

**IREDELL COUNTY BOARD OF COMMISSIONERS  
REGULAR MINUTES  
JANUARY 15, 2008**

The Iredell County Board of Commissioners met in Regular Session on Tuesday, January 15, 2008, at 7:00 P.M., in the Iredell County Government Center (Commissioners' Meeting Room), 200 South Center Street, Statesville, NC.

**Board Members Present**

Chairman Marvin Norman  
Vice Chairman Sara Haire Tice  
Steve Johnson  
Ken Robertson  
Godfrey Williams

Staff present: County Manager Joel Mashburn, County Attorney Bill Pope, Deputy County Manager Susan Blumenstein, and Clerk to the Board Jean Moore.

**CALL TO ORDER** by Chairman Norman

**INVOCATION** by Commissioner Johnson

**PLEDGE OF ALLEGIANCE**

**ADJUSTMENTS OF THE AGENDA:** **MOTION** by Commissioner Johnson to approve the following agenda adjustments:

- Additions:
- Call for a Public Hearing on February 5, 2008, at 7 P.M. Regarding a Request from NGK Ceramics, Inc., for a Release of Zoning Jurisdiction to the Town of Mooresville
  - Closed Sessions:
    - G.S. 143-318.11 (a) (3) Legal
    - G.S. 143-318.11 (a) (4) Economic Development
    - G.S. 143-318.11 (a) (5) Property Acquisition

VOTING: Ayes – 5; Nays – 0.

**PUBLIC HEARINGS**

Chairman Norman declared the meeting to be in a public hearing.

**Consideration of the FY 2008-2009 North Carolina Department of Transportation Community Transportation Program Application/Resolution:** Transportation Director Ben Garrison said January 31 was the deadline to submit CTP applications. He requested approval to submit the following funding requests:

Administrative needs: \$250,008 plus a 15% local match

Capital needs: \$290,550 plus a 10% local match for the purchase of replacement vehicles (five lift-equipped conversion vans, one 22 ft. light transit vehicle with lift, one conversion van without a lift, and vehicle lettering/logos)

No one else desired to speak.

**MOTION** by Commissioner Johnson to approve the resolution authorizing the transportation director to submit the application as presented.

VOTING: Ayes – 5; Nays – 0.

The resolution is as follows:

*WHEREAS, Article 2B of Chapter 136 of the North Carolina General Statutes and the Governor of North Carolina have designated the North Carolina Department of Transportation (NCDOT) as the agency responsible for administering federal and state public transportation funds; and*

WHEREAS, the North Carolina Department of Transportation will apply for a grant from the US Department of Transportation, Federal Transit Administration, and receive funds from the North Carolina General Assembly to provide assistance for rural public transportation projects; and

WHEREAS, the purpose of these transportation funds is to provide grant monies to local agencies for the provision of rural public transportation services consistent with the policy requirements for planning, community and agency involvement, service design, service alternatives, training and conference participation, reporting and other requirements (drug and alcohol testing policy and program, disadvantaged business enterprise program, and fully allocated costs analysis); and

WHEREAS, Iredell County hereby assures and certifies that it will comply with the federal and state statutes, regulations, executive orders, Section 5333 (b) Warranty, and all administrative requirements which relates to the applications made to and grants received from the Federal Transit Administration, as well as the provisions of Section 1001 of Title 18, U. S. C.

NOW, THEREFORE, be it resolved that the Transportation Director of Iredell County is hereby authorized to submit a grant application for federal and state funding, make the necessary assurances and certifications, and be empowered to enter into an agreement with the NCDOT to provide rural public transportation services.

**Case No. 0712-1: KAMCO, Inc., Requests a Property Rezoning from Residential Agricultural to Residential Office Zoning District:** Planning Director Ron Smith announced that the right-of-way for this portion of roadway had already been purchased by the state so the rezoning would not impact the price negotiations. He then described the staff report as follows:

CASE NO. 0712-1

OWNER/APPLICANT: KAMCO, Inc., 939 Brawley School Road, Mooresville, NC 28117

LOCATION: 919 Brawley School Road in Mooresville, NC; more specifically PIN# 4636-78-3947. Directions: Brawley School Road, on the left, past Kingston Drive.

REQUESTED ACTION AND CONDITIONS: Rezone the property from RA, Residential Agricultural Zoning District to RO, Residential Office Zoning District.

SIZE: The property is 1.273 acres.

EXISTING LAND USE: Residential, vacant house to be destroyed.

SURROUNDING LAND USE: Residential and Office.

WATERSHED REGULATIONS: This property is located in the Catawba/Lake Norman WSIV Critical Area Watershed.

TRAFFIC: According to the 1993 Iredell County Thoroughfare Plan, the average daily traffic count for this stretch of Brawley School Road is 20,000 vehicles per day. The current capacity is 9,000 vehicles per day.

