



REQUEST FOR BOARD ACTION

ITEM NO. 28.

DATE OF MEETING: December 9, 2013

REQUESTED BY: Planning & Community Development

SHORT TITLE: Resolution to Amend the Pender County Unified Development Ordinance, Section 4.14; Appendix A; Remove Article 9 from Pender County Unified Development Ordinance and Create an Independent Document.

BACKGROUND: The proposed amendments to the Ordinance will specifically address, the dimensional standards as they relate to flood hazard zones in Section 4.14 Zoning District Dimensional Requirements; removing Article 9 from the Pender County Unified Development Ordinance as well as will require renumbering Article 10, 11, and 12 to accommodate this change and then creating an independent document, the Pender County Flood Damage Prevention Ordinance. The proposed amendments will update the Pender County Unified Development Ordinance and allow for greater enforcement and clarity of flood regulations. Detailed information is included in the informational packet which has been distributed to accompany this report.

SPECIFIC ACTION REQUESTED: To hold a public hearing and consider a resolution to amend and remove Article 9, Flood Damage Prevention, from the Pender County Unified Development Ordinance and create an independent document.

RESOLUTION

NOW, THEREFORE, BE IT RESOLVED by the Pender County Board of Commissioners that:

on December 9, 2013 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 ___ McCoy ___ Tate ___ Ward ___ Williams ___

George R. Brown, Chairman

12/9/2013
Date

ATTEST
Delivered

12/9/2013
DATE

PLANNING STAFF REPORT
Zoning Text Amendment

SUMMARY:

Hearing Date: Planning Board – December 3, 2013

Board of County Commissioners – December 9, 2013

Applicant: Administrator and Flood Plain Administrator, Planning & Community Development

Application Number: ZTA 11019 Pender County

Text Amendment Proposal: The request consists of amending the *Pender County Unified Development Ordinance* to remove Article 9, Flood Damage Prevention and create an independent document titled *Pender County Flood Damage Prevention Ordinance* containing this information.

Background: The following text amendment will allow for greater continuity and increased attentiveness of flood regulations in all Pender County documents. Proposals in the *Pender County Unified Development Ordinance* will update flood standards and allow for continuity in published ordinances.

Administrator/Planning Board Recommendation: Administrator respectfully recommends amending the *Pender County Unified Development Ordinance* as described in the staff report.

Amendment Outline

The following outline describes proposed amendments by Section of the *Pender County Unified Development Ordinance* and the creation of the *Pender County Flood Damage Prevention Ordinance*. Proposed amendments are in accordance with current Flood Plain Management regulations set forth by North Carolina Department of Public Safety as well as the Federal Emergency Management Agency, FEMA; both agencies establish best practices for managing identified flood zones in the State.

Further administrative recommendations are related to updating the *Pender County Unified Development Ordinance* numbering system due to the removal of Article 9 from the document.

Remove Article 9 Flood Damage Prevention from *Pender County Unified Development Ordinance*

Removing Article 9 from the *Pender County Unified Development Ordinance* will require renumbering Article 10, 11, and 12 to accommodate this change. All subsequent numbering will be amended to reflect the removal of Article 9.

Create *Pender County Flood Damage Prevention Ordinance*

The proposed *Pender County Flood Damage Prevention Ordinance* was developed by removing Article 9 and reviewing consistency with published documents for flood plain management by both the State of North Carolina and FEMA for the most current regulations. The Flood Plain Administrator reviewed all necessary changes in accordance with the North Carolina Department of Public Safety as well as FEMA, the Federal Emergency Management Agency. This independent ordinance is Attachment One.

Update *Pender County Unified Development Ordinance*

Proposed amendments to the Ordinance clarify dimensional standards as they relate to flood hazard zones in Section 4.14 Zoning District Dimensional Requirements, seen in Attachment 3. Note Two specifies which zoning districts a maximum height requirement as forty-five (45) feet as it relates to the Special Flood Hazard Area (SFHA). Added to this note is the allowance of additional height which is based upon the regulatory flood prevention protection elevation, specifying this measurement to be the Base Flood Elevation (BFE) plus the two (2) feet build above freeboard.

Secondly, two other zoning districts were added to the maximum height requirements in Note 2 of Table 4.14; RA, Rural Agriculture, RP, Residential Performance were already included RM, Residential Mixed and PD, Planned Development were added. These height standards are intended for increased consistency of single family dwelling height requirements in these districts and would still require Master Plan Approval for mixed-use developments in the Planned Development Zoning District. This is reflected in Attachment Two.

Finally, a comprehensive examination of the *Pender County Unified Development Ordinance* definitions was conducted by staff. Specific definitions were updated as well as terms added the based on the flood regulation removal from the document. These changes can be seen in Attachment Four.

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 and the specific intent of this Ordinance.

COMPREHENSIVE LAND USE PLAN COMPLIANCE

The following goals and policies within the Pender County Comprehensive Land Use Plan may be relevant to the proposed Zoning Text Amendment request:

Growth Management Goal 1A.1

Manage the physical growth and development of Pender County by promoting more intensive land uses in key locations identified for such growth while preserving and protecting the unique physical character and social assets the predominantly rural lifestyle and coastal environment that makes the County a unique place to live.

Policy 1A.1.3.

The County shall actively direct growth towards suitable land areas and away from fragile natural resource areas, conservation areas, and hazardous areas.

There are no conflicting policies within any adopted land use documents. The proposed text amendment revises the *Pender County Unified Development Ordinance* and creates an independent Ordinance pertaining to flood standards.

ADMINISTRATOR RECOMMENDATION

The proposed text amendment is consistent with the *Pender County Unified Development Ordinance*, 2010 Comprehensive Land Use Plan with current Flood Plain Management regulations set forth by North Carolina Department of Public Safety as well as FEMA, the Federal Emergency Management Department; therefore the Administrator respectfully recommends amending the *Pender County Unified Development Ordinance* as described in the staff report and attachments.

The proposed text amendment is consistent with the *Pender County Unified Development Ordinance* and with current Flood Plain Management regulations set forth by North Carolina Department of Public Safety as well as FEMA, the Federal Emergency Management Department. At the December 3, 2013 Planning Board meeting the Board unanimously voted to approve this proposed text amendment. Therefore, staff is recommending approval of the amendments as presented.

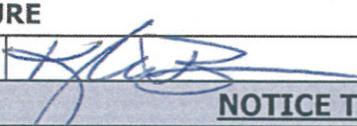
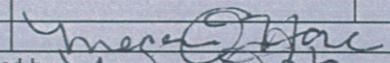
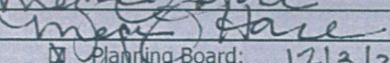
Planning Board

Motion: Marshburn **Seconded:** Williams

Approved: X **Denied:** **Unanimous:** X

Boney: X Marshburn: X Baker: X Edens: X McClammy: X Nalee: Williams: X

APPLICATION FOR TEXT AMENDMENT

THIS SECTION FOR OFFICE USE			
Application No.	ZTA 11019	Date	10/18/2013
Application Fee	\$ N/A	Receipt No.	_____
Pre-Application Conference	N/A	Hearing Date	12/3/2013 & 12/9/2013
SECTION 1: APPLICANT INFORMATION			
Applicant's Name:	Pender County Planning & Community Development		
Applicant's Address:	805 S. Walker St.		
City, State, & Zip	Burgaw NC 28425		
Phone Number:	N/A		
SECTION 2: UDO TEXT TO BE AMENDED			
Current Text to be Amended (Please site accurate Article number referenced):			
This request consists of Removing Article 9, Flood Damage and Prevention and create an independent document titled Pender County Flood Damage Prevention Ordinance as well as all administrative changes			
Proposed Text to be added: necessary.			
SECTION 3: SIGNATURE			
Applicant's Signature			Date: 10/18/2013
NOTICE TO APPLICANT			
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 N/A		
<input 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:	
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: 10/18/13
Application completeness approved by:			Date: 10/18/13
Dates Scheduled for Public Hearings:	<input checked="" type="checkbox"/> Planning Board: 12/3/2013	<input checked="" type="checkbox"/> BOC: 12/9/2013	

FLOOD DAMAGE PREVENTION ORDINANCE

Pender County, NC



ADOPTED December 9, 2013
EFFECTIVE December 10, 2013

PENDER COUNTY

FLOOD DAMAGE PREVENTION ORDINANCE

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ARTICLE 1: PURPOSE AND OBJECTIVES

1.1 Statutory Authorization

The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Parts 3 and 4 of Article 18 of Chapter 153A; and Part 121, Article 6 of Chapter 153A of the North Carolina General Statutes, delegated to local governmental the responsibility units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Board of Commissioner of the Pender County, North Carolina, does ordain as follows:

1.2 Findings of Fact

- A. The flood prone areas within the jurisdiction of the Pender County are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- B. These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities and by the occupancy in flood prone areas of uses vulnerable to floods or other hazards.

1.3 Statement of Purpose

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

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

1.4 Objectives

- A. To protect human life, safety, and health;
- B. To minimize expenditure of public money for costly flood control projects;
- C. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. To minimize prolonged business losses and interruptions;
- E. To minimize damage to public facilities and utilities (i.e. water and gas mains, electric, telephone, cable and sewer lines, streets, and bridges) that are located in flood prone areas;
- F. To help maintain a stable tax base by providing for the sound use and development of flood prone areas; and
- G. To ensure that potential buyers are aware that property is in a Special Flood Hazard Area.

ARTICLE 2: DEFINITIONS

Words and terms set forth below shall have the meanings ascribed to them. Any word, term(s) or phrase used in this Ordinance not defined below shall have the meaning ascribed to such word, term or phrase in the most recent editions of the Pender County Unified Development Ordinance, Merriam-Webster's Dictionary, Black's Law Dictionary or American Planning Association Planner's Advisory Service, Dictionary of Terms unless, in the opinion of the Administrator, established customs or practices in Pender County justify a different or additional meaning. Furthermore, for the purpose of this Ordinance, certain words, terms and phrases are herein defined as follows:

- A. Words used in the present tense shall include the future tense.
- B. Words used in the singular number shall include the plural number and the plural singular.
- C. The word "shall" and "will" are mandatory and not discretionary.
- D. The word "may" is permissive.
- E. The word "lot" shall include the words "parcel", "plot" and "tract".
- F. The word "building" and "structures" are synonymous.
- G. The phrase "used for" shall include the terms "intended to be used", or "intended for" and "designed for" and "occupied for".
- H. Words used here in the masculine gender shall be interpreted to include the feminine gender.

Accessory Structure (Appurtenant Structure) means a structure located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports and storage sheds are common urban accessory structures. Pole barns, hay sheds and the like qualify as accessory structures on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.

Addition (to an existing building) means an extension or increase in the floor area or height of a building or structure.

Appeal means a request for a review of the floodplain administrator's interpretation of any provision of this Ordinance.

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

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

Base Flood means the flood having a one (1) percent chance of being equaled or exceeded in any given year.

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

Base Flood Elevation (BFE) means a determination of the water surface elevations of the base flood as published in the Flood Insurance Study. When the BFE has not been provided in a “Special Flood Hazard Area”, it may be obtained from engineering studies available from a Federal or State or other source using FEMA approved engineering methodologies. This elevation, when combined with the “Freeboard”, establishes the “Regulatory Flood Protection Elevation”.

Benchmark means a standard by which to measure or assess a known elevation relative to another. The surveyor determines the subject tract elevations based on the known elevation of the benchmark which is specifically designated and calibrated.

Breakaway Wall means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

“**Building**” see “Structure”

CAMA – North Carolina’s Coastal Area Management Act. This act, along with the Dredge and Fill Law and the federal Coastal Zone Management Act, is managed through North Carolina Department of Environment and Natural Resources’ (NCDENR’s) Division of Coastal Management (DCM).

CBRS means Coastal Barrier Resources System.

Chemical Storage Facility means a building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

Coastal Barrier Resources System (CBRS) consists of undeveloped portions of coastal and adjoining areas established by the Coastal Barrier Resources Act (CoBRA) of 1982, the Coastal Barrier Improvement Act (CBIA) of 1980, and subsequent revisions, and includes areas owned by federal or state governments or private conservation organizations identified as Otherwise Protected Areas (OPA).

Coastal High Hazard Area means a Special Flood Hazard Area extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on a FIRM, or other adopted flood map as determined in Section 3.2 of the Pender County Unified Development Ordinance, as Zone VE.

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

Development Activity means above activity which will necessitate a Floodplain Development Permit.

Disposal means, as defined in NCGS 130A-280(a)(6), the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

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

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

Existing Manufactured Home Park means a manufactured home park or subdivision for which construction of facilities for servicing the lots on which the manufactured are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before the original effective date of the floodplain management regulations adopted by the community.

Flood or Flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- 1) the overflow of inland or tidal waters; and/or
- 2) the unusual and rapid accumulation of runoff of surface waters from any source.

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

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

Flood Hazard Boundary Map (FHBM) means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the area of special flood hazard have been defined as Zone A.

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

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

Flood Insurance Study (FIS) means an examination, evaluation, and determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones, and other flood data in a community issued by the Federal Emergency Management Agency. The Flood Insurance Study report

includes Flood Insurance Rate Maps (FIRMs), and Flood Boundary and Floodway Maps (FBFMs), if published.

Flood Prone Area see "Floodplain"

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

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

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

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

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

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

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

Flood Encroachment Analysis means an engineering analysis of the impact that a proposed encroachment into a floodway is expected to have on the floodway boundaries and base flood elevations; the evaluation shall be prepared by a qualified North Carolina licensed engineer using standard engineering methods and models.

