



## REQUEST FOR BOARD ACTION

ITEM NO. 19,

**DATE OF MEETING:** March 19, 2012

**REQUESTED BY:** Kyle M. Breuer, Director, Planning and Community Development Department

**SHORT TITLE:** Resolution to Amend the Pender County Unified Development Ordinance, Sections 3.4.1, 3.4.6, 5.2.3, 5.3.3.B, 5.3.3.C, 10.5.1.C.1.2, 12.4.10.C.1, and Appendix D; Along with the Creation of Additional Sections 10.7.2, 12.4.6, and 12.4.10.C.2.a.

**BACKGROUND:** The proposed amendment clarifies various issues that have arisen concerning reviewing and approving Conditional Rezonings, Cottage Occupation Permits, Home Occupation Permits, Preliminary Plats, and Final Plats. In addition, the proposed amendment reflects changes in the enforcement procedures for temporary signs based off of direction from the Planning Board and Board of County Commissioners. The specific request consists of amending Sections 3.4.1, 3.4.6, 5.2.3, 5.3.3.B, 5.3.3.C, 10.5.1.C.1.2, 12.4.10.C.1, and Appendix D; along with the creation of additional Sections 10.7.2, 12.4.6, and 12.4.10.C.2.a.

**SPECIFIC ACTION REQUESTED:** To hold a public hearing and consider a resolution to amend the Unified Development Ordinance, Sections 3.4.1, 3.4.6, 5.2.3, 5.3.3.B, 5.3.3.C, 10.5.1.C.1.2, 12.4.10.C.1 and Appendix D; along with the creation of additional Sections 10.7.2, 12.4.6, and 12.4.10.C.2.a.

**RESOLUTION**

**NOW, THEREFORE, BE IT RESOLVED**, that on March 19, 2012 the Pender County Board of Commissioners (approved, modified, denied) a zoning text amendment request, as described herein. The Chairman/County Manager is authorized to execute any/all documents necessary to implement this resolution.

AMENDMENTS:

MOVED \_\_\_\_\_ SECONDED \_\_\_\_\_

APPROVED \_\_\_\_\_ DENIED \_\_\_\_\_ UNANIMOUS \_\_\_\_\_

YEA VOTES: Brown: \_\_\_\_\_ Tate: \_\_\_\_\_ Rivenbark: \_\_\_\_\_ Ward: \_\_\_\_\_ Williams: \_\_\_\_\_

\_\_\_\_\_  
George R. Brown, Chairman 3-19-2012  
Date

\_\_\_\_\_  
ATTEST 3-19-2012  
DATE  
Delivered

## PLANNING STAFF REPORT

### Zoning Text Amendment

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#### SUMMARY:

**Hearing Date:** Planning Board – March 6, 2012  
Board of County Commissioners – March 19, 2012

**Applicant:** Administrator, Division of Planning

**Application Number:** ZTA 10662 Pender County

**Text Amendment Proposal:** The request consists of amending the following sections within the Pender County Unified Development Ordinance: Sections 3.4.1, 3.4.6, 5.2.3, 5.3.3.B, 5.3.3.C, 10.5.1.C.1.2, 12.4.10.C.1, and Appendix D; along with the creation of additional Sections 10.7.2, 12.4.6, and 12.4.10.C.2.a, as well as revising references in Article 1-12 and Appendix A.

**Background:** The proposed amendment clarifies various issues that have arisen concerning reviewing and approving Conditional Rezonings, Cottage Occupation Permits, Home Occupation Permits, Preliminary Plats, and Final Plats. In addition, the proposed amendment reflects changes in the enforcement procedures for temporary signs based off of direction from the Planning Board and Board of County Commissioners. The specific request consists of amending Sections 3.4.1, 3.4.6, 5.2.3, 5.3.3.B, 5.3.3.C, 10.5.1.C.1.2, 12.4.10.C.1, and Appendix D; along with the creation of additional Sections 10.7.2, 12.4.6, and 12.4.10.C.2.a, as well as revising references in Article 1-12 and Appendix A.

**Planning Board Recommendation:** The Pender County Planning Board, at the March 6, 2012 meeting voted unanimously to pass a motion recommending approval of this request.

**Administrator Recommendation:** Administrator respectfully recommends **amending** the Unified Development Ordinance as described in the staff report and supporting documentation:

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The following outline describes the proposed amendments by topic. The proposed amendment clarifies various issues that have arisen concerning permitting and approving temporary signs, Conditional Rezonings, Cottage Occupation Permits, Home Occupation Permits, Preliminary Plats, and Final Plats. A detailed description of all the changes is included in the informational packet which has been distributed to accompany this report.

#### Temporary Signs

Due to a high number of non-compliance related complaints, Planning and Code Enforcement Staff were directed to implement a program or system of tracking use and compliance of temporary signs throughout the county. In August, 2011, following Planning Board recommendation, Staff presented to the Board of Commissioners, a civil summons program to be implemented for repeat violations of the Unified Development Ordinance (UDO), specifically the use of temporary signs.

Following the presentation and direction from the Board, Staff has conducted outreach and development of an on-line approval process and tracking system for the management of temporary

ten (10) consecutive days per calendar year. This change will allow for staff to track the number of days a particular establishment is utilizing a temporary sign

The following amendment also addresses the enforcement procedures in relation to temporary sign violations. The provision will establish a direct civil citation/fine for violators of this requirement

#### Conditional Rezoning

Staff is proposing to clarify language regarding reviewing conditional rezonings. Current language detailing the conditional rezoning process has led to ambiguity regarding which process, conditional or conditional use, is to be utilized by applicants. Existing provisions discuss methods of procedure for both types of rezoning, rather than a distinction among the two. As a result, staff is proposing the removal of language that references the conditional use rezoning process in order to refine existing language addressing the conditional rezoning process. The conditional rezoning process is a method of rezoning where a specific site plan or specified use are identified and a rezoning decision is made while incorporating individualized conditions and site plan provisions. The removal of specific provisions will result in effective language for reviewing conditional rezonings in the future.

#### Cottage Occupations and Home Occupations

Staff is proposing to revise existing standards for cottage occupation and home occupation permits referenced in Section 5.3.3.B and Section 5.3.3.C. Currently, standards outlined in the Unified Development Ordinance are not consistent with requirements listed in Appendix A – Definitions. Additionally, the proposed amendment will allow cottage occupations and home occupations to be permitted in legal non-conforming residential structures in the GB, General Business zoning districts.

#### Appendix D – Typical Forms and Surveyor Notes

Additional revisions are proposed for Appendix D to clarify items that have been brought to Staff's attention regarding certificates, forms, and surveyor notes required on preliminary and final plats. Proposed revisions are to create a more user friendly Appendix that is consistent with the remaining Unified Development Ordinance.

#### **Evaluation:**

**As prescribed in the Pender County Unified Development Ordinance (UDO) Article 3.18.5** in evaluating any proposed ordinance text amendment, the Planning Board and the County Commissioners shall consider the following:

- 1) The extent to which the proposed text amendment is consistent with the remainder of the Ordinance, including, specifically, any purpose and intent statements;
- 2) The extent to which the proposed text amendment represents a new idea not considered in the existing Ordinance, or represents a revision necessitated by changing circumstances over time;
- 3) Whether or not the proposed text amendment corrects an error in the Ordinance; and
- 4) Whether or not the proposed text amendment revises the Ordinance to comply with state or federal statutes or case law.

In deciding whether to adopt a proposed Ordinance text amendment, the central issue before the County Commissioners is whether the proposed amendment advances the public health, safety or welfare and is consistent with any adopted County Land Use Plan documents, the CAMA Land Use Plan, and the specific intent of this Ordinance.

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Comprehensive Land Use Plan Compliance:

There are no conflicting policies within any adopted land use documents.

**Staff Recommendation:**

The proposed text amendment is consistent with the remainder of the Ordinance, including, specifically, any purpose and intent statements. The Pender County Planning Board, unanimously, passed a motion recommending approval; therefore, staff respectfully recommends that the amendments are approved as presented.

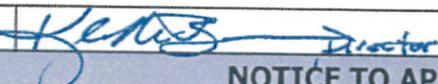
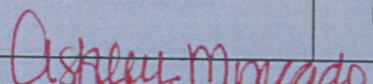
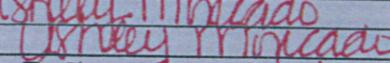
**Planning Board**

Motion: Edens Seconded: Garrett

Approved: X Denied: \_\_\_\_\_ Unanimous: \_\_\_\_\_

Boney \_\_\_\_\_ Smith \_\_\_\_\_ Edens X Garrett X Marshburn \_\_\_\_\_ Millette X Williams X

## APPLICATION FOR TEXT AMENDMENT

THIS SECTION FOR OFFICE USE			
Application No.	ZTA 10062	Date	1/20/2012
Application Fee	\$ N/A	Receipt No.	
Pre-Application Conference	N/A	Hearing Date	3/6/2012 3/19/2012
<b>SECTION 1: APPLICANT INFORMATION</b>			
Applicant's Name:	Pender County Planning and Community Development Department		
Applicant's Address:	805 S. Walker Street		
City, State, & Zip	Burgaw, NC 28425		
Phone Number:	910-259-1202		
<b>SECTION 2: UDO TEXT TO BE AMENDED</b>			
Current Text to be Amended (Please site accurate Article number referenced):			
Sections 3.4.1, 3.4.6, 5.2.3, 5.3.3.B, 5.3.3.C, 6.5.C, and Appendix D			
Proposed Text to be added:			
<b>SECTION 3: SIGNATURE</b>			
Applicant's Signature	 Director		Date: 1-20-2012
<b>NOTICE TO APPLICANT</b>			
If the applicant makes significant changes to the application for a text amendment after the Planning Board has made its recommendation, the Administrator may refer the modified request back to the Planning Board for an additional public hearing.			
<b>TEXT AMENDMENT CHECKLIST</b>			
<input checked="" type="checkbox"/>	Signed application form		
<input type="checkbox"/>	Application fee N/A		
<input checked="" type="checkbox"/>	A letter describing, in detail the intent and purpose of the amendment presented, meeting the approval criteria set forth in Section 3.18.5 of the Pender County UDO (shown on page 1 of this application)		
<b>Office Use Only</b>			
<input type="checkbox"/> ZTA Fees: \$250 N/A		<b>Total Fee Calculation:</b>	
Payment Method:	Cash : <input type="checkbox"/> \$ _____	Credit Card: <input type="checkbox"/> Master Card <input type="checkbox"/> Visa	Check: <input type="checkbox"/> Check # _____
Application Received By:			Date: 1/20/2012
Application completeness approved by:			Date: 1/20/2012
Dates Scheduled for Public Hearings:	<input checked="" type="checkbox"/> Planning Board: 3/6/2012	<input checked="" type="checkbox"/> BOC: 3/19/2012	