ZONING HISTORY: This property has been zoned RA since county-wide zoning went into effect in 1990. The adjoining property was rezoned to RO in 1984. The property to the northeast was rezoned to RO in 2006 with two conditions: 1) no outside storage, and 2) that a screening device be placed along the rear property line adjoining 124 Fantasy Lane. This parcel is also located in a Roadway Protection Overlay district.

OTHER JURISDICTIONAL INFORMATION: The Planning staff has met with Town of Mooresville representatives, who felt this rezoning falls in line with their future plans for the corridor. The concept behind the Town's Future Land Use Plan is to follow the existing development pattern on Brawley School Road. They currently have zoning jurisdiction across Brawley School Road with O-I and NB zoning districts.

STAFF COMMENTS: The applicant is proposing to move an existing office building from 939 Brawley School Road to this property for office uses. Due to the right-of-way acquisition for the widening of Brawley School Road, the applicant will have to remove the building from its current location. This property is designated in the Brawley School Peninsula Small Area Plan as Transitional, which is designed to be a buffer between a higher intensity use, such as commercial, and a lower intensity use, such as residential. The primary land uses designated for the transitional area include residential, office, institutional, and services. The property is also located in the Roadway Protection Overlay Two, which was adopted on Brawley School Road in January 2003. This district provides for more stringent requirements with regards to signage, parking, landscaping, and access management. The proposed use of the property should not generate more traffic in the area since the business has been operating just two lots away from this property. Based on the proposed use, the circumstances involving the right-of-way acquisition, compliance with the Brawley School Peninsula Small Area Plan, more restrictive zoning requirements of the RPO, and the lack of a negative impact on traffic, the Planning staff can support the request.

\* \* \* \* \*

Jim Miller, one of the investors in the KAMCO Corporation, offered to answer any questions, and he reiterated that the right-of-way had already been purchased.

No one else desired to speak.

**MOTION** by Commissioner Robertson to approve the zoning map amendment for Case No. 0712-1, due to the consistency with the Brawley School Peninsula Small Area Plan.

VOTING: Ayes – 5; Nays – 0.

**Consideration of Proposed Amendments to the Iredell County Zoning Ordinance: Article XVII. Conditional Use:** Planning Director Ron Smith said recent discussions led the planning staff to examine the benefits of using conditional zoning districts (CZD) rather than the current quasi-judicial method which requires sworn testimony, findings of fact, and a restriction on conversing with applicants and affected property owners. He said CZDs were approved by the legislature in 2005, and if approved locally, some of the changes would be as follows: (1) A conceptual site plan would be needed (2) A public input meeting would be needed and (3) An allowance in the ordinance for the re-review of the plan if the facts change. Smith said all previously adopted conditional use districts (and permits) would be grandfathered with any changes to them occurring under the new process.

Commissioner Williams asked if the zoning cases might be delayed by some of the new requirements.

Smith said yes, by about two weeks.

Commissioner Johnson said the ordinance implied the public input meeting would be as near to the proposed CZD site as possible.

Mr. Smith said this was correct, and the effort to hold the meeting in the community would be encouraged.

No one else desired to speak.

**MOTION** by Commissioner Tice to adopt the Article XVII Amendment Procedures for the Conditional Zoning Districts as presented.

VOTING: Ayes – 5; Nays – 0.

The ordinance will be corrected as follows:

**ARTICLE XVII. AMENDMENT PROCEDURES; CONDITIONAL USE ZONING DISTRICTS**

**Section 17.0 General**

*The Board of Commissioners may amend, supplement or change the Zoning Ordinance text and zoning district lines and designations according to the following procedure. It is the intent of this Ordinance that the applicant for rezoning to any district other than a Conditional Use Zoning District shall be prohibited from offering any testimony or evidence concerning the specific manner in which he intends to use or develop the property. If the applicant believes that the development of his property in a specific manner will lessen adverse effects upon surrounding properties or otherwise make the rezoning more in accordance with the principles underlying the County's comprehensive zoning plan, he shall apply for rezoning to ~~the an~~ appropriate Conditional Use Zoning District ~~and simultaneously apply for Conditional Use Permit~~ specifying the nature of his proposed development. ~~No permit shall be issued for any development within a Conditional Use District except in accordance with an approved Conditional Use Permit.~~*

**Section 17.1 Amendment Initiation**

*Applications to change, supplement or amend this Ordinance may be initiated by:*

**A. Textual Amendment.**

1. The Board of Commissioners;
2. The Planning Board;
3. Anyone who owns property or resides in the area of jurisdiction of this Ordinance or the agent of such person.