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

Freeboard means the height added to the Base Flood Elevation (BFE) to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of

urbanization on the watershed. The Base Flood Elevation plus the freeboard establishes the “Regulatory Flood Protection Elevation”.

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

Hazardous Waste Facility means, as defined in NCGS 130, Article 8, a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.

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

Historic Structure means any structure that is:

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

Certified Local Government (CLG) Programs are approved by the US Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1866 as amended in 1880.

Lowest Adjacent Grade (LAG) means the elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.

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

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

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

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

Mean Sea Level means, for purposes of this Ordinance, the National Geodetic Vertical Datum (NGVD) as corrected in 1828, the North American Vertical Datum (NAVD) as corrected in 1888, or other vertical control datum used as a reference for establishing varying elevations within the floodplain, to which Base Flood Elevations (BFEs) shown on a FIRM are referenced. Refer to each FIRM panel to determine datum used.

New Construction means structures for which the start of construction commenced on or after the effective date of the original version of the community's Flood Damage Prevention Ordinance and includes any subsequent improvements to such structures.

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

OPA means an Otherwise Protected Area.

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

Pre-FIRM means construction or other development for which the "start of construction" occurred before the effective date of the initial Flood Insurance Rate Map for the area.

Primary Frontal Dune means a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and over-topping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively steep slope to a relatively mild slope.

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

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

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

- 1) Built on a single chassis;
- 2) 400 square feet or less when measured at the largest horizontal projection;
- 3) Designed to be self-propelled or permanently towable by a light duty truck; and
- 4) Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.

Reference Level is the top of the lowest floor or the bottom of the lowest attendant utility, whichever is lower, for structures within Special Flood Hazard Areas designated as Zone A1-30, AE, A, A88 or AO. The reference level is the bottom of the lowest horizontal structural member of the lowest floor for structures within Special Flood Hazard Areas designated as zone VE.

Regulatory Flood Protection Elevation means the elevation above mean sea level to which the reference level of all structures and other development located within Special Flood Hazard Areas and Future Conditions Flood Hazard Areas must be protected.

- In "Special Flood Hazard Areas" where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE plus two (2) feet of freeboard.
- In "Special Flood Hazard Areas" where no BFE has been established, this elevation shall be at least two (2) feet above the highest adjacent grade.
- In Future Conditions Flood Hazard Areas this elevation shall be the Future Conditions Flood Elevation plus two (2) feet of freeboard.

Remedy a Violation means to bring the structure or other development into compliance with State and community floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development.

Repetitive Loss means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds twenty-five (25%) percent of the market value of the structure before the damage occurred.

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

Sixty-Year Setback means a distance equal to sixty (60) times the average annual long-term recession rate at a site, measured from the reference feature.

Salvage Yard means any non-residential property used for the storage, collection, and/or recycling of any type of equipment, and including but not limited to vehicles, appliances and related machinery.

Solid Waste Disposal Facility means, as defined in NCGS 130A-280(a)(35), any facility involved in the disposal of solid waste.

Solid Waste Disposal Site means, as defined in NCGS 130A-280(a)(36), any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.

Special Flood Hazard Area (SFHA) means the land in the floodplain subject to a one (1%) percent or greater chance of being flooded in any given year, as determined in Section 3.2 of this Article.

Start of Construction includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

Structure means a walled and roofed building, a manufactured home, or a gas, liquid, or liquefied gas storage tank that is principally above ground.

Substantial Damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. Repetitive loss shall be considered in determining substantial damage. See definition of "substantial improvement".

Substantial Improvement means any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one-year period for which the cost equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

- 1) Any correction of existing violations of State or community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or
- 2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

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

Violation means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Sections 4 and 5 is presumed to be in violation until such time as that documentation is provided.

Water Surface Elevation (WSE) means the height, in relation to mean sea level, of floods of various magnitudes and frequencies in the floodplains of riverine areas.

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

ARTICLE 3: GENERAL PROVISIONS

3.1 Lands to which this Ordinance Applies

This Ordinance shall apply to all Special Flood Hazard Areas within the jurisdiction, including Extra-Territorial Jurisdictions (ETJs) if applicable, of the Pender County and within the jurisdiction of any other community whose governing body agrees, by resolution, to such applicability.

3.2 Basis for Establishing the Special Flood Hazard Areas

The Special Flood Hazard Areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its Flood Insurance Study (FIS) and its accompanying Flood Insurance Rate Maps (FIRM), for Pender County dated February 16, 2007 which are adopted by reference and declared to be a part of this Ordinance.

3.3 Establishment of Floodplain Development Permit

A Floodplain Development Permit shall be required in conformance with the provisions of this Ordinance prior to the commencement of any development activities within Special Flood Hazard Areas determined in accordance with Section 3.2 of this Ordinance.

3.4 Compliance

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

3.5 Abrogation and Greater Restrictions

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

3.6 Interruption

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

- H. Considered as minimum requirements;
- I. Liberally construed in favor of the governing body; and
- J. Deemed neither to limit nor repeal any other powers granted under State Statutes.

3.7 Warning and Disclaimer of Liability

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

3.8 Penalties for Violation

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

ARTICLE 4: ADMINISTRATION

4.1 Designation of Floodplain Administrator

The Administrator, or their designated agent, hereinafter referred to as the "Floodplain Administrator", is hereby appointed to administer and implement the provisions of this Ordinance.

4.2 Floodplain Development Application, Permit and Certification Requirements

- A. Application Requirements. Application for a Floodplain Development Permit shall be made to the floodplain administrator prior to any development activities located within Special Flood Hazard Areas. The following items shall be presented to the floodplain administrator to apply for a floodplain development permit:
- 1) A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:
 - a) the nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;
 - b) the boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in Section 3.2, or a statement that the entire lot is within the Special Flood Hazard Area;
 - c) flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in Section 3.2;
 - d) the boundary of the floodway(s) or non-encroachment area(s) as determined in Section 3.2.
 - e) the Base Flood Elevation (BFE) where provided as set forth in Sections 3.2; 4.2.K, 4.2.L; or Section 5.3;
 - f) the old and new location of any watercourse that will be altered or relocated as a result of proposed development;
 - g) the boundary and designation date of the Coastal Barrier Resource System (CBRS) area or Otherwise Protected Areas (OPA), if applicable.
 - h) When a lot or a portion thereof is located in a FEMA designated Special Flood Hazard Area for which elevations have been established, additional information will be required including a map of the lot or building site signed and sealed by a Licensed Surveyor showing an existing established elevation bench mark on the site within 50' of the proposed structure.
 - 2) Proposed elevation and method thereof, of all development within a Special Flood Hazard Area including but not limited to:
 - a) Elevation in relation to mean sea level of the proposed reference level (including basement) of all structures;
 - b) Elevation in relation to mean sea level to which any non-residential structure in Zone AE, A or AO will be flood-proofed; and
 - c) Elevation in relation to mean sea level to which any proposed utility systems will be elevated or flood proofed;
 - 3) If floodproofing, a Floodproofing Certificate (FEMA Form 81-65) with supporting data and an operational plan that includes, but is not limited to, installation, exercise, and maintenance of floodproofing measures.

- 4) A Foundation Plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this Ordinance are met. These details include but are not limited to:
 - a) The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls)
 - b) Openings to facilitate equalization of hydrostatic flood forces on walls in accordance with Section 5.2.D, when solid foundation perimeter walls are used in Zones A, AO, AE, and A1-30;
 - c) The following, in Coastal High Hazard Areas, in accordance with Section 5.2.D.4 and 5.6:
 - i) V-Zone Certification with accompanying plans and specifications verifying the engineered structure and any breakaway wall designs;
 - ii) Plans for open wood latticework or insect screening, if applicable;
 - iii) Plans for non-structural fill, if applicable. If non-structural fill is proposed, it must be demonstrated through coastal engineering analysis that the proposed fill would not result in any increase in the Base Flood Elevation or otherwise cause adverse impacts by wave ramping and deflection on to the subject structure or adjacent properties.
 - 5) Usage details of any enclosed areas below the regulatory flood protection elevation.
 - 6) Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage;
 - 7) Copies of all other Local, State and Federal permits required prior to floodplain development permit issuance (Wetlands, Endangered Species, Erosion and Sedimentation Control, CAMA, Riparian Buffers, Mining, etc.)
 - 8) Documentation for placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure Section 5.2.F and 5.2.G of this Article are met.
 - 9) A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.
- B. Permit Requirements. The Floodplain Development Permit shall include, but not be limited to:
- 1) A description of the development to be permitted under the floodplain development permit.
 - 2) The Special Flood Hazard Area determination for the proposed development per available data specified in Section 3.2.
 - 3) The regulatory flood protection elevation required for the reference level and all attendant utilities.
 - 4) The regulatory flood protection elevation required for the protection of all public utilities.
 - 5) All certification submittal requirements with timelines.
 - 6) A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse, as applicable.
 - 7) The flood openings requirements, if in Zones A, AO, AE or A1-30.
- C. Certification Requirements.
- 1) An Elevation Certificate (FEMA Form 81-31) or Floodproofing Certificate (FEMA Form 81-65) is required after the reference level is established. Within seven (7) calendar days of establishment of the reference level elevation, it shall be the duty of the permit holder to submit to the floodplain administrator a certification of the elevation of the reference level, in relation to mean sea level. Elevation certification shall be prepared by, or under the direct supervision of, a registered land surveyor or professional engineer and certified by same. Any work done within the seven (7) day calendar period and prior to submission of the

certification shall be at the permit holder's risk. The floodplain administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop-work order for the project.

- 2) A Final As-Built Elevation Certificate (FEMA Form 81-31) is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit to the floodplain administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. Elevation certification shall be prepared by, or under the direct supervision of, a registered land surveyor or professional engineer and certified by same. The floodplain administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Compliance/Occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.
- 3) Floodproofing Certificate
 - a) If non-residential floodproofing is used to meet the regulatory flood protection elevation requirements, a Floodproofing Certificate (FEMA Form 81-65), with supporting data and an operational plan, is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the floodplain administrator a certification of the flood proofed design elevation of the reference level and all attendant utilities, in relation to mean sea level. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The floodplain administrator shall review the certificate data and plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.
 - b) If a manufactured home is placed within Zone A, AO, AE, or A1-30 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required per Section 5.2.C.
 - c) If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; a professional engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.
 - d) Certification Exemptions. The following structures, if located within Zone A, AO, AE or A1-30, are exempt from the elevation/floodproofing certification requirements specified in items (a) and (b) of this subsection:
 - i) Recreational Vehicles meeting requirements of Section 5.2.F.1;
 - ii) Temporary Structures meeting requirements of Section 5.2.G; and
 - iii) Accessory Structures less than 150 square feet meeting requirements of Section 5.2.G.8.
- 4) A V-Zone Certification with accompanying design plans and specifications is required prior to issuance of a Floodplain Development permit within coastal high hazard areas. It shall be

the duty of the permit applicant to submit to the floodplain administrator said certification to ensure the design standards of this Ordinance are met. A registered professional engineer or architect shall develop or review the structural design, plans, and specifications for construction and certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of this Ordinance. This certification is not a substitute for an Elevation Certificate.

4.3 Duties and Responsibilities of the Floodplain Administrator

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

- 1) Review all floodplain development applications and issue permits for all proposed development within Special Flood Hazard Areas to assure that the requirements of this Ordinance have been satisfied.
- 2) Advise permittee that additional Federal or State permits (Wetlands, Endangered Species, Erosion and Sedimentation Control, CAMA, Riparian Buffers, Mining, etc.) may be required, and require that copies of such permits be provided and maintained on file with the floodplain development permit.
- 3) Notify adjacent communities and the North Carolina Department of Crime Control and Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).
- 4) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
- 5) Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of Section 5.4 are met.
- 6) Obtain actual elevation (in relation to mean sea level) of the reference level (including basement) and all attendant utilities of all new or substantially improved structures, in accordance with Section 4.2.C
- 7) Obtain actual elevation (in relation to mean sea level) to which all new and substantially improved structures and utilities have been flood proofed, in accordance with Section 4.2.C.
- 8) Obtain actual elevation (in relation to mean sea level) of all public utilities in accordance with Section 4.2.C.
- 9) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with Section 4.2.C and Section 4.2.B.
- 10) Where interpretation is needed as to the exact location of boundaries of the Special Flood Hazard Areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this Article.
- 11) When Base Flood Elevation (BFE) data has not been provided in accordance with Section 3.2, obtain, review, and reasonably utilize any Base Flood Elevation (BFE) data, along with floodway data or non-encroachment area data available from a Federal, State, or other source, including data developed pursuant to Section 5.3.B.2, in order to administer the provisions of this Ordinance.
- 12) When Base Flood Elevation (BFE) data is provided but no floodway nor non-encroachment area data has been provided in accordance with Section 3.2, obtain, review, and reasonably utilize any floodway data or non-encroachment area data available from a Federal, State, or other source in order to administer the provisions of this Ordinance.