Print Form

## APPLICATION FOR TEXT AMENDMENT

THIS SECTION FOR OFFICE USE			
Application No.	ZTA case # 10655	Date	12.28.2011
Application Fee	\$ n/a	Receipt No.	n/a
Pre-Application Conference	n/a	Hearing Date	2.7.2012
SECTION 1: APPLICANT INFORMATION			
Applicant's Name:	Pender County		
Applicant's Address:	805 South Walker Street		
City, State, & Zip	Burgaw, NC 28425		
Phone Number:	910-259-1202		
SECTION 2: UDO TEXT TO BE AMENDED			
Current Text to be Amended (Please site accurate Article number referenced):			
Pender County is requesting approval of a zoning text amendment to Article 10 Signs and Article 12 Enforcement and Penalties, of the Pender County Unified Development Ordinance.			
The request is to amend Sections 10.5.1.C.1.2, and 12.4.10.C.1; and the addition of Section 10.7.2, Section 12.4.6, and Section 12.4.10.C.2.a.			
Proposed Text to be added:			
Please see attached language			
SECTION 3: SIGNATURE			
Applicant's Signature			Date: 2/1/12
<b>NOTICE TO APPLICANT</b>			
If the applicant makes significant changes to the application for a text amendment after the Planning Board has made its recommendation, the Administrator may refer the modified request back to the Planning Board for an additional public hearing.			
TEXT AMENDMENT CHECKLIST			
<input checked="" type="checkbox"/>	Signed application form		
<input type="checkbox"/>	Application fee		
<input checked="" type="checkbox"/>	A letter describing, in detail the intent and purpose of the amendment presented, meeting the approval criteria set forth in Section 3.18.5 of the Pender County UDO (shown on page 1 of this application)		
Office Use Only			
<input type="checkbox"/> ZTA Fees: \$250		Total Fee Calculation: n/a	
Payment Method:	Cash: <input type="checkbox"/> \$ _____	Credit Card:	Check: <input type="checkbox"/> Check # _____
n/a		<input type="checkbox"/> Master Card <input type="checkbox"/> Visa	
Application Received By:			Date: 12.28.2011
Application completeness approved by:			Date: 12.28.2011
Dates Scheduled for Public Hearings:	<input checked="" type="checkbox"/> Planning Board: 2.7.2012	<input type="checkbox"/> BOC:	

Print Form

PH - 2.21.2012  
Hearing 3.19.2012

### 3.4 CONDITIONAL REZONING

#### 3.4.1 Intent

- A. ~~Conditional zoning districts hereby included are to allow for the consideration of certain uses that are permitted uses in the underlying zoning district but due to their nature may not be appropriate for a particular location.~~
- B. A conditional zoning district is intended for a development that has a high level of certainty of being constructed and the most commonly expected application will contain a specified use or uses, **permitted by right or special use**, on small and large scale projects.
- C. ~~Although, it is not intended to be used for speculative purposes, a conditional zoning district applicant may include as part of the application, a list of uses which will not be developed on the property.~~
- D. All uses listed as part of any application must be in the same format and description as listed in the Table of Permitted Uses.
- E. The following zoning district categories are approved to be assigned conditional zoning districts: **RA**, PD, RP, RM, GB, OI, IT, GI (Reference ~~Section 4.7~~ **Article 4** for Zoning District Descriptions).

#### 3.4.6 Effect of Approval

- A. If a petition for conditional zoning is approved, the development and use of the property shall be governed by the predetermined Ordinance requirements applicable to the district's classification, the approved general development plan for the district, and any additional approved rules, regulations, and conditions, all of which shall constitute the zoning regulations for the approved district and are binding on the property as an amendment to these regulations and to the zoning maps.
- B. ~~If a petition is approved, only those uses and structures indicated in the approved petition and site plan or land use area indicated on the general development plan shall be allowed on the subject property.~~
- C. Following the approval of the petition for a conditional zoning district, the subject property shall be identified on the zoning maps by the appropriate district designation. A parallel conditional zoning shall be identified by the same designation as the underlying general district followed by the letters "CD" (for example "RP-CD").
- D. The general development plan does not substitute for an approved master plan as required in the applicable zoning district.
- E. No permit shall be issued for any development activity within a conditional zoning district except in accordance with the approved petition and site plan for the district.
- F. Any violation of the approved site plan or any rules, regulations and conditions for the district shall be treated the same as any other violation of this Chapter and shall be subject to the same remedies and penalties as any such violation.

5.2.3 Table of Permitted Uses

TABLE OF PERMITTED USES											
P=Permitted Use D=Permitted w/ Use Standards S=Special Use Approval Required SD=Special Use Approval Required w/ Additional Standards PM=Permitted in conjunction w/ the MDP process											
Use Category Specific Use Type	Ref NAICS	Residential			Mixed Use	Commercial	Industrial			Special Purpose	
		RA	RP	RM	MH	PD	GB	OI	IT	GI	EC
<b>ACCESSORY USES AND STRUCTURES</b>											
Cottage Occupations		SD	SD	SD		SD	SD				
Home Occupation		D	D	D	D	D	D				

5.3.3 Accessory Uses and Structures

B. Cottage Occupation – Cottage Occupations shall be permitted in zoning districts as indicated in Section 5.2.3, Table of Permitted Uses, via Special Use Permit with an approved Special Use Permit in zoning districts indicated in Section 5.2.3, Table of Permitted Uses, with the following limitations:

- 1) The floor area of the cottage occupation cannot exceed the total floor area of the primary residence. The use must be clearly incidental and secondary to the use of the property for residential purposes.
- 2) No cottage occupation shall be permitted which creates objectionable noise, dust, smoke, odor, glare, or traffic attraction greater than that of other residential properties in the vicinity. The use shall not change the character or area of the structure or have any exterior evidence of the occupation.
- 3) The floor area of the cottage occupation cannot exceed the total floor area of the primary residence.
- 4) No cottage occupation shall be permitted which creates objectionable noise, dust, smoke, odor, glare, or traffic attraction greater than that of other residential properties in the vicinity.
- 5) Workers not living on the property shall be limited to three (3) persons per day.
- 6) Proposed Cottage Occupation permits in the GB, General Business district, shall not expand or increase the existing non conforming use or structure.

- C. Home Occupation - Home occupations are permitted only as an accessory use and require zoning approval. Home occupations shall be permitted subject to the following limitations:
- 1) ~~No display of products shall be visible from the street~~ Any activity related to the proposed business is carried on wholly within the principal building or structure.
  - 2) ~~No mechanical equipment shall be installed or used except such that is normally used for domestic, professional, or hobby purposes and which does not cause noise or other interference in radio and television reception;~~ At least one (1) member of the household, residing on the premise, must be included in the operation of the proposed business.
  - 3) ~~No accessory buildings or outside storage shall be used in connection with the home occupation;~~ The business is clearly incidental and secondary to the use of the dwelling unit for residential purposes with no exterior display, no exterior storage of materials, and no exterior indication of the home occupation or variation from the residential character of the principal building and neighborhood.
  - 4) Not over twenty-five percent (25%) of the total actual floor area or five hundred (500) square feet, whichever is less, shall be used for a home occupation.
  - 5) ~~Not over twenty-five percent (25%) of the total actual floor area or five hundred (500) square feet, whichever is less, shall be used for a home occupation;~~ No home occupation shall produce any offensive noise, vibrations, smoke, dust, heat, odor, glare, traffic hazard or congestion, or have an adversely affect on the surrounding properties.
  - 6) ~~Only two (2) person(s) outside of the dwelling may be engaged in the home occupation; and,~~ Requires no internal or external alterations, construction features, equipment, or machinery not customary in residential areas.
  - 7) Traffic generation shall not exceed the traffic volumes generated by nearby residents.
  - 8) Only two (2) persons outside of the dwelling may be engaged in the home occupation; and
  - 9) No mechanical equipment shall be installed or used except such that is normally used for domestic, professional, or hobby purposes and which does not cause noise or other interference in radio and television reception.
  - 10) Proposed Home Occupation permits in the GB, General Business district, shall not expand or increase the existing non conforming use or structure.

## 6.5 FINAL PLAT CONTENTS

### C. Certificates Required on Final Plat

The following Certificates can be found in Appendix D.

- 1) Certificate of Ownership, Dedication and Jurisdiction
- 2) Certificate of Approval Subdivision Public Road Construction by NCDOT District Engineer
- 3) Surveyor Certificate I
- 4) Surveyor Certificate II
- 5) Surveyor Certificate III
- 6) Parcel Identifier Certificate
- 7) Certificate of Registration by Register of Deeds (unsigned)
- 8) Certificate of Final Plat Approval

**ARTICLE 10      SIGNS****10.1      INTENT**

The intent of this Article is to regulate the erection, number, area, height, location, type and maintenance of signs to promote the health, safety and general welfare of the public and the orderly development of the County by protecting property values, and providing adequate signage for businesses and motorists; protecting and enhancing the image, appearance and economic vitality of the County. Any type of sign not currently listed in this Article shall be prohibited.

**10.2      ADMINISTRATION, FILING PROCEDURE AND APPROVALS****10.2.1 Approval Procedure Applications for approval to construct or install all signs shall be submitted on forms obtained from the Administrator showing the following:**

- C.      Surface area of the sign;
- D.      Size, character, general layout and designs proposed for painted display;
- E.      The method and type of illumination, if any;

*Commentary: Each applicant for sign approval must apply for a building permit, if applicable.*

- F.      The location proposed for such signs in relation to property lines, zoning district boundaries, if applicable, right-of-way lines, and existing signs; and
- G.      If conditions warrant it, the Administrator may require such additional information that will enable them to determine if such sign is to be erected in conformance with the requirements of this Ordinance.

**10.3      GENERAL PROVISIONS****10.3.1 Traffic Safety. No sign shall be erected or constructed that:**

- C.      Obstructs the sight distance at intersections or along a public right-of-way;
- D.      Would, by its location, color, or nature, tend to be confused with or obstruct the view of traffic signs or signals, or would be confused with a flashing light of an emergency vehicle; or which might be confused with traffic directional signals and signs such as "stop", "go", "slow", "danger", etc.

**10.3.2 Certain Signs Prohibited**

No sign shall be attached to or painted on any telephone pole, light pole, telegraph pole, or other man-made objects not intended to support a sign or any tree, rock, or other natural objects.

**10.3.3 Special Use Permits**

A Zoning Approval for uses which require a Special Use Permit shall not be issued until a Special Use Permit is approved by the Board of County Commissioners.

