on the approved preliminary plat. The traffic impact analysis and its recommendations will be submitted as evidence at the evidentiary hearing. [4]

ARTICLE 5. SUBDIVISION DESIGN STANDARDS

SECTION 5.5 WATER AND SEWER REQUIREMENTS

Any major subdivision which has either a public water system or public sewage disposal system or both legally available or to be made available within 500 feet of its boundary as measured along a public right-of-way and/or easement shall have the available systems extended by the developer, at their cost, to provide service to each lot in the subdivision. Water and sewer installations shall be in accordance with the standards of Polk County. When not in conflict with these standards, fire hydrants shall be installed at intervals consistent with the North Carolina Fire Code along the water lines. Where public water and/or sewer are not made available to each lot, service shall be provided as specified in Section 5.13.

SECTION 5.6 LOTS

(A) All lots shall abut on a dedicated public or private street, except that two-lot, expedited three-lot, and family subdivisions may utilized access easements, see Section 5.9 and/or 5.12. ~~except that up to two lots may be accessed by a private driveway easement that accesses a public or private street~~. ~~In the case of a Family Subdivision, see Section 5.9(D).~~

(B) Lot lines may be drawn to the right-of-way or the center of the road of any adjacent road except where an existing property line is drawn within an existing road right-of-way.

(C) All lots identified in a watershed must also meet the requirements of the County's Watershed Protection Ordinance.

(D) The Planning Board ~~or Subdivision Administrator (two-lot, three-lot expedited, or family subdivisions)~~ may approve the limited use of pan handle lots where it is impractical to serve an isolated lot by an existing or proposed road. A pan handle lot shall have a minimum road frontage of 35 feet for an access strip to an isolated building site. ~~The access strip should not exceed 300 feet in length and the access strip shall not be used to calculate the minimum lot area unless such strip exceeds 70 feet in width.~~[4]

(E) *Subdivision Lot Standards.* The following indicates minimum lot size, road frontage[2] and setbacks for zoned and unzoned areas of the County, as applicable.

(1) For Minor, Two-Lot, Expedited Review for Three Lots, and Family Subdivisions, the following table indicates minimum density and lot standards. ~~Lot standards for areas zoned by Polk County are specified by the Polk County Zoning Ordinance~~ Lot width and yard setbacks for areas zoned by Polk County are specified by the Polk County Zoning Ordinance. [2, 4]

Subdivision Lot Minimum Standards	Public Water and Public Sewer	Public or Community Water and Individual or Community Sewer	Individual Water and Individual or Community Sewer
Average Lot Density	2 lots per acre	1 lot per acre	1 lot per acre
Lot Standards Minimum Lot Area	1/2 acre	1 acre	1 acre
Minimum Road Frontage*	50	70	70
Minimum Road Frontage on Cul-de-Sacs	50	50	50
Front Setback	25	25	25
Side Setback	15	15	15
Rear Setback	25	25	25

*** Minimum road frontage requirement shall not apply to a lot in a family subdivision which is situated at the terminus of a family road easement.**

(2) For Major Subdivisions, the following table indicates minimum lot standards, unless the zoning district is more restrictive. Lot width and yard setbacks for areas zoned by Polk County are specified by the Polk County Zoning Ordinance. [2, 4]

Subdivision Lot Density/ Lot Dimensions	Public Water and Public Sewer	Public or Community Water and Individual or Community Sewer	Individual Water and Individual or Community Sewer
Average Lot Density	1 lot per 2 acres	1 lot per 3 acres	1 lot per 5 acres
Lot Standards Minimum Lot Area	1/2 acre	1 acre	1 acre
Minimum Road Frontage**	50	70	70
Minimum Road Frontage on Cul-de-Sacs	50	50	50
Front Setback	25	25	25
Side Setback	15	15	15
Rear Setback	25	25	25

** See 5.6D

(3) *Major Subdivisions Utilizing Cluster Development*. The following table indicates minimum standards for Major Subdivisions that utilize cluster development as outlined in Section 5.7: [2]

Subdivision Lot Minimum Standards	Public Water and Public Sewer	Public or Community Water and Individual or Community Sewer	Individual Water and Individual or Community Sewer
Average Lot Density	1 lot per 2 acres	1 lot per 3 acres	1 lot per 5 acres
Lot Standards Minimum Lot Area	*	*	*
Minimum Open Space Dedication	50%	50%	50%
Minimum Road Frontage for Development**	50 feet	50 feet	50 feet
Exterior Development Setback	50 feet	50 feet	50 feet
All Interior Setbacks	0 feet	0 feet	0 feet

***As required by applicable state and/or local permit requirements.**

**** See 5.6D**

(4) *Minor Subdivisions Utilizing Cluster Development.* The following table indicates minimum standards for Minor Subdivisions that utilize cluster development as outlined in Section 5.7: [2]

Subdivision Lot Minimum Standards	Public Water and Public Sewer	Public or Community Water and Individual or Community Sewer	Individual Water and Individual or Community Sewer
Average Lot Density	2 lots per acre	1 lot per acre	1 lot per acre
Lot Standards Minimum Lot Area	*	*	*
Minimum Open Space Dedication	50%	50%	50%
Minimum Road Frontage for Development**	50 feet	50 feet	50 feet
Exterior Development Setback	50 feet	50 feet	50 feet
All Interior Setbacks	0 feet	0 feet	0 feet

***As required by applicable state and/or local permit requirements.**
**** See 5.6D**

SECTION 5.7 CLUSTER DEVELOPMENTS

(A) The intent of a cluster development is to allow smaller than minimum lot sizes in order to preserve larger areas of open space and environmental resources.

(B) Within subdivisions utilizing cluster development, the minimum lot size may be reduced in accordance with the table contained in Section 5.6 provided the average lot density per acre does not exceed that which is allowed without the use of such cluster development regulations. [2]

(C) In a cluster development, a minimum of 50% of the total area of the parcel being subdivided shall be dedicated to open space.

(D) If individual sewer or water is to serve the building lots, the owner of the subdivision must obtain written approval from the Polk County Health and Human Services Agency[3] that these systems are adequate to serve the building lots. If there is any sharing of water and sewer facilities between the building lot owners, a maintenance plan of these facilities must be filed with the County.

SECTION 5.8 OPEN SPACE

(A) *General Provisions for Open Space*.

(1) Land designated as open space on the approved development plan shall be maintained as open space and may not be separately sold, subdivided, or developed.

(2) Access from a dedicated public or private street, greenway, or trail shall be provided to all designated open space with a minimum 15 foot wide access to the open space area. Lakes used as open space shall provide adequate community access beyond this 15 foot minimum as determined by the Planning Board.

(3) Open space shall be contiguous wherever possible.

(4) County plans, particularly park and open space plans shall be considered when evaluating proposals for dedication.

(B) *Minimum Open Space Dedication*. Open space shall be dedicated in accordance with subsection 5.8(C). Percentages are based on total development area.

(C) *Types of Open Space.* All required open space shall be classified in accordance with this Section. Dedicated open space shall fit into one of the following categories and be classified as private common area open space or public open space.

(1) *Playground.* Playgrounds are for active recreational use and provide sunny and shaded play equipment and play areas for children as well as open shelter with benches. Playgrounds may be part of other types of open space, such as parks, or may stand alone. Minimum Size: 10,000 square feet.

(2) *Square.* Squares are areas for passive recreational use. Squares shall be bounded by streets on a minimum of 50% of their perimeter. Squares are encouraged to be entirely bounded by streets and/or lanes. Squares shall be planted parallel to all streets and shall contain canopy trees along street frontages. Minimum size: 2,000 square feet.

(3) *Park.* Parks may be designed for passive and/or active recreational use. Parks shall be bounded by streets on a minimum of 10% of their perimeter. Large parks should create a central open space which services an entire neighborhood or group of neighborhoods; or incorporates physical features which are an asset to the community (i.e., lake or river frontage, high ground, significant stands of trees). Undergrowth should be limited and landscaping shall be installed in a manner that promotes attractiveness and safety. Parks may be combined with greenways and greenbelts and may include golf courses and community gardens. Minimum size: 1 acre.

(4) *Green.* The green is an open space which is more natural. Like the square, it is small and surrounded by buildings. Unlike the square, it is informally planted and may have irregular

topography. Greens are usually landscaped with trees at the edges and open lawns at the center. Greens should contain no structures other than benches, pavilions, and memorials; paths are optional. Minimum size: 20,000 square feet.

(5) *Greenway.* Greenways are large, irregular open spaces designed to incorporate natural settings such as creeks and significant stands of trees within and between neighborhoods. Greenways are typically more natural and may contain irregular topography. Greenways shall be used for certain active recreational uses including, at a minimum, trails for walking, jogging, equestrian pursuits and biking. Greenways shall connect points of interest in the community such as schools, parks, and other civic uses.

(6) *Greenbelt.* Greenbelts run along the perimeter of a neighborhood, and serve to buffer a neighborhood from surrounding non-compatible uses such as a highway corridor or industrial district, or a developed area from agricultural areas or adjacent towns. Greenbelts differ from the other types of open spaces in that they are left natural, and are not intended for recreational use.

(7) *Agricultural Preserve.* Open spaces designated as Agricultural Preserves shall be used for active bona fide farms in the form of crop cultivation, the keeping of livestock, or equestrian facilities. Agricultural Preserves are encouraged to protect areas of agricultural and rural heritage and promote compatible active agricultural operations. Minimum size: 5 acres.

(8) *Nature Preserve.* Open spaces designated as Nature Preserves shall be left largely undisturbed except for the optional clearing of underbrush for the provision of a walking trail (mulch or other natural material only). Nature Preserve areas are encouraged to protect large stands of trees, wildlife, and natural water features. Nature Preserves are the preferred form of open space for steep slopes in excess of 25% grade. Minimum size: 3 acres.

(D) *Open Space Ownership & Maintenance.*

(1) Open space may be owned or administered by one or a combination of the following methods:

- Ownership by a unit of government or private non-profit land conservancy;
- Ownership by Homeowners Association;
- Ownership by all individual property owners within the subdivision;
- By individual private ownership such as a farmer, developer or other private entity that maintains the open space in accordance with the purposes of this Article (i.e., farming, equestrian facility, etc., excluding confined livestock operations);
- Deed restricted open space easements on individual private properties.

(2) The Polk County Board of Commissioners shall have the authority to accept or reject land dedications made as a requirement of this Section. They shall also have authority to sell

land accepted pursuant to this section with the proceeds of such sale used only for the acquisition, expansion or improvement of recreation, park, or open space sites.

(3) The developer will provide proof of registration of the Articles of Incorporation as specified in Section 2.15 with the appropriate state agency for the formation of the Property Owners' Association to the Planning Department.

ARTICLE 5. SUBDIVISION DESIGN STANDARDS

SECTION 5.9 EASEMENTS

(A) *Utility Easements.* Utility easements shall be provided, where necessary, preferably centered on the side or rear lot lines and shall be at least ten (10) feet wide. [4]

(B) *Access Easement*, An access easement at least 30' feet in width meeting Fire Code (unless otherwise approved by the Fire Marshall) shall provide access from a public roadway to lots created in the interior of the site. A road maintenance agreement prepared for recordation shall be prepared with the plat. ~~*Family Subdivision, 2 lot, and 3 lot expedited Private Road Easements.* All lots within a the family subdivision may be accessed by a minimum access 30' easement from a private or public road providing a road maintenance agreement is signed by all affected parties and recorded with the family subdivision plat.~~[4]

~~(C) Two lot and Expedited Subdivision *Driveway Easements.* A minimum of 30' easement that allows access to not more than three lots from an approved public or private road.~~[4]

(C~~D~~) *Water Course and Drainage Easements.*

(1) Where a subdivision is traversed by a water course, drainage way, channel, or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially to the lines of such water course.

(2) If an easement is required for physical improvements to control drainage it must be shown on the final plat, including access to the easement for repairs.

(3) Said drainage way shall be of sufficient width to carry storm water runoff from a 10-year storm.

SECTION 5.10 GENERAL PROVISIONS FOR ROAD DESIGN[4]

(A) *Street Names.*

(1) Proposed streets which are obviously in alignment with existing streets shall be given the same name.

(2) In assigning new names, duplication of existing names shall be avoided, and in no case shall the proposed name be phonetically similar to existing names in the County irrespective of the use of a suffix such as street, road, drive, place, court, etc. Street names shall be subject to the approval of the Property Address Administrator.

SECTION 5.11 PUBLIC ROAD STANDARDS

(A) *Minor and Major Subdivision Public Road Design*

(1) All road design must comply with the Polk County Fire Code. All roads proposed for public use shall be annotated "public" on plans and plats and shall be designed and constructed in accordance with the standards necessary to make the roads eligible to be put on the State Highway Maintenance System at a later date. Such standards, hereafter referred to as "State Road Standards", are contained in a publication of the North Carolina Department of Transportation, Division of Highways, titled, "Subdivision Roads - Minimum Construction Standards", a copy of which is available for review in the office of the Administrator. Designation as public shall be presumed an offer of dedication to the public; however, this does not guarantee that NCDOT will accept the proposed public roads or agree to assume the maintenance responsibility of the proposed public road. Pursuant to GS 136-102.6(d) the NCDOT District Engineer's office must sign a certificate of approval of the design of the public road provided on the face of the final plat for any subdivision where public roads are proposed prior to County approval of the final plat.

(2) If a request for dedication of public roads is made, inspection and approval by the NCDOT must have taken place, and roads must be inspected and approved by NCDOT, but acceptance is not required, before the final plat can be approved by the Planning Board.

(B) *Public Road Dedication and Maintenance.*

(1) All roads proposed for public use by the developer and seller, including those proposed streets which are not eligible to be placed on the State Highway System because there are too few lots or residences, shall be dedicated to the public and shall be designed and constructed in accordance with the standards necessary to make the streets eligible to be put on the state system at a later date.

(2) A written maintenance agreement sufficient for recording in the Office of the Register of Deeds shall be submitted with the final plat. Said maintenance agreement will provide for the subdivider or a property owner's association to maintain the street, drainage facilities, and right-of-way until such time as the street is accepted for maintenance by the state.