- 13) When the lowest ground elevation of a parcel or structure in a Special Flood Hazard Area is above the Base Flood Elevation, advise the property owner of the option to apply for a Letter of Map Amendment (LOMA) from FEMA. Maintain a copy of the Letter of Map Amendment (LOMA) issued by FEMA in the floodplain development permit file.
- 14) Permanently maintain all records that pertain to the administration of this Ordinance and make these records available for public inspection.
- 15) Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the floodplain administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local Ordinance and the terms of the permit. In exercising this power, the floodplain administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.
- 16) Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this Ordinance, the floodplain administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.
- 17) Revoke floodplain development permits as required. The floodplain administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable State or local law may also be revoked.
- 18) Make periodic inspections throughout all special flood hazard areas within the jurisdiction of the community. The floodplain administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.
- 19) Follow through with corrective procedures of Section 4.4.
- 20) Review, provide input, and make recommendations for variance requests.
- 21) Maintain a current map repository to include, but not limited to, the FIS Report, FIRM and other official flood maps and studies adopted in accordance with Section 3.2 of this Ordinance, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify State and FEMA of mapping needs.
- 22) Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-F) and Letters of Map Revision (LOMR).

4.4 Corrective Procedures

- A. Violations to be corrected: When the floodplain administrator finds violations of applicable State and local laws, it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.
- B. Actions in Event of Failure to Take Corrective Action: If the owner of a building or property shall fail to take prompt corrective action, the floodplain administrator shall give the owner

written notice, by certified or registered mail to the owner's last known address or by personal service, stating:

- 1) That the building or property is in violation of the Flood Damage Prevention Ordinance;
 - 2) That a hearing will be held before the floodplain administrator at a designated place and time, not later than ten (10) days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and,
 - 3) That following the hearing, the floodplain administrator may issue an order to alter, vacate, or demolish the building; or to remove fill as appears appropriate.
- C. Order to Take Corrective Action: If, upon a hearing held pursuant to the notice prescribed above, the floodplain administrator shall find that the building or development is in violation of the Flood Damage Prevention Ordinance, they shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than sixty (60) calendar days, nor more than 180 calendar days. Where the floodplain administrator finds that there is imminent danger to life or other property, they may order that corrective action be taken in such lesser period as may be feasible.
- D. Appeal: Any owner who has received an order to take corrective action may appeal the order to the local elected governing body by giving notice of appeal in writing to the floodplain administrator and the clerk within ten (10) days following issuance of the final order. In the absence of an appeal, the order of the floodplain administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.
- E. Failure to Comply with Order: If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a misdemeanor and shall be punished at the discretion of the court.

4.5 Variance Procedures

- F. The Board of Adjustment as established by Pender County, hereinafter referred to as the "appeal board", shall hear and decide requests for variances from the requirements of this Ordinance.
- G. Any person aggrieved by the decision of the appeal board may appeal such decision to the Court, as provided in Chapter 7A of the North Carolina General Statutes.
- H. Variances may be issued for:
- 1) The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure.
 - 2) Functionally dependent facilities if determined to meet the definition as stated in Section 2 of this Ordinance, provided provisions of Section 4.5.I. (2),(3), and (5) have been satisfied, and such facilities are protected by methods that minimize flood damages.
 - 3) Any other type of development provided it meets the requirements stated in this Section.
- I. In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this Ordinance, and:
- 1) The danger that materials may be swept onto other lands to the injury of others
 - 2) The danger to life and property due to flooding or erosion damage;
 - 3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

- 4) The importance of the services provided by the proposed facility to the community;
 - 5) The necessity to the facility of a waterfront location as defined under Article 2 of this Ordinance as a functionally dependent facility, where applicable;
 - 6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 - 7) The compatibility of the proposed use with existing and anticipated development;
 - 8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - 9) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - 10) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
 - 11) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.
- J. A written report addressing each of the above factors shall be submitted with the application for a variance.
- K. Upon consideration of the factors listed above and the purposes of this Ordinance, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Ordinance.
- L. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Base Flood Elevation (BFE) and the elevation to which the structure is to be built and that such construction below the Base Flood Elevation increases risks to life and property, and that the issuance of a variance to construct a structure below the Base Flood Elevation will result in increased premium rates for flood insurance up to \$25 per \$100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.
- M. The floodplain administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the State of North Carolina upon request.
- N. Conditions for Variances:
- 1) Variances shall not be issued when the variance will make the structure in violation of other Federal, State, or local laws, regulations, or ordinances
 - 2) Variances shall not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge.
 - 3) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - 4) Variances shall only be issued prior to development permit approval.
 - 5) Variances shall only be issued upon:
 - a) a showing of good and sufficient cause;
 - b) a determination that failure to grant the variance would result in exceptional hardship; and
 - c) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
 - 6) A variance may be issued for solid waste disposal facilities, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in Special Flood Hazard Areas provided that all of the following conditions are met.
 - a) The use serves a critical need in the community.

- b) No feasible location exists for the use outside the Special Flood Hazard Area.
- c) The reference level of any structure is elevated or flood proofed to at least the regulatory flood protection elevation.
- d) The use complies with all other applicable Federal, State and local laws.
- e) The Pender County has notified the Secretary of the North Carolina Department of Crime Control and Public Safety of its intention to grant a variance at least thirty (30) calendar days prior to granting the variance.

ARTICLE 5: PROVISIONS FOR FLOOD HAZARD REDUCTION

5.1 General Standards

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

- 1) All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.
- 2) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- 3) All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.
- 4) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding to the Regulatory Flood Protection Elevation. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, appliances (washers, dryers, refrigerators, freezers, etc.), hot water heaters, and electric outlets/switches.
- 5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- 6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into flood waters.
- 7) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- 8) Any alteration, repair, reconstruction, or improvements to a structure, which is in compliance with the provisions of this Ordinance, shall meet the requirements of "new construction" as contained in this Ordinance.
- 9) Nothing in this Ordinance shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this Ordinance and located totally or partially within the floodway, non-encroachment area, or stream setback, provided there is no additional encroachment below the regulatory flood protection elevation in the floodway, non-encroachment area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this Ordinance.
- 10) New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted, except by variance as specified in Section 4.5.1.6. A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated or flood proofed to at least the regulatory flood protection elevation and certified according to the provisions of Section 4.2.C of this Ordinance.
- 11) All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.
- 12) All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

- 13) All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- 14) All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
- 15) When a structure is partially located in a special flood hazard area, the entire structure shall meet the requirements for new construction and substantial improvements.
- 16) When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk and the highest base flood elevation shall apply

5.2 Specific Standards

In all Special Flood Hazard Areas where Base Flood Elevation (BFE) data has been provided, as set forth in Section 3.2, or Section 5.3, the following provisions, in addition to Section 5.1, are required:

- A. Residential Construction. New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in Section 2 of this Ordinance.
- B. Non-Residential Construction. New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in Section 2 of this Ordinance. Structures located in A, AE and A1-30 Zones may be flood proofed to the regulatory flood protection elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the regulatory flood protection elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. For AO Zones, the floodproofing elevation shall be in accordance with Section 5.5, Section H(3). A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in Article 4, Section B(3), along with the operational and maintenance plans.
- C. Manufactured Homes.
 - 1) New and replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the regulatory flood protection elevation, as defined in Section 2 of this Ordinance.
 - 2) Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by engineer certification, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes, adopted by the Commissioner of Insurance pursuant to NCGS 143-143.15 or a certified engineered foundation. Additionally, when the elevation would be met by an elevation of the chassis thirty-six (36) inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above thirty-six (36) inches in height, an engineering certification is required.
 - 3) All enclosures or skirting below the lowest floor shall meet the requirements of Section 5.2.D.

- a) At or above the design flood elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and
 - b) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.
- I. Other Development: prior to the issuance of floodplain development permit for a temporary structure, the applicant must submit to the Floodplain Administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning notification. The following information shall be submitted in writing to the Floodplain Administrator for review and written approval:
- 1) Fences in regulated floodways and NEAs that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of Section 5.5 of this ordinance.
 - 2) Retaining walls, sidewalks and driveways in regulated floodways and NEAs. Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of Section 5.5 of this ordinance.
 - 3) Roads and watercourse crossing in regulated floodways and NEAs. Roads and watercourse crossings, including roads, bridges, culverts, low-water crossing and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of the Section 5.5 of this ordinance.

5.3 Standards for Floodplains without Established Base Flood Elevation

Within the Special Flood Hazard Areas designated as Approximate Zone A and established in Section 3.2, where no Base Flood Elevation (BFE) data is available, the following provisions, in addition to the provisions of Section 5.(1) and (2), shall apply:

- A. No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of twenty (20) feet each side from top of bank or five times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- B. The BFE used in determining the regulatory flood protection elevation shall be determined based on one of the following criteria set in priority order:
 - 1) If Base Flood Elevation (BFE) data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this Ordinance and shall be elevated or flood proofed in accordance with standards in Section 5.(1) and (2).
 - 2) All subdivision, manufactured home park and other development proposals shall provide Base Flood Elevation (BFE) data if development is greater than five (5) acres or has more than fifty (50) lots/manufactured home sites. Such Base Flood Elevation (BFE) data shall be adopted by reference in accordance with Article 3, Section B to be utilized in implementing this Ordinance. A formal adoption of Base Flood Elevation (BEF) data by the Pender County Board of County Commissioners is necessary.

- 4) An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the floodplain administrator and the local Emergency Management coordinator.
- D. Elevated Buildings. Fully enclosed areas of new construction and substantially improved structures, which are below the lowest floor:
- 1) Shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas;
 - 2) Shall be constructed entirely of flood resistant materials, up to the regulatory flood protection elevation;
 - 3) Shall include, in Zones A, AO, AE, and A1-30, flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria;
 - a) A minimum of two flood openings on different sides of each enclosed area subject to flooding;
 - b) The total net area of all flood openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding;
 - c) If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;
 - d) The bottom of all required flood openings shall be no higher than one (1) foot above the adjacent grade;
 - e) Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and
 - f) Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.
 - 4) Shall, in Coastal High Hazard Areas (Zones VE), either be free of obstruction or constructed with breakaway walls, open wood latticework or insect screening, provided they are not part of the structural support of the building and are designed so as to breakaway, under abnormally high tides or wave action, without causing damage to the structural integrity of the building. The following design specifications shall be met:
 - a) Material shall consist of open wood latticework or insect screening; or
 - b) Breakaway walls shall meet the following design specifications:
 - i) Design safe loading resistance of each wall shall be not less than 10 nor more than 20 pounds per square foot; or
 - ii) Breakaway walls that exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by State or local codes) shall be certified by a registered professional engineer or architect that the breakaway wall will collapse from a water load less than that which would occur during the base flood event, and the elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water

loads acting simultaneously on all building components (structural and non-structural). The water loading values used shall be those associated with the base flood. The wind loading values used shall be those required by the North Carolina State Building Code.

E. Additions/Improvements.

- 1) Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
 - a) not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure.
 - b) A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
 - c) Except in VE zones, where an addition to a non-residential structure has an independent load-bearing perimeter wall adjacent to the existing structure with only minimal changes to the existing structure, the addition(s) shall be considered a separate structure and only the addition must comply with the standards for new construction and substantial improvements.
- 2) Additions to post-FIRM structures with no modifications to the existing structure other than a standard door in the common wall shall require only the addition to comply with the standards for new construction.
- 3) Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
 - a) Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction.
 - b) A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction. Where an independent perimeter load-bearing wall is provided between the addition and the existing building, the addition(s) shall be considered a separate building and only the addition must comply with the standards for new construction.
 - c) Except in VE zones, where an addition to a non-residential structure has an independent load-bearing perimeter wall adjacent to the existing structure with only minimal changes to the existing structure, the addition(s) shall be considered a separate structure and only the addition must comply with the standards for new construction and substantial improvements.
- 4) Recreational Vehicles. Recreational vehicles shall either:
 - a) Be on site in a travel trailer park for fewer than 90 consecutive days and be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions); or
 - b) Not stored on any property without a primary structure or
 - c) Meet all the requirements for new construction.

F. Temporary Non-Residential Structures. Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the floodplain administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning notification. The following information shall be submitted in writing to the floodplain administrator for review and written approval;

- 1) A specified time period for which the temporary use will be permitted. Time specified should not exceed three (3) months, renewable up to one (1) year;

- 2) The name, address, and phone number of the individual responsible for the removal of the temporary structure;
 - 3) The time frame prior to the event at which a structure will be removed (i.e., minimum of seventy-two (72) hours before landfall of a hurricane or immediately upon flood warning notification);
 - 4) A copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and
 - 5) Designation, accompanied by documentation, of a location outside the Special Flood Hazard Area, to which the temporary structure will be moved.
- G. Accessory Structures. When accessory structures (sheds, detached garages, etc.) are to be placed within a Special Flood Hazard Area, the following criteria shall be met:
- 1) Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);
 - 2) Accessory structures shall not be temperature-controlled;
 - 3) Accessory structures shall be designed to have low flood damage potential;
 - 4) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
 - 5) Accessory structures shall be firmly anchored in accordance with the provisions of Section 5.1.A.1;
 - 6) All service facilities such as electrical shall be installed in accordance with the provisions of Section 5.1.A.4; and
 - 7) Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below regulatory flood protection elevation in conformance with the provisions of Section 5.2.D.3,
 - 8) An accessory structure with a footprint less than 144 square feet or cost of less than \$500 that satisfies the criteria outlined above does not require an elevation or floodproofing certificate. Elevation or floodproofing certifications are required for all other accessory structures in accordance with the provisions of Section 5.2.C.
- H. Tanks. When gas and liquid storage tanks are to be placed within a Special Flood Area, the following criteria shall be met:
- 1) Underground tanks: Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty;
 - 2) Above-ground tanks, elevated: above-ground tanks in flood hazard areas shall be attached to and elevated to or above the design flood elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area;
 - 3) Above-ground tanks, not elevated: Above-ground tanks that do not meet the elevation requirements of Section 1.2 B, of this ordinance shall be permitted in the flood hazard areas provided the tanks are anchored or otherwise designed and constructed to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty and the effects of flood-borne debris;
 - 4) Tank inlets and vents; Tank inlets, fill openings, outlets and vents shall be:

- 3) When Base Flood Elevation (BFE) data is not available from a Federal, State, or other source as outlined above, the reference level shall be elevated to or above the regulatory flood protection elevation, as defined in Section 2.