## 10.4 EXEMPTIONS

### 10.4.1 The following types of signs are exempt from the application of the regulations herein:

- C. Signs unlighted, not exceeding two (2) square feet in area and bearing only property numbers, mail box numbers, post office numbers, and the name of the owner or occupant of the premises. Such signs shall not exceed two (2) square feet in area per occupant. If more than one (1) sign or nameplate is required, the total allowable sign area shall not exceed eight (8) square feet.
- D. Flags and insignia of any government.
- E. Holiday decorations in season.
- F. Integral decorative or architectural features of buildings, including signs which denote only the building name, date of erection or street number.
- G. Signs directing and guiding traffic and parking on private property.
- H. Signs which cannot be seen from public road or right-of-way.
- I. The act of changing advertising copy of messages on any sign designated for the use of replaceable copy such as a ready board or product price sign or on sign having its own changing copy capacity such as a time-and-temperature sign.
- J. Interior Window Signs located on the interior of the windows and with a total area not exceeding 1/2 square foot per lineal foot of the building front wall space.
- K. State required signs, i.e., inspections at service stations etc.
- L. Off-Site real estate signs not exceeding six (6) square feet

## 10.5 SIGNS NOT REQUIRING ZONING APPROVAL

### 10.5.1 The following signs may be erected, hung, or placed without zoning approval from the Administrator, but shall not be illuminated unless otherwise specified.

- C. Temporary Real Estate Sign
  - 1) One (1) on-premise temporary real estate sign not exceeding ten (10) square feet in area shall be allowed per residential lot. One (1) on-premise temporary real estate sign not exceeding thirty-two (32) square feet in area shall be allowed, for commercial or industrial property, and/or for tracts of land five (5) acres or more in area. Where the property on which said sign is to be placed faces more than one (1) road, one (1) such sign shall be allowed on each road frontage.
- D. Temporary Construction Sign
  - 1) One (1) construction sign may be erected on a site during the period of construction or reconstruction of a building or other similar project.
- ~~E. Other Temporary Signs~~
  - ~~1) One sign, including portable signs and banners, for promotional purposes by a business may be displayed on the premises for a period not to exceed ten (10) calendar days during each month, with a maximum total size of sixty (60) square feet.~~

- a) ~~Shopping Centers and multi-tenant developments may utilize one banner, for promotional purposes which may be displayed. Such banner shall be affixed to the development's existing, permanent, free-standing sign and shall be displayed for no more than ten (10) calendar days during each month. The maximum allowable square footage shall be sixty (60) square feet.~~
- i) ~~Shopping centers or multi-tenant with more than 5 units or 400' or more of road frontage may utilize two (2) banners for ten (10) days per month.~~
- 2) ~~Pennants, ribbons, posters, streamers, strings of light bulbs, or other similar devices may be displayed for a period of not more than forty-five (45) days on the occasion of the opening of a new business.~~
- 3) Directional signs advertising a public event and located off premises may be displayed on private property not more than one (1) week in advance of the event and not more than two (2) days after the completion of the event. No such sign shall exceed six (6) square feet in area.
- 4) Political campaign signs may be posted on private property only after the official campaign period has begun and must be removed within 30 days after primary election for the loser, and 30 days after the general election for everyone. Such signs shall not exceed thirty-two (32) square feet in area.

#### **10.5.2 Direction, Information or Public Service Signs**

- C. Direction or information signs of public or quasi-public nature will not need zoning approval if the sign does not exceed thirty-two (32) square feet in area. Such signs shall only be used for the purpose of stating or calling attention to:
- 1) The name or location of the county, hospital, community center, public or private school, church, synagogue, or other place of worship, may be illuminated;
  - 2) The name and place of meeting of an official body, may be illuminated;
  - 3) Zoning and subdivision jurisdiction; and
  - 4) An event of public interest such as public hearing, election, rezoning announcement, church and public meeting, local or county fair, and other similar community activities and campaigns.

#### **10.5.3 Setback Requirements**

Signs which do not require zoning approval shall be set back at least five (5) feet from any public right-of-way or property line whichever is greater.

#### **10.5.4 Religious and Civic Events**

A sign advertising a non-commercial occasional activity of a religious or civic activity or event sponsored by a public body or a private charitable or other non-profit entity. All such signs shall be removed within thirty (30) days after the event.

## **10.6 SIGNS APPROVED IN RESIDENTIAL DISTRICTS AND RURAL AGRICULTURAL DISTRICTS**

### **10.6.1 Subdivisions**

Permanent signs for subdivisions and residential developments shall not exceed thirty (30) square feet in area. One (1) sign may be erected at each major entrance to the subdivision, but shall be located on private property no closer than ten (10) feet to any property line. No sign shall exceed six (6) feet in height above ground level, and illumination shall be restricted to indirect white lighting. Two one sided signs no larger than 20 sq. ft. may be approved on either side of the entrance consistent with the above conditions.

### **10.6.2 Mobile Home Parks**

Permanent signs for mobile home parks, campgrounds, and residential developments shall not exceed twenty (20) square feet in area. One (1) sign may be erected at each major entrance to the Mobile Home Park or campground but shall be located on private property no closer than ten (10) feet to any property line. No sign shall exceed six (6) feet in height above ground level. Illumination shall be limited to indirect white lighting.

### **10.6.3 Multi-Family**

One (1) permanent sign for multi-family residential developments may be erected at each major entrance to the property. Such signs shall not exceed twenty (20) square feet in area and may be flat mounted against the wall of an apartment building or freestanding. If freestanding, such signs shall be set back a minimum of ten (10) feet from any public right-of-way or property line whichever is greater and shall not exceed six (6) feet in height above ground level. Illumination shall be limited to indirect white lighting.

### **10.6.4 Home Occupation**

One (1) sign for each home occupation is allowed, but shall not be closer than ten (10) feet to any property line, or road right-of-way, whichever is greater. Such signs shall not project higher than four (4) feet above ground level, and shall not exceed two (2) square feet in area. If more than one home occupation exists on the premises, total signage shall be combined into one sign location, the total sign area not to exceed ten (10) square feet in area.

## **10.7 SIGNS APPROVED IN THE COMMERCIAL AND MIXED USE DISTRICTS AND NON-RESIDENTIAL USES IN THE RESIDENTIAL DISTRICTS**

**10.7.1 Within the Commercial Districts, Mixed Use Districts and Non-Residential uses in the Residential Districts, the following types of signs are approved. Any residential uses within the Commercial and Mixed Use Districts shall comply with the standards set forth in Section 10.6 of this Article.**

- C. Freestanding Signs
  - 1) 100' To 300' Road Frontage:

- a) One (1) permanent freestanding sign of (32) thirty-two square feet of signage is allowed for the first one hundred (100) feet or less of road frontage. Thereafter the area of the sign may be increased three and two-tenths (3.2) square feet for each ten (10) feet of additional road frontage, up to a maximum sign area of ninety-six (96) square feet for three hundred (300) feet of road frontage.
- 2) 300' to 1,000 Feet Road Frontage:
  - a) Beginning at three hundred (300) feet of road frontage, the area of the sign may be increased 1.5 square feet for each ten (10) feet of additional road frontage, up to a maximum sign area of two hundred (200) square feet for one thousand (1,000) feet of road frontage.
- 3) Corner Lots
  - a) Corner lots may utilize two freestanding signs one for each road frontage, so long as they are not placed closer than fifty (50) feet from the corner intersection and do not exceed the total freestanding sign area allowed.
- D. Sign Height
  - 1) The maximum height of signs described in this Section shall be twenty-five (25') feet.
- E. Wall Signs
  - 1) A permanent wall sign shall be allowed for each separate business establishment provided the total allowable sign area for the wall signs shall not exceed one (1) square foot for each lineal foot of building wall facing a public street.
- F. Canopy/Marquee Sign
  - 1) One (1) sign per business establishment may be suspended from or attached to the underside of a canopy or marquee, provided such sign does not exceed six (6) square feet in area and maintains a clear distance of at least seven and one-half (7-1/2) feet between the sidewalk and the bottom of the sign.
- G. Setbacks
  - 1) No freestanding sign shall be closer than ten (10') feet from any property line.

### 10.7.2 Temporary Signs

- 1) One sign, including portable signs and banners, for promotional purposes by a business may be displayed on the premises for a period not to exceed ten (10) ~~calendar~~ **consecutive** days during each month, with a maximum total size of sixty (60) square feet.
- 2) **Each sign must receive zoning approval prior to placement of any temporary sign. Approval shall be valid for a ten (10) day period.**
  - a) Shopping Centers and multi-tenant developments may utilize one banner, for promotional purposes which may be displayed. Such banner shall be affixed to the development's existing, permanent, free-standing sign and shall be displayed for no more than ten (10) ~~calendar~~ **consecutive** days during each month. The maximum allowable square footage shall be sixty (60) square feet.
  - i) Shopping centers or multi-tenant with more than 5 units or 400' or more of road frontage may utilize two (2) banners for ten (10) days per month.

- 3) Pennants, ribbons, posters, streamers, strings of light bulbs, or other similar devices may be displayed for a period of not more than forty-five (45) days on the occasion of the opening of a new business.
- 4) **Dimensional Standards**
  - a) **Setbacks: Temporary Signs shall be setback a minimum of five (5') feet off of any property line or road right-of-way.**
  - b) **Height: Temporary signs shall not project any higher than fifteen (15') above ground level.**

## 10.8 SIGNS APPROVED IN THE INDUSTRIAL DISTRICTS

### 10.8.1 Within the IT and GI Districts as shown on the Zoning Map, only the following signs shall be allowed:

- C. **Freestanding Signs**
  - 1) One (1) freestanding sign is allowed for each principal use. The area of the sign shall not exceed eighty (80) square feet in area, and shall not project more than twenty-five (25') feet above ground level. Business fronting on more than one (1) public road shall be allowed one (1) free-standing sign for each frontage; provided, however, the combined area of all such signs shall not exceed the allowable sign area of eighty (80) square feet.
- D. **Wall Signs**
  - 1) Permanent wall signs are allowed for each business provided they do not project higher than the building eave or thirty (30) feet, whichever is lower. The location of wall signs is at the option of the owner or tenant. The total allowable sign area for wall signs shall not be more than one (1) square feet per lineal foot of building wall facing a public road.
- E. **Canopy/Marquee Signs**
  - 1) Signs may be suspended from or attached to the underside of a canopy marquee, provided that the total sign area of such signs does not exceed six (6) square feet in area and a clear distance of at least seven and one-half (7-1/2) feet between the sidewalk and the bottom of such signs is maintained.
- F. **Off-Premises Advertising Signs**
  - 1) One off-premises advertising sign may be allowed. In which case the sign shall be setback from any road right-of-way or property line by at least fifty (50) feet, shall not be closer than one hundred (100) feet to any residential property line, shall not project higher than twenty-five (25) feet above ground level, shall not exceed two hundred (200) square feet in area and not closer than 1,000 feet to another off premises advertising sign.