SECTION 5.12 PRIVATE ROADS

(A) *Private Roads Defined.*

(1) All ~~new~~ existing private roads shall ~~directly~~ connect to a state-maintained road or shall connect to a state maintained road by way of a private road/recorded minimum 30' meeting Fire Code (unless otherwise approved by the Fire Marshall) access easement, ~~meeting the standards of this section, unless a variance is granted pursuant to this Ordinance~~.

(2) New roads within a two-lot, family, and three-lot expedited subdivision may be designated by the subdivider as private, provided all streets proposed for private use shall be limited to the following:

- Streets providing exclusive access to residential subdivisions and private resort developments.
- ~~Streets~~ Streets in subdivisions or portions of subdivisions serving too few lots for inclusion into the State Secondary Road System.
- Streets must meet Fire Code standards.
- ~~Streets providing exclusive access to family subdivisions.~~ [4]

(B) All new private road design minor and major subdivisions must comply with the Polk County Fire Code and shall either be constructed to NCDOT "Subdivision Roads - Minimum Construction Standards" or in lieu thereof, private road designs that do not meet minimum standards required by the NCDOT will be accepted provided the proposed design standard is signed and sealed by a duly licensed professional engineer, under Chapter 89C of the NC General Statutes, and meets vehicular traffic and fire apparatus access requirements.~~.~~

(C) *Maintenance of Private Roads.* All subdivision plats which include private roads shall be accompanied by a disclosure statement (NCGS 136-102.6) for recording, which provides for the maintenance of any kind and all private streets designated within a subdivision by a property owner's association.

(D) ~~*Two Lot, Expedited Review for Three Lots, and Family Subdivisions.*[2,4] All lots with two lot, expedited review for three lots, and family subdivisions must abut a public or private road or be provided access to a public or private road via a recorded access easement meeting the requirements of the State Fire Code, where applicable. See easement requirements.~~

SECTION 5.13 PRIVATE WATER AND SEWER

(A) *Submittal Requirements and Approval.*

(1) If the subdivision in question is to have a community sewage disposal system other than one connected to a municipal system, the following is required:

- Depiction of the system and its location with sufficient area for repair if needed.
- An engineered plan as to the system.
- Sealed approval of the local Polk County Health and Human Services Agency.[3]

(2) The local Health Department shall certify that the soil conditions are suitable to support a septic system.

(3) All Preliminary Plats which will require the installation of any water and/or sewerage systems prior to final plat approval shall be accompanied by a written application and/or notice submitted to the appropriate state or local agency responsible for approving the particular system or systems.

(B) *Subdivisions with Individual Water and Sewage Disposal Systems*. Individual septic systems and individual wells shall conform to those requirements as set forth by the local Health Department or

agency currently in authority as to sewer disposal. There shall be no requirement as to a well or septic system being in place prior to sale of any lot or parcel.

(C) *Water Quality and Quantity Standards.*

(1) No water supply system shall deliver water without first having said water tested by a certified laboratory and such test approved by the State and/or agency thereof having responsibility for Water Quality Assurance. (This provision shall not apply to an individual well providing water to a single-family residence located on the property of the well.)

(2) Any and all Water Systems including but not limited to individual wells shall comply with the appropriate Standards set forth by the State and/or any agency granted authority to regulate and/or otherwise enforce regulations.

SECTION 5.14 STORMWATER DRAINAGE FACILITIES

The Preliminary Plat shall be accompanied by evidence satisfactory to the Planning Board as to the proposed method of providing for stormwater drainage. If a NCDEQ stormwater management permit is required, such permit shall be submitted with the Preliminary Plat. [4]

SECTION 5.15 DAM SAFETY

Any dam constructed within a subdivision which is greater than fifteen (15) feet in height (measured from the lowest point on downstream top of the dam to the highest point on the fill) and is also greater than ten (10) acre-feet in area (measured from the top of the dam) shall comply with the North Carolina Dam Safety Law of 1967 and the North Carolina Administrative Code Title 15, Subchapter 2K.

SECTION 5.16 FLOOD HAZARD AREAS

In areas of flood hazard, identified on the Flood Insurance Rate Map of Polk County, North Carolina, as Zones A and AE, all subdivisions shall be designed to minimize flood damage in accordance with the provisions of the Polk County Flood Damage Prevention Ordinance.

ARTICLE 5. SUBDIVISION DESIGN STANDARDS

SECTION 5.17 FIRE PROTECTION

In major subdivisions without a public water supply and having one or more lots more than one road mile from the nearest state approved fire water source, the developer shall provide a fire water source or sources within the subdivision meeting state specifications in such a manner that no lot is located more than one road mile away from such a fire water source.

SECTION 5.18 EROSION AND SEDIMENTATION CONTROL[1]

The Preliminary Plat shall be accompanied by a written statement from the North Carolina Department of Environmental Quality (NCDEQ) [2]that any required soil erosion and sedimentation control plan has been approved, if required. [4]

SECTION 5.19 STREAM BANK EROSION

Stream banks and channels downstream from any land disturbing activity shall be protected from increased degradation by accelerated erosion caused by increased velocity of runoff from the land disturbing activity in accordance with the North Carolina Sedimentation Pollution Control Act, NCGS 143.34.12, Chapter 113A, Article 4, and the North Carolina Administrative Code Title 15, Chapter 4, and any locally adopted erosion and sedimentation control ordinances.

SECTION 5.20 CLEAR CUTTING

This Section shall not apply to two-lot or family subdivisions.

(A) *Standard.* Properties shall not be clear-cut during the conduct of forestry activities. To maintain the visual character of the site from adjoining properties and right-of-way, a vegetated perimeter buffer shall be maintained while tree harvesting for forestry occurs. A 32-foot wide buffer of naturally existing vegetation shall be maintained along all boundaries of the property being forested that adjoin other properties. Along public rights-of-way, a 50-foot buffer of naturally existing vegetation shall be maintained, exclusive of areas required for access to the site.

(B) *Penalties*. Site plans proposing development of properties that failed to maintain such a buffer during forestry activities shall be denied for a period of three years from the date of clearing.

SECTION 5.21 STEEP SLOPE

(A) *Purpose.* The primary purpose for the slope protection standards is to minimize grading, land instability and the removal of vegetation in order to:

(1) Protect the quality of wetlands and water courses below the slope from increased sedimentation;

(2) Protect steep slope plant and animal habitat from disturbance and development; and

(3) Preserve the aesthetic quality of the natural terrain.

(B) *Steep Slope Areas.*

(1) Slope is the relationship of vertical rise to horizontal run, expressed as a percentage. Steep slope areas shall be defined as land areas that:

(a) Have a grade of 40% or more; and

(b) Have an area of 5,000 square feet or greater.

(2) Steep slope areas refer to natural grades and shall not include man-made grades. Slope calculations shall use the smallest contour interval for which maps are available. Steep slope areas shall be determined irrespective of tract boundaries.

(3) Steep slope areas shall be clearly indicated on all site plans, development plans, preliminary plats and final plats. [4]

(C) *Steep Slope Development Limitations*. Development and land disturbing activity on steep slope areas shall be conducted only in accordance with the following requirements. Compliance with these requirements shall be determined by the approving authority.

(1) Development shall be designed and constructed in order to minimize disturbance to the natural landform as much as possible. Development shall demonstrate appropriate terrain-adaptive design and construction techniques. An inability to design a particular development without significant disturbance to the natural landform may indicate that the site should not accommodate the full amount of proposed development. Alternate site design and construction measures shall be encouraged to mitigate the effects of development on steep slopes. The grade of reconstructed slopes shall not exceed 50%. Non-load bearing retaining walls shall be encouraged in order to reduce the amount of disturbance to the natural slope.

(2) On any tract proposed for construction, no more than 15% of the steep slope area on the tract shall be graded. For purposes of this calculation, the land areas of individual steep

slope areas on the tract shall be added together to establish the total steep slope area for the tract.

(3) Development shall be designed and arranged in order to minimize the impact of street construction on steep slope areas. [4]

SECTION 5.22 SURVEYING

Prior to the approval of the Final Plat, permanent reference points shall have been placed in accordance with the following requirements:

(A) *Subdivision Corner Tie.* At least one corner of the Subdivision shall be designated by course and distance (tie) from a readily discernible reference marker. If a corner is within 2,000 feet of a U.S. Coast and Geodetic Station or North Carolina Grid System coordinated monument, then this corner shall be marked with a monument so designated by computed X & Y coordinates which shall appear on the map with a statement identifying this station or monument. When such a monument or station is not available, the tie shall be made to some pertinent and readily recognizable land marker or identifiable point, physical object or structure.

(B) *Monuments.* Within each block of a subdivision at least two (2) monuments designed and designated as control corners shall be installed. The surveyor shall employ additional monuments if and when required. All monuments shall be constructed of concrete and be at least four (4) inches in diameter or square and not less than three (3) feet in length. Each monument shall have imbedded in the top or attached by a suitable means a metal plate of noncorrosive materials and marked plainly with the point, the surveyor's registration number, the month and year it was installed, and the word "Monument" or "Control Corner". A monument shall be set at least 30 inches in the ground with at least six (6) inches exposed above the ground unless this requirement is impractical.

ARTICLE 6. DEFINITIONS

Article 6 – Definitions

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Section 6.3 General Definitions 6-67

ARTICLE 6. DEFINITIONS

SECTION 6.1 WORD INTERPRETATION

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

(A) Words in the present tense include the future tense.

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

(C) The word "person" includes a firm, association, corporation, trust, and company as well as an individual.

(D) The words "used for" shall include the meaning "designed for".

(E) The word "structure" shall include the word "building".

(F) The word "lot" shall include the words, "plot", "parcel", or "tract".

(G) The word "shall" is always mandatory and not merely directory.

SECTION 6.2 ACRONYMS

Below is a list of acronyms (other than zoning districts) and their meanings found throughout the Ordinance:

- BFE: Base Flood Elevation
- EIS: Environmental Impact Statement[4]
- NC: North Carolina
- NCDEQ: North Carolina Department of Environmental Quality[2]
- NCDOT or DOT: North Carolina Department of Transportation
- NCGS or GS: North Carolina General Statute
- POA: Property Owners' Association
- ROW: Right-of-way
- SR: Secondary Road in the North Carolina Secondary Road system
- TRP: Technical Review Panel[4]
- US: United States of America

ARTICLE 6. DEFINITIONS

SECTION 6.3 GENERAL DEFINITIONS

A

Administrator
The County Manager or any other person designated by the Polk County Manager to administer and enforce this Ordinance.

Applicant
A person, firm or corporation submitting an application for development or subdivision and upon whom final responsibility for ensuring compliance with the terms and conditions of the Ordinance rests.

B

Board of Commissioners
The Polk County Board of Commissioners.

Bona Fide Farm
The production and activities relating, or incidental to, the production of crops, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agricultural products having a domestic or foreign market, as defined by NCGS 106-581.1.

C

Cluster Subdivision Incentive
A fifty (50) point deduction from the environmental checklist (Section 5.3) if the proposed major subdivision will be a cluster subdivision.

D

Dedicated Greenway or Trail
Greenways are large, irregular open spaces designed to incorporate natural settings such as creeks and significant stands of trees within and between neighborhoods.

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

Disclosure Statement
A separate and distinct document prepared by the applicant and approved by the Planning Board which fully and completely discloses the status of any street or road upon which the house, lot, or parcel fronts. A copy of the Disclosure Statement shall be provided to the purchaser of the subject real estate.

Dwelling Unit
A building, or portion thereof, providing complete and permanent living facilities for one family.

E

Easement, Access~~Driveway~~[4]
See Section 5.9
~~A private access easement to one or two proposed or recorded lots which meet the lot standards of this Ordinance for area and dimensions. A driveway easement may be paved or unpaved, platted or described by metes and bounds, or may be otherwise described or shown as an easement or right-of-way. Any drive, access, road, easement or right-of-way proposed or designed to serve more than two lots shall be defined as a public or private street.~~

Easement (Right-of-Way)
A grant by the property owner of a strip of land for a specified purpose and use by the public, a corporation, or persons, including access easements.

Environmental Impact Statement (EIS)
An EIS is prepared if the potential impacts of a project are likely to be significant. An EIS provides an extensive evaluation of a project's direct, secondary, and cumulative impacts, and confirmation that such impacts have been avoided, or otherwise mitigated.

Evidentiary Hearing[4]
A hearing to gather competent, material, and substantial evidence in order to make findings for a quasi-judicial decision required by a development regulation.

F

Farmland Preservation District
A farmland preservation district includes any Voluntary Agricultural District or Enhanced Voluntary Agricultural District which has been approved under the Polk County Agricultural District Ordinances.

G

Groundwaters
Those waters occurring in the subsurface under saturated conditions.

H

Hydrological Assessment
An analysis which considers the impact of a proposed action on the movement of water through the environment on, above, or below the surface of the Earth. The hydrological assessment must include the following:

- The proximity of the proposed water source to the area of use or application;
- All impoundments, streams, groundwater sources, or watercourses that receive water runoff from the proposed actions and any anticipated impact on those waters;
- All economically and technically feasible alternatives to the proposed source, including, but not limited to, conservation, reuse of nonpotable reclaimed water and stormwater, and aquifer storage and recovery;
- The potential environmental impacts that may result from the transport and use of water from the proposed source, and the potential environmental impacts that may result from use of the other water sources identified;
- Whether existing and reasonably anticipated sources of water and conservation efforts are adequate to supply water for existing legal uses and reasonably anticipated future needs of the water supply planning region in which the proposed water source is located;
- Consultations with local governments affected by the proposed transport and use;
- The value of the existing capital investment in water-related infrastructure made by the applicant;
- If a groundwater supply will be utilized, an assessment of the environmental/public benefits impact of individual wells versus central/community wells;
- Actions proposed to preserve surface water quality;
- Whether the proposed action will have an impact on the long-term sustainable supply of groundwater.

I

Impacts, Cumulative
Those effects that result from the incremental effects of the original direct impact combined with the impacts of other past, present, and reasonably foreseeable projects in the area. By itself, a proposed project may not constitute a significant stressor; however, multiple development activities, which individually may be insignificant, can collectively degrade the surrounding ecosystem beyond its ability to recover.

Impacts, Direct
Those effects caused by a project that occur at the same time and place. Direct impacts result from project construction and the project itself. Some examples include:

- Wetlands that are filled and wetland acreage lots when a new road is built through a wetland;
- Cleared forested areas for a project's construction cause mortality or displacement of wildlife; and
- Cleared forested areas cause impacts to water quality and aquatic life from exposed soils running off of the construction site into adjacent wetlands, streams, or reservoirs.