5.4 Standards for Riverine Floodplains With BFE But Without Established Floodways or Non Encroachment Areas

- A. Along rivers and streams where BFE data is provided by FEMA or is available from another source but neither floodway nor non-encroachment areas are identified for a Special Flood Hazard Area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:
- 1) Standards of Article 5.(1) and (2); and
 - 2) Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

5.5 Floodways and Non-Encroachment Areas

- A. Areas designated as floodways or non-encroachment areas are located within the Special Flood Hazard Areas established in Section 3.2. The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in Section 5.(1) and (2), shall apply to all development within such areas:
- 1) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless:
 - a) It is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the floodplain administrator prior to issuance of floodplain development permit, or
 - b) A Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained upon completion of the proposed encroachment.
 - 2) If Section 5.5.A.1 is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this Ordinance.
 - 3) Manufactured homes may be permitted provided the following provisions are met:
 - a) The anchoring and the elevation standards of Section 5.2.C.2; and
 - b) The no encroachment standard of Section 5.5.A.1.

5.6 Coastal High Hazards Areas (VE Zones)

- A. Coastal High Hazard Areas are Special Flood Hazard Areas established in Section 3.2, and designated as Zones VE. These areas have special flood hazards associated with high velocity waters from

substantial improvements shall meet the following requirements in addition to the provisions of Section 5.(1) and (2).

- B. All new construction and substantial improvements shall:
 - 1) Be located landward of the reach of mean high tide;
 - 2) Be located landward of the first line of stable natural vegetation; and
 - 3) Comply with all applicable CAMA setback requirements.
- C. All new construction and substantial improvements shall be elevated so that the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings or columns) is no lower than the regulatory flood protection elevation. Floodproofing shall not be utilized on any structures in Coastal High Hazard Areas to satisfy the regulatory flood protection elevation requirements.
 - 1) All new construction and substantial improvements shall have the space below the lowest floor free of obstruction so as not to impede the flow of flood waters, with the following exceptions:
 - 2) Open wood latticework or insect screening may be permitted below the lowest floor for aesthetic purposes only and must be designed to wash away in the event of abnormal wave action and in accordance with the provisions of Section 5.2.D.4.a. Design plans shall be submitted in accordance with the provisions of Section 4.2.A.4.c.ii; or
- D. Breakaway walls may be permitted provided they meet the criteria set forth in Section 5.2.D.(2) and (4). Design plans shall be submitted in accordance with the provisions of Section 4.2.D and 4.2.D4, Section B(4) and 4.2.A(4)(c)(i).
 - 1) All new construction and substantial improvements shall be securely anchored to pile or column foundations. All pilings and columns and the structure attached thereto shall be anchored to resist flotation, collapse, and lateral movement due to the effect of wind and water loads acting simultaneously on all building components.
 - 2) Water loading values used shall be those associated with the base flood.
- E. Wind loading values used shall be those required by the current edition of the North Carolina State Building Code.
- F. A registered professional engineer or architect shall certify that the design, specifications and plans for construction are in compliance with the provisions of Section 4.2, Section 5.6.C, Section 5.6.D and Section 5.7.F of this Ordinance on the current North Carolina "National Flood Insurance Program V-Zone Certification" form.
- G. Fill shall not be used for structural support. Limited non-compacted and non-stabilized fill may be used outside the perimeter of a building provided it is demonstrated through coastal engineering analysis that the proposed fill would not result in any increase in the Base Flood Elevation and not cause any adverse impacts by wave ramping or deflection to the subject structure or adjacent properties:
- H. There shall be no alteration of sand dunes which would increase potential flood damage.
- I. No manufactured homes shall be permitted except in an existing manufactured home park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring and elevation standards of this Section have been satisfied.
- J. Recreational vehicles may be permitted in Coastal High Hazard Areas provided that they meet the Recreational Vehicle criteria of Section 5.2.F.1.

ARTICLE 6: LEGAL STATUS PROVISIONS

6.1 Effect on Rights and Liabilities under the Existing Flood Damage Prevention Ordinance

This Ordinance in part comes forward by re-enactment of some of the provisions of the flood damage prevention ordinance enacted June 28, 1977 (adoption date of the community's original Flood Damage Prevention Ordinance) as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued there under are reserved and may be enforced. The enactment of this Ordinance shall not affect any action, suit or proceeding instituted or pending. All provisions of the flood damage prevention ordinance of Pender County enacted on December 9, 2013, as amended, which are not reenacted herein, are repealed.

6.2 Effect on Outstanding Floodplain Development Permits

Nothing herein contained shall require any change in the plans, construction, size, or designated use of any development or any part thereof for which a floodplain development permit has been granted by the floodplain administrator or his or her authorized agents before the time of passage of this Ordinance; provided, however, that when construction is not begun under such outstanding permit within a period of six (6) months subsequent to the date of issuance of the outstanding permit, construction or use shall be in conformity with the provisions of this Ordinance.

6.3 Effective Date

This ordinance shall become effective on December 10, 2013.

Attachment Two: Updating Standards in the Pender County Unified Development Ordinance

Section 4.14 Zoning District Dimensional Requirements

Dimensional Requirements Table

Dimensional Standards ⁽⁹⁾	RA	RP	RM	MH	GB	OI	IT	GI	PD	CC
Lot Size	1 Acre ⁽⁸⁾	15,000 ⁽⁵⁾ Sq. Ft.	(1)	(7)	15,000 Sq. Ft. ⁽⁸⁾	15,000 Sq. Ft.	1 Acre	1 Acre	(1)	1 Acre
Lot Size Duplex	60,000 Sq. Ft.	22,000 Sq. Ft.	(1)						(1)	
Min. Area Rezoning(3)	NA	5 Acres	10 Acres	5 Acres	1 Acre	1 Acre	5 Acres	5 Acres	100 acres	NA
Min. Lot Width-Ft	100 ⁽⁸⁾	80 ⁽⁶⁾	(1)	(7)	80 ⁽⁸⁾	80	100	100	(1)	100
Min. Chord Length at ROW line for "cul de sac's"	45	30	(1)	20	30	30	45	45	(1)	45
Min. Front Yd.-Ft.	30 ⁽⁸⁾	30	(1)	(7)	25 ⁽⁸⁾	25	40	50	(1)	50
Min. Side Yard-Ft	15 ⁽⁸⁾	10	(1)	(7)	10 ⁽⁸⁾	10	25	25	(1)	25
Min. Corner Yard Ft (10)	15	15	(1)	(7)	12	12	20	25	(1)	25
Min. Rear Yard-Ft	30 ⁽⁸⁾	25	(1)	(7)	10 ⁽⁸⁾	10	25	25	(1)	25
Max. Height-Ft	35 ⁽²⁾	35 ⁽²⁾	45	35	40	40	50	50	(1)	40
Min. Req. Structure Separation	40 ⁽⁸⁾	30	(1)		50 ⁽⁸⁾	50	50	100	(1)	30

- (1) Dimensional standards in the Planned Development (PD) and Residential Mixed (RM) Districts are required to be specified on a Master Development Plan.
- (2) Maximum Height requirements in the RA, RP, RM and PD Zoning Districts shall be allowed an additional ten (10) feet if located within any Special Flood Hazard Area (SFHA) at the calculation of 5 additional feet in building height per every two (2) feet built above the prescribed Base Flood Elevation (BFE) the regulatory flood prevention protection elevation, as defined in the Pender County Flood Damage Prevention Ordinance with building height at up to a maximum of forty-five (45) feet.
- (3) Any parcel of property meeting the guidelines set forth in Sections 3.3 or 3.4 that adjoins an established zoning district that is identical to the district that is applying for a rezoning shall not have to meet the minimum area requirements for rezoning for that district.
- (4) The minimum required separation standards are for principal or primary structures, accessory structures must follow separation and setback requirements as outlined in Sections 4.6.3 and 5.3.3.A.
- (5) Minimum lot sizes in the RP zoning district may be reduced to twelve thousand (12,000) square feet with the evidence of public utilities (water and sewer) availability and connection is demonstrated.
- (6) Minimum lot width in the RP zoning district may be reduced to sixty (60) feet with the evidence of public utilities (water and sewer) availability and connection is demonstrated.
- (7) Dimensional requirements for a Manufactured Home District may be found in Section 5.3.2.D, Manufactured Home Community.

- (8) Dimensional requirements for a Recreational Vehicle Park may be found in Section 5.3.9.B, Recreational Vehicle Park.
- (9) Variations to Dimensional Standards are allowed for projects meeting LID Project Criteria, as overviewed in Section 7.14, Low Impact Development.
- (10) See Figure 4.1.

APPENDIX A DEFINITIONS

Words and terms set forth below shall have the meanings ascribed to them. Any word, term(s) or phrase used in this Unified Development Ordinance not defined below shall have the meaning ascribed to such word, term or phrase in the most recent editions of Merriam-Webster's Dictionary, Black's Law Dictionary or American Planning Association Planner's Advisory Service, Dictionary of Terms unless, in the opinion of the Administrator, established customs or practices in Pender County justify a different or additional meaning. Furthermore, for the purpose of this Unified Development Ordinance, certain words, terms and phrases are herein defined as follows:

- A. Words used in the present tense shall include the future tense.
- B. Words used in the singular number shall include the plural number and the plural singular.
- C. The word "shall" and "will" are mandatory and not discretionary.
- D. The word "may" is permissive.
- E. The word "lot" shall include the words "parcel", "plot" and "tract".
- F. The word "building" and "structures" are synonymous.
- G. The phrase "used for" shall include the terms "intended to be used", or "intended for" and "designed for" and "occupied for".
- H. Words used here in the masculine gender shall be interpreted to include the feminine gender.
- I. References to Section numbers herein refer to the Pender County Unified Development Ordinance unless specifically stated otherwise.

60-YEAR Setback means a distance equal to sixty (60) times the average annual long-term recession rate at a site, measured from the reference feature.

ACCESS EASEMENT: An easement that is at least forty five (45') feet wide and is recorded by map or other instrument in the Registry that specifically transfers rights to the adjacent property owners or specific property owners and their assigns, invitees, licensors and permittees for ingress, egress and utilities and for the construction and maintenance of ingress, egress and utility facilities. An access easement by designation on a recorded plat also transfers the right to construct and maintain water, sewer, electric and communication lines within the easement by any public entity or public utility.

ACCESS: A way or means of vehicular or pedestrian approach to provide physical entrance to a property.

ACCESSORY OR SECONDARY USE: A use of land or of a building or portion thereof customarily associated with and incidental and subordinate to the principal use of the land or building and located on the same lot with such principal use. A secondary use shall be a use not already permitted by right in a zoning district but may be permitted in conjunction with a permitted use. In no instances shall an accessory or secondary use be permitted without the presence of a primary use.

ACCESSORY STRUCTURE (Appurtenant Structure): a structure located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports and storage sheds are common urban accessory structures. Pole barns, hay sheds and the like qualify as accessory structures on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.

ACTIVE BUFFER: A distance buffer which contains no building or principal structure of activity but which may contain an accessory use or activity.

ACTIVE OPEN SPACE: Consists of areas such as park land chosen without regard to natural features for the explicit purposes of enhancing design, such as village commons, or providing space for outdoor recreation activities which may include, but not be limited to, tennis courts, ball fields, swimming pools, and tot lots with play equipment

ADDITION: A structure added to the original structure at some time after the completion of the original.

ADJACENT OR ADJOINING LOT OR LAND: A lot or parcel of land which shares all or part of a common lot line with another lot or parcel or land or which is immediately across a street or road from said parcel or lot.

ADULT CARE RESIDENCES: A public or private establishment operated or maintained for the maintenance or care of four or more adults who are aged, infirm or disabled and who are cared for in a primarily residential setting. Adult care residences do not include facilities or portions of a facility licensed by the State Board of Health and the home or residence of an individual who cares for or maintains only persons related to him by blood or marriage; and a facility or portion of a facility serving infirm or disabled persons between the ages of 18 and 21.

ADULT RETAIL: A retail establishment for which 25% or more of its stock in trade, as determined by floor area, is in videos, magazines, books, publications, tapes, films or other periodicals and paraphernalia which are distinguished or characterized by an emphasis on depicting or describing specified sexual conduct or specified anatomical areas.

ADULT OR SEXUALLY ORIENTED BUSINESS:

1. **Adult Arcade:** An establishment where, for any form of consideration, one or more motion picture projectors, slide projectors, or similar machines for viewing by five or fewer persons each are used to show films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas (as defined hereinafter).
2. **Adult Bookstore:** An establishment that has as substantial portion (over 25% of total retail space) of its stock-in-trade and offer for rent or sale, for any consideration, any one or more of the following: 1) books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, slides, or other visual representations that an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas; or 2) instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities.
3. **Adult Business:** An adult business shall be defined as any business activity, club or other establishment which permits its employees, members, patrons or guests on its premises to exhibit any specified anatomical areas before any other person or persons.
4. **Adult Motion Picture Theater:** An establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are shown, and in which 25% or more of the total presentation time is devoted to the showing of material characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas.
5. **Adult Theater:** A theater, concert hall, auditorium or similar establishment characterized by (activities featuring) the exposure of specified anatomical area or by specified sexual activities.