## 10.9 SHOPPING CENTER SIGNS, MALLS, STRIP MALLS AND OFFICE, BUSINESS & INDUSTRIAL PARKS/BUILDINGS

### 10.9.1 Pylon/free Standing Sign

For multi-unit commercial, office & industrial developments under single ownership or under unified control, one (1) pylon or free standing sign shall be allowed for each street frontage not to exceed two signs per development and the total sign area does not exceed 200 sq. ft. When a single frontage

development has 400 or more of road frontage, a second sign will be allowed as long as both signs do not exceed 200 sq. ft.

- C. Such signs shall be subject to the following:
- 1) Content: Such sign shall advertise only the name and location of such center and/or name and type of business of each occupant of the center, or other activities on the site.
  - 2) Area: The gross area in square feet allowed for the pylon/free standing signs shall be one (1) square foot per lineal foot of development frontage; however such signs shall not exceed a total of two hundred (200) square feet.
  - 3) Location: The sign shall not be closer than twenty (20) feet to any property line or road right-of-way and shall not project higher than twenty five (25') feet above ground level.
- D. When a single frontage development has 400 or more feet of road frontage, the following standards shall apply for increased square footage.
- 1) For each additional foot of road frontage exceeding 400', the square footage of the Pylon/free standing sign may be increased by 0.25.
  - 2) The total allowable square footage based on road frontage shall not exceed 350 sq. ft. or 1000' of lineal road frontage and may be divided between two signs following Section 10.9.1.A.3.

### 10.9.2 Wall Signs

In addition to the pylon/free standing sign such developments may have one wall sign, for each tenant. Such wall sign shall be in accord with Section 10.7.1.C of this Section.

### 10.9.3 Free Standing Signs

If a Shopping Center, Mall, Strip Mall, Office, Business & Industrial Park does not utilize a multi-unit free standing sign, each principal structure in the development will be allowed to have one free standing sign, advertising tenants or activities in that structure only. Such sign shall not exceed 32 sq. ft. in area, 10 ft. in height and not be closer than 20' to any street right-of-way or 10' to any parking or access way or structure. The sign and structure for which the sign is erected shall be on a separate lot in the development or the sign shall be within 30' of the front entrance of the structure.

## 10.10 OFF PREMISE DIRECTIONAL REAL ESTATE SIGNS

Residential subdivisions and planned developments containing more than fifteen (15) lots or units shall be permitted to erect one (1) temporary directional off-premise real estate sign directing the public to the subdivision or planned development where property is for sale, rent or lease. The applicant must apply for zoning approval and building permits for each sign. Once issued, the approval is good for a period not to exceed two (2) years. Upon expiration, the approval may be renewed for a period not to exceed two (2) years, provided the applicant reapplies within ten (10) days after expiration. If the applicant/owner fails to remove the sign or reapply within ten (10) days of expiration, the county shall take appropriate violation measures to establish compliance.

- C. Each sign must meet the following criteria:
- 1) Maximum sign area is thirty-two (32) square feet;

- 2) Maximum sign height is ten (10') feet;
- 3) The maximum number of sign faces is one (1) per side of the sign, not to exceed two (2) sign faces. If the sign is located on a property where two public roads intersect, the sign may be constructed so that one sign face faces each road frontage;
- 4) No temporary directional off-premise real estate sign shall be placed within three hundred (300') feet of an existing temporary off-premise real estate sign measured from the same side of the right of way;
- 5) The sign shall not be located within a sight triangle or impede the vision of motorist in any manner;
- 6) The sign shall not be internally or externally illuminated;
- 7) The sign and supporting posts shall be constructed of treated lumber or vinyl, or other materials not prone to rot or decay. The supporting post shall have a maximum dimension of 4" x 4" and be trimmed out at the top and capped with a decorative post cap.
- 8) The sign shall not be located on any property that is currently zoned within a Special Purpose District (Environmental Conservation)
- 9) The sign shall be maintained in substantially similar condition as to when it was originally erected. Maintenance shall include periodic painting, replacement of defective or missing parts, cleaning, and replacement of any sign face that exhibits damage or deterioration. Refer to Section 10.14.

#### **10.11 OUTDOOR ADVERTISING SIGNS ALLOWED ONLY ALONG INTERSTATE 40**

No outdoor advertising sign shall be located any closer than fifteen hundred (1,500) feet off the state right-of-way on Interstate-40. The maximum height of sign on I-40 shall be thirty (30) feet. The maximum size of any one sign shall be two hundred (200) square feet with a maximum length of forty (40) feet. No two (2) outdoor advertising sign structures shall be spaced less than fifteen hundred (1500) feet apart.

#### **10.12 PROHIBITED SIGNS**

##### **10.12.1 Unless otherwise allowed, the following signs are prohibited:**

- C. Banners, posters, pennants, ribbons, streamers, inflatable signs, strings of light bulbs, spinners, or other similar devices except as allowed in Section 10.5.C.2.
- D. Signs which contain, include, or are lighted by any flashing, intermittent or moving lights are prohibited, except those giving public information such as time, temperature, and date.
- E. Signs advertising an activity, business, product, or service no longer conducted on the premises upon which the sign is located.
- F. Roof signs.
- G. Projecting signs and freestanding signs located within a public right-of-way except erected by a governmental agency.
- H. Rotating or revolving signs.
- I. Portable signs as a permanent use.

- J. Obscene signs are prohibited. No sign shall be erected or maintained which bears or contains statements, words, or pictures of an obscene, offensive character or offensive nature.
- K. Signs on parked inoperable vehicles or trailers visible from the public right-of-way where the primary purpose of the vehicle parked at that location is to advertise a product or service or to direct people to a business or activity on the same or nearby property. For the purposes of these regulations, vehicular signs include business logos, identification or advertising on vehicles.

## 10.13 ILLUMINATION

### 10.13.1 Where illuminated signs are allowed, they shall conform to the following requirements:

- C. All signs illuminated under the provisions of this Subsection shall be constructed to meet the requirements of the National Electric Code.
- D. Illuminated signs shall be limited to those lighted internally with glass or plastic faces bearing the advertisements, provided however, that exposed neon tubing and exposed incandescent or other bulbs not exceeding fifteen (15) watts each shall be allowed.
- E. Flood and display lighting shall be shielded so as to prevent direct rays of light from being cast into a residential area or district and/or vehicles approaching on a public right-of-way from any direction. Such lighting shall also be shielded so as to prevent view of the light source from a residence or residential district and/or vehicles approaching on a public right-of-way from any direction.
- F. Flame as a source of light is prohibited

## 10.14 MAINTENANCE AND REMOVAL OF UNSAFE SIGNS

**10.14.1 All signs of any nature shall be maintained in a state of good repair. No sign shall be allowed to remain which becomes structurally unsafe, hazardous or endangers the safety of the public or property. Upon determining that a sign is structurally unsafe, hazardous or endangers the safety of the public or property, the Administrator or their designated agent shall order the sign to be made safe or removed subject to the following provisions:**

- C. The owner of the sign, the occupant of the premises on which the sign or structure is located, or the persons or firm maintaining the same shall, upon written notice by certified mail, return receipt requested from the Administrator, or their designated agent, forthwith in the case of immediate danger and in any case within ten (10) days, secure or repair the sign or structure in a manner approved by the Administrator or their designated agent or remove it.
- D. If such order is not complied with within ten (10) days the Administrator or their designated agent shall remove the sign at the expense of the owner or lessee thereof.
- E. Whenever a sign has been abandoned, advertises an activity, business, product, or service no longer conducted on the premises or is erected in violation of the provisions of this Article, the Administrator shall initiate action to cause such sign structure or face of sign to be removed or brought into compliance in accordance with the method prescribed for nonconforming signs in Section 10.5.

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**ARTICLE 12      ENFORCEMENT AND PENALTIES****12.1    PURPOSE**

This Article sets forth the procedures by which the County seeks correction of violations of this Ordinance. It also sets forth the remedies and penalties the County may apply where necessary to ensure correction of violations. The provisions in this Section are intended to encourage the voluntary correction of violations.

**12.2    APPLICABILITY**

This Ordinance shall be enforceable in accordance with the provisions of G.S.153A-113. The Administrator may revoke any permit or other authorization granted under this Ordinance for failure to comply with the provisions of this Ordinance or the terms and conditions of the permit or authorization, or for false statements or misrepresentations made in securing the permit or authorization, or if the permit or authorization was mistakenly granted in violation of applicable State or local law. If the Administrator determines an imminent hazard exists, he may summarily revoke this permit.

**12.3    VIOLATIONS**

**12.3.1 Any failure to comply with a requirement, prohibition, or limitation imposed by the provisions of this Ordinance, or the terms and conditions of any permit or other authorization granted pursuant to this Ordinance, shall constitute a violation of this Ordinance. One or more of the following responsible parties may be held responsible for a violation of this Ordinance and be subject to the remedies and penalties provided in this Section:**

- C.        A contractor, agent, or any other person who participates in, assists, directs, creates, or maintains a situation that constitutes a violation of this Ordinance, and
- D.        An owner of the property, on which a violation of this Ordinance occurs, or any tenant or occupant of that property who has control over, or responsibility for, its use or development.

**12.4    ENFORCEMENT PROCEDURES****12.4.1 Investigation**

On receiving complaints or other information suggesting a violation of this Ordinance, the Administrator, or other official(s) designated by the Board of County Commissioners shall investigate the situation and determine whether a violation exists. The Administrator or their designated agent shall have the right to enter upon private property at any reasonable time necessary to carry out their duties. All questions arising in connection with enforcement and interpretation shall be presented first to the Administrator. Appeal from their decision may be made to the Board of Adjustment.

**12.4.2 Initial Notice of Violation**

- C. On determining that a violation exists, the Administrator shall give the responsible person(s) written notice of the violation by personal delivery, first class mail, or certified or registered mail, return receipt requested. The notice shall describe the nature of the violation, state the actions necessary to correct the violation, and invite the alleged violator to meet with the Administrator within ten days to discuss the violation and how it may be corrected. The Administrator may provide the alleged violator additional written notices of violation.
- D. If reasonable attempts have been made to effect service of the written notice upon the responsible person(s) by personal delivery, first class mail, or certified or registered mail have been unsuccessful, then notice may be provided by posting the written notice upon the property in a conspicuous place for a period of not less than ten days.
- E. Before revoking a permit or other authorization, the Administrator shall give the holder of the permit or authorization ten days notice of intent to revoke the permit or authorization. The notice shall state the reasons for the intended revocation and state that the holder may have an informal hearing on the intended revocation before the Administrator. On revoking a permit or authorization, the Administrator shall give the holder of the permit or authorization a written notice of the revocation and the reasons for it.