**B. Atlas Amendment.**

1. The Board of Commissioners;
2. The Planning Board;
3. Anyone who owns property or resides in the area of jurisdiction of this Ordinance or the agent of such person.  
*Atlas amendment applications containing less than eighty (80) percent of the property owners included in the*

area proposed to be rezoned are subject to the procedural requirement of Section 17.5. Atlas amendments involving Conditional Use Zoning Districts may only be initiated by the owner or authorized agent of the owner.

### **Section 17.2 Submittal**

All applications for amendments to this Ordinance shall be in writing, signed and filed with the Zoning Administrator.

The Zoning Administrator, before scheduling any application for amendment for consideration by the Planning Board, shall ensure that it contains all the required information as specified in this Ordinance and on the application form. Applications which are not complete, or otherwise do not comply with the provisions of this Ordinance shall not be scheduled by the Zoning Administrator, but shall be returned to the applicant with a notation of the deficiencies in the application.

Completed applications including proposals with less than ten (10) property owners shall be received a minimum of ~~fifteen (15)~~ thirty-one (31) days prior to the Planning Board meeting at which the proposed amendment is scheduled to be considered. Completed applications involving proposals with ten (10) or more property owners shall be received a minimum of thirty-one (31) days prior to the Planning Board meeting at which the proposal amendment is scheduled to be considered. Adjustments to the petition or any boundary lines occurring within seven (7) days of either the Planning Board or Board of Commissioners meeting will not be considered in either Board's determinations.

All applications for amendment shall contain, as a minimum, a description of the proposed change, and if it would require a change of the zoning atlas, the application shall include a map drawn to a scale of not less than four hundred (400) feet to the inch and not more than twenty (20) feet to the inch showing the land covered by the proposed amendment, the zoning of the subject property and adjoining properties, general existing land uses, and street systems.

~~Any application requesting a change to a Conditional Use District shall be accompanied by a Conditional Use Permit application showing the use or uses proposed and any conditions being proposed by the applicant.~~

### **Section 17.3 Planning Board Action**

The Zoning Administrator shall present any properly completed application for amendment to the Planning Board at its next regularly scheduled meeting ~~occurring at least fifteen (15) or thirty (30) days as the case may be~~ after filing of such application with the Zoning Administrator. The Planning Board shall hold a public ~~hearing~~ meeting on the proposed amendment. Notice of the public ~~hearing~~ meeting shall be given in accordance with the Board's rules.

The Planning Board shall either recommend in favor of an amendment or in opposition to an amendment by simple majority vote of those present and voting. If the request is for a Conditional Zoning District, the ~~The~~ Board may also propose conditions to their recommendation. A tie vote on a proposal shall be considered to be in opposition to such amendment. If the Planning Board should fail to act on any proposal amendment within thirty one (31) days after it is presented to the Board such failure to act shall be considered to be a favorable recommendation for the purposes of this procedure.

### **Section 17.4 Board of Commissioners Action**

The Zoning Administrator shall present any proposed amendments to the Board of Commissioners at its next regular scheduled meeting, following Planning Board action, at which it considers rezoning proposals. The Zoning Administrator shall transmit to the Board of Commissioners the Planning Board's record of action on the proposed amendments. Zoning amendment applications which are initially signed by less than eighty percent (80%) of the owners of all the property involved in the petition shall be placed on the Board of Commissioner's next available agenda for the consideration of setting a public hearing on the matter at a future meeting. No zoning amendment shall be adopted until after a public hearing shall have been held on the matter. Notice of public hearing shall be given as required by NCGS 153A, Article 18, Part 3 (Zoning). The Board of Commissioners shall take such lawful action on such amendment applications as it may deem advisable. Failure of the Board of Commissioners to set a public hearing on an amendment application shall constitute denial of that application.

Zoning amendment applications which are initially signed by eighty percent (80%) or more of the owners of all the property involved in the petition shall be placed on the Board of Commissioners agenda for a public hearing on the matter. Notice of public hearing shall be given as required by NCGS 153A, Article 18, Part 3 (Zoning). The Board of Commissioners shall take such lawful action on such amendment applications as it may deem advisable.

### **Section 17.5 ~~Special Provisions for Conditional Use Districts and Conditional Use Permits~~ Conditional Zoning Districts**

~~Proposals for rezoning to any Conditional Use District shall always be accompanied by a request for a Conditional Use Permit. Such proposals and requests shall be processed and considered in the same procedure as conventional rezoning proposals, except as otherwise set forth herein, and the voting shall be the same as that required for zoning matters.~~

~~Any proposal for Conditional Use District rezoning and its accompanying request for a Conditional Use Permit shall be heard and considered simultaneously. If the Board of Commissioners should determine that the property involved~~

~~in the proposal should be rezoned and the Conditional Use Permit issued, it shall adopt an Ordinance rezoning the property and authorizing the issuance of the Conditional Use Permit. Otherwise the proposal shall be denied.~~