6. **Massage:** Any manipulation of body muscle or tissue by rubbing, stroking, kneading, or tapping, by hand or mechanical device.
7. **Massage Business:** Any establishment or business wherein massage is practiced, including establishments commonly known as massage studios or massage parlors. Excluded from this definition are legitimate massage therapists, bodywork therapists, or contact manipulation therapists, working under the direct supervision of a licensed Physician, or who in the regular course of their respective businesses, have been licensed or certified by any governmental subdivision in North Carolina, or licensed or certified by a recognized association or organization on file with the North Carolina Secretary of State, the North Carolina Board of Chiropractic Examiners, North Carolina Board of Medical Examiners, N.C. Board of Occupational Therapy, NC Board of Physical Therapy Examiners, or Board of Podiatry Examiners, or have been certified or licensed by a national organization and similarly registered.
8. **Sexually Oriented Business:** A sexually oriented business shall be defined as any business activity, club or other establishment, within which the exhibition, showing, rental, or sale of materials distinguished or characterized by an emphasis on material depicting, describing, or exhibiting specified anatomical areas or relating to specified sexual activities is permitted. Sexually oriented businesses shall include, but are not limited to: adult arcades, adult bookstores, adult motion picture theaters, adult theaters, massage businesses, as defined by this Ordinance.
9. **Specified Anatomical Areas:** Specified anatomical areas shall be defined as less than completely and opaquely covered human genitals, pubic regions, buttocks and female breasts below a point immediately above the top of the areola.
10. **Specified Sexual Activities:** Specified sexual activities shall be defined as:
 - a. Human genitals in a state of stimulation or arousal;
 - b. Acts of human masturbation, sexual intercourse, sodomy; or
 - c. Fondling of other erotic genitals, pubic regions, buttocks or female breasts.
11. **Total Retail Space:** Any space within the structure that is used for the direct sale of merchandise to the public and storage areas for those items.

ADULT TREATMENT HOME: A residential facility for persons recovering from alcohol abuse where supervision, rehabilitation and counseling are provided to the residents.

AISLE: The traveled way by which vehicles enter and depart parking spaces.

ALL WEATHERED ROAD: An unpaved road that is constructed of a material that does not create mud, or sedimentation runoff during rainfall, which allows emergency and typical passenger vehicles to pass at all times.

ALTERATION: Any change in the total floor area, use or external appearance of an existing structure.

AMBULANCE SERVICE: A state-licensed business for operating owned motor vehicles that are designed and used to provide immediate care or to transport any persons who are sick, injured or otherwise incapacitated or helpless.

APPROVED ARCHITECTURAL MATERIAL: The structural or applied surface component of a façade including brick, rock, tinted or textured concrete masonry units, wood plank, fiber cement siding, precast concrete, tilt up concrete, shakes, split faced block, marble or simulated substitute. All materials shall be of a high quality. Vinyl and metal siding may be used as a minor material of the building façade.

ARCHITECTUAL ELEMENT: A façade module feature that is applied, inserted, incorporated or constructed into or upon the primary or secondary façade including real or faux windows, real or faux doors, awnings, gables, parapets, porticos, porte cocheres, arcades, arches, cupolas, columns, roof lines, material projections, recesses, cornices, etc.

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

AREA OF SPECIAL FLOOD HAZARD: see "Special Flood Hazard Area (SFHA)".

ARTERIAL HIGHWAY: A street so classified by the North Carolina Division of Highways or by the standards of Pender County which collects and distributes traffic to and from collector streets.

ASSISTED-LIVING FACILITY: A building or series of buildings containing residential living facilities for older, disabled or infirm persons and which provides personal and health care services, twenty-four-hour supervision, and various types of assistance (scheduled and unscheduled) in daily living and meeting the requirements of the North Carolina State Legislative Code, as amended.

AUCTION HOUSE: A building in which the commissioned public sales of goods to the highest bidder, conducted by a licensed auctioneer for persons or groups other than community nonprofit organizations, occur more than once a year.

AUTOMOBILE GRAVEYARD: Any lot or parcel, upon which more than five inoperable motor vehicles which are exposed to the weather are placed, located or found.

AUTOMOBILE PARKING STRUCTURE: A building or structure consisting of more than one level designed and used for public or private parking of motor vehicles.

BASE FLOOD ELEVATION (BFE): a determination of the water surface elevations of the base flood as published in the Flood Insurance Study. When the BFE has not been provided in a "Special Flood Hazard Area", it may be obtained from engineering studies available from a Federal or State or other source using FEMA approved engineering methodologies. This elevation, when combined with the "Freeboard", establishes the "Regulatory Flood Protection Elevation".

~~**BASE FLOOD ELEVATION (BFE):** The Federal Emergency Management Agency designated one-hundred-year flood hazard surface water elevation.~~

BASE FLOOD: The flood having a one-percent chance of being equaled or exceeded in any given year.

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

BOARD OF ADJUSTMENT: A Board whose members are appointed by the Circuit Court for the express purpose of considering and acting on variances and zoning appeals.

BOARDING- OR ROOMING HOUSE: A dwelling or part thereof where, for compensation, lodging and meals are provided to boarders.

BOAT: A vessel or watercraft of any type or size specifically designed to be self-propelled, whether by engine, sail, oar, or paddle or other means, which is used to travel from place to place by water.

BREAKAWAY WALL: A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

BUFFER: An open area used to separate one use from another.

BUILDING LINE: Building lines are tangent to the exterior surface of a building or structure, parallel to front, side and rear lot lines. These are referred to as front, side and rear building lines, respectively.

BUILDING: Any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of any persons, animals, processes, equipment, goods or materials of any kind.

BUSINESS PARK: A development which includes multiple buildings and uses. Shopping Centers, Industrial Parks, and Office Parks are types of Business Parks.

CALIPER: The diameter of a tree as defined by the American Association of Nurserymen.

CAMA – North Carolina’s Coastal Area Management Act. This act, along with the Dredge and Fill Law and the federal Coastal Zone Management Act, is managed through North Carolina Department of Environment and Natural Resources’ (NCDENR’s) Division of Coastal Management (DCM).

CAMPGROUND: A lot or parcel, upon which two or more campsites are located, established or maintained for occupancy by the general public as temporary living quarters for recreation, education or vacation purposes.

CAPITAL IMPROVEMENTS PLAN OR PROGRAM: A plan or program adopted by the Pender County Board of Commissioners according to the provisions of the North Carolina Code, which recommends capital outlays by the County for a specific time period.

CBRS means Coastal Barrier Resources System.

CERTIFICATE OF OCCUPANCY: A required permit allowing occupancy of a building, structure or use after it has been determined that the building, structure or use meets all the requirements of the Pender County Code.

Certified Local Government (CLG) Programs are approved by the US Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1866 as amended in 1880.

CHEMICAL STORAGE FACILITY: a building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

CHILD CARE CENTER : An arrangement where, at any one time, there are three or more preschool-age children or nine or more school-age children receiving child care, regardless of the time of day, wherever operated, and whether or not operated for profit, unless excluded by NC G.S. 110-82(2)

CLEAR ZONE: A designated area void of buildings, structures, fences, berms and vegetation.

Coastal Barrier Resources System (CBRS) consists of undeveloped portions of coastal and adjoining areas established by the Coastal Barrier Resources Act (CoBRA) of 1982, the Coastal Barrier Improvement Act (CBIA) of 1980, and subsequent revisions, and includes areas owned by federal or state governments or private conservation organizations identified as Otherwise Protected Areas (OPA).

Coastal High Hazard Area means a Special Flood Hazard Area extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on a FIRM, or other adopted flood map as determined in Section 9.3.2 of this Ordinance, as Zone VE.

COMMERCIAL INDOOR RECREATION: Private, fee-supported, indoor facilities used for athletic, training or recreational purposes.

COMMERCIAL OUTDOOR RECREATION: Private, fee-supported, outdoor facilities used for athletic, training, recreational or park purposes that utilizes supervised athletic or recreational activities.

COMMERCIAL SPORT AND RECREATION CLUBS: A public or private fee-supported recreational facility located indoors or outdoors that may include swimming pools, court games and other similar activities.

COMMERCIAL TELECOMMUNICATION FACILITY: A structure, including the tower, antennas, panels, microwave dishes, receiving dishes, equipment building, other transmitting and receiving components and other accessory structures, used for the wireless electromagnetic transmission of information, excluding structures utilized as satellite earth stations and structures utilized for amateur or recreational purposes such as ham radio or citizen band radio.

COMMERCIAL VEHICLE: Any vehicle or trailer (1) with a gross vehicle weight registered with the North Carolina Department of Motor Vehicles or any other state or government agency as 12,000 pounds and greater and used for commercial purposes, or (2) any vehicle or trailer, regardless of weight, including vehicles used for a business use or licensed as a "for hire" vehicle, or any limousine or bus used as a common or contract carrier vehicle. For purposes of this chapter, a commercial vehicle shall not be deemed to include any of the following: police vehicle, emergency vehicle, commuter van, motor home, camping trailer, boat trailer or similar recreational equipment used as a personal property and not for hire or used as a school van or bus.

COMMON AREA/OPEN SPACE: Land that is used for recreational purposes, environmental resource protection, buffer areas, stormwater management areas and passive areas that are

dedicated to the residents of a development for use and maintenance, and is protected to ensure that it remains in such uses, unless utilized under the provisions of this chapter.

COMMUNITY BOATING FACILITY: A private, nonprofit boating facility with navigable water frontage which includes a dock, pier, and/or launching ramp which is intended to serve five (5) or more residential units. Must be owned/controlled by a Homeowners Association (HOA) or any type of development association or collective owners group where more than one family has privileges to use facility. Commercial activities of any kind, including commercial letting of slips to parties that are not residents of the association or development, shall be prohibited.

COMMUNITY WASTEWATER SYSTEM: A sanitary wastewater facility which is publically or privately owned and established to serve more than one single residential dwelling, commercial, and/or industrial development and is approved through a state agency or utilities commission.

COMMUNITY WATER SYSTEM: A public water supply system established to serve all or a portion of a residential, commercial, and/or industrial development year round and is approved through a state agency or utilities commission.

COMPATIBLE: Capable of existing together in harmony; congruous.

COMPREHENSIVE LAND USE PLAN: A general plan for the future development of Pender County, adopted by the Pender County Board of Commissioners according to the provisions of the North Carolina Code.

CONFERENCE/EVENT CENTER: A structure or facility designed to accommodate meetings and other events with or without food service developed to be either stand-alone or within a hotel or motel.

CONFINED/CONCENTRATED ANIMAL FEEDING OPERATION: A lot or facility (other than an aquatic animal production facility) where at least one of the following conditions are met:1) Animals (other than aquatic animals) have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period; 2) Crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility; OR- Any animal feeding operation that requires a National Pollution Discharge Elimination System (NPDES) permit.

CONGREGATE-CARE FACILITY: A building containing residential living facilities intended as housing for older persons and which offers the residents of such facility the opportunity to receive their meals in a central dining facility, to receive housekeeping services and to participate in activities, health services, and other services offered through a central management structure/service.

CONSTRUCTION EQUIPMENT: Heavy equipment or vehicles of a type used primarily by the construction industries. Such equipment may include, but is not limited to, bulldozers, backhoes, cement trucks, concrete mixers, construction tractors, cranes, derricks, dredging machinery, dump trucks, excavators, graders, hoists, pavers, power shovels, road construction and maintenance machinery, scaffolds, tank trucks, trenching machines, and water well drilling machinery.

CONVALESCENT AND NURSING HOMES: An extended- or intermediate-care facility licensed or approved to provide full-time convalescent or chronic care to individuals who, by reason of advanced age, chronic illness or infirmity, are unable to care for themselves.

COTTAGE OCCUPATION: A use conducted for the generation of revenue in an accessory structure located on the same lot or tract as a dwelling. The use must: be clearly incidental and secondary to the use of the property for residential purposes; not change the character of the structure or area; or have any exterior evidence of the occupation. Cottage Occupations are intended to be limited to low intensity uses that produce or repair a product, but can be operated in such a way that they do not adversely affect adjacent properties.

COUNTRY GENERAL STORE: A retail business allowed where specified in the rural zoning districts which sells groceries along with a variety of other retail goods.

CROSS ACCESS: A service drive between two or more contiguous sites providing direct access to properties and limiting travel on the public street system.

DEDICATE: The transfer or reservation for future conveyance of property by the owner to another party.

DEVELOPER: The legal or beneficial owner or owners of a lot or of any land included in a proposed development, including the holder of an option or contract to purchase, or other persons having enforceable proprietary interests in such land.

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

DISPLAY AREA: A specific area used for the purpose of displaying products and services offered by a business or organization located on the same property or a contiguous property which is appropriately zoned and with an approved site plan.

DISPOSAL: as defined in NCGS 130A-280(a)(6), the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

DISTANCE BUFFER: A buffer based upon a required distance between the use to be buffered and the lot line of adjoining lots or parcels, within which a buffer is to be provided.

DISTRICT: A zoning district established by this Ordinance.