**12.4.3 Final Notice of Violation; Correction Order**

The Administrator's final written notice of violation (which may be the initial notice) shall be served upon the responsible person(s) in the same manner as the Initial Notice of Violation and shall order correction of the violation not to exceed thirty 30 days, state which of the remedies and penalties authorized in Section 12.4.9 the Administrator may pursue if the violation is not corrected within the specified time limit, and state that the correction order may be appealed to the Board of Adjustment.

**12.4.4 Reinstatement of Permit by Zoning Administrator**

The holder of a revoked permit or authorization may, within 90 days after the revocation, submit to the Administrator a written request to reinstate the revoked permit or authorization. On determining that the conditions justifying the revocation have been eliminated and that the development fully complies with all applicable requirements of this Ordinance, the Administrator may reinstate the permit or authorization

**12.4.5 Appeal to the Board of Adjustment.**

- C. Any person aggrieved by the Administrator's determination of a violation or correction order may appeal that determination or order to the Board of Adjustment in accordance with the provisions of Section 3.15, Appeal of Administrative Decision. As provided by that section, an appeal generally stays all further actions to enforce a correction order until the Board of Adjustment has decided the appeal.
- D. If the recipient of a correction order does not appeal the order to the Board of Adjustment within the time limit specified in Section 3.15, Appeal of Administrative Decision, that person may not later appeal to the Board of Adjustment the subsequent imposition of any remedy or penalty specified in the order.

**12.4.6 Appeal of Temporary Sign Violation**

- C. Any person aggrieved by the Zoning Code Enforcement's determination of a violation may appeal that determination to the Administrator.
- 1) Appeals to the Administrator must be taken within ten (10) business days of the receipt of violation.
    - a) The Administrator shall review all pertinent evidence to the case and make a determination within five (5) business days of the appeal hearing.
    - b) If the recipient of a correction order or determination of a violation does not appeal within the allotted time limit specified in 11.4.6.A., that person may not later appeal to the Administrator and will become liable to all civil penalties incurred.

**12.4.7 Extension of Time Limit to Correct Violation**

The recipient of a correction order, or the owner of the property on which the violation occurs, may submit to the Administrator or designated agent, a written request for extension of the order's specified time limit for correction of the violation. On determining that the request includes enough information to show that the violation cannot be corrected within the specified time limit, the Administrator may extend the time limit as reasonably necessary to allow timely correction of the violation.

**12.4.8 Enforcement Action after Time Limit to Correct Violation**

Following the time limit for correction of the violation, including any stay or extension thereof, the Administrator shall determine whether the violation has been corrected. If the violation has been corrected, the Administrator shall take no further action against the alleged violator. If the violation has not been corrected, the Administrator may act to impose one or more of the remedies and penalties specified in the correction order.

**12.4.9 Emergency Enforcement without Notice**

If delay in correcting a violation would seriously threaten the effective enforcement of this Ordinance or pose a danger to the public health, safety, or welfare, the Administrator may seek immediate enforcement without prior written notice through any of the remedies or penalties authorized in Section 12.4.9, below.

**12.4.10 Remedies and Penalties**

The Administrator may pursue one or more of the following remedies and penalties to prevent, correct, or abate a violation of this Ordinance. Use of one of the authorized remedies and penalties does not preclude the Administrator from using any other authorized remedies or penalties, nor does it relieve any party to the imposition of one (remedy or penalty) from imposition of any other authorized remedies or penalties.

- C. Permit Revocation
- 1) In accordance with the provisions of Section 12.2 of this Ordinance and the provisions of N.C.G.S. 153A-362, the Administrator or Building Inspector may revoke any permit or other authorization granted under this Ordinance for failure to comply with the provisions of this Ordinance or the terms and conditions of a permit or authorization granted under this Ordinance.
- D. Permit Denial
- 1) As long as a violation of this Ordinance remains uncorrected, the Administrator may deny or withhold approval of any permit or other authorization provided for in this Ordinance that is sought for the property on which the violation occurs.
- E. Civil Penalty
- 1) Violation of this Ordinance subjects the violator to a civil penalty in the amount of One Hundred (\$100.00) Dollars for each offense. **If the offender fails to remedy the violation and pay any civil penalty within ten days after being cited for said violation (or within the time prescribed by a citation if it provides for a longer period of time than ten days), the civil penalty may be recovered in a civil action in the nature of a debt to be recovered by the county in a civil action in the nature of debts,** as provided in G.S. ~~153A-113(e)~~ **153A-123(c)**. The Administrator shall make written **or in person** demand for payment, delivered by certified mail, return receipt requested, upon the person or persons responsible or their agents and assigns, and shall set forth in detail the violation for which the penalty has been invoked. If payment is not received or equitable settlement reached within thirty (30) days after demand for payment is received, the County may refer the matter to the County Attorney for the institution of a civil action in the nature of debt in the name of Pender County in the appropriate division of the General Court of Justice in Pender County, for recovery of the penalty, and any equitable remedy available to the County.
  - 2) Each day a violation continues, shall constitute a separate and distinct offense, punishable as set forth herein and described above.
    - a) **Violations of Section 10.7.2, Temporary Signs, shall in all cases be deemed a civil penalty in accordance with Section 12.4.9.**
- F. Criminal Penalty
- 1) As provided in Section 14-4 of the North Carolina General Statutes, violation of this Ordinance constitutes a misdemeanor, punishable by a fine up to \$500.00 or imprisoned not more than thirty (30) days.

G. Injunction and Abatement Order

- 1) If a building or structure is erected, constructed, reconstructed, or altered, repaired, converted, or maintained, or any building, structure or land is occupied or used in violation of the General Statutes of North Carolina, this Ordinance, or other regulation made under authority conferred thereby. The Administrator may institute action in the district Court, Civil Division, or any other court of competent jurisdiction for a mandatory or prohibitory injunction and order of abatement commanding the violator to correct or cease a violation of this Ordinance. In addition to an injunction, the court may enter an order of abatement as a part of the judgment in the case. An order of abatement may direct that buildings or other structures on the property be closed, and demolished, or removed; that fixtures, furniture, or other movable property be removed from buildings on the property; that grass and weeds be cut; that improvements or repairs be made; or that any other action be taken that is necessary to bring the property into compliance with this Ordinance. If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, he may be cited for contempt, and the county may execute the order of abatement. The county shall have a lien on the property for the cost of executing an order of abatement.

H. Other Equitable Relief

- 1) In addition to the above remedies and penalties, the Administrator may institute any other appropriate equitable action or proceeding in a court of competent jurisdiction to prevent, correct, or abate a violation of this Ordinance.

**APPENDIX D TYPICAL FORMS AND SURVEYOR NOTES****PERFORMANCE GUARANTEE REQUIREMENTS****Guarantee Required Prior to Signing Final Plat**

Prior to signing the Final Plat for recordation by the Administrator, items A or B in this Article section must be complete. 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 Pender County, pay all or any portion of the bond or escrow fund to the County up to the amount needed to complete the improvements based on an engineering estimate. Upon payment, Pender County, in its discretion, may expend such portion of said funds, as it deems necessary to complete all or any portion of the required improvements.

- A. All requirements of this Ordinance are complete including the following:
  - 1) All improvements required by this Ordinance and required as a condition of approval, must be constructed and/or installed. ~~and~~
  - 2) All improvements required by this Ordinance and required as a condition of approval must be certified by a licensed surveyor and/or engineer that their construction and installation is complete in **accordance** with the standards of this Ordinance. ~~and~~
  - 3) All public streets and related drainage are certified to be complete and in **accordance** with NCDOT requirements by the NCDOT District Engineer.
  - 4) A Defects Guarantee for the required improvements has been submitted and approved in **accordance** with this Ordinance.
- B. Documents guaranteeing the completion of all required improvements have been submitted and approved including the following:
  - 1) A Performance Guarantee Agreement for Improvements in favor of Pender County on an approved format in this Ordinance or in a format approved by the Pender County Attorney shall be submitted and approved.
  - 2) An Irrevocable Letter of Credit, Performance Bond, or Escrow Agreement in favor of Pender County or in a format approved by the Pender County Attorney shall be submitted and approved to cover the cost of the incomplete and uncertified improvements. The amount of the Guarantee will be at least equal to the cost of construction of the improvements as shown on a Construction Cost Estimate prepared, signed, and sealed by a licensed engineer.
  - 3) Release of Guarantee Security
  - 4) The County may release a portion of any security posted as the improvements are completed once said improvements are inspected and approved and that their construction and installation is complete in accordance with the standards of this Ordinance.

**Type Guarantee Required**

- A. The Guarantee shall provide for 125% of the estimated cost of completion in one of the following forms:
  - 1) Filing an irrevocable letter of credit from a federally insured lending institution specifying the limit of credit dedicated to the subject subdivision which will be extended to the County upon request.
  - 2) Depositing or placing in escrow, a certified check or cash, conditioned upon satisfactory completion of the final plat requirements and improvements.
  - 3) Filing a performance or surety bond from a licensed surety or bonding company assuring completion of the improvements.

### Release of Guarantee Requirements

- A. The Administrator shall release the Performance Guarantee when all requirements of this Ordinance have been met, ~~and~~ construction and installation of all required and proposed improvements have been completed, and certified and a Defects Guarantee has been submitted and approved. Certification must include the following:
- 1) Certification from a Professional Land Surveyor that all monuments and markers required by this Ordinance and NCGS 39-32.1-4 have been installed. ~~and,~~
  - 2) Certification from the District Engineer that public streets have been constructed to NCDOT Secondary Road Standards. ~~or,~~
  - 3) Certification from a Registered Engineer that construction of private streets and all other required and proposed improvements have been completed specifically in compliance with the provisions of this Ordinance.
  - 4) Certification of completion and performance of the Drainage System by a Registered Engineer **or Land Surveyor.** ~~and,~~
  - 5) Certification by the Administrator or his designee that the improvements required have been installed and such approval is issued to the subdivider in writing and entered into the record file.
  - 6) Performance Guarantees shall require construction and installation of improvements within one year after the date of issuance of a permit or approval of construction plans if no permit is required.
  - 7) The applicant may request up to two (2) extensions up to six months of the time limit for compliance if circumstances beyond the control of the applicant warrant an extension. The request for an extension shall be in writing and accompanied by a schedule for completion of remaining work. Approval of such request shall be at the Administrator's sole discretion.