~~In granting a Conditional Use Permit, the Board of Commissioners shall make the following affirmative findings:~~

- ~~A. That the Use requested is among those listed as an eligible Conditional Use in the District in which the subject property is located or is to be located. The authorization of a Conditional Use Permit for any use which is permitted only as a Special Use in the Zoning District which corresponds to the Conditional Use District shall preclude any requirement for obtaining a Special Use Permit for any such use from the Board of Adjustment.~~
- ~~B. That the Conditional Use will not materially endanger the public health or safety if located where proposed and developed according to the plan as proposed;~~
- ~~C. That the Conditional Use meets all required conditions and specifications; and,~~
- ~~D. That the location and character of the Conditional Use if developed according to the plan as proposed will be in harmony with the area in which it is to be located and in general conformity with the plan of development of the County and environs.~~

~~In granting a Conditional Use Permit, the Board of Commissioners may impose such additional restrictions and requirements upon such Permit as it may deem necessary in order that the purpose and intent of this Ordinance are served, public welfare secured and substantial justice done. If all requirements and conditions are accepted by the applicant, the Board of Commissioners shall authorize the issuance of the Conditional Use Permit, otherwise the Permit shall be denied.~~

~~Any Conditional Use Permit so authorized shall be perpetually binding upon the property included in such Permit unless subsequently changed or amended by the Board of Commissioners, as provided for in this Article.~~

~~The Board of Commissioners may change or amend any Conditional Use Permit, after a public hearing upon recommendation by the Planning Board and subject to the same consideration as provided for in this section for the original issuance of a Conditional Use Permit. However, the Planning Director may approve minor changes in detail which:~~

- ~~A. Will not alter the basic intent of the approved plan, and~~
- ~~B. Will not alter the uses permitted, and~~
- ~~C. Will not increase the density or intensity of a development more than ten (10) percent or ten thousand (10,000) square feet, whichever is less.~~

~~No proposal to amend or change any Conditional Use Permit shall be considered within twelve (12) months of the date of the original authorization of such Permit or within twelve (12) months of hearing of any previous proposal to amend or change any such Permit.~~

**A. Intent**

The conditional zoning districts included herein allow for the consideration of certain uses that, because of their nature or scale, have particular impacts on both the immediate area and the community as a whole and are created or established for selected criteria as indicated in the applicability section below. The development of these uses cannot be predetermined and controlled by general district regulations. In addition, circumstances arise when a general zoning district designation would not be appropriate for a certain property, but specific uses permitted under the district would be consistent with the objectives of this section. To accommodate those situations, this section establishes the conditional zoning district process. A conditional zoning district is not intended for securing speculative zoning for a proposal but rather is based on a firm development proposal.

**B. Application**

Except as herein provided, petitions to establish a conditional zoning district must be submitted and will be processed in accordance with the provisions in this Article. Applications shall be submitted on a form provided by Iredell County.

**C. Contents of Application**

All applications must include a conceptual site plan, drawn to scale, and supporting text that, if approved, will become part of the amendment. The site plan must include any supporting information and text that specifies the actual use or uses intended for the property and any rules, regulations, and conditions that in addition to all predetermined ordinance requirements, will govern the development and use of the property. The applicant shall, at a minimum, include each of the items listed below, in addition to the items required in Section 17.2 as amended,

and any other applicable sections of this Article. The site plan, including the information detailed below shall constitute part of the petition for rezoning to a conditional zoning district:

1. A vicinity map showing the property's general location in relation to major streets, railroads, and waterways.
2. A drawing of the parcel, including the parcel identification number. If only rezoning a portion of a parcel, a plat must be provided, drawn to scale, showing the bearings and distances of the portion requested.
3. All existing easements, reservations, and rights-of-way on the property(ies) in question.
4. Delineation of areas within the regulatory floodplain as shown on the official Flood Hazard Boundary Maps for Iredell County and delineation of watershed boundaries labeled with their respective classifications and impervious calculations.
5. For residential uses, the number of units and a general outline of the area where the structures will be located. For nonresidential uses, the approximate square footage of all structures and an outline of the area where the structure will be located.
6. Traffic, parking, and circulation plans, showing the proposed locations and arrangement of parking spaces and access points to adjacent streets including typical parking space dimensions and locations along with typical street cross sections. This shall include all existing and proposed points of access to public streets.
7. All proposed setbacks, buffers, screening and landscaping required by this Article and proposed by the petitioner.
8. Generalized information on the number, height, size, and location of structures.
9. The proposed phasing of the project.
10. The proposed number, location, type and size of all signs.
11. The location and description of any outdoor lighting.

**D. Additional Information**

When dealing with the conditional zoning district process, it may be desirable to request additional information in order to evaluate a proposed use and its relationship to the surrounding area. Therefore, the planning director, Planning Board and/