DISTURBANCE: The act of stripping vegetation, disturbing the soil, regrading or development of the land.

DRAINAGE EASEMENT: An easement established to maintain and protect a drainageway.

DRAINAGEWAY: Any natural or artificial watercourse, trench, ditch, swale or similar depression through which surface water flows.

DRIVE-IN LANE: Any driveway, aisle or travel lane which allows customers to receive goods or services while they remain in their vehicles.

DRIVEWAY: A private travel way for vehicles which provides access to a public street or road from a parking space, garage, dwelling, structure or use.

DRUG TREATMENT HOME: A residential facility for persons recovering from drug or controlled substance abuse where supervision, rehabilitation and counseling are provided to the residents.

DWELLING: A residential structure or portion thereof which is used exclusively for human habitation.

1. **DWELLING, MULTIFAMILY:** A single structure arranged or designed to be occupied by two or more households, when the fee simple ownership of the underlying land is owned and maintained by an organization other than the occupants. This definition includes but is not limited to condominiums, apartments and single story structures.
2. **DWELLING, SINGLE-FAMILY:** A structure, not including manufactured homes, arranged or designed to be occupied by one household.
3. **DWELLING, DETACHED:** A dwelling that is not attached to any other dwelling by any means.
4. **DWELLING, SEMI-DETACHED:** A dwelling attached to one or more dwellings by a common vertical wall, with each dwelling located on a separate lot.
5. **DWELLING, ATTACHED:** A dwelling with two or more single-family dwelling units which are generally joined together by an above-grade common party wall extending from the lowest floor to the roof or by a common floor-ceiling. A common floor-ceiling shall be the floor of one unit that is shared with the ceiling of another unit in vertically stacked dwelling units. Townhouse units may be attached by a garage or a connecting permanent architecturally unified structure such as a breezeway, carport, or wall, where structures continue the design, pattern and/or materials of the facade from one dwelling unit to another.

EASEMENT: A grant of one or more of the property rights by the property owner to and/or for use by the public, a corporation, or another person or entity.

ELEVATED BUILDING: A non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, or columns (posts and piers).

ENCROACHMENT: With respect to a floodplain, an encroachment shall be the advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

ENVIRONMENTAL EASEMENT: An easement established to protect and maintain particular environmental features according to the environmental protection requirements of this chapter.

ENVIRONMENTAL FEATURES: Land features that are classified as natural or environmentally sensitive areas including Special Flood Hazard Areas (SFHA), lakes, ponds, wetlands, natural stormwater retention areas, steep slopes, woodlands, stream buffers, water ways, riparian areas, and all other natural features.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION: A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

FAÇADE: The visible exterior portion of a building wall which extends from the ground to the top of the wall or roof line.

1. **FAÇADE, PRIMARY:** The façade containing the highest number of customer's entrances.
2. **FAÇADE, SECONDARY:** A façade which is designed to be viewed from a public street but is not the primary façade.
3. **FAÇADE, OTHER:** Any façade which is not considered a primary or secondary façade.
4. **FAÇADE, MODULE:** A sixty foot or shorter horizontal section of façade containing a minimum of five unique architectural elements.

FAMILY CARE HOME: A home with support and supervisory personnel that provides room and board, personal care and habilitation services in a family environment for not more than six resident persons with disabilities as defined in NCGS § 168, Article 3.

FAMILY CHILD CARE HOME: A child care arrangement located in a residence where, at any one time, more than two children, but less than nine children, receive child care, regardless of the time of day, wherever operated, and whether or not operated for profit, unless excluded by NC G.S. 110-82(2)

FAST-FOOD RESTAURANT: Any establishment whose principal business is the sale of food or beverages in a ready-to-consume state with a rapid turnover of customers. Food is provided for consumption on or off the premises. Such establishments usually involve customer self-service and the serving of food in disposable or edible containers.

FLEET MAINTENANCE FACILITY, MEDICAL AND ALLIED HEALTH: A structure or facility designed to maintain vehicles, aircraft and equipment associated with medical and allied health services.

FLEX-TECH: A development concept that accommodates aspects of retail, manufacturing, wholesale and warehousing by an individual user within a single structure. Such development is designed to accommodate users that require flexibility in their square footage allocation. A typical flex-tech user would be a small business that initially requires a relatively small square footage but may increase the business' square footage as the strength of the business improves.

FLOOD or FLOODING:

1. A general or temporary condition of partial or complete inundation of normally dry land areas from:
 - a. The overflow of inland or tidal waters; or
 - b. The unusual and rapid accumulation or runoff of surface waters from any source.
2. The collapse or subsistence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in Subsection A(1) of this definition.
3. Mudflows which are proximately caused by flooding as defined in Subsections A and B of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

FLOOD BOUNDARY AND FLOODWAY MAP (FBFM): an official map of a community, issued by the Federal Emergency Management Agency, on which the Special Flood Hazard Areas and the floodways are delineated. This official map is a supplement to and shall be used in conjunction with the Flood Insurance Rate Map (FIRM).

FLOOD HAZARD BOUNDARY MAP (FIRM) (FHBM): an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the area of special flood hazard have been defined as Zone A.

FLOOD INSURANCE: the insurance coverage provided under the National Flood Insurance Program.

FLOOD INSURANCE RATE MAP (FIRM): an official map of a community, issued by the Federal Emergency Management Agency, on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.

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

~~**FLOOD INSURANCE STUDY (FIS):** An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudflow and/or flood-related erosion hazards.~~

FLOOD PRONE AREA: see "Floodplain"

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

FLOODPLAIN ADMINISTRATOR: the individual appointed to administer and enforce the floodplain management regulations.

FLOODPLAIN DEVELOPMENT PERMIT: any type of permit that is required in conformance with the provisions of this Ordinance, prior to the commencement of any development activity.

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

FLOODPLAIN MANAGEMENT REGULATIONS: this Ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power which control development in flood-prone areas. This term describes federal, state or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

FLOODPLAIN or FLOOD-PRONE AREA: Any land area susceptible to being inundated by water from any source.

FLOODPROOFING: Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODWAY: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

FLOOR AREA, RATIO: The gross floor area of all buildings divided by the lot area.

FLOOR AREA, GROSS: The sum of the gross horizontal areas of the several floors of a building measured from the exterior face of exterior walls or from the center line of a wall separating two buildings.

FREEBOARD: the height added to the Base Flood Elevation (BFE) to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization on the watershed. The Base Flood Elevation plus the freeboard establishes the "Regulatory Flood Protection Elevation".

~~**FREEBOARD:** A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization in the watershed.~~

FULL SCREEN: Elements of landscape screen plus a six-foot in height opaque fence, hedge, wall, mound or berm.

FUNCTIONALLY DEPENDENT FACILITY: A facility which cannot be used for its intended purpose unless it is located in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

GARAGE, BODY REPAIR: A building or portion thereof, other than a private garage or public garage, designed or used for body or fender repair or spray painting.

GARAGE, PRIVATE: A deck, building or structure or part thereof used or intended to be used for the parking and storage of vehicles.

GARAGE, PUBLIC: A building or portion thereof, other than a private garage, designed or used for servicing, repairing or equipping motor vehicles, but not including spray painting, body or fender repair, service stations or vehicle sales.

GOLF COURSE: A tract of land used for playing golf, improved with tees, greens, fairways and other features, including accessory uses and structures.

GOLF DRIVING RANGE: An area in which individuals drive golf balls from a central tee.

GOVERNMENT SERVICES OFFICE: Offices or facilities owned, leased or operated by government agencies for government services. See "school" for school use.

GROSS AREA: The total area of the land contained within the boundaries of the lot or tract or within the perimeter boundaries of a development.

GROSS DENSITY: The total number of dwellings divided by the total gross area within the perimeter boundaries of a development. The "gross density" within a section of a development shall be the number of dwellings in the section divided by the total area of residential lots, common yard areas, common open space required in the section and right-of-way areas of roads and easements that are interior to the section.

GROUP HOME: For the purposes of this Ordinance, see "Family Care Home".

HABITABLE FLOOR: Any floor usable for living purposes, which includes working, sleeping, eating, cooking, or recreation, or a combination thereof, except for a floor used only for storage purposes.

HAZARDOUS WASTE FACILITY: as defined in NCGS 130, Article 8, a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.

HEIGHT: The vertical distance from the average street grade (at access) or finished grade at the building line, whichever is the highest, to the highest point of the building or roof structure.

HIGHEST ADJACENT GRADE (HAG): The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HISTORIC STRUCTURE: any structure that is:

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

HOME OWNERS' ASSOCIATION: A private, nonprofit organization or corporation of property owners, established to own, operate and maintain various common facilities or properties.

HOME OCCUPATION: An occupation or profession customarily carried on in a dwelling unit, which:

1. Actually is carried on wholly within the principal building or structure;
2. Is carried on by members of the household residing on the premises;
3. 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. Produces no offensive noise, vibrations, smoke, dust, heat, odor, glare, traffic hazard or congestion and does not adversely affect the surrounding properties; and
5. Requires no internal or external alterations or construction features or equipment or machinery not customary in residential areas.

HORIZONTAL SURFACE: A horizontal plane 150 feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.

HOSPITAL: An institution rendering medical, surgical or convalescent care, including nursing homes, homes for the aged and sanatoriums and treatment centers that serve patients at least partially on an inpatient basis.

HUMANITARIAN AID ORGANIZATIONAL OFFICE: A charitable organization established to provide relief assistance to an identified distressed, underprivileged group. Relief would be provided in such forms as clothing, medical supplies or educational contributions. The organization must provide a public beneficial interest to the community.

IMMEDIATE FAMILY: Any person who is a natural or legally defined offspring, spouse, sibling, grandchild, grandparent, or parent of the property owner.

IMPACT ANALYSIS: A written statement describing the potential impacts of an application or development plan or proposal, including maps, plans, diagrams and other materials, and meeting all requirements set forth by the Pender County Division of Planning.

IMPERVIOUS AREA: Any area, generally paved or graveled, with a surface that prevents, or significantly reduces, absorption of stormwater into the ground.

INACTIVE DISTANCE BUFFER: A distance buffer which contains no structures, buildings, roads, driveways, accessory uses or activities.

INOPERABLE VEHICLE: Any vehicle, designed to be self-propelled, which by virtue of broken or missing component parts, is no longer capable of self-propulsion. For the purpose of this Ordinance, any motor vehicle or boat/boat trailer not having a current valid, applicable license registration affixed to the vehicle in the location and manner prescribed by law and in plain view, shall be considered an inoperable vehicle. This definition does not apply to farm exempt vehicles/machines including vehicles used exclusively for on-farm related activities, motor vehicles, boats/boat trailer displayed for sale or undergoing repair on an approved vehicle sales or repair business site.

INSTITUTIONAL USE: A nonprofit or quasi-public use or institution, such as a church, library, public or private school, hospital or municipally owned or operated building, structure or land used for public purposes.

INSTITUTIONS OF HIGHER EDUCATION: An educational institution whose primary purpose is to provide a collegiate or graduate education.

INTERMITTENT: Stopping and starting or alternating messages at two minute or less intervals.

INTER-PARCEL CONNECTOR: An at-grade entrance between adjoining properties that is designed to facilitate vehicular access between land uses without use of the street system.

JUNKYARD OR SALVAGE YARD: Any area, in whole or in part, where waste or scrap materials are bought, sold, exchanged, stored, baled, packaged, disassembled, or handled, including, however not limited to: scrap iron and other metals, scrap building/construction materials, plastic pipe, paper, rags, vehicles, vehicle parts and components, rubber tires, bottles, cans and household goods. The term includes junkyards and auto wrecking yards but does not include uses established entirely within enclosed buildings.

KENNEL: A place prepared to house, board, breed, handle or otherwise keep or care for dogs, cats or other domesticated animals for sale or in return for compensation.

LAKES AND PONDS: Natural or artificial bodies of water which retain water year round. Such bodies shall be considered to extend from the maximum water level plus an additional 10 feet.

LANDFILL: A sanitary landfill site used for the disposal of solid wastes beneath layers of soil and other materials.

LANDSCAPE SCREEN: A landscaped easement containing plants or other features approved by this chapter which provide a complete visual screen.

LEGALLY NONCONFORMING SIGN: Any sign lawfully existing on the effective date of an ordinance, or amendment thereto, that renders such sign nonconforming because it does not conform to all the standards and regulations of the adopted or amended ordinance.

LEGALLY NONCONFORMING STRUCTURE: A structure, the size, dimensions, or location of which was lawful prior to the adoption, revision, or amendment to the Zoning Ordinance but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning district.

LEGALLY NONCONFORMING USE: A use or activity that was lawful prior to the adoption, revision or amendment of the Zoning Ordinance but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning district.

LIGHTING FIXTURE: A complete lighting unit consisting of the lamp, lens, optical reflector, housing and any electrical components necessary for ignition and control of the lamp, which may include a ballast, starter and/or photo control.

LIGHTING FIXTURE, DIRECTIONALLY SHIELDED: A lighting fixture which emits a light distribution where some light is emitted at or above a horizontal plane located at the bottom of a fixture. Such fixtures may contain visors, louvers, or other types of shields or lenses which are designed to direct light onto a target area and to minimize stray light.

LOADING AREA: An off-street area containing loading spaces and maneuvering areas, as well as their associated driveways.

LOADING SPACE: An off-street space used for loading or unloading by commercial, industrial, public, or semipublic vehicles.