### Required Improvements

#### A. Monuments and Markers

- 1) Control monuments shall be set at the points of curvature ("PC" and "PT") or at the "PI" of all street centerline curves (one monument per curve if installed at the "PI" and two if installed at the points of curvature). However, no more than two street centerline curve control monuments will be required within a 1,000 feet lineal section of any street. A standard steel 60 penny nail or a standard "PK" or "MAG" nail shall be placed at these points where control monuments are not located. "PK" and "MAG" nails shall be at least 2.5 inches long.
- 2) Centerline control monuments will not be required on cul-de-sacs 500 feet or less in length when nails specified above are located at required monument control points.
- 3) A control monument shall be placed at all street centerline intersections.
- 4) Monuments set in the street pavement shall have monument access boxes set on top of a brick, block, other masonry, or rock footing.
- 5) When any portion of the development is in a Special Flood Hazard Area, as defined in this Ordinance, as amended, and set out in the FEMA Flood Insurance Rate Maps (FIRM), one (1) permanent monument in each subdivision is required to have its elevation recorded on the final plat.
- 6) A steel or iron pipe or the equivalent of not less than one-half (1/2) inch in diameter and at least thirty (30) inches in length, where possible, shall be set at all property and lot corners, except those located by monuments. A property marker shall also be set in street right-of-way lines at the point of curvature and point of tangency.
- 7) Control Corners, as described and required in NCGS 39-32.1-4, shall be installed.

**GRANTOR/~~GRANTOR~~ GRANTEE CERTIFICATE**

The following statement shall appear on the plan and be signed by the Grantor(s) and Grantee(s) prior to approval:

*The Grantor(s) and Grantee(s) certify that the Grantee(s) is within three (3) degrees of collateral kinship to the Grantor(s), and that the purpose of this waiver is not to circumvent the provisions of the Pender County Unified Development Ordinance, and that none of the lots shall be conveyed to non-family members for a period of not less than five (5) years.*

\_\_\_\_\_ Grantor                      \_\_\_\_\_ Grantee

*Commentary: "Siblings are related to each other in the second degree and uncle and niece are related to each other in the third degree"*

**CERTIFICATE OF DISCLOSURE: PRIVATE ROADS**

I (we) the developers of \_\_\_\_\_ subdivision located in the unincorporated area of Pender County understand that the roads in said subdivision are designated private. I understand that ownership and maintenance of the roads will be the responsibility of the developer until such time that the developer designates the responsibility to the property owners' association. Responsibilities must be accepted by the homeowners association as specified in the homeowner covenants for said subdivision. The private roads in said subdivision are to be constructed in accordance with this UDO and all applicable County Codes which includes the design, installation, inspection, and approval by a licensed Professional Engineer (PE) recognized in the State of North Carolina prior to final plat approval for all or a portion of the subdivision. If all or a portion of the road infrastructure system within the subdivision is bonded through a surety, performance bond, or cash escrow, no bond shall be released until all road construction improvements are complete and certified by the Professional Engineer.

It shall be disclosed to the prospective buyer of a lot or lots within the subdivision that road maintenance shall run through the property owners association in perpetuity after acceptance from the developer until such time that the roads are re-platted as publically designated roads and taken over for maintenance through the North Carolina Department of Transportation (NCDOT).

**DEVELOPMENT AGREEMENTS**

As authorized by this Ordinance, Development Agreements must comply with all state regulations in NCGS §153A-349.1 et. seq.

**REQUIRED CERTIFICATES (PRELIMINARY PLAT)**

The following certificates shall appear on the preliminary plat signed and sealed prior to approval:

**Certification of Submission**

A copy of this plat has been submitted. Approval is subject to review; this does not constitute an approval.

Pender County Utilities: \_\_\_\_\_ Date: \_\_\_\_\_  
 Pender County Environmental Health: \_\_\_\_\_ Date: \_\_\_\_\_  
 Pender County Addressing Coordinator: \_\_\_\_\_ Date: \_\_\_\_\_

**Certificate of Preliminary Plat Approval**

Preliminary Plat Approved by Pender County for a period of two (2) years subject to the Pender County Unified Development Ordinance requirements and conditions of approval.

Planning Staff: \_\_\_\_\_ Date: \_\_\_\_\_

**REQUIRED CERTIFICATES (FINAL PLAT)**

The following certificates shall appear on the final plat signed and sealed prior to approval:

**Certificate of Ownership, Dedication, and Jurisdiction**

I (we) hereby certify that I am (we are) the owner(s) of the property shown and described here on and that I (we) hereby adopt this plan of subdivision with my (our) own free consent and dedicate all streets, alleys, walks, parks, and other areas to public or private use as noted. Further, I (we) certify that the land as shown here on is located within the subdivision jurisdiction of Pender County.

Owner: \_\_\_\_\_ Date: \_\_\_\_\_  
 Owner: \_\_\_\_\_ Date: \_\_\_\_\_

**Surveyor Certificate I**

I, \_\_\_\_\_, certify that this plat was (drawn by me or drawn under my supervision) from (an actual survey made by me or made under my supervision) (deed description in Book \_\_\_\_\_, Page \_\_\_\_\_) or (other); that the boundaries not surveyed are clearly indicated as drawn from the information found in Book \_\_\_\_\_, Page \_\_\_\_\_; that the ratio of precision as calculated is 1: \_\_\_\_\_; that the plat was prepared in accordance with G.S.47-30 as amended.

Witness my original signature, registration number and seal this day of \_\_\_\_\_ A.D. \_\_\_\_\_.

Signature: \_\_\_\_\_ (Seal)  
 Registration Number: \_\_\_\_\_

**Surveyor Certificate II**

The subdivision shown on this plat (does/does not) contain Special Flood Hazard Areas and (is/is not) located in a Floodway as delineated by the Federal Emergency Management Agency.

The subdivision shown on this plat (does/does not) contain Areas of Environmental Concern as delineated by the North Carolina Coastal Resources Commission.

Witness my original signature, registration number and seal this day of \_\_\_\_\_ A.D. \_\_\_\_\_.

Signature: \_\_\_\_\_ (Seal)  
 Registration Number: \_\_\_\_\_

**Surveyor Certificate III**

One of the following must be stated:

1. This plat is of a survey that creates a subdivision of land within the subdivision area of a county or municipality that has an ordinance that regulates parcels of land.
2. This plat is a survey that is located in a portion of a county or municipality that is unregulated as to an ordinance that regulates parcels of land and is therefore not subject to regulation by a subdivision ordinance.
3. This plat is of an existing parcel or parcels of land and does not create a new street or change in existing streets as defined in the Unified Development Ordinance and is exempt from the definition of subdivision contained in said Unified Development Ordinance.
4. This plat is a survey of an existing building or other structure, or a natural feature and is therefore not subject to regulation by an ordinance.
5. This plat and survey is a control survey and is therefore not subject to regulation by the Pender County Unified Development Ordinance.
6. This plat is a survey of another category, such as the recombination of existing parcels, a court-ordered survey or other exception to the definition of subdivision and is therefore not subject to subdivision regulation.

Witness my original signature, registration number and seal this day of \_\_\_\_ A.D. \_\_\_\_.

Signature: \_\_\_\_\_ (Seal)

Registration Number: \_\_\_\_\_

Note: Surveyor Certificates II & III may be combined into one Certificate.

**Parcel Identifier Certificate, Example**

Parcel Identifiers have been issued for all parcels shown on this plat.

Tax Supervisor: \_\_\_\_\_ Date: \_\_\_\_\_

**Certificate of Registration by Register of Deeds**

Pender County, North Carolina

Filed for registration on the \_\_\_\_ day of \_\_\_\_ 20\_\_ at \_\_\_\_ a.m./p.m. and duly recorded in book \_\_\_\_ at page \_\_\_\_, slide \_\_\_\_.

Register of Deeds: \_\_\_\_\_

**Private Road Certification**

I (we) hereby certify that all private roads as depicted on subdivision plat \_\_\_\_\_ have been designed, installed, inspected, and approved in accordance with Article 6 of the Pender County Unified Development Ordinance and all applicable Pender County Codes prior to final plat approval for all or a portion of the subdivision.

By certifying the construction of these roads as private, there are no guarantees or assurances of acceptance of said roads by the North Carolina Department of Transportation.

Certified Professional Engineer: \_\_\_\_\_ Date: \_\_\_\_\_

(Seal)

**Engineer/Surveyor Private Street Certification, Major Subdivisions**  
*(Example Form)*

(Letterhead)

Date

Pender County  
Planning and Community Development  
PO BOX 1519  
Burgaw, NC 28425

Re: Private Street & Street Drainage Construction Plans for (Name and Section of Subdivision)

**This will provide certification that the construction plans, prepared by me or under my supervision for streets and street drainage in the above referenced development comply with the following requirements:**

1. The plans comply with the requirements for submission to the North Carolina Department of Transportation (NCDOT) for approval of construction plans for secondary roads.
2. The plans for construction of the streets and access comply with Minimum Design and Construction Criteria for Subdivision Roads, contained in the NCDOT Subdivision Roads Minimum Construction Standards.
3. The plans provide for street drainage in compliance with the NCDOT Subdivision Roads Minimum Construction Standards and NCDOT Guidelines for Drainage Studies and Hydraulic Design.
4. The street and street drainage construction plans meet the requirements of the Pender County ~~Subdivision Ordinance~~ **Unified Development Ordinance**, and specifications contained in the Ordinance.

This certification is provided this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_, to comply with the provisions of The Pender County Unified Development Ordinance.

Surveyor Signature \_\_\_\_\_ and/or Engineer Signature \_\_\_\_\_  
(Seal) (Seal)

Surveyor Name \_\_\_\_\_ and/or Engineer Name \_\_\_\_\_

**Engineer/Surveyor Improvement Certification, Major Subdivisions**  
*(Example Form)*

(Letterhead)

Date

Pender County  
Planning and Community Development  
PO BOX 1519  
Burgaw, NC 28425

Re: Installation of Required Improvements for (Name and Section of Subdivision)

**This will provide certification that the following improvements have been installed to the specifications noted for the above referenced subdivision and section:**

1. The streets in this development are private, however, I have observed the construction of said streets and certify that their construction is complete and meets ~~the Standard~~ NCDOT Subdivision Roads Minimum Construction Standards and the drainage facility requirements. Said streets have been designed and constructed in accordance with Minimum Design and Construction Criteria for Subdivision Roads, contained in the NCDOT Subdivision Roads Minimum Construction Standards and NCDOT Guidelines for Drainage Studies and Hydraulic Design.
2. Drainage facilities, in addition to the street drainage, have been installed for the remainder of the development that will to accommodate the a ten year, one hour storm event, without flooding or substantial ponding of water on any lots in the development or any area of the development to be used for building construction. Drainage easements of at least 20 feet in width have been reserved astride these facilities where they are located on private property.
3. Concrete control monuments, or other markers as required in the Pender County Unified Development Ordinance, have been set at the points of curvature (PC and PT) or at the point of intersection (PI) of all street centerline curves. ~~and the~~ All control corners comply with the requirements of Article 5A of GS 39.
4. Steel or iron pipes, not less than one half inch in diameter and at least thirty inches long (property markers), have been installed at all property and lot corners, except those located by concrete monument.
5. Street name signs have been installed at all street intersections in accordance with the specifications and requirements of the Pender County Emergency Management Office.
6. Road signs have been installed in accordance with NCDOT Standards.
7. This development or a portion thereof is located in a FEMA designated Special Flood Hazard Area and a permanent concrete monument located \_\_\_\_\_ has been installed and its elevation is shown on the final plat of \_\_\_\_ Section \_\_\_\_\_ OR This development does not contain any FEMA designated Special Flood Hazard Areas and elevation monuments have not been installed.
8. The Homeowner's Association documents for this development have been recorded in Book \_\_\_\_ Page \_\_ and the plat for this Section has been recorded at Slide \_\_\_\_\_, Sheet \_\_\_\_\_ and all open space, common area, and facilities shown on the plat have been transferred to the Homeowner's Association.
9. Additional statements verifying the construction of community or public water or sewer systems will be required as appropriate.