Impacts, Secondary
Those effects which are removed in distance as a result of the project's construction and operation. Secondary impacts are sometimes thought of as "chain reaction" effects. In such cases, an initial project can cause changes in land use, population density, and growth rates that may affect air, water, or other natural cultural systems. The effects of these chain reactions (e.g., commercial/subdivision development in

rural areas) may add to other impacts already occurring in the vicinity of the initial project. There are two types of secondary impacts and a project may include one or both of these:

- Encroachment-Alteration Effects: The physical presence of the project may affect the function of natural systems through a series of secondary effects.
- Growth-Inducing Effects: The presence of a project may affect the pattern or density of development. Some projects are proposed to serve development that is already present, or planned, some are planned to attract new growth, and others will serve a combination of both. These changes in the pattern or density of development would not occur if the project is not implemented.

Impacts, Significant Negative
A reasonable likelihood of more than a moderate (reasonable/not excessive) adverse impact on physical or social environmental quality. Significance is a measure of relevance to the environment (context and intensity) and does not lend itself to a formula or quantifiable test. The context may vary with the physical location/setting. Intensity depends on the magnitude and duration of an impact. The severity of an impact should be weighed along with the likelihood of its occurrence. An impact may be significant if its chance of occurrence is not great, but the resulting environmental impact would be severe if it occurred.

J

K

L

Legislative Hearing[4]
A hearing to solicit public comment on a proposed legislative decision.

Lot
A parcel of land whose boundaries have been established by some legal instrument such as a recorded deed or a recorded map and which is recognized as a separate legal entity for purposed of transfer title.

Lot Size
The total horizontal area within the lines of a lot.

M

Marginal Access Street
A strip of land, owned publicly or privately, set aside primarily for vehicular service access to the back side of properties otherwise abutting a street, an alley.

Master Plan
A tentative plan showing the proposed development of a tract of land for which platting and development is to be carried out in two or more stages.

Mitigation (Mitigative Measures)
The use of any or all of the following actions listed in descending order of preference: (1) avoiding the impact by not taking a certain action; (2) minimizing the impact by limiting the degree or magnitude of the action by using appropriate technology or by taking affirmative steps to avoid or reduce the impact; (3) rectifying the impact by repairing, rehabilitating, or restoring the affected critical area or buffer; (4) reducing or eliminating the impact over time by preservation or maintenance operations during the life of the development proposal; (5) compensating for the impact of replacing, enhancing, or providing substitute critical areas and environments; and (6) monitoring the impact and taking appropriate corrective measures.

N

Natural Resources
Existing natural elements including slope, water supply (ground and surface water), watersheds, floodplains, state designated Trout waters, hydric soils, and/or air quality.

O

Open Space
Area to provide for a predominately pervious land surface providing spaces for landscaping and other visual enhancements, pedestrian circulation, and wildlife habitat. The following are not designated open space: vehicular use area such as drives, parking lots and service areas, and buildings. Pedestrian amenities, both pervious and impervious are permitted in open spaces.

P

Performance Guarantee
An unconditional written understanding, approved by the Planning Board whereby a guarantor agrees that the developer, subdivider or applicant will pay the costs of stated construction improvements if performance is not made as stated.

Plan
A graphic representation or map of the tract of land to be developed indicating all proposed divisions of land, their uses, improvements, and other information as may be required to fully disclose the applicant's intentions. The purpose of a plan is to provide general and specific information and is not intended to be a recordable document.

Plat
A map or plan of a parcel of land which is to be subdivided and is intended to be a recordable document.

Plat, Final
A plat which conforms with the provisions of this Ordinance, the mapping requirements set forth in G.S. 47-30 and The Manual of Practice for Land Surveying in North Carolina. The final plat shall be prepared

in accord with this Ordinance and in such a fashion as to be suitable for recording by the Polk County Register of Deeds.

Plat, Preliminary
A tentative plat, including supporting data, indicating a proposed subdivision design, prepared by a NC licensed land surveyor in accordance with this Ordinance and the statutes of the state of North Carolina.

Public Facilities
Facilities owned and operated by a public agency including but not limited to the school system, health care, recreation, emergency services, Sheriff, fire, or other facilities to which the public has access.

Q

Quasi-Judicial – see Evidentiary Hearing. [4]

R

Recombination
The combining of portions of previously subdivided and recorded lots if the total number of lots is not increased as established by this Ordinance.

Road or Street, Private
A dedicated private right-of-way which affords access to abutting properties and conforms to the requirements of Section 5.12 of this Ordinance.

Road or Street, Public
A dedicated public right-of-way for vehicular traffic which affords access to abutting properties and conforms with the requirements of Section 5.11 of this Ordinance. A public street is intended to be taken over by the NC Department of Transportation upon completion. [4]

S

Setback
The distance from an established property boundary or other line defined in this Ordinance that established the buildable area on the lot.

Sewage Disposal System, Public
Any sewer system owned and operated by a local government or authority established by governmental authority.

Sewer System, Community
Any privately owned sewer system serving more than one residence.

Sewer System, Individual
Any septic tank or ground absorption system serving a single source or connection and approved by the Polk County Health and Human Services Agency[3].

Sketch Plan
A sketch preparatory to the preliminary plat to enable the subdivider to save time and expense in reaching general agreement with the Administrator as to the form of the plat and the objectives of this Ordinance.

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

Subdivision[4]
All divisions of a tract or parcel of land into two or more lots, building sites, or other divisions when any one or more of those divisions is created for the purpose of sale or building development, whether immediate or future, and shall include all divisions of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within this definition nor be subject to the regulations authorized by this Article:

(1) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the local government as shown in its subdivision regulations.
(2) The division of land into parcels greater than 10 acres where no street right-of-way dedication is involved.
(3) The public acquisition by purchase of strips of land for the widening or opening of streets or for public transportation system corridors.
(4) The division of a tract in single ownership whose entire area is no greater than 2 acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the local government, as shown in its subdivision regulations.
(5) The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the General Statutes.

Subdivision, Cluster Development
A type of major or minor subdivision that is intended to allow smaller than minimum lot sizes with dwelling units clustered in smaller areas in order to preserve larger areas of open space and environmental resources.

Subdivision, Expedited Review for Three-Lot[2]

(1) The Administrator shall require only a plat for recordation for the division of a tract or parcel of land in single ownership if all of the following criteria are met:
    a. The tract or parcel to be divided is not already exempt according to the Subdivision definition
    b. No part of the tract or parcel to be divided has been divided in the 10 years prior to the division

c. The entire area of the tract or parcel to be divided is greater than five acres
d. After division, no more than three lots result from the division
e. After division, all resultant lots comply with all of the following:
    i. Any lot dimension size requirements of the applicable land-use regulations, if any
    ii. The use of the lots is in conformity with the applicable zoning requirement, if any
    iii. A permanent means of ingress and egress is recorded for each lot.

Subdivision, Family
A subdivision containing no more than eight lots for the purpose of conveying the resulting parcels or lots to a grantee or grantees who are in any degree of lineal kinship to the grantor, or to a grantee or grantees who are within three degrees of collateral kinship to the grantor. Degrees of kinship shall be computed in accordance with NCGS 104A-1. Lots can be conveyed as a gift, as settlement of the property owner's estate or for a nominal consideration. This term also includes the conveyance of a lot or tract for the purpose of dividing lands among the tenants in common, all of whom, by intestacy or by will, inherited the land from a common ancestor.

Subdivision, Major
A subdivision of land by a property owner into 9 or more lots or parcels for the purpose of sale or development (whether immediate or future).

Subdivision, Minor
A subdivision of land by a property owner into 8 or fewer but more than two (2) lots or parcels for the purpose of sale or development (whether immediate or future).

Subdivision, Two-Lot
A subdivision that involves not more than two (2) lots.

T

U

V

W

Wastewater Treatment Facility
The facility or group of units used for the treatment of industrial or domestic wastewater for sewer systems and for the reduction and handling of solids and gases removed from such wastes, whether or not such facility or group of units is discharging into state waters. Wastewater treatment plant specifically excludes any facility or group of units used for pre-treatment, treatment, or handling of industrial water, wastewaters, reuse waters, and wastes which are not discharged into state waters. Such facilities have been approved by the appropriate state agencies.

Water Supply System, Public
A municipal water supply system or a system for the provision to the public of piped water for human consumption that serves 15 or more service connections or which regularly serves 25 or more individuals. The term includes:

- Any collection, treatment, storage, distribution facility under the control of the operator of the system and used primarily in connection with the system; or
- Any collection or pretreatment storage facility not under the control of the operator of the system that is used primarily in connection with the system.

Water System, Community
Any privately owned water system serving 15 or more residential connections or serving more than 25 year-round residents. Plans and specifications for any community water system require written approval from the North Carolina Department of Environment, Health and Natural Resources, Division of Health Services, Water Supply Branch.

Water System, Individual
A source of water serving a single connection.

Water System, Private
Any water system serving from two (2) to 14 connections, inclusively or 25 or less year-round residents.

X

Y

Z

To: Polk County Board of Commissioners

From: Planning Board and Staff

Date: November 14, 2024

Re: Polk County Subdivision Ordinance Text Amendment

Project History & Analysis

The Planning Board, with support from staff and county attorney, have updated the Polk County Subdivision Ordinance.

Proposed Amendments

Amendments included in attached document (additions to existing text are indicated by the use of underlining, and deletions are indicated by strike-through). See attached document.

Plan Consistency

The Planning Board has found that this request is consistent with the Polk County 20/20 Vision Comprehensive Plan, adopted March 15, 2010, amended September 18, 2017:

a. Vision for Polk County: Polk County's rural atmosphere and serene natural beauty will be vigorously protected. Visionary and pragmatic county and municipal governments will work together in a cooperative manner as they continue to enhance the quality of life for all Polk County citizens.
b. I.47 As necessary, revise/update the Polk County Ordinances.

Recommendation

The Planning Board does recommend that the Board of Commissioners enact the Polk County Subdivision Ordinance text amendments.

Votes:
Aye - 4
Nay - 0
Abstain - 0

Planning Board Chair

BOARD OF COMMISSIONERS
AGENDA ITEM REPORT

MEETING DATE

February 17, 2025

AGENDA ITEM # 6.A

Approval of the January 13, 2025 Regular Meeting Minutes

ATTACHMENTS

1. January 13, 2025 Minutes

POLK COUNTY BOARD OF COMMISSIONERS
Public Hearing & Regular Meeting
January 13, 2025 - 5:00 PM
Bryant H. Womack Justice & Administration
Building 4O Courthouse Street
Columbus, NC 28722
MINUTES

Present: Chair Yoder, Vice-Chair Moore, Commissioner Beiler, Commissioner Hargett (arrived at 5:07 pm), and Commissioner Melton. Also in attendance were County Manager Pittman, County Attorney Berg, Acting Clerk to the Board High, media, and citizens.

1. Public Hearing

A. Call to Order the Public Hearing **-** Chairman Yoder called the public hearing to order. The purpose of the Public Hearing was to receive public comments on proposed new road names in Polk County: Green Creek Township: Carson Meadows Drive - Fairway Drive -Kenneth Drive - Private roads- Off Poors Ford Rd (SR 1004) and Hidden View Lane - Private road- Off Chesnee Rd (SR 1343) Tryon Township: Oak Leaf Trail - Private road- Off Moore Rd (SR 1332) White Oak Township: Haven Way - Private road- Off Big Level Rd (SR 1311). The public hearing was properly advertised in the Tryon Daily Bulletin.

B. There were no citizen comments for the public hearing.

C. Commissioner Melton moved to adjourn the public hearing, seconded by Commissioner Beiler and the motion carried unanimously.

2. Call to Order the Regular Meeting - Chair Yoder.

3. Invocation - Vice-Chair Moore.

4. Pledge of Allegiance - Chair Yoder.

5. Approval of Agenda

A. Commissioner Melton moved to approve the agenda as written, seconded by Commissioner Beiler and the motion carried unanimously.

6. Consent Agenda

A. Approval meeting minutes for November 18, 2024, and December 2, 2024.

B. Budget Amendment to transfer initial amount ($90,000) for Rostan Solutions, LLC as Polk County's FEMA Grant Administrator (contracted service) as discussed and approved at the 12/2/24 BOC meeting.

C. Tax Refund Requests through January 3, 2025, for $1,982.53.

D. Schedule a public hearing to review and discuss approval of text amendments to the Subdivision Ordinance on Monday, February 17, 2025, at 5:00 pm in the Bryant H. Womack Justice & Administration Building, 40 Courthouse St. Columbus, NC. (A copy of the current Subdivision Ordinance is available for review online at https://www.polknc.gov/ordinances.php or in the County Manager's office).

Commissioner Melton moved to approve the consent agenda, seconded by Commissioner Beiler and the motion carried unanimously.

7. There were no citizen comments on agenda items.

8. Regular Agenda Items

A. Polk County Schools - Aaron Greene, Superintendent, presented the request to transfer funds from the Capital Reserve Fund (funds that were reserved from the sales tax set-aside computation) to the General Fund School Capital as reimbursement of capital spending - Tryon Elementary Pre-K addition ($240,158.58) and Polk County School track repairs ($1,050.00) request approval for the Budget Amendment to transfer funds as presented for, $241,209.00.

Commissioner Melton moved to approve the budget amendment as presented, seconded by Vice-Chair Moore and the motion carried unanimously.

B. Consideration and approval of the proposed six new Polk County Private Road names during the Public Hearing: Carson Meadows Drive - Fairway Drive - Kenneth Drive - Hidden View Lane -Oak Leaf Trail - Haven Way.

Commissioner Melton moved to approve the new road names as presented, seconded by Commissioner Beiler and the motion carried unanimously.

C. FEMA Temporary Transportable Housing Units (TTHUs) in the Floodplain. Cathy Ruth, Planning Director, presented the information and requested authorization for FEMA TTHUs to be considered for placement in the floodplain within Polk County's jurisdiction on a case-by-case basis.

After the discussion, Commissioner Melton moved to approve FEMA TTHUs for placement in the floodplain within Polk County’s jurisdiction on a case-by-case basis, seconded by Vice-Chair Moore and the motion carried unanimously.

D. Temporary Housing Units as Accessory Structures for Temporary Use by Residents Displaced by Hurricane Helene - Attorney Berg and Cathy Ruth, Planning Director, presented the information and requested approval for the following:

1. RESOLUTION OF INTENT TO AMEND ZONING ORDINANCE TO PERMIT TEMPORARY HOUSING UNITS AS ACCESSORY STRUCTURES FOR TEMPORARY USE BY RESIDENTS DISPLACED BY HURRICANE HELENE.

   Commissioner Melton moved to adopt the Resolution, seconded by Commissioner Beiler and the motion carried unanimously.

2. Cathy Ruth, Planner, requested scheduling a public hearing to review and discuss a text amendment to the Zoning Ordinance concerning Temporary Housing Units for Monday, February 17, 2025, at 5:00 pm following the public hearing for the Subdivision Ordinance in the Bryant H. Womack Justice & Administration Building, 40 Courthouse St. Columbus, NC. (A copy of the current Zoning Ordinance is available for review online or in the County Manager's office).

   Vice-Chair Moore moved to schedule the public hearing as presented, seconded by Commissioner Melton and the motion carried unanimously.

E. Adjusting Development Regulations for Disaster Recovery. Attorney Berg led the discussion and read the RESOLUTION TO EXTEND MORATORIUM ON PERMIT FEES AUTHORIZED UNDER PART 16 OF THE DISASTER RECOVERY ACT OF 2024 for consideration.

Attorney Berg read the resolution and explained that the state's moratorium on Hurricane Helene-related permit fees expired on December 31, 2024. She said this resolution would extend the moratorium for Polk County from January 1, 2025, to March 31, 2025.

Commissioner Melton moved to adopt the Resolution, seconded by Commissioner Beiler and the motion carried unanimously.

F. Disaster Relief & Recovery Update. Bobby Arledge, Emergency Management Director, updated the disaster relief and recovery efforts. He said the Army Corp of Engineers has contracted with a debris removal vendor working seven days a week removing debris from roadways throughout the county. Since the vendor is contracted directly by the Army Corps, the county has no control over the timeline or location of the debris removal. Mr. Arledge noted that as the roadway debris removal is coming to an end, the Army Corps will begin removing debris on private property and in the waterways. To do this, they must obtain right-of-entry access agreements from the private property owners. He said public meetings will be scheduled to get the citizens more information regarding this process.

9. There were five citizen comments on non-agenda Items.

10. Volunteer Board Applications.

A. Adult Care & Nursing Home Community Advisory Committees - There were two vacancies and one applicant, Thomas Adkins.

Commissioner Beiler moved to appoint the applicant as presented, seconded by Vice-Chair Moore and the motion carried unanimously. **Following this appointment, we were informed that a new certification was needed before being appointed to this board. Mr. Adkins will reapply after completing his certification.*

B. Agricultural Advisory Board - There were two vacancies and two applicants, Ray Gasperson and Carl Pleasants.

Commissioner Beiler moved to appoint the applicants as presented, seconded by Vice-Chair Moore and the motion carried unanimously.

C.Planning Board—There were three regular vacancies and three applicants who reside in the corresponding townships. One alternate, at-large vacancy remains.

Regular Vacancies by Township - Columbus Township: Allan "Tony" Dale; Green Greek Township: Ray Gasperson; Tryon Township: Warren Watson.

Vice-Chair Moore moved to appoint the applicants for the three regular vacancies as presented, seconded by Commissioner Beiler and the motion carried unanimously.

11. The Commissioners thanked everyone for attending the meeting.

12. Commissioner Beiler moved to adjourn the meeting, seconded by Vice-Chair Moore and the motion carried unanimously.

ATTEST:

Angé High
Acting Clerk to the Board

POLK COUNTY BOARD
OF COMMISSIONERS

Myron Yoder
Chair

BOARD OF COMMISSIONERS
AGENDA ITEM REPORT

MEETING DATE

February 17, 2025

AGENDA ITEM # 6.C

Declare six Sheriff vehicles & miscellaneous equipment surplus to be sold electronically by public auction. Asset details attached.

ATTACHMENTS

1. Requested Surplus Vehicles

Fixed Asset & Title information given to Kennedy; BOC to APPROVE for Surplus 2/17/2025

Division	FA # in System	Make	Model	Year	VIN#
Sheriffs Office	6631	Dodge	Charger	2019	2C3CDXKT6KH693273
Sheriffs Office	6420	Dodge	Charger	2019	2C3CDXKTXKH559169
Sheriffs Office	6606	Ford	F-150 Truck	2017	1FTEW1EF0HKE07064
Sheriffs Office	3836	Ford	Ranger	2006	1FTZR45E56PA76421
Sheriffs Office	4073	Ford	Crown Vic	2008	2FAFP71V28X128428
Sheriffs Office	6098	Chevrolet	Silverado Truck	2014	1GCVKREC8EZ307944
Sheriffs Office	3278	Carr	Trailer	2005	4YMCL121X5G043871
Sheriffs Office	5866	Delta	Stock Trailer	2005	4MWBS16205N015022
Sheriffs Office	4668		Slide in Unit with 6 stalls (Animal Control)	2010	N/A
Sheriffs Office	4545	Talon	Small unit with 2 stalls (Animal Control)	2009	N/A

BOARD OF COMMISSIONERS
AGENDA ITEM REPORT

MEETING DATE

February 17, 2025

AGENDA ITEM # 6.D

Adopt resolution of Polk County recognizing and approving of the Polk County official America 250 NC Committee

ATTACHMENTS

1. Polk County 250 Committee Resolution

RESOLUTION OF POLK COUNTY RECOGNIZING AND APPROVING OF THE POLK COUNTY OFFICIAL AMERICA 250 NC COMMITTEE

A resolution of Polk County, North Carolina, supporting the America 250 NC committee for the United States semiquincentennial (AMERICA 205 NC)

WHEREAS, Roy Cooper, former Governor of North Carolina, created AMERICA 250 NC to plan, encourage, develop, and coordinate the commemoration of the 250th anniversary of the United States and North Carolina's integral role in that event and the role of its people on the nation's past, present, and future: and

WHEREAS, AMERICA 250 NC has a mission to engage ALL North Carolinians and ALL 100 counties through their many signatures and officially recognized programs, projects, and events over the commemoration by inspiring future leaders and celebrating North Carolina's contributions to the nation over the last 250 years; and

WHEREAS, by adoption of America 250 NC's mission, the Polk County Committee is officially formed to achieve the goals of America 250 NC.

NOW, THEREFORE, BE IT RESOLVED, that the County of Polk hereby endorses AMERICA 250 NC and its mission; and

RESOLVED, the County of Polk officially establishes an AMERICA 250 NC Committee made up of a diverse group of citizens to work with AMERICA 250 NC on any and all activities. The participants of the Polk County Committee will be strictly voluntary roles and there will be no compensation for participation.

IT IS FURTHER RESOLVED that a copy of this resolution be sent to Polk County's legislative delegation and the AMERICA 250 NC Committee.

ADOPTED this 17th day of February 2025.

ATTEST:

Kennedy Freeman
Clerk to the Board

POLK COUNTY BOARD
OF COMMISSIONERS

Myron Yoder
Chairman

BOARD OF COMMISSIONERS
AGENDA ITEM REPORT

MEETING DATE

February 17, 2025

AGENDA ITEM # 6.E

Tax Refund Request through February 10, 2025 in the amount of $849.60

ATTACHMENTS

1. January 2025 Tax Refunds

Memorandum

To: Polk County Board of Commissioners

From: Melissa O'Loughlin, Polk County Tax Administrator

Date: 2/10/2025

Re: Refund Request

Taxpayer	Parcel	Amount	Reason
Nicholas Miller	Vehicle	$136.83	Tag Surrender
John Roszler	vehicle	$107.41	tag surrender
Carol McNamara	vehicle	$ 250.09	tag surrender
Walter Lionel Gilbert Jr	vehicle	$ 127.42	tag surrender
Steven Dodson	vehicle	$227.85	tag surrender
	TOTAL:	**$849.60**	

BOARD OF COMMISSIONERS
AGENDA ITEM REPORT

MEETING DATE

February 17, 2025

AGENDA ITEM # 6.F

Vaya Health Quarterly Financial Report for the period ending December 31, 2024

ATTACHMENTS

1. Vaya Health Quarterly Financial Report

Vaya Health
200 Ridgefield Court, Suite 206
Asheville, NC 28806
1-800-893-6246
www.vayahealth.com

February 11, 2025

RE: Vaya Health Quarterly Report to the Counties for Period Ending December 31, 2024

Dear County Representatives:

Enclosed you will find the financial update for Vaya Health for the most recent quarter ending December 31, 2024. Included in this email are the following documents:

- Fiscal Monitoring Report
- Total Spendable Cash Report, which provides greater clarity of cash availability after meeting accounts payable and IBNR obligations. Note that this is a more conservative calculation than the State solvency metric which does not allow for certain working capital needs. Also note that with the new Tailored Plan contract, the previous Medicaid Risk Reserve is no longer a restricted amount and is used to support the new Capital Reserve solvency requirement.

Please note that the prior year figures being reported for June 30, 2024 reflect audited figures.

With the inclusion of the new Tailored Plan contract, Vaya's annual SFY24-25 operating budget is just short of $1.5 billion. Any recent commitments made by counties subsequent to budget preparation will be included in an upcoming budget amendment. We are also beginning preliminary budget planning for SFY25-26 and will be working with county representatives for continued support.

While these first two quarters of SFY24-25 has marked the successful launch of the new Tailored Plan on July 1, it also has required a concerted response to the recent Hurricane Helene disaster which greatly impacted Vaya's service area. Vaya has been directly supporting members, providers, and staff through the disaster with donations, flexibility, and stabilization efforts. Of note, Vaya has provided $6.9m in provider grants to provide financial stabilization through the recovery period.

Should you have any additional questions or comments, please do not hesitate to contact me via email (larry.hill@vayahealth.com) or phone (828-225-2785, Ext. 4743).

Sincerely,

Larry E. Hill
Executive VP and CFO, Vaya Health

Vaya Health Total Spendable Cash
As of December 31, 2024

Total Operating Cash and Investments	289,932,789
Less Accounts Payable and IBNR	(157,534,338)
Plus Accounts Receivable	80,159,590
Less Annual Leave Payout Liability	(6,922,353)
Less Other Post Employment Benefits Liability	(5,163,000)
Spendable Cash	200,472,688

Fiscal Monitoring Report

LME / MCO NAME: VAYA HEALTH **FOR THE PERIOD ENDING:** December 31, 2024

# of month in the fiscal year (July = 1, August = 2, . . . , June = 12) ========> 6

1. REPORT OF BUDGET VS. ACTUAL	(1) PRIOR YEAR 2023-2024 BUDGET	(2) PRIOR YEAR 2023-2024 ACTUAL	(3) CURRENT YEAR 2024-2025 BUDGET	(4) CURRENT YEAR 2024-2025 ACTUAL YR-TO-DATE	(5) BALANCE (Col. 3-4)	(6) ANNUALIZED PERCENTAGE
REVENUE						
Interest Earned	3,000,000	2,944,864	3,585,000	2,984,749	600,251	166.51%
IGT Income	9,291,857	20,113,170	-	-	-	-
Appropriation of Fund Balance	2,530,964	-	-	-	-	-
Other Local	4,830,027	4,699,689	5,587,792	2,866,181	2,721,611	102.59%
Total Local Funds	19,652,847	27,757,723	9,172,792	5,850,930	3,321,862	127.57%
County Appropriations (by County, includes ABC Funds):						
Alamance County	-	-	1,200,000	515,500	684,500	85.92%
Alexander County	50,000	50,000	50,000	25,000	25,000	100.00%
Alleghany County	20,000	20,000	20,000	10,000	10,000	100.00%
Ashe County	189,566	189,566	189,566	94,783	94,783	100.00%
Avery County	89,600	89,600	89,600	44,800	44,800	100.00%
Buncombe County	600,000	600,000	600,000	300,000	300,000	100.00%
Caswell County	-	-	-	-	-	0.00%
Caldwell County	121,138	125,199	121,138	64,473	56,665	106.45%
Chatham County	430,450	399,328	415,450	232,519	182,931	111.94%
Cherokee County	75,000	75,000	75,000	37,500	37,500	100.00%
Clay County	15,000	15,000	15,000	7,500	7,500	100.00%
Franklin County	142,600	109,700	129,700	64,850	64,850	100.00%
Graham County	6,000	6,000	6,000	3,000	3,000	100.00%
Granville County	130,846	118,215	119,846	59,906	59,940	99.97%
Haywood County	112,000	110,221	112,000	56,335	55,665	100.60%
Henderson County	528,612	528,612	528,612	264,306	264,306	100.00%
Jackson County	123,081	123,081	123,081	61,541	61,541	100.00%
Macon County	106,623	106,623	106,623	53,312	53,312	100.00%
Madison County	30,000	30,000	30,000	15,000	15,000	100.00%
McDowell County	67,856	67,856	67,856	33,928	33,928	100.00%
Mitchell County	18,000	18,000	18,000	9,000	9,000	100.00%
Person County	360,473	357,968	360,273	179,310	180,964	99.54%
Polk County	79,491	80,722	79,491	40,025	39,466	100.70%
Rockingham County	138,250	138,250	331,800	155,900	175,900	93.97%
Rowan County	492,000	492,000	492,000	246,000	246,000	100.00%
Stokes County	18,000	4,529	4,500	-	4,500	0.00%
Swain County	30,000	27,491	30,000	13,148	16,852	87.65%
Transylvania County	99,261	99,261	99,261	49,631	49,631	100.00%
Vance County	194,099	171,774	173,099	75,566	97,533	87.31%
Watauga County	171,194	171,194	171,194	85,597	85,597	100.00%
Wilkes County	237,612	238,274	237,612	116,519	121,093	98.08%
Yancey County	26,000	26,000	26,000	13,000	13,000	100.00%
Total County Funds	4,702,752	4,589,465	6,022,702	2,927,947	3,094,755	97.23%
DMH/DD/SAS State and Federal Funding	168,515,615	124,953,971	112,313,126	91,482,258	20,830,868	162.91%
Medicaid Funding	788,803,890	795,578,374	1,355,005,485	692,968,807	662,036,678	102.28%
Medicaid Risk Reserve Funding	7,030,000	7,035,102	-	-	-	-
All Other State/Federal Funds	4,375,000	4,732,466	4,785,000	2,946,949	1,838,051	123.17%
Total State, Federal and Medicaid Funds	968,724,505	932,299,914	1,472,103,611	787,398,014	684,705,597	102.66%
TOTAL REVENUE	993,080,105	964,647,101	1,487,299,105	796,176,890	691,122,214	107.06%
EXPENDITURES:						
Administration	172,011,382	160,459,727	210,275,344	96,814,578	113,460,767	92.08%
LME Provided Services (Service Support)	3,940,654	3,608,849	4,112,557	1,850,234	2,262,323	89.98%
Provider Payments (State Funds)	88,871,217	72,970,026	80,226,250	68,702,346	11,523,904	171.27%
Provider Payments (Federal Funds)	70,891,596	48,625,734	24,535,400	18,295,596	6,239,803	149.14%
Provider Payments (County Funds)	5,235,546	3,766,936	6,022,702	1,665,809	4,356,893	55.32%
Provider Payments (Medicaid)	651,199,204	665,473,221	1,161,119,376	603,148,123	557,971,253	103.89%
Permanent Supported Housing and Back at Home Payments	930,506	925,488	1,007,476	470,316	537,160	93.37%
TOTAL EXPENDITURES	993,080,105	955,829,981	1,487,299,105	790,947,002	696,352,103	106.36%
Net Income or (Loss) (from Operations and Risk Reserve)		8,817,120		5,229,888		
Less Risk Reserve Revenue		(7,035,102)		-		
NET INCOME OR (LOSS) FROM OPERATIONS		1,782,018		5,229,888		
2. FUND BALANCE						
Restricted Fund Balance for Risk Reserve		113,042,171		-		
Restricted Fund Balance - State Statute, Prepaids & Investment in Fixed Assets		77,323,998		91,862,070		
Unrestricted Fund Balance (including Board Commitments)		(15,066,212)		88,667,775		
TOTAL FUND BALANCE		175,299,957		180,529,846		
3. CURRENT CASH POSITION						
Current Cash and Investments				289,932,789		
4. ESTIMATED SERVICES INCURRED BUT NOT REPORTED/PAID (IBNR)				113,954,000		

BOARD OF COMMISSIONERS
AGENDA ITEM REPORT

MEETING DATE

February 17, 2025

AGENDA ITEM # 6.G

2024 Community Health Assessment (CHA) Briefing.

ATTACHMENTS

1. CHA Brieifng BOCC

2024 Polk County Community Health Assessment (CHA) Briefing

Overview

Summary: Polk County HHSA would like to thank its community partners for their time, passion, and ideas in contributing to the 2024 CHA Process. The purpose of the process was to leverage community stakeholders' expertise to develop plans of action in each of our three, community health "priority" areas: Mental Health, Substance Misuse, and Healthy Eating Active Living (HEAL).



As intended, each team engaged in productive, open conversation to successfully develop a logic model draft, which will be finalized with further input and discussion. These plans will guide our efforts to improve community health outcomes over the next three years and form the blueprint of our eventual, state-required Community Health Improvement Plan (CHIP). "Connection" continues to arise as a key theme in committee discussions, which will inspire our coming work.

Achievements: Multisectoral, collaborative development of 3 logic models (1 per focus area) using community partner-provided, evidence-based strategies and impacts.

Attendance and Participation

More than 30 individuals— representatives of nearly 20 organizations, programs, or communities— attended our Community Forum to learn and work. Additional individuals who were unable to attend contributed strategies and perspectives that community partners referenced to develop the logic models.

Partners Providing Resources and Expertise

- The Free Clinics
- Blue Ridge Health
- Polk County Schools
- Polk County Health and Human Services
- Vaya Health
- Polk County Mental Health Advisory Committee
- AdventHealth Polk
- WithALL
- Family Preservation Services and Access Family Services d.b.a Clarvida
- City of Saluda
- RHA Prevention Resource Centers
- Foothills Regional Commission Area Agency on Aging
- Polk County Public Libraries
- Do Not Lose Hope
- Allied Comprehensive Recovery Network / National Alliance on Mental Illness
- Guardian Ad Litem
- Polk County Community Foundation
- Columbus Police Department
- Pea Ridge Partnership
- Roseland Community Center

- Building on Existing Services
- Expanding on Community Ideas
- Collaborating on Funding Options

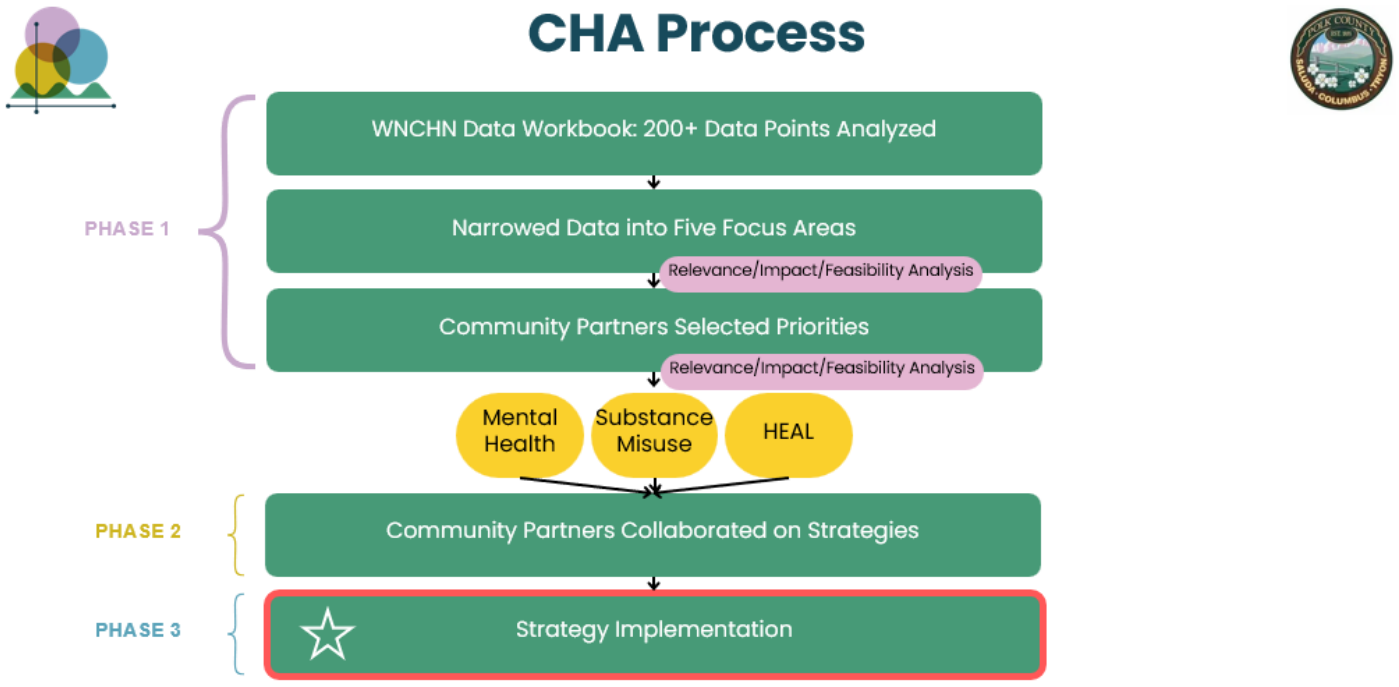


Background

The CHA/CHIP Cycle: The Community Health Assessment Cycle is a state-mandated, three-year cycle whereby local health partners identify health issues of greatest concern and develop and implement strategies to improve population health outcomes in these areas. The three phases include the Data Collection and Analysis Phase, the Planning Phase, and the Action Phase. Polk County HHSA and its partners are currently in the early stages of the Planning Phase, ahead of our deliverable timeline.

Methods: WNC Health Network generated an intricate dataset with primary and secondary, state-, region, and county-level data for analysis. Primary data collection involved 5,898 surveys throughout Western North Carolina—a statistically representative sample of county populations by sociodemographic characteristics—and key informant interviews with 22 Polk County stakeholders.

Polk County HHSA and partners analyzed the finalized data workbook, narrowing the data into three "priority" areas based on what they considered to be the most impactful data indicators of poor health in the county.



Data Overview

- Primary and secondary, state-, region-, and county-level data
    - Primary data: information generated by the researcher, first-hand, through methods like surveys, interviews, observations, or experiments
    - Secondary data: information that is collected by someone else and already exists, which is then analyzed by another researcher; obtained from sources like government publications, research articles, or organizational records
- 5,898 surveys throughout WNC
    - Telephone, online, social media
    - English and Spanish
    - 75 questions
- Allows for high participation and random selection for a large portion of the sample
- Critical to achieving a representative sample (of county and regional populations by gender, age, race/ethnicity, income)
- Key informant interviews

Age-Adjusted Leading Causes of Death: *Overall*

2018-2022

Rank	Cause of Death	Polk		
		# Deaths	Death Rate	% Difference from State
	All Causes (some not listed)	1,641	778.9	-8.3
1	Diseases of Heart	368	148.6	-7.8
2	Cancer	291	138.7	-8.8
3	All Other Unintentional Injuries	84	64.9	23.6
4	COVID-19	86	44.5	0.2
5	Cerebrovascular Disease	86	35.3	-18.9
6	Alzheimer's disease	89	32.7	-17.8
7	Chronic Lower Respiratory Diseases	78	31.1	-15.0
8	Suicide	23	25.7	-4.8
9	Unintentional Motor Vehicle Injuries	18	**17.4**	5.5
10	Chronic Liver Disease and Cirrhosis	26	16.9	5.0
11	Diabetes Mellitus	30	15.3	10.9
12	Nephritis, Nephrotic Syndrome, and Nephrosis	28	14.6	8.1
13	Pneumonia and Influenza	32	14.5	14.2
14	Septicemia	12	**5.1**	-58.5
15	Homicide	4	**4.2**	-49.4
16	Acquired Immune Deficiency Syndrome	0	**0.0**	-100.0

Age-adjustment: Age adjustment (calculated with a specific equation) breaks the rates down by age, allowing us to compare across categories or across populations where the age compositions are very different

Leading Causes of Death: *by Age*

2018-2022

Polk County				
Age Group	**Rank**	**Leading Cause of Death**	**# Deaths**	**Death Rate**
00-19	1	Motor vehicle injuries	3	17.1
	2	Conditions originating in the perinatal period	2	11.4
	3	Suicide	2	11.4
	4	Other Unintentional injuries	1	5.7
20-39	1	Other Unintentional injuries	17	99.0
	2	Suicide	8	46.6
	3	Cancer - All Sites	8	29.1
40-64	1	Cancer - All Sites	49	145.8
	2	Diseases of the heart	40	119.0
	3	Other Unintentional injuries	23	68.4
65-84	1	Cancer - All Sites	175	637.1
	2	Diseases of the heart	148	538.8
	3	Chronic lower respiratory diseases	47	171.1
85+	1	Diseases of the heart	179	3865.3
	2	Cancer - All Sites	62	1338.8
	3	Alzheimer's Disease	58	1252.4

Leading Causes of Death: *by Age*

2018-2022

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2021: Leading unintentional injury was unintentional poisoning,* 96% of which were due to medication/drug overdose

One third of these deaths may be preventable through lifestyle changes, including diet and exercise†

Leading Causes of Death: *by Age*

2018-2022

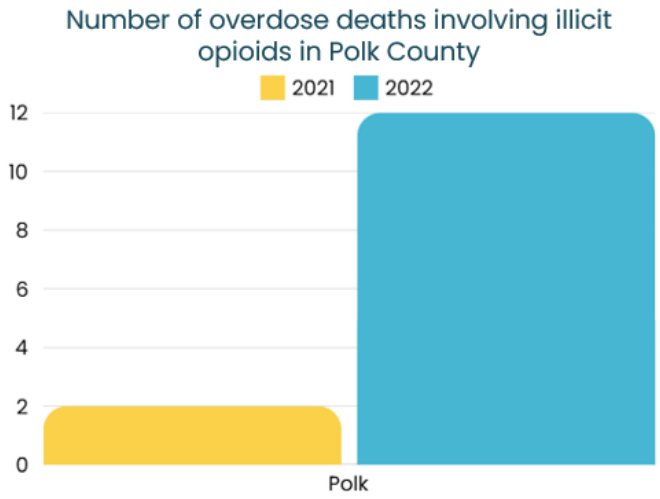
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Mental Health

Substance Misuse

Healthy Eating/Active Living

Substance Misuse

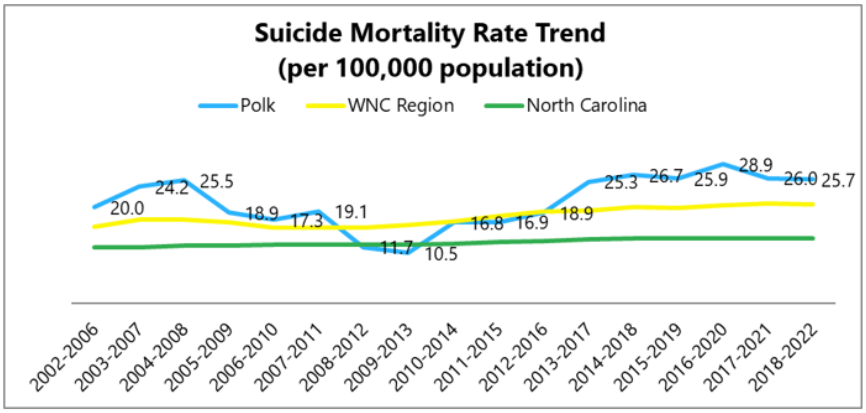


Polk county had **12 overdose deaths involving illicit opioids** (heroin, fentanyl, and fentanyl analogues) in 2022, compared to 2 in 2021 according to state DHHS data.

Source: NCDHHS Data Dashboard: https://www.dph.ncdhhs.gov/programs/chronic-disease-and-injury/injury-and-violence-prevention-branch/north-carolina-overdose-epidemic-data#data-dashboard

Represents a rate of 60.0 per 100,000 persons, which is among the HIGHEST rates seen in NC

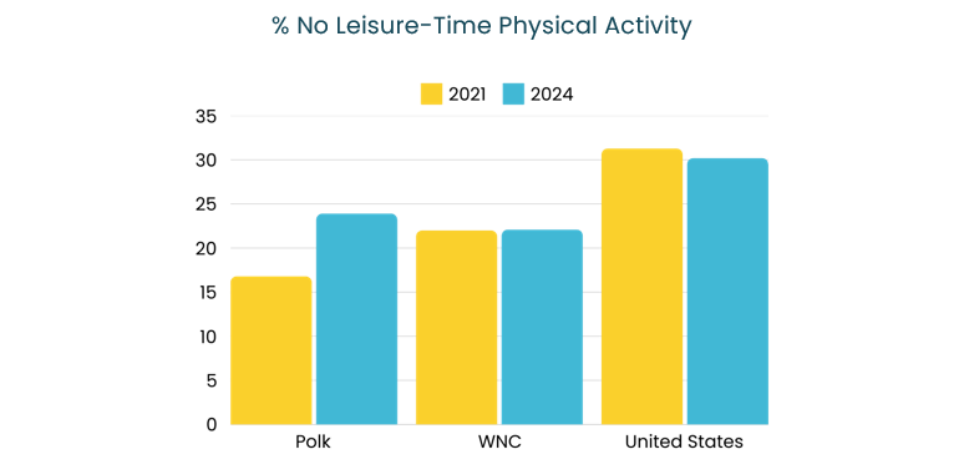
Mental Health



The **suicide mortality rate continues to increase** across the state.
The current age-adjusted suicide mortality rate in Polk County is 25.7 per 100,000 population.
This is the **second highest rate in the region** and higher than both the WNC regional mean (20.6) and the state (13.5) in 2018-2022.

Citation: North Carolina State Center for Health Statistics (NC SCHS). (2024). Race-Specific and Sex-Specific Age-Adjusted Death Rates by County: County Health Data Book. [Data tables]. Available from https://schs.dph.ncdhhs.gov/data/.

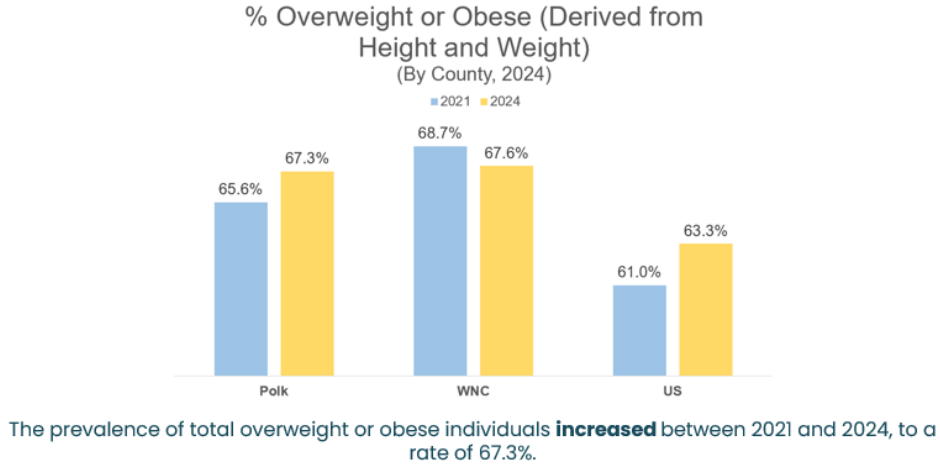
Active Living



The prevalence of individuals who had no leisure-time physical activity (activity outside of work) **increased** from 16.8% in 2021 to 23.9% in 2024.

Citation: WNC Health Network. (2024). 2024 WNC Healthy Impact Community Health Survey: Data Workbook. [Data set]. Available from https://www.wnchn.org/wnc-data/regional-data/.

Healthy Eating/Active Living



The prevalence of total overweight or obese individuals **increased** between 2021 and 2024, to a rate of 67.3%.

Citation: WNC Health Network. (2024). 2024 WNC Healthy Impact Community Health Survey: Data Workbook. [Data set]. Available from https://www.wnchn.org/wnc-data/regional-data/.

Community Health Improvement Focus Areas

With the input from community partners the following focus areas were identified. Over the course of the three-year cycle community partners and healthcare providers will be working to improve health outcomes for Polk County.

Health Priority Area	Strategies	Impact
Mental Health	1. Community Health Workers 2. Mental Health First Aid 3. Health Literacy Interventions	Strengthen healthy community connections through collaboration to improve mental and behavioral health
Substance Misuse	1. START Model 2. "1st Responder Card" PR Campaign/Raising Awareness Initiative 3. Nurse Family Partnership	Build resiliency in substance-affected individuals, families, and communities
Healthy Eating Active Living	1. Community-Based Social Support for Healthy Living 2. Exercise and Nutrition Prescriptions	Foster stronger community connections to encourage healthy lifestyles

BOARD OF COMMISSIONERS
AGENDA ITEM REPORT

MEETING DATE

February 17, 2025

AGENDA ITEM # 6.H

Appoint Commissioner Hargett to the Community Child Protection Team (CCPT)

ATTACHMENTS

None

BOARD OF COMMISSIONERS
AGENDA ITEM REPORT

MEETING DATE

February 17, 2025

AGENDA ITEM # 8.B

Review changes to the Voluntary Agricultural District & Enhanced Voluntary Agricultural District Ordinance and request to schedule a public hearing on the proposed resolution for Monday, March 17th, at 5:00 p.m. in the Bryant H. Womack Justice & Administration Building, 40 Courthouse St. Columbus - Kelly Gay, Director of Polk County Soil and Water Conservation District, and Dawn Jordan, Director of Polk County Agricultural Economic Development will be present.

ATTACHMENTS

1. Polk County Agricultural District Ordinance Draft

POLK COUNTY VOLUNTARY AGRICULTURAL DISTRICT & ENHANCED VOLUNTARY AGRICULTURAL DISTRICT ORDINANCE

ARTICLE I
TITLE

An ordinance of the Board of County Commissioners of POLK COUNTY, NORTH CAROLINA, entitled**,** "POLK COUNTY VOLUNTARY AGRICULTURAL DISTRICT & ENHANCED VOLUNTARY AGRICULTURAL DISTRICT ORDINANCE."

ARTICLE II
AUTHORITY

The articles and sections of this Ordinance are adopted pursuant to authority conferred by the North Carolina General Statutes sections 106-735 through 106-744~~, and~~ Chapter 153A and 160D.

ARTICLE III
PURPOSE

The purpose of this Ordinance is to promote agricultural values and the general welfare of the county and more specifically, increase identity and pride in the agricultural community and its way of life; encourage the economic and financial health of agriculture, horticulture and forestry; and increase protection from non-farm development and other negative impacts on properly managed farms.

ARTICLE III
PURPOSE

The following are defined for purposes of this Ordinance:

Advisory Board: Polk County Agricultural Advisory Board.

Chairperson: Chairperson of the Polk County Agricultural Advisory Board.

District: Voluntary Agricultural District as established by this Ordinance.

Enhanced District: Enhanced Voluntary Agricultural District as established by this Ordinance.

Board of Commissioners: Polk County Board of Commissioners.

ARTICLE V
AGRICULTURAL ADVISORY BOARD

A. Creation

The Agricultural Preservation ordinance will be implemented by the existing ~~Voluntary Farmland Preservation~~ Agricultural Advisory Board as appointed by the The Board of Commissioners. This Advisory Board will oversee both county ordinances.

B. Membership

The Advisory Board shall consist of no less than 7 (seven) members appointed by the Board of Commissioners.

C. Membership Requirements

1. Each Advisory Board member shall be a Polk County resident.

2. At least 5 of the 7 members shall be actively engaged in farming.

3. The members shall be selected for appointment by the Board of Commissioners from the names of individuals submitted to the Board of Commissioners by the Agricultural Advisory Board with an effort to have the broadest geographical representation possible.

D. Tenure

The initial board is to consist of 2 (two) appointees for terms of one year; 2 (two) appointees for terms of two years; and 3 (three) appointees for terms of three years. Thereafter, all appointments are to be for terms of three years, with reappointment permitted. The terms will begin January 1st and extend through December 31st in the year of expiration. The same person may not serve more than two consecutive full terms, but may reapply after one year of separation from the board.

E. Vacancies

Any vacancy on the Advisory Board is to be filled by the Board of Commissioners for the remainder of the unexpired term as per Article V, Section C, 3.

F. Removal

Any member of the Advisory Board who is absent from more than two consecutive meetings without adequate reason during the year may be removed by the Board of Commissioners.

G. Funding

Funds may be appropriated by the Board of Commissioners to the Agricultural Advisory Board to perform its duties.

H. Advisory Board Procedure

1. Chairperson

The Advisory Board shall elect a chairperson and vice-chairperson each year at its first meeting of the calendar year. The chairperson shall preside over all regular or special meetings of the Advisory Board. In the absence or disability of the chairperson, the vice-chairperson shall preside and shall exercise all the powers of the chairperson. Additional officers may be elected as needed.

2. Jurisdiction

The Advisory Board may adopt rules of procedure not inconsistent with this ordiance or with other provisions of State law.

3. Advisory Board Year

The Advisory Board shall use the calendar year as its meeting year.

4. Meetings

Meetings of the Advisory Board shall be held at the call of the chairperson and at such times as the Advisory Board may specify in its rules of procedure. Notice of any meetings to the members shall be in writing. All meetings will be open to the public. A quorum consisting of 4 of the 7 Advisory Board members must be present to conduct official business.

5. Majority Vote

The concurring vote of a majority of the quorum of the Advisory Board shall be necessary to reverse any order, requirement, decision, or determination of the Agricultural Advisory Board; to decide in favor of an applicant; or to pass upon any other matter on which it is required to act under this ordinance.

6. Records

The Advisory Board shall keep minutes of the proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, ~~all of which shall be filed in the Polk Soil and Water Conservation District office.~~

I. Duties

The Advisory Board shall:

1. Review and approve applications for qualified farmland and agricultural districts and make recommendations concerning the establishment and modification of these agricultural districts;

2. Conduct public hearings per Article XII.

3. Advise the Board of Commissioners on projects, programs, or issues affecting the agricultural economy or activities within the county that will affect agricultural districts;

4. Review and make recommendations concerning proposed amendments to this ordinance;

5. Study additional methods of farmland preservation and make recommendations to the Board of Commissioners; and

6. Perform other agricultural related tasks or duties assigned by the Board of Commissioners.

~~7. Collaborate with the Polk County Agricultural Economic Development Department.~~

ARTICLE VI
VOLUNTARY AGRICULTURAL DISTRICTS & ENHANCED VOLUNTARY AGRICULTURAL DISTRICTS/REGIONS

A. Regions

1. Polk County is hereby divided into six (6) regions as defined below:

1. Columbus
2. Cooper Gap
3. Green Creek
4. Saluda
5. Tryon
6. White Oak

The boundaries of each region will follow the boundaries of the corresponding townships as determined by the County.

B. Districts and Enhanced Districts

In order to implement the purposes stated in Article III, this program provides for the creation of Districts and Enhanced Voluntary Agricultural Districts, within Regions, which meet the following standards:

Districts and Enhanced Districts shall consist of any acreage that is part of a qualifying farm certified under Article VII, enrolled under Article VIII, and is contained within any region. All land enrolled in a region does not constitute a single District or Enhanced District. If qualifying farmland has acreage in two or more regions, the farm shall participate in the region where the largest acreage is found.

ARTICLE VII
CERTIFICATION AND QUALIFICATION OF FARMLAND

A. Requirements

To secure county certification as qualifying farmland as a District or Enhanced District, a farm must:

1. Be real property that is engaged in agriculture as defined in N.C.G.S. § 106-581.1;

Any of the following shall constitute sufficient evidence that the property is being used for bona fide farm purposes:

a. A farm sales tax exemption certificate issued by the Department of Revenue.

b. A copy of the property tax listing showing that the property is eligible for participation in the present use value program pursuant to G.S. 105-277.3.

c. A copy of the farm owner's or operator's Schedule F from the owner's or operator's most recent federal income tax return.

d. A forest management plan.

~~e. A Farm Identification Number issued by the United States Department of Agriculture Farm Service Agency.~~

2. Be managed, if highly erodible land exists on the farm, in accordance with the Natural Resources Conservation Service defined erosion-control practices that are addressed to said highly-erodible land;

3. Be the subject of a Conservation Agreement, as defined in N.C.G.S. § 121-35, between the county and the owner of such land that prohibits non-farm use or development of such land for a period of at least ten years, except for the creation of not more than three lots that meet applicable county zoning and subdivision regulations, and Article XI;

4. Be located in the unincorporated area of Polk County, unless there is an agreement with a municipality through which the county is authorized to exercise the authority of the municipality on its behalf.

ARTICLE VIII
APPLICATION, REVIEW & APPEAL PROCEDURE

A. Application Procedure

1. A landowner, or landowners, may apply to participate in either the Voluntary Agricultural District or the Enhanced Voluntary Agricultural District program by making application, for certification of qualifying farmland to be created, or included in a District or Enhanced District, to the chairperson of the Advisory Board or a designated staff person. The landowner, or landowners, must designate the application as for either Voluntary Agricultural District status or Enhanced Voluntary Agricultural District status. The application shall be on forms provided by the Advisory Board. A landowner can submit one application per property per year.

2. A Conservation Agreement (required by N.C.G.S. § 106-737 and N.C.G.S. § 106-743.3, and defined in N.C.G.S. §121-35) suited to district type (Voluntary Agricultural District or Enhanced Voluntary Agricultural District) designated by the landowner(s) to sustain, encourage, and promote agriculture must be executed by the landowner(s) with the Advisory Board, which shall record a certified copy of such with the Polk County Register of Deeds.

B. Review Process

1. Upon receipt of a completed application, the chairperson may forward copies to the following offices which may be asked to provide comments, if any, to the Advisory Board prior to the date set for the Advisory Board to review the application:

a. The Polk County Tax office;
b. The Polk County Soil and Water Conservation District office;
~~c. The Natural Resources Conservation Service;~~

~~d.~~c. ~~The North Carolina Forest Service;~~ and
~~e.~~d. Any other such agency or office the Advisory Board deems appropriate.

2. The Advisory Board or its administrative designees prior to, or at, the next regularly scheduled board meeting shall review an application for certification of qualifying farmland to determine if the application is compliant with all requirements of this Ordinance. The chairperson of the Board shall notify the applicant by first class mail of application compliance or non-compliance, and the reason(s) therefore, within 15 days of the determination.

C. Appeal

If an application is determined to be noncompliant with this Ordinance by the Advisory Board, the landowner may, within fifteen (15) days of notification of noncompliance of the application, request in writing that the Advisory Board reconsider its determination. The request for reconsideration shall state the reason(s) therefore. The Advisory Board shall meet at the next regularly scheduled board meeting for reconsideration of the
application and shall notify the applicant by first class mail of its determination, and the reason(s) therefore, within 15 days of the reconsideration of the application. After a negative determination after reconsideration, the landowner shall have thirty (30) days from the date of notification to appeal the determination to the Board of Commissioners. Such appeal shall be presented in writing and shall state the reason(s) therefore. The decision of the Board of Commissioners is final. A reapplication can be made one year after final determination.

ARTICLE IX
RENEWAL, TRANSFER, ENFORCEMENT & REVOCATION OF CONSERVATION AGREEMENTS

A. Renewal

The County will provide, at a minimum, six months advance written notice to landowner(s) whose Conservation Agreement(s) will expire within the year. A Conservation Agreement for land within a Voluntary Agricultural District or Enahanced Voluntary District, that has been reviewed and continues to qualify under all provisions of Article VII. Absent noncompliance by the landowner, neither the Advisory Board nor the Board of Commissioners shall fail to renew any Conservation Agreement unless this Ordinance or its authorizing legislation has been repealed.

1. District. A Conservation Agreement for land within a Voluntary Agricultural District shall be automatically renewed for a period of 10 years unless the landowner provides written notice prior to expiration of the Conservation Agreement to the Advisory Board of intent not to renew.

2. Enhanced District. A Conservation Agreement for land within an Enhanced Voluntary Agricultural District shall be automatically renewed for a period of 3 years unless the landowner provides written notice prior to expiration of the Conservation Agreement to the Advisory Board of intent not to renew. Anytime during this renewal period, landowner(s) can reapply for a new 10 year Conservation Agreement.

B. Transfer

Absent noncompliance by the transferer or transferee, neither the Advisory Board nor the Board of Commissioners shall fail to renew any Conservation Agreement unless this Ordinance or its

authorizing legislation has been repealed.

1. District. Transfers of land in a District due to death of the landowner, sale, or gift shall not revoke the Conservation Agreement unless new landowner(s) deny the Conservation Agreement. The new landowner(s), on a supplemental application, shall provide updated contact information and review the Conservation Agreement. In the event that there are water or sewer assessments held in abeyance by this Ordinance, and where the new owner(s) fail(s) to agree in writing to accept liability for those assessments when land is withdrawn either voluntarily or involuntarily from the District, the Conservation Agreement shall be revoked. Revocation shall be undertaken pursuant to the provisions of Section D of this Article.

2. Enhanced District. Transfers of land in a District due to death of the landowner(s), sale, or gift shall not revoke the Conservation Agreement. All new landowner(s) shall affirm the Conservation Agreement and submit a supplemental application. The Conservation Agreement for the Enhanced Voluntary Agricultural District shall be binding upon all successors in interest to the landowner, except for successors in interest resulting from the exercise of rights under a security interest or lien that preceded the Conservation Agreement.

C. Enforcement

1. District. Enforcement of the terms of a Conservation Agreement for land enrolled in a District shall be limited to revocation of the Conservation Agreement and the benefits derived therefrom. Revocation shall be undertaken pursuant to the provisions of Section D of this Article.

2. Enhanced District. Conservation Agreements for the Enhanced Agricultural District program may, at the election of the parties, include provisions requiring that any disputes between the county and the landowner be resolved through arbitration or mediation, and, in the event of litigation, that the prevailing party be awarded costs, including reasonable attorney fees. Enforcement of the terms of the Conservation Agreement may be through an action for injunctive relief and/or damages in any court of competent jurisdiction. The County may also terminate any benefits to the owner under this program either permanently or during the period of violation, as appropriate. If the Advisory Board shall revoke this Conservation Agreement for cause, the landowner shall have the appeal rights set forth in Article VIII(C). The right to terminate program benefits is in addition to any legal rights that the County may have under either this Ordinance or the terms of the applicable Conservation Agreement. The County may seek costs of the action including reasonable attorney fees if such a provision is incorporated into the Conservation Agreement.

D. Revocation

The Advisory Board may revoke the same Conservation Agreement based on noncompliance by the landowner with the provisions of Article VII, subject to the same provisions as contained in Article VIII(C) for appeal of denials. Such revocation shall result in loss of eligibility of the noncompliant parcel(s) to participate in a District. Absent noncompliance by the landowner, neither the Advisory Board nor the Board of Commissioners shall revoke any Conservation Agreement prior to its expiration. If the Advisory Board shall revoke this Conservation Agreement for cause, the landowner shall have the appeal rights set forth in Article VIII(C). A notice of revocation shall be recorded in the county land record system pursuant to N.C.G.S. § 121-41(b), sufficient to provide

notice that the qualifying farmland land has been withdrawn from the Voluntary Agricultural District program and the qualifying farmland shall be removed from the Voluntary Agricultural District Program database and map in the county Geographic Information System.

1. District. By providing 30 days advance written notice to the Advisory Board, a landowner of qualifying farmland within a District may revoke the Conservation Agreement; or

2. Enhanced District. Conservation Agreements for land within Enhanced Districts are IRREVOCABLE for a period of 10 years. At the end of the term, a notice of revocation shall be recorded in the Polk County Register of Deeds sufficient to provide notice that the land has been withdrawn from the Enhanced Voluntary Agricultural District program if the agreement is not automatically renewed, or renewed voluntary by the landowner(s).

ARTICLE X
WAIVER OF WATER AND SEWER OR ALL UTILITY ASSESSMENTS

A. No Connection Required

1. A landowner belonging to a District shall not be required to connect to Polk County (or its contractors, third party designees) water and/or sewer systems.

2. A landowner belonging to an Enhanced District shall not be required to connect to Polk County utility systems.

B. Abeyance

1. Water and sewer assessments shall be held in abeyance, without interest, for farms in a District, until improvements on such property are connected to the water or sewer system for which the assessment was made.
2. Utility assessments shall be held in abeyance, without interest, for farms in an Enhanced District, until improvements on such property are connected to the utility system for which the assessment was made.

C. Termination of Abeyance

When the period of abeyance ends, the assessment is payable in accordance with the terms set out in the assessment resolution.

D. Suspension of Statute of Limitations

Statutes of limitations are suspended during the time that any assessment is held in abeyance without interest. The landowner shall be required to sign an acknowledgement, which shall be incorporated into the Conservation Agreement, of the abeyance of the statute of limitations upon collecting water and sewer assessments, or other utility assessments.

E. Other Statutory Abeyance Procedures

Nothing in this section is intended to diminish the authority of the County to hold assessments in abeyance under N.C.G.S. § 153A-201, or other applicable law.

F. Conflict with Water and/or Sewer System Construction and Improvements Grants

To the extent that this section conflicts with the terms of federal, state, or other grants under which county utility systems are constructed this section shall not apply. This section shall not apply to utilities that are not owned by the County unless the County has entered into an agreement with the entity(ies) owning the utilities and that agreement provides that this Ordinance shall apply.

ARTICLE XI
ADDITIONAL ENHANCED AGRICULTURAL DISTRICT BENEFITS

Land enrolled in the Enhanced Voluntary Agricultural District program is entitled to all of the benefits available under the Voluntary Agricultural District program, and to the following additional benefits under this Article:

A. Sale of Non-farm Products

~~Landowners participating in Enhanced Districts may receive up to twenty-five percent of gross sales from the sale of nonfarm products and still qualify as a bona fide farm that is exempt from county zoning regulations under N.C.G.S. § 153A-340(b). A farmer seeking to benefit from this subsection shall have the burden of establishing that the property's sale of nonfarm products did not exceed twenty-five percent of its gross sales. A county may adopt an ordinance pursuant to this section that sets forth the standards necessary for proof of compliance.~~

Property that is subject to a conservation agreement under G.S. 106-743.2 that remains in effect may receive up to twenty-five percent (25%) of its gross sales from the sale of nonfarm products and still qualify as a bona fide farm that is exempt from zoning regulations under G.S. 160D-903. For purposes of G.S. 160D-903, the production of any nonfarm product that the Department of Agriculture and Consumer Services recognizes as a "Goodness Grows in North Carolina" product that is produced on a farm that is subject to a conservation agreement under G.S. 106-743.2 is a bona fide farm purpose. A farmer seeking to benefit from this subsection shall have the burden of establishing that the property's sale of nonfarm products did not exceed twenty-five percent (25%) of its gross sales. A county may adopt an ordinance pursuant to this section that sets forth the standards necessary for proof of compliance.

~~For purposes of N.C.G.S. § 153A-340(b), the production of any nonfarm product that the Department of Agriculture and Consumer Services recognizes as a "Goodness Grows in North Carolina" product that is produced on a farm that is subject to a Conservation Agreement under N.C.G.S. § 106-743.2 is a bona fide farm purpose.~~

B. Agricultural Cost Share Program

A person who farms land that is subject to a conservation agreement under G.S. 106-743.2 that remains in effect is eligible under G.S. 106-850(b) to receive the higher percentage of cost-share funds for the benefit of that farmland under the Agriculture Cost Share Program established pursuant to Article 72 of this Chapter for funds to benefit that farmland.

~~Landowners participating in Enhanced Districts are eligible under N.C.G.S. § 143-215.74(b) to receive the higher percentage of cost-share funds for the benefit of that farmland under the Agriculture Cost Share Program established pursuant to Article 72 of this Chapter for funds to benefit that farmland.~~

C. Priority Consideration

State departments, institutions, or agencies that award grants to farmers are encouraged to give priority consideration to any person who farms land that is subject to a conservation agreement under G.S. 106-743.2 that remains in effect.

~~State departments, institutions, or agencies that award grants to farmers are encouraged to give priority consideration to landowners participating in Enhanced Districts.~~

~~D. Utility Assessment Waiver~~

~~As provided in Article X, waiver of all county utility assessments, in addition to waiver of water and sewer assessments, is available to all participants in Enhanced Districts.~~

ARTICLE XII
PUBLIC HEARINGS

A. Purpose

N.C.G.S. § 106-740 provides that no state or local public agency or governmental unit may formally initiate any action to condemn any interest in qualifying farmland within a District or Enhanced District until such agency or unit has requested that the Advisory Board hold a public hearing on the proposed condemnation. This provision ensures that the condemning agency or unit considers the impact of its actions upon agricultural, forestal, and/or horticultural land prior to taking action that is not reversible. This provision is not intended to, and does not, prohibit the condemning agency or unit from taking action that is authorized by law.

B. Procedure

1. Upon receiving a request, the Advisory Board shall publish notice describing the proposed action in the appropriate newspapers of Polk County within five (5) business days of the request, and will in the same notice notify the public of a public hearing on the proposed condemnation, to be held within ten (10) days of receipt of the request.

2. The Advisory Board shall meet to review:

   a. Whether the need for the project has been satisfactorily established by the agency or unit of government involved, including a review of any fiscal impact analysis conducted by the agency involved; and

   b. Whether there are alternatives to the proposed action that have less impact and are less disruptive to the agricultural activities of the District or Enhanced District within which the proposed action is to take place.

3. The Advisory Board shall consult with the Cooperative Extension Service office, the Soil and Water Conservation District office, the Natural Resources Conservation Service, and any other individuals, agencies, or organizations deemed by the Advisory Board to be necessary for its review of the proposed action.

4. Within five (5) days after the hearing, the Advisory Board shall make a report containing its findings and recommendations regarding the proposed action. The report shall be made available to the public prior to its being conveyed to the decision-making body of the agency

proposing the acquisition.

5. There will be a period of ten (10) days allowed for public comment on the report of the Advisory Board.

6. After the ten (10) day period for public comment has expired, the Advisory Board shall submit a final report containing all of its findings and recommendations regarding the proposed action to the decision making body of the agency proposing the acquisition within five (5) days.

7. The total time period, from the day that a request for a hearing has been received to the day that a final report is issued to the decision making body of the agency proposing the acquisition, shall not exceed thirty (30) days. If the agency agrees to an extension, the agency and the Advisory Board shall mutually agree upon a schedule to be set forth in writing and made available to the public.

8. Pursuant to N.C.G.S. § 106-740, the condemning agency may not formally initiate a condemnation action while the proposed condemnation is properly before the Advisory Board within these time limitations.

ARTICLE XIII
NOTIFICATION

A Record Notice of Proximity to a Voluntary or an Enhanced Voluntary Agricultural District

1. Procedure

Pursuant to N.C.G.S. § 106-741, when Polk County computerizes its county land records system the following requirements outlined in this section shall be implemented and enforced. Upon certification of qualifying farmland and designation of real property as a District or Enhanced District, Polk County shall provide in its computerized land records system some form of notice reasonably calculated to alert a person researching the title of a particular tract that such tract is located within one-half mile of that District or Enhanced District. [If a county cannot provide this notice within the computerized land records system, then this provision should be left out. Recording of a VAD Conservation Agreement may assist with the implementation of this provision where tract data is shared between the Register of Deeds office and the GIS/Tax office. However, a VAD Conservation Agreement is not required to be recorded under N.C.G.S. § 121-41 (c) of the Conservation and Historic Preservation Agreements Act. An EVAD Conservation Agreement must be recorded under N.C.G.S. § 121-41 (c) of the Conservation and Historic Preservation Agreements Act.]

2. Limit of Liability

In no event shall the County or any of its officers, employees, members of the Advisory Board, or agents be held liable in damages for any misfeasance, malfeasance, or nonfeasance occurring in good faith in connection with the duties or obligations imposed by this Article.

3. No Cause of Action

In no event shall any cause of action arise out of the failure of a person researching the

title of a particular tract to report to any person the proximity of the tract to a qualifying farm or District or Enhanced District as defined in this Ordinance.