LOT: A designated parcel, tract or area of land established or to be established by plat or subdivision or previously established as a recorded lot.

1. **LOT AREA:** The total area within the lot lines of a lot.
2. **LOT, CORNER:** A lot abutting two or more streets at their intersection. (See Figure 4.1)
3. **LOT COVERAGE:** The total built upon area, including all non-pervious surface materials.

4. **LOT, INTERIOR:** A lot other than a corner lot. (See Figure 4.1)
5. **LOT LENGTH:** The distance between the front lot line and the rear lot line measured at the maximum distance.
6. **LOT LINE, FRONT:** The front of a lot shall be considered to be that side of the lot which fronts on a street. In the case of a corner lot, either side abutting a street may be considered to be the front, provided the structure to be located on the lot is situated to meet the required front, side and rear yards for the zoning district in which the lot is located. (See Figure 4.1)
7. **LOT LINE, REAR:** The lot line opposite and parallel to the front lot line or within 45° of being parallel to the front lot line. (See Figure 4.1)
8. **LOT LINE, SIDE:** Any lot line other than front or rear lot lines. (See Figure 4.1)
9. **LOT OF RECORD:** A lot for which a plat or survey description has been legally recorded with the Pender County Register of Deeds.
10. **LOT, PIPESTEM:** A residential lot fronting on a public or a private street in which access is provided by a narrow strip of land, referred to as the "pipestem driveway yard," which is less than the minimum required front yard width, and located between adjoining residential lots fronting on the same street.
11. **LOT, THROUGH:** A lot, other than a corner lot, with frontage on more than one street. These lots may also be called "double frontage lots". (See Figure 4.1)
12. **LOT WIDTH:** The horizontal distance between side lot lines measured at the front yard setback line.

LOWEST FLOOR: The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area, is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Federal Code 44 CFR 60.3.

LOWEST ADJACENT GRADE (LAG) means the elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.

MAINTAINED LIGHTING LEVEL: A level of illumination which results when the initial output of the lamp is reduced by certain light loss factors. Such light loss factors typically include lamp depreciation and dirt accumulation on lenses and other light fixture components. For the purpose of this chapter, the maintained lighting level shall represent an average foot-candle level measured over a specified area.

MANEUVERING AREA, PARKING LOT: A traveled way, including driveways and aisles, by which vehicles enter and depart parking spaces.

MANEUVERING AREA: A traveled way by which commercial, industrial, public, or semipublic vehicles enter and depart loading spaces.

MANUFACTURED HOME COMMUNITY: A parcel (or contiguous parcels) of land where manufactured homes are parked for living and sleeping purposes. May also be known as; a mobile home community, mobile home park, or manufactured home park.

MANUFACTURED HOME: A structure, transportable in one or more sections, which in travel mode is eight body feet or more in width or 40 body feet or more in length, or when erected on site, is 320 or more square feet and which is built in a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities.

MANUFACTURED OR MOBILE HOME LOT: Any parcel or ground within a manufactured home park designated for the exclusive use of one manufactured home and permitted accessory structure.

MANUFACTURING: The mechanical or chemical transformation of materials and substances into new products, including the assembly of component parts and the blending of materials.

MARINA: Any publicly or privately owned dock, pier, launching pad, basin, dry or wet storage facility constructed to accommodate ten (10) or more boats and providing any of the following commercial/retail services: permanent, temporary, or transient docking spaces, dry or wet storage, fueling facilities, haul out facilities, repair services, or retail sales for fuel, repair, convenient food items, boats, engines, and accessory equipment. Excluded from this definition are boat ramp facilities allowing access only, temporary docking that includes none of the previous listed services, and community boating facilities with five (5) or fewer slips (No commercial activities of any kind shall be allowed within the confines of the facility).

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

MASTER DEVELOPMENT PLAN: A general plan of development approved by the Pender County Planning Board for new developments in certain zoning districts before subdivision or site plan approval, according to the requirements of this chapter.

MEAN SEA LEVEL: means, for purposes of this Ordinance, the National Geodetic Vertical Datum (NGVD) as corrected in 1828, the North American Vertical Datum (NAVD) as corrected in 1888, or other vertical control datum used as a reference for establishing varying elevations within the floodplain, to which Base Flood Elevations (BFEs) shown on a FIRM are referenced. Refer to each FIRM panel to determine datum used.

MEDICAL AND ALLIED HEALTH: Medical related facilities, activities, and personnel, including administrative, clinical support, and general support services and personnel.

MINIMUM LANDSCAPED AREA: The minimum area or portion of a lot or parcel that must be landscaped with grass, vegetation or other landscaping materials, not including pavement or structures.

MINING: The breaking or disturbing of the surface soil or rock in order to remove minerals to make them suitable for commercial, industrial or construction use, but not including excavation or grading when conducted in aid of on-site farming or construction.

MINOR MATERIAL: An architectural material that is described as being lesser, as in size, extent, or importance. A minor material may not exceed fifteen percent of a façade module.

MOTOR VEHICLE SERVICE: Businesses engaged in the maintenance, service or repair of motor vehicles.

NATURAL STORMWATER RETENTION AREA: Areas of poorly drained soils which are subject to periodic flooding and act as areas to temporarily store stormwater. In some cases, "natural stormwater retention areas" will contain floodplain and wetland areas.

NATURAL WATERWAY: Creeks, streams, runs, or other annual or perennial waterways identified on United States Geological Survey, State of North Carolina or Pender County maps.

NET DENSITY: The total net acreage divided by the total number of units within a proposed development.

NEW CONSTRUCTION: For the purposes of determining insurance rates, structures for which the start of construction commenced on or after the effective date of an initial Flood Insurance Rate Map on or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

NON-ENCROACHMENT AREA: the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot as designated in the Flood Insurance Study report.

NUISANCE: An activity which annoys, vexes or creates a health hazard or that which, by its existence, created annoyance, injury or damage to persons or property.

NURSERY, RETAIL: Uses which raise plant materials or sell plant materials and related products.

OFFICE PARK: A development primarily devoted to office uses, containing two or more uses within a single master development or site plan.

OFFICE: A room or building used for conducting the affairs of a business, professional, service, industry, government or other enterprise.

OFF-STREET PARKING SPACE: A temporary storage space for a motor vehicle with access to an aisle and driveway which is not located within a street or road right-of-way.

ON-SITE UTILITY SYSTEMS: On-site heating and cooling plants, pump stations, electro-magnetic systems, distribution transformers, pipes and meters, water and sewer lines, booster or relay stations, transformer substations, and water supply stations either located within a structure or freestanding.

OPA: Otherwise Protected Area.

OPAQUE FENCE: A fence that is constructed to visually obscure structures, outdoor storage areas, and other uses. A chain-link fence with slats shall not constitute an opaque fence.

OPAQUE: Not transparent or translucent.

OUTDOOR SHOOTING RANGE: An area devoted to organized shooting and target shooting.

OUTDOOR STORAGE AND PROCESSING: The keeping or processing of goods, junk, material, merchandise or vehicles outside of an enclosed building and in the same place.

OWNER: An individual, firm, association, syndication, partnership or corporation having sufficient proprietary interest to seek development of land.

PARCEL: A lot or tract of land.

PARK: A tract of land designated and used for active and passive recreation.

PARKING AISLE: A vehicle access aisle used to provide direct access to a parking space in a parking lot.

PARKING LOT: An off-street, paved parking area containing parking spaces, aisles and other improvements.

PASSABLE TRAVEL WAY: Conditions which allow a passenger or emergency vehicle to negotiate the travel path using reasonable care. A passable travel way must be free of obstacles or obstructions.

PASSIVE OPEN SPACE: Areas consisting of undisturbed, unique and sensitive natural features that may include streams, floodplains, wetlands (excluding tidal marsh) conservation resources, and natural heritage areas if identified. These natural spaces will be characterized by undisturbed soils and natural vegetative cover for wildlife habitat.

PEDESTRIAN ACCESS: Means by which individuals can travel on foot outside of private lots and street travel ways.

PERIMETER BOUNDARY: The exterior boundary of a development contained within a single site plan or Master Development Plan.

PLAYGROUND: A recreational area, including a play apparatus, designed to offer recreation to the public.

PORTABLE STORAGE CONTAINERS: A container designed to store personal property which are typically rented and intended to be delivered, temporarily used, and removed by truck. Portable storage containers shall not be used as an accessory structure or dwelling and shall not impede public vehicular or pedestrian access or create a public safety hazard. This definition includes shipping containers and other portable self-storage units.

POST-FIRM: construction or other development for which the "start of construction" occurred on or after the effective date of the initial Flood Insurance Rate Map for the area.

PRE-FIRM: construction or other development for which the "start of construction" occurred before the effective date of the initial Flood Insurance Rate Map for the area.

PRIMARY FRONTAL DUNE: means a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and over-topping from high tides and waves during major coastal storms. The

inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively steep slope to a relatively mild slope.

PRIMARY SURFACE: A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the "primary surface" extends 200 feet beyond each end of that runway; but when the runway has no specially prepared hard surface or planned hard surface, the "primary surface" ends at each end of that width prescribed in Part 77 of the Federal Aviation Administration regulations for the most precise approach existing or planned for either end of that runway. The elevation of any point on the "primary surface" is the same as the elevation of the nearest point on the runway center line.

PRINCIPALLY ABOVE GROUND: at least 51% of the actual cash value of the structure is above ground.

PRIVATE CEMETERY: A place used for the interment of human remains, including a burial park for earth interments, a vault or crypt interments, a mausoleum, a columbarium for cinerary interments, or a combination thereof, and not subject to the provisions of the North Carolina Cemetery Act.

PRIVATE RESIDENTIAL BOATING FACILITY: A private, nonprofit boating facility with navigable water frontage which includes a dock, pier, or launching ramp intended to serve one residential unit. Commercial activities of any kind shall be prohibited.

PROTECTED POPULATION HOME: A residential facility for persons protected pursuant to the provisions of the Federal Fair Housing Act.

PUBLIC PARK: Any area that is created, established, designated, maintained, provided or set aside by a local, state, federal agency or charitable organization for the purposes of public rest, play, access to reserved land or other resource, recreation, enjoyment or assembly, and all buildings, facilities and structures located thereon or therein ancillary to the recreational use of the property.

PUBLIC SAFETY AND/OR NUISANCE: anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

PUBLIC WASTEWATER SYSTEM: A single system of wastewater collection, treatment, and disposal owned and operated by a sanitary district, water and sewer authority, county, municipality, or a public utility.

PUBLIC WATER SYSTEM: A water system owned and operated by a public entity, including municipal and sanitary district water systems, approved by a public entity or water and sewer district.

RAISED ISLAND: A built-up structure containing curbing or curb and gutter, placed within or at the end of parking rows and within property entrances to guide traffic and/or provide space for landscaping, signage, or lighting.

RECREATIONAL FACILITIES: A place or facility designed, equipped and used for the conduct of sports, leisure-time activities and other recreational activities.

RECREATIONAL VEHICLE: A vehicle which is:

1. Built on a single chassis;
2. Four hundred (400) square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light-duty truck; and
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel or seasonal use.

RECREATIONAL VEHICLE PARK: Any site or tract of land upon which fifteen (15) or more recreational vehicle spaces are provided for temporary occupancy. A recreational vehicle parks shall also be known as a campground or travel trailer park.

RECREATIONAL VEHICLE SPACE: A plot of land within a recreational vehicle park designated for the accommodation of one recreational vehicle and one motor vehicle.

RECREATIONAL VEHICLE STORAGE: An area provided within a residential recreational community for its residents to store recreational vehicles such as boats, campers, RV's and travel trailers.

REFERENCE LEVEL: the top of the lowest floor or the bottom of the lowest attendant utility, whichever is lower, for structures within Special Flood Hazard Areas designated as Zone A1-30, AE, A, A88 or AO. The reference level is the bottom of the lowest horizontal structural member of the lowest floor for structures within Special Flood Hazard Areas designated as zone VE.

REGULATORY FLOOD PROTECTION ELEVATION: the "Base Flood Elevation" plus the "Freeboard". In "Special Flood Hazard Areas" where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE. In "Special Flood Hazard Areas" where no BFE has been established, this elevation shall be at least two (2) feet above the highest adjacent grade.

Regulatory Flood Protection Elevation means the elevation above mean sea level to which the reference level of all structures and other development located within Special Flood Hazard Areas and Future Conditions Flood Hazard Areas must be protected.

- o In "Special Flood Hazard Areas" where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE plus two (2) feet of freeboard.
- o In "Special Flood Hazard Areas" where no BFE has been established, this elevation shall be at least two (2) feet above the highest adjacent grade.
- o In Future Conditions Flood Hazard Areas this elevation shall be the Future Conditions Flood Elevation plus two (2) feet of freeboard.

RELATED RESIDENTIAL LAND USE: A dwelling, structure or facility that has a specific affiliation with or whose residents receive a direct benefit from hospitals, medical centers, medical offices, clinics, and schools of medicine.

RELIGIOUS ORGANIZATIONS: Churches, mosques, synagogues, temples or other place of religious worship, including any accessory use or structure, such as an office or dwelling located on the same lot.

REMEDY A VIOLATION: to bring the structure or other development into compliance with State and community floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other

affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development.

REPETITIVE LOSS: flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds twenty-five (25%) percent of the market value of the structure before the damage occurred.

RESORT: A facility for transient guests where the primary attraction is recreational features or activities.

RESTAURANT: A facility, in which food and drinks are prepared, served and consumed.