This certification is provided this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_, to comply with the provisions of The Pender County Unified Development Ordinance.

Surveyor Signature \_\_\_\_\_ and/or Engineer Signature \_\_\_\_\_

(Seal)

(Seal)

Surveyor Name \_\_\_\_\_ and/or Engineer Name \_\_\_\_\_

STATE OF NORTH CAROLINA

COUNTY OF PENDER

PERFORMANCE GUARANTEE AGREEMENT FOR IMPROVEMENTS

(Example Form)

**THIS AGREEMENT MADE AND ENTERED INTO** this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by and between (Subdivider), hereinafter known as “ the Subdivider”, and Pender County, hereinafter known as “ the County” (The designation Subdivider and County, as used herein shall include said parties, their heirs, successors and assigns and shall include singular, plural, masculine, feminine, or neuter as required by context).

**WITNESSETH:**

**WHEREAS**, the Subdivider is attempting to secure from the County approval of a Final Plat of a proposed subdivision to be known as the \_\_\_\_\_ Subdivision to be located in Pender County, North Carolina, and

**WHEREAS**, the Pender County Subdivision Unified Development Ordinance requires the completion of certain improvements prior to Final Plat approval by the County; and

**WHEREAS**, said Ordinance also allows the County, at its discretion, to permit the Subdivider to post a Security Guaranty with the County to guarantee the completion of said required improvements; and

**WHEREAS**, the County desires to approve said Final Plat and, in lieu of requiring completion of all improvements prior to said approval, will accept from the Subdivider the filing of a (Surety Performance Bond with \_\_\_\_\_ Company as surety), (Letter of Credit from the \_\_\_\_\_ Bank) or (Cash Deposit and Escrow Agreement with \_\_\_\_\_ as Escrow Agent) to guarantee and secure completion of said improvements.

**IT IS THEREFORE, AGREED AS FOLLOWS:**

1. The Subdivider will, on or before the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, complete as required the following improvements in the \_\_\_\_\_ Subdivision:
2. The Subdivider shall file with the County of Pender through its Planning Director the Security Guaranty as noted above securing and guaranteeing completion of said improvements by the required date; and
3. When the Security Guaranty noted above is filed and other requirements of said Ordinance are met, then the County acting through its Planning Director will execute the Final Plat of the \_\_\_\_\_ Subdivision for recording.

Improvement	Cost to Complete

**IN WITNESS WHEREOF**, the County and the Subdivider have hereunto set their hands and seals, or if corporate, have caused this instrument to be signed in its corporate name by its duly authorized officers by authority of its Board of Directors, the day and year first above written.

**For Pender County:**

\_\_\_\_\_ Date: \_\_\_\_\_  
 Planning Director

**For Subdivider:**

Name/Title: \_\_\_\_\_ Date: \_\_\_\_\_  
 Signature: \_\_\_\_\_

**IRREVOCABLE LETTER OF CREDIT**

(Name of Bank)

(Address, include branch, if any)

(Date)

*(Example Form)*

Phone Number: \_\_\_\_\_ Contact Name: \_\_\_\_\_

**Irrevocable Letter of Credit** Number: \_\_\_\_\_

Pender County Board of Commissioners  
805 South Walker Street  
Burgaw, NC 28425

Commissioners,

We hereby open our irrevocable credit in your favor available by your drafts at sight on us for a sum not exceeding \$\_\_\_\_\_ for the account of \_\_\_\_\_ hereinafter known as "Customer".  
When presented for negotiation, drafts must be accompanied by the signed statement of the County Manager of Pender County that drawing is due to default or failure to perform by Customer, the following improvements in the \_\_\_\_\_ Subdivision on or before the \_\_\_\_\_ day of \_\_, 20 \_\_\_\_:

(List here the required improvements)

The term of this irrevocable credit is through and including the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_ or upon written notice from the Pender County Manager or Planning Director that the required improvements have been timely completed, whichever is earlier.

The Pender County Manager or Planning Director will notify us when either of the following occurs:

1. The required improvements have been timely completed and the credit may be released; or
2. The Customer has failed to perform or is in default hereunder.

All drafts drawn hereunder must be marked as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The amount of any draft drawn under this credit must be entered on the reverse side hereof, and acknowledged by the Pender County Manager and this letter of credit presented to the issuing bank along with a signed notice of failure to perform by the Customer with a list of the improvements that are incomplete.

This Letter of Credit shall be transferable and/or assignable. This Letter of Credit, except as otherwise expressly provided herein, is governed by the Uniform Commercial Code in force in the State of North Carolina on the date hereof,

Very truly yours,

By: \_\_\_\_\_ By: \_\_\_\_\_  
Name of Bank Authorized Signature

STATE OF NORTH CAROLINA

COUNTY OF PENDER

PERFORMANCE BOND

(Example Form)

KNOW ALL MEN BY THESE PRESENTS that we, \_\_\_\_\_ (Name of Subdivision) \_\_\_\_\_ as Principal, and \_\_\_\_\_ (Name of Bonding Company) \_\_\_\_\_ as Surety, a Corporation authorized to transact business in North Carolina, are (the Name of the Bonding Company) held and firmly bound unto the County of Pender, a political subdivision of the State of North Carolina, and a body politic and corporate, in the sum of \$ \_\_\_\_\_, lawful money of the United States of America, for the payment of which, will and truly be made, we, and each of us, bind ourselves and each of us, our successors and assigns, jointly and severally, by these presents.

THE CONDITIONS OF THIS OBLIGATION ARE SUCH THAT:

WHEREAS, the Principal has submitted a Final Plat of the subdivision known as \_\_\_\_\_ Subdivision, located in Pender County, North Carolina, for approval by Pender County, which approval is a condition precedent to the right of said Principal to have said final plat registered in the Office of the Register of Deeds for Pender County; and

WHEREAS, the Pender County Planning Director is unable, pursuant to County Ordinance, to sign said plat of said Subdivision for registration until all required improvements are completed or until a guarantee of completion of said required improvements is filed with the County of Pender through said County Planning Director; and

WHEREAS, the Principal does this date agree to complete the improvements listed in Exhibit A attached hereto as required by the Pender County Unified Development Ordinance on or before the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_ ;

NOW THEREFORE, if the Principal shall fully comply with all the terms hereof, including the requirements of that Agreement attached hereto as Exhibit A, by which the Principal agrees to complete certain improvements on or before the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_, then this obligation shall be null and void; otherwise, it shall remain in full force and effect.

It is hereby understood and agreed that in the event that any required improvements as included in the attached Agreement, Exhibit A, have not been installed as provided in said Agreement within the term of Performance Bond, Pender County may thereupon declare this bond to be in default and collect the amount of funds indicated in said Agreement for the cost of installation of said improvements. Upon receipt of the proceeds of this Bond, Pender County shall use such proceeds for completion of the installation of the required improvements to the extent that such funds will provide for completion and will refund to the Principal and Surety, as their interest may appear, any surplus not needed to complete said improvements.

IN WITNESS WHEREOF, the Grantors have hereunto set their hands and seals, or if corporate, has caused this instrument to be signed in its corporate name by its duly authorized officers by authority of its Board of Directors, the day and year first above written.

Principal: \_\_\_\_\_ Surety: \_\_\_\_\_

By: \_\_\_\_\_ (SEAL)  
President

By: \_\_\_\_\_ (SEAL)  
Attorney-in-fact (Power of Attorney attached)

Attest: \_\_\_\_\_

STATE OF NORTH CAROLINA

COUNTY OF PENDER

ESCROW AGREEMENT

(Example Form)

THIS AGREEMENT entered into by and among Pender County acting through the Pender County Planning Director, hereinafter referred to as "County", \_\_\_\_\_, the developer of \_\_\_\_\_, hereinafter referred to as "Developer", and \_\_\_\_\_, hereinafter referred to as "Escrow Agent." (The designation County, Developer and Escrow Agent, as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine, or neuter as required by context);

WITNESSETH:

WHEREAS, \_\_\_\_\_, the developer has applied for approval of a subdivision development in Pender County known as \_\_\_\_\_ under Pender County's ~~Subdivision Ordinance~~ Unified Development Ordinance, herein referred to as " Ordinance"; and

WHEREAS, the approved plat proposes improvements which have not been completed; and

WHEREAS, pursuant to the Ordinance, developers are required to provide performance guarantees that proposed improvements will be completed in accordance with the Ordinance and with plans submitted for the subdivision development; and

WHEREAS, the Developer wishes to tender cash deposits to comply with the Performance Guarantee Agreement.

Now, Therefore, the Developer tenders with this agreement the sum of (\$ \_\_\_\_\_) dollars to the Escrow Agent to assure compliance with the Performance Guarantee Agreement for the construction of the improvements listed in the Performance Guarantee for subdivision. The Escrow Agent will deposit those funds in an account and by their execution of this agreement, the parties hereto agree that such funds will only be disbursed upon the authorized signature the County, through the County Planning Director in accordance with the following escrow instructions:

1. The funds may be deposited in a federally insured institution at interest payable to the Developer.
2. Funds will be disbursed after improvements secured by the Performance Guarantee Agreement are completed.
3. Upon completion of the prescribed improvements, the Developer will submit a written request for disbursement to the County through the Planning Director, together with a certification satisfactory to the County from an engineer or other qualified person that the prescribed improvements have been completed in accordance with the Ordinance and approved plans.
4. Upon receipt of the request for disbursement the County Planning Director will determine if the prescribed improvements have been completed as required and proposed, and shall either inform the Developer of any deficiencies in order that they may be corrected, or authorize disbursement in the event they have been satisfactorily completed as prescribed.
5. Upon submission, execution and approval of the request for disbursement by the Developer and the County through the Planning Director, it shall be forwarded to the Escrow Agent who shall make disbursements in accordance with the approved request.
6. Upon completion of improvements and receipt of an approved Final Request and Authorization for release of escrow funds, the Escrow may be terminated.
7. In the event that Developer and/or his contractor does not complete the improvements provided for herein by the \_\_\_\_ day of \_\_\_\_ 20\_\_\_\_, then County may, at its sole option give the Developer 30 days notice of its intent to declare the Agreement in default. If the Developer does not complete the improvements provided for herein within the 30 day period, or reach other satisfactory arrangements with the County, then the County may in its sole discretion declare this Agreement to be in default and may demand that the Escrow Agent forthwith pay all sums held by him and not previously released for \_\_\_\_\_ subdivision to the County. The County agrees that it will use such sums so received to apply toward the completion of the improvements to the extent that said sums last, and will refund to Developer any surplus not needed to complete said improvements. Provided, that the County does not agree to complete the improvements using any of its own funds, nor does it obligate to ensure the completion of the improvements beyond the sums made available under this Agreement to pay for same.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals, or if corporate, has caused this instrument to be signed in its corporate name by its duly authorized officers by authority of its Board of Directors, the day and year first above written.