B. Geographic Information System

Voluntary and Enhanced Voluntary Agricultural Districts, and all properties within one-half mile of a Voluntary and Enhanced Voluntary Agricultural District, shall be mapped in the county Geographic Information System.

C. Maps

Maps identifying approved Districts shall be provided to the following agencies or offices, and required to post:

1. Planning Department;
2. Tax Office;
3. Register of Deeds;

Maps identifying approved Districts shall be provided to the following agencies or offices, and are requested to post:

~~4. Natural Resources Conservation Service;~~

~~5.~~4. North Carolina Cooperative Extension;

~~6.~~5. Soil and Water Conservation District; and

~~7.~~6. Any other such agency or office the Advisory Board deems appropriate.

D. Signage

Signs identifying parcels enrolled in an agricultural district may be placed on enrolled parcels at the discretion of the owners. Signs shall not be placed along the right-of-way of any state or county maintained road.

ARTICLE XIV
SUBDIVISION ORDINANCE & ZONING ORDINANCE REVIEW

Developers of major subdivisions or planned unit developments shall designate on preliminary development plans, the existence of Districts and Enhanced Districts within one-half mile of the proposed development.

ARTICLE XV
COUNTY LAND USE PLANNING

A. Duty of the Advisory Board

It shall be the duty of the Advisory Board to advise the Board of Commissioners, or the agency or office to which the Board of Commissioners delegate authority to oversee county land use planning,

on the status, progress, and activities of the county's Voluntary Agricultural District program and Enhanced VoluntaryAgricultural District program and to also coordinate the formation and maintenance of Districts and Enhanced Districts with the county's land use planning activities and the county's land use plan.

B. Posting of Notice

The following notice, of a size and form suitable for posting, shall be posted in the office of the Register of Deeds, and any other office or agency the Advisory Board deems necessary:

Polk County has established Districts and Enhanced Districts to protect and preserve agricultural lands and activities. These districts have been developed and mapped by the county to inform all purchasers of real property that certain agricultural and forestry activities, including but not limited to pesticide spraying, manure spreading, machinery and truck operation, livestock operations, sawing, burning, and other common farming activities may occur in these Districts and Enhanced Districts any time during the day or night. Maps and information on the location and establishment of these Districts and Enhanced Districts can be obtained from the North Carolina Cooperative Extension Service office, the Soil and Water Conservation District office, the office of the Register of Deeds, the County Planning office, or the Natural Resources Conservation Service office.

ARTICLE XVI
CONSULTATION AUTHORITY

The Advisory Board may consult with North Carolina Cooperative Extension office, the Soil and Water Conservation District Office, the Natural Resources Conservation Service office, the North Carolina Department of Agriculture and Consumer Services, and with any other individual, agency, or organization the Advisory Board deems necessary to properly conduct its business.

ARTICLE XVII
NORTH CAROLINA AGENCY NOTIFICATION

Annual Report to the North Carolina Department of Agriculture and Consumer Services

A copy of this Ordinance shall be sent to the Office of the North Carolina Commissioner of Agriculture and Consumer Services, the Board of Commissioners, the North Carolina Cooperative Extension office, and the Soil and Water Conservation District office after adoption. At least annually, the county shall submit a written report to the Commissioner of Agriculture and Consumer Services on the county's Voluntary Agricultural District program and Enhanced Voluntary Agricultural District program, including the following information:

1. Number of landowners enrolled;
2. Number of acres enrolled;
3. Number of acres certified during the reporting period;
4. Number of acres not certified during the reporting period;
5. Number of acres for which applications are pending;

6. Municipalities with which Memorandums of Understanding have been signed;

7. Municipalities with which Memorandums of Understanding are no longer in effect;

8. Municipalities that have adopted this Ordinance for the purpose of the county enforcing this Ordinance within their corporate boundaries;

9. Copies of any amendments to this Ordinance or Memorandums of Understanding signed with municipalities; and

10. Any other information the Advisory Board deems useful.

ARTICLE XVIII
LEGAL PROVISIONS

A. Severability

If any article, section, subsection, clause, phrase, or portion of this Ordinance is for any reason found invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

B. Conflict with Other Ordinances and Statutes

Whenever the provisions of this Ordinance conflict with other ordinances of Polk County, the provisions of those other ordinances shall govern. Whenever the provisions of any federal or state statute conflict with this Ordinance, the provisions of such federal or state statute shall govern. The sole remedy for a land use not complying with this Ordinance shall be revocation of the Conservation Agreement and removal of the non-qualifying land from the Polk County Voluntary Agricultural District and Enhanced Voluntary Agricultural District Program. Recreational use of land that does not interfere with agricultural uses as defined in N.C.G.S. § 106-581.1 shall not be considered non-compliant with this Ordinance.

C. Amendments

This Ordinance may be amended from time to time by the Board of Commissioners.

ARTICLE XIX
ENACTMENT

The Polk County Board of Commissioners hereby adopts and enacts the preceding articles and sections of this Ordinance.

The Polk County Board of Commissioners hereby adopt and enact the preceeding articles and sections of this ordinance.

Adopted this the _____ day of _____, _____.

Motion for adoption by _____, seconded by

_____.

ATTEST:

POLK COUNTY BOARD
OF COMMISSIONERS

_____
Clerk to the Board

_____
Chair

Approved as to form:

_____
County Attorney

BOARD OF COMMISSIONERS
AGENDA ITEM REPORT

MEETING DATE

February 17, 2025

AGENDA ITEM # 8.C

Award Service Contracts for Brush Grinding and Hauling and to approve the associated Budget Amendment – Travis Ballard, Solid Waste Director.

ATTACHMENTS

1. Grinding - Compost Now Inc. Industrial Polk County Proposal
2. Hauling - Compost Now Inc. Industrial Polk County Proposal
3. Solid Waste Budget Amendment

CompostNow Inc. Industrial Services
PO Box 12152
Raleigh, NC 27605-2152
817-617-9468

January 21, 2025

Travis Ballard
Polk County Solid Waste Department
PO Box 308
Columbus, NC 28722

Travis:
We'd like to submit a quote for **Brush and Wood Waste Grinding** at The Polk County Transfer Station in Mill Spring, NC.

We propose to grind tree, brush, and stump material (estimated at 4,500 tons) for the following rate:

Grinding - $19/ton. *(Mobilization charges included).*

We would be ready to start in February (with 2-week notice) and anticipate a total of 3-4 weeks (in good conditions) to complete the grind. Below are a few basic conditions:

- Best faith efforts will be made by Polk County to keep contamination out of brush piles (rock, dirt, metal, etc.).
    - Parts cost for damage (beyond regular wear items) to the grinder caused by contamination in the pile (i.e., Metal) that goes undetected will be added to the bill at cost. This total amount will be capped at $10,000.
- Excessively contaminated piles cannot be ground and will need to be disposed of in a different manner.
- Necessary measures will be taken by Polk County (road created, graded, and graveled if necessary) to ensure tractor trailer access to the site for equipment delivery and material haul off.
- CompostNow in partnership with TOPO Industries will provide equipment and load our own trucks.
- Material will be processed thru 4in screens to meet power plant spec.
- Payment will be due in full 30 days after completion.

Signature of this proposal is acceptance of the above terms.



This instrument has been pre-audited in the manner required by The Local Government Budget and Fiscal Control Act.

_____
Sandra Hughes, Government Unit Finance Officer

Sincerely,

Justin Senkbeil, Chief Executive Officer, CompostNow

Proposal Accepted By: _____ Date: _____

CompostNow Inc. Industrial Services
PO Box 12152
Raleigh, NC 27605-2152
817-617-9468

Brush and Wood Waste Grinding

Contact Sheet:

Operations Contact:

Matt Whatley, TOPO Industries
Email: matt@topoindustries.com
Telephone: (404) 317-9483

Please direct all operations questions to Matt.

Administrative Contact(s):

Justin Senkbeil, CEO, CompostNow
Email: justin@compostnow.org
Telephone: (910) 603-1816

Kate Emrich, Executive Assistant and Project Coordinator, CompostNow
Email: kate.emrich@compostnow.org
Telephone: (817) 617-9468

Please direct all administrative and billing questions to Justin and Kate.

CompostNow Inc. Industrial Services
PO Box 12152
Raleigh, NC 27605-2152
817-617-9468

Brush and Wood Waste Grinding

References:

1. Company Name: Houston County Landfill
Brief Description of Project: Quarterly Grinding
Completion Date: Ongoing
Contact Person: Craig Duke
Telephone: 478-550-6797

2. Company Name: Henderson County Landfill
Brief Description of Project: Quarterly Grinding
Completion Date: Ongoing
Contact Person: Greg Wiggins
Telephone: 828-301-7555
E-Mail Address: gwiggins@hendersoncountync.gov

3. Company Name: City of Griffin Landfull
Brief Description of Project: Quarterly Grinding
Completion Date: Ongoing
Contact Person: Dee Mays
Telephone: 770-403-7538
E-Mail Address: dmays@cityofgriffin.com

Contractor Name: TOPO Industries

Project Lead: Matt Whatley, TOPO Industries

CompostNow Inc. Industrial Services
PO Box 12152
Raleigh, NC 27605-2152
817-617-9468

January 21, 2025

Travis Ballard
Polk County Solid Waste Department
PO Box 308
Columbus, NC 28722

Travis:
We'd like to submit a quote for hauling the ground brush and wood waste at The Polk County Transfer Station in Mill Spring, NC.

We propose to haul-off ground tree, brush, and stump material (estimated at 4,500 tons) for the following rates:

Hauling - $9/ton. *(Note. We can only offer hauling services if we perform the grinding due to the need to control the quality of the finished product).*

Below are a few basic conditions:

- Necessary measures will be taken by Polk County (road created, graded, and graveled if necessary) to ensure tractor trailer access to the site for equipment delivery and material haul off.
- CompostNow in partnership with TOPO Industries will provide equipment and load our own trucks.
- Payment will be due in full 30 days after completion.

Signature of this proposal is acceptance of the above terms.

This instrument has been pre-audited in the manner required by The Local Government Budget and Fiscal Control Act.

_____
Sandra Hughes, Government Unit Finance Officer

Sincerely,

Justin Senkbeil, Chief Executive Officer, CompostNow

Proposal Accepted By: _____ Date: _____

POLK COUNTY FINANCE
BUDGET AMENDMENT
DATE: 2/17/2025 BOC meeting
Dept: **Solid Waste**

BATCH #: _____

Transfer # 21

INCREASE BUDGETED EXPENDITURE			DECREASE BUDGETED EXPENDITURE		
GL ACCOUNT #			GL ACCOUNT #		
51-4720-5000-0	Capital	$ 50,000			
51-4720-4406-0	Brush Removal	70,000	51-4720-9911-0	Fund Balance Designated	$ (120,000)
		$ 120,000			$ (120,000)

EXPLANATION: Transfer excess budget line for purchase of forklift andfor brush grinding

Transfers greater than $20,000 require Board approval

Date approved & entered into the BOC minutes

COUNTY MANAGER

FINANCE OFFICER

POLK COUNTY FINANCE
BUDGET AMENDMENT: Department: 4720 - Polk County Solid Waste

Amendment # _____

DATE: FEBRUARY 10, 2025 Batch & Line # _____

Please list the account number you wish to transfer to (Increase) and from (decrease)
and the amount to transfer. The total for increase must be equal to the total for decrease.
You can, for example, increase 3 different numbers and decrease 1 by the amount of the 3 increases.

DEBIT B/A INCREASE BUDGET LINE:	AMOUNT	CREDIT B/A DECREASE BUDGET LINE:	AMOUNT
CAPITAL OUTLAY 51-4720-5000-0	$ 50,000	FUND BALANCE DESIGNATED 51-4720-9911-0	$ 50,000
BRUSH REMOVAL 51-4720-4406-0	$ 70,000	FUND BALANCE DESIGNATED 51-4720-9911-0	$ 70,000
	$		$
	$		$
	$		$
TOTAL	$ 120,000	TOTAL	$ 120,000

EXPLANATION: FOR BRUSH GRINDING AND PURCHASE OF FORKLIFT

TRANSFER REQUESTED BY: Travis Ballard 2-10-25
Department Head/Supervisor Date

TRANSFER APPROVED BY: _____
County Manager Date

BOARD OF COMMISSIONERS
AGENDA ITEM REPORT

MEETING DATE

February 17, 2025

AGENDA ITEM # 8.F

Discussion and approval of the 2025/2026 Budget Calendar - Sandra Hughes, Finance Director.

ATTACHMENTS

1. Polk County 2025/2026 Budget Calendar

School of Government
Recommended Practice
Draft: 02/17/2025

POLK COUNTY
Budget Calendar

February 17, 2025	Board discusses/approves Budget Calendar	Monday-regular meeting
March 7, 2025	County Departments Receive Budget Open System Notice	Friday - Online
March 7- March 31,2025	All Departments & Agencies Prepare Budget Request	3 wks. to prepare- due Monday
March 15, 2025	Fire Departments & Rescue Squad Submit Budgets to the County & FRAC. Outside Agencies Submit Budget Requests-Estimate if Necessary	Saturday
March 31, 2025	County Departments Submit Budgets to Finance Department	Monday
March 31 - April 11, 2025	Finance Inputs Budget Requests	2 wks. to prepare- due Friday
April 11, 2025	All Budget Agency Final Requests are Due	Friday
April 14 April 25, 2025	Manager Reviews Requests & Meets with Department Mgrs.	2 weeks- Monday-Friday
April 28 - May 9, 2025	Prepare Budget Presentation	2 weeks- Monday-Friday
May 12, 2025	Manager Presents Balanced Budget to Board of Commissioners (Special Meeting - 9:00am)	Monday 9:00am
May 12, 2025	Publish statement that the budget has been submitted & Advertise Public Hearing for Budget Ordinance for 6/2/25	Monday
May 19, 2025	Board of Commissioner Budget Work Session - 1:00pm (Regular meeting to follow)	Monday
May 20, 2025	Board of Commissioner Budget Work Session - 3:00pm	Tuesday
June 2, 2025	Board of Commissioner Budget Work Session - 5:00pm Budget Public Hearing to Follow - Special Meeting to Follow	Monday
June 16, 2025	Board of Commissioners Adopt Tax Levy and Ordinance (Regular Meeting)	Monday
June 18, 2025	Ordinance Available on County Website	Wednesday