RETAIL PETROLEUM PUMP CANOPY: A roof-like structure designed to cover a retail petroleum pump island.

RETAIL USES: Establishments engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods. "Retail uses" shall not include coal, wood and lumber yards.

REZONE: To change the zoning district classification of a particular lot, parcel or area.

RIGHT-OF-WAY: Land dedicated or reserved for or occupied by a road, railroad, utility or other similar use.

RIPARIAN BUFFER: An area of trees, shrubs, or other vegetation that permits inundation by water and is at least 35 feet in width, measured outward from both sides of a natural waterway beginning along the slope of the ground from the channel scar line. A riparian buffer is managed to maintain the integrity of stream channels and reduce the effect of upland sources of pollution by trapping, filtering, and converting sediments, nutrients, and other chemicals.

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

SALVAGE YARD: any non-residential property used for the storage, collection, and/or recycling of any type of equipment, and including but not limited to vehicles, appliances and related machinery.

SCENIC AREA: An open area, the natural features of which are visually significant or geologically or botanically unique.

SCHOOL: Without residential component: any building used for organized education or instruction in any branch of knowledge. This school does not contain rooms where overnight lodging and meals are provided to students. B. With residential component: any building used for organized education or instruction in any branch of knowledge. This school does contain rooms where overnight lodging and meals are provided to students.

SCREENING: A method of visually shielding or obscuring one abutting or nearby structure or use from another by fencing, walls, berms, or densely planted vegetation.

SEARCH AREA: A geographic area in which a commercial telecommunication facility site may be located that would satisfactorily cover a targeted area and/or hand-off with its neighboring sites.

SEASONAL USE: Any use which ceases operation for at least three months in a year.

SELF-SERVICE STORAGE FACILITY: A structure containing separate storage spaces of varying sizes leased or rented as individual leases for the purpose of storing personal property and household goods.

SEMITRAILER: Every vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some part of its own weight and that of its own load rests on or is carried by another vehicle.

SERVICE STATION: Any premises primarily used for supplying gasoline, oil, tires, accessories and services for automobiles at retail directly to the motorist or consumer. Repair uses are accessory to the other retail services provided.

SETBACK: The required distance between a building or structure and a lot line.

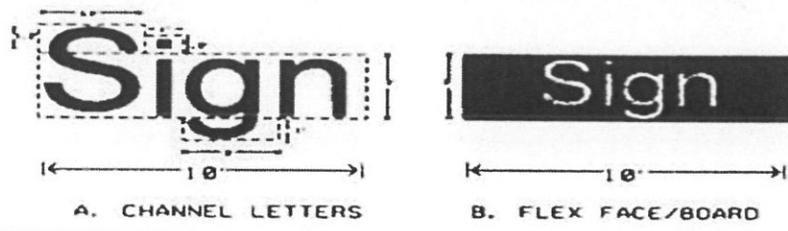
1. **SETBACK, FRONT YARD:** The required distance between a street right-of-way line and the front line of a building or structure.
2. **SETBACK, REAR YARD:** The required distance between a building or structure and the rear lot line of the lot containing the building or structure.
3. **SETBACK, SIDE YARD:** The required distance between a building or structure and the side lot line of the lot containing the building or structure.

SEWAGE TREATMENT FACILITY: Any device or system used in the storage, treatment, disposal or reclamation of sewage and industrial wastes generated by more than two uses or dwellings.

SHOPPING CENTER: Any development containing two or more uses within a single approved Master Development Plan or site plan.

SIGN: Any object, device, display or structure or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination or projected images.

1. **SIGN AREA:** The sign area shall be measured as the area of a sign face with the smallest square, circle, rectangle, triangle or combination thereof that encompasses the extreme limits of the letters, figures, designs, devices, pictures, projected images, symbols, fixtures, logos, emblems or insignias, or any part or combination thereof together with any materials or colors forming an integral part of the background of the sign face or used to differentiate the sign from the backdrop or structure against which it is placed. In the case of a double-faced sign where the interior angle formed by the faces is 45° or less or where the sign face is parallel, only one display face shall be used in calculating the area.



2. **SIGN, ANIMATED:** Any sign or part of a sign that changes physical position or light intensity by any movement or rotation or that gives the visual impression of such movement or rotation.
3. **SIGN, BANNER:** A sign having characters, letters or illustrations applied to cloth, paper, flexible plastic, or fabric of any other kind, with only such material for backing.
4. **SIGN, BUILDING ENTRANCE:** A sign designating the location to the outside entrance to a particular use.
5. **SIGN, BUSINESS:** A sign which directs attention to a business or profession conducted or to a commodity or service sold, offered or manufactured or to a service, activity or entertainment offered.
6. **SIGN, COTTAGE OCCUPATION:** A sign advertising an approved cottage occupation.
7. **SIGN, DIRECTIONAL:** A sign that is designed or erected for the purpose of providing direction and/or orientation for pedestrian or vehicular traffic.
8. **SIGN, ELECTRONIC MESSAGE:** A sign with a fixed or changing message and/or display composed of a series of lights that may be changed through electronic means. LED (light emitted diodes) is a type of electronic message sign. Such electronic sign messages shall be displayed for a minimum of two minutes, and shall not be animated by scrolling, flashing or other similar non-static displays. In no case shall an electronic message sign occupy more than 50% of the area of a permitted sign size.
9. **SIGN, FLASHING:** Any sign directly or indirectly illuminated that exhibits changing natural or artificial light or color effects by any means whatsoever.
10. **SIGN, ILLUMINATED:** A sign lighted by or exposed to artificial lighting either by lights on or in the sign or directed toward the sign.
11. **SIGN, INFLATABLE:** Any display capable of being expanded or powered by air or other gas and used to advertise a business, service, product or event.
12. **SIGN, INFORMATIONAL:** A sign commonly associated with, and not limited to, information necessary for the convenience of visitors coming on the property, including signs marking entrances and exits, parking areas, circulation direction, rest rooms, and pick-up and delivery areas.
13. **SIGN, MONUMENT:** A freestanding sign placed directly on the ground by means other than a support pole or brace in which the message portion is either on top of, or affixed to, the support structure. The width of the support structure for the monument sign must be a minimum of 50% of the width of the sign face area.
14. **SIGN, MULTI-TENANT COMPLEX:** A sign that identifies the name of the development and the users in a shopping center or multi-tenant development.
15. **SIGN, OFF-PREMISES:** A sign which directs attention to a business, commodity, service, activity or entertainment conducted, sold or offered on a parcel of land other than the one on which the sign is located.
16. **SIGN, ON-PREMISES:** A sign which directs attention to a business, commodity, service, activity or entertainment conducted, sold or offered on the parcel of land on which the sign is located.
17. **SIGN, PORTABLE:** A sign designed or intended to be moved easily that is not permanently embedded in the ground or affixed to a building or other structure.
18. **SIGN, RESIDENTIAL SUBDIVISION IDENTIFICATION:** A sign which denotes the name of a residential subdivision, condominium or apartment complex.
19. **SIGN, ROOF:** A sign that is mounted on the roof of a building or a sign that projects above the top wall or edge of a building with a flat roof, the eave line of a building with a gambrel, gable, or hip roof, or the deck line of a building with a mansard roof.
20. **SIGN, TEMPORARY:** A sign intended to display either commercial or noncommercial messages of a transitory, nonpermanent, or temporary nature, and which may include, as a permitted sign pursuant to this chapter, a sign that is portable.

21. SIGN, WALL-MOUNTED: A sign fastened to the wall of a building or structure in such a manner that the wall becomes the supporting structure for the sign.

SITE PLAN: A specific and detailed plan of development meeting the requirements of this Ordinance.

SOLID WASTE DISPOSAL FACILITY: as defined in NCGS 130A-280(a)(35), any facility involved in the disposal of solid waste.

SOLID WASTE DISPOSAL SITE: as defined in NCGS 130A-280(a)(36), any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.

Special Flood Hazard Area (SFHA) means the land in the floodplain subject to a one (1) percent or greater chance of being flooded in any given year, as determined in Section 9.3.2 of this Article.

SPECIAL FLOOD HAZARD AREA: Areas subject to inundation by the one (1) percent Annual Chance Flood.

START OF CONSTRUCTION: substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

STREET ENTRANCE: The location where at-grade access from a street to a parcel is provided.

STREET INTERSECTION: The location where two or more streets cross at grade without a bridge.

STREET, LOCAL: A street, so classified by the North Carolina Department of Transportation or by the standards of Pender County, designed to provide access to adjoining or abutting properties.

STREET, PRIVATE: A street that has not been or not intended to be accepted for permanent maintenance by NCDOT for use by the public.

STRUCTURE:

1. Any man-made object having an ascertainable stationary location on or in land or water, whether or not it is affixed to the ground. All buildings are "structures."
2. For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. Structure, for insurance rating purposes, means a walled and roofed building, other than a gas or liquid storage tank, which is principally above ground and affixed to a permanent site, as well as a manufactured home on a permanent foundation. For the latter purpose,

the term includes a building while in the course of construction, alteration or repair, but does not include building materials or supplies intended for use in such construction, alteration or repair, unless such materials or supplies are within an enclosed building on the premises.

SUBSTANTIAL DAMAGE: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty (50%) percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT: Any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds fifty (50%) percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage regardless of the actual repair work performed. The term does not, however, include either any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or any alteration of an historic structure, provided that the alteration will not preclude the structures continued designation as an historic structure.

SUPPORT SERVICE: A commercial, industrial, or institutional use providing a specific service for employees and patrons of hospitals, medical centers, medical offices, clinics, and schools of medicine.

SWEEPSTAKES CENTER: A business enterprise, whether principal or accessory, where persons may play games on on-site machines/terminals/computers that reveal the results of sweepstakes or similar contests associated with the on-site purchase of internet time, phone time, office supply or other retail good; and where redeemable cash sweepstakes awards (government issued coins and bills in hand) in amounts of \$10.00 or more may be received. This definition does not apply to any game or process prohibited by N.C.G.S. §§ 14-304 through 14-309 or to any game regulated by the North Carolina Education Lottery Commission.

SWINE FARM: Means a tract of land devoted to raising 250 or more animals of the porcine species

TELECOMMUNICATIONS TOWERS: A structure, including the tower, antennas, panels, microwave dishes, receiving dishes, equipment building, other transmitting and receiving components and other accessory structures, used for the wireless electromagnetic transmission of information, excluding structures utilized as satellite earth stations and structures utilized for amateur or recreational purposes such as ham radio or citizen band radio.

TEMPORARY TRAILER: A mobile home or trailer to be removed after a designated time period.

TEMPORARY USE: A use established for a designated fixed period of time with the intent to discontinue such use upon the expiration of the time period.

TOURIST HOME: An establishment in a dwelling which supplies temporary accommodation to up to 14 overnight guests for a fee.

TRACTOR-TRAILER TRUCK: A motor vehicle with a short chassis and a swivel (fifth wheel), with a trailer pulled by the tractor designed to be used to haul freight.

TRACTOR TRUCK: Every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the load and weight of the vehicle attached thereto.

TRACTOR TRUCK TRAILER: The portion of a tractor truck without motive power, designed for carrying property or passengers wholly on its own structure.

TRANSITIONAL SURFACE: Surface which extends outward perpendicular to the runway center line extended at a slope of seven feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces.

TRASH HEAP: An area where trash, garbage or other solid wastes are deposited without being covered by a sanitary fill.

TREE, DECIDUOUS: Trees which drop their foliage annually before becoming dormant.

TREE, EVERGREEN: Trees with foliage which remain green year-round.

TRIP ENDS: The total trips entering and leaving a specific land use or parcel over a designated period of time.

TRUCK: Every motor vehicle designed to transport property on its own structure independent of any other vehicle and having a registered gross weight in excess of 7,500 pounds.

USE: Any purpose for which a lot or structure may be designed, arranged, intended, maintained or occupied or any activity, occupation, business or operation carried on a parcel of land.

VARIANCE: A reasonable deviation from those provisions regulating the size or area of a lot or parcel of land or the size, area, bulk or location of a building or structure when the strict application of this Ordinance would result in unnecessary or unreasonable hardship to the property owners and such need for a variance would not be shared generally by other properties, and provided that such variance is not contrary to the intended spirit and purpose of this Ordinance and would result in substantial justice being done.

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

VIOLATION: For floodplain management purposes, "violation" includes the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Article VII, Part 702, of this chapter is presumed to be in violation until such time as that documentation is provided.

WAREHOUSING, MEDICAL AND ALLIED HEALTH: A structure or facility designed for the storage of medical supplies, equipment, furniture and fixtures associated with medical and allied health services.

WASTE RECOVERY AND RECYCLING FACILITY: A facility primarily engaged in (1) operating facilities for separating and sorting recyclable materials from nonhazardous waste streams (i.e., garbage) and/or (2) operating facilities where commingled recyclable materials, such as paper, plastics, used beverage cans, and metals are sorted into distinct categories.

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

WAYSIDE STAND, ROADSIDE STAND OR WAYSIDE MARKET: Any structure or land used for the sale of agricultural or horticultural produce, livestock or merchandise produced by the owner or his family on their farm.

WELLNESS CENTER: A structure or facility designed to provide recreational, educational, and medicinal benefits to the public.

WETLANDS: Areas that are inundated or saturated by surface or groundwater at a frequency or duration sufficient to support, and that under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, and that is subject to a perpetual easement permitting inundation by water