**FOR: PENDER COUNTY**

\_\_\_\_\_  
Planning Director

\_\_\_\_\_  
Date

**FOR: SUBDIVIDER**

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**FOR: ESCROW AGENT**

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**STATE OF NORTH CAROLINA, COUNTY OF PENDER**

I, \_\_\_\_\_, a Notary Public, certify that \_\_\_\_\_, personally came before me this day and acknowledged the due execution of the foregoing instrument. Witness my hand and official seal, this the \_\_\_\_\_ day of \_\_, 20 \_\_\_\_ .

\_\_\_\_\_ My Commission Expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

**STATE OF NORTH CAROLINA, COUNTY OF PENDER**

I, \_\_\_\_\_, a Notary Public, certify that \_\_\_\_\_, personally came before me this day and acknowledged that he is President of \_\_\_\_\_, a non profit corporation of the State of North Carolina and that authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by him as its President. Witness my hand and official seal, this the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_ .

\_\_\_\_\_ My Commission Expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

**STATE OF NORTH CAROLINA, COUNTY OF PENDER**

I, \_\_\_\_\_, a Notary Public, certify that \_\_\_\_\_, personally came before me this day and acknowledged the due execution of the foregoing instrument. Witness my hand and official seal, this the \_\_\_\_\_ day of \_\_, 20 \_\_\_\_ .

\_\_\_\_\_ My Commission Expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

**FOR RELEASE OF ESCROW FUNDS  
REQUEST AND AUTHORIZATION FOR RELEASE OF ESCROW FUNDS**

(Subdivision Name)

*(Example Form)*

**Whereas**, Pender County and \_\_\_\_\_ (“the Subdivider”) have entered into an agreement to escrow funds to insure the completion of improvements in \_\_\_\_\_(Subdivision Name) here after referred to as the “Subdivision”; and

**Whereas**, a certain phase of the improvements in the Subdivision have been completed and the parties, by their execution of this request and authorization, agree to the disbursement of escrowed funds as follows:

(Insert improvements completed and amount to be disbursed)

Now, therefore, the parties to the Escrow Agreement for the Subdivision hereby authorize the escrow agent to disburse the sum of \_\_\_\_\_ Dollars in accordance with the Escrow Agreement.

**IN WITNESS WHEREOF**, the County and the Subdivider have hereunto set their hands and seals, or if corporate, have caused this instrument to be signed in its corporate name by its duly authorized officers by authority of its Board of Directors, the day and year first above written.

**TYPE REQUEST: Partial or Final**

**REQUEST FOR RELEASE OF ESCROW FUNDS:**

**FOR: SUBDIVIDER**

\_\_\_\_\_  
Print Name Title

\_\_\_\_\_  
Signature Date

**AUTHORIZATION FOR RELEASE OF ESCROW FUNDS:**

**FOR: PENDER COUNTY**

\_\_\_\_\_  
Planning Director Date

**DEFECTS GUARANTEE FOR THE BENEFIT OF PENDER COUNTY**  
*(Example Form)*

**THIS DEFECTS GUARANTEE**, made and granted this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_, hereinafter referred to as “Subdivider”; and \_\_\_\_\_, hereinafter referred to as “Guarantor,” to PENDER COUNTY, a political subdivision of the State of North Carolina, hereinafter referred to as the “County” (The designation Guarantor and County, as used herein shall include said parties, their heirs, successors and assigns and shall include singular, plural, masculine, feminine or neuter as required by context);

**WITNESSETH:**

**WHEREAS**, the Subdivider has applied to Pender County for approval of a development known as \_\_\_\_\_; and

**WHEREAS**, the Subdivider has submitted a final plat for approval for said development and all improvements required by the Pender County ~~Subdivision Ordinance~~ **Unified Development Ordinance** are complete; and

**WHEREAS**, the County, has determined that pursuant to the Pender County ~~Subdivision Ordinance~~ **Unified Development Ordinance** a Defects Guarantee is required as a condition of approval of the development and such Guarantee would benefit the public welfare;

**THEREFORE THE SUBDIVIDER AND GUARANTOR**, as a condition of final plat approval, make the following warranty:

1. Purpose of Agreement  
 The purpose of this agreement is to provide a guarantee on all improvements required by the Pender County ~~Subdivision Ordinance~~ **Unified Development Ordinance** for \_\_\_\_\_.
2. Guaranty
  - 2.1 Subdivider hereby warrants that all utility taps, ramps, streets, pavement, sidewalks, drainage facilities, water and sewer lines, and/or other improvements, as required by the Pender County ~~Subdivision Ordinance~~ **Unified Development Ordinance** and proposed for the said development as presented and approved with the Preliminary Plat approved on the \_\_\_ day of \_\_\_, 20\_\_\_ will be free of defects in design and construction for one (1) year from the date of issue of a signed acceptance of construction by the Pender County Planning Director.
  - 2.2 In the event the County notifies the Subdivider of a defect within one year from the date of acceptance of construction of all improvements, it is hereby understood and agreed that Subdivider will correct such defect(s) within 30 days of receipt of a written “ Notice to Correct Defect” received from the County.
  - 2.3 The County Shall inspect any attempted repairs as soon as possible upon notification from the Subdivider that repairs have been completed, and shall not unreasonably delay or withhold approval of repairs.
3. Remedies  
 It is understood and agreed that in the event the Subdivider fails to correct such defect within 30 days of receipt of written notice by the Subdivider as set forth herein, a violation of the Pender County ~~Subdivision Ordinance~~ **Unified Development Ordinance** will exist on the property and the Subdivider will be subject to Penalties for Violations as prescribed in the Legal Provisions of said Ordinance. In addition, it is understood and agreed that upon the 60th day after the “ Notice to Correct Defect” is received by the Subdivider that approval of the development’s final plat will terminate and such termination of approval will prohibit any additional sale of lots in the development. The Subdivider further agrees that any sale of a lot after the termination of approval of the plat for the Development will constitute a separate offence under the provisions of said ~~Subdivision Ordinance~~ **Unified Development Ordinance** and that upon any successful verdict from a Court of Competent Jurisdiction, the Subdivider must pay the cost, including reasonable attorney fees, incurred by Pender County in obtaining such verdict. The remedies noted herein shall be in addition to any other remedy the County may have at law, including injunctive relief.

**IN WITNESS WHEREOF**, the parties have hereunto set their hands and seals, or if corporate, has caused this instrument to be signed in its corporate name by its duly authorized officers by authority of its Board of Directors, the day and year first above written.

**FOR: SUBDIVIDER and/or PERSONAL GUARANTOR \*\***

\_\_\_\_\_  
Print Name Title

\_\_\_\_\_  
Signature Date

**STATE OF NORTH CAROLINA, COUNTY OF PENDER**

I, \_\_\_\_\_, a Notary Public, certify that \_\_\_\_\_, personally came before me this day and acknowledged the due execution of the foregoing instrument. Witness my hand and official seal, this the \_\_\_\_\_ day of \_\_, 20 \_\_\_\_ .

\_\_\_\_\_  
Notary Public My Commission Expires: \_\_\_\_\_

**(And For a Corporation)**

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Print Name of Signer Title

\_\_\_\_\_  
Signature of Signer Date

**ATTEST:**

\_\_\_\_\_  
Secretary

**STATE OF NORTH CAROLINA, COUNTY OF PENDER**

I, \_\_\_\_\_, a Notary Public, certify that \_\_\_\_\_, personally came before me this day and acknowledged that he is Secretary of \_\_\_\_\_, a corporation of the State of North Carolina and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, sealed with the corporate seal, and attested by himself as its Secretary. Witness my hand and official seal, this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public My Commission Expires: \_\_\_\_\_

\*\* If Subdivider is a corporation, a personal guarantee must also be provided by owner, developer, or other individual.

PRIVATE STREET STANDARDS, PENDER COUNTY - "Private Streets shall meet all construction and design standards as required for Secondary Roads for acceptance by NCDOT."

As Adopted By The Pender County Board Of Commissioners 3-15-04.

**Engineer Certification - Low Impact Development Project**  
*Example Form*

(Letterhead)

Date:

Pender County  
Planning and Community Development  
PO Box 1519  
Burgaw, NC 28425

Re: Low Impact Development Project Certification for: (Name and Section of Subdivision)

This will provide certification that the design plans, prepared by me or under my supervision, for stormwater management in the above referenced development comply with the following requirements:

- The LID Project complies with the requirements for stormwater management as set forth in 15A NCAC 02H.1005.
- The LID Project utilizes a combination of engineered, structural LID stormwater best management practices (BMPs) as defined in *Chapter 4: LID Stormwater BMPs* of North Carolina State University's *Low Impact Development: A Guidebook for North Carolina* and designed in accordance with 15A NCAC 02H .1008 to treat runoff from all surfaces generated by one and one-half inches of rainfall, or the difference in the stormwater runoff from all surfaces from the predevelopment and post-development conditions for a one-year, 24-hour storm, whichever is greater, in order to achieve average annual 85% Total Suspended Solids (TSS) removal for the developed area of a site.
- The LID Project utilizes a combination of engineered, structural LID stormwater best management practices (BMPs) as defined in *Chapter 4: LID Stormwater BMPs* of North Carolina State University's *Low Impact Development: A Guidebook for North Carolina* to control and treat the increase in storm water runoff volume associated with post-construction conditions as compared with pre-construction (existing) conditions for the 1-year frequency, 24-hour duration storm event in order to achieve a storage volume discharge rate equal to or less than the predevelopment discharge rate for the 1-year, 24-hour storm event.

This certification is provided this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, to comply with the provisions of the Pender County Unified Development Ordinance.

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

**Seal**

\_\_\_\_\_  
(Engineer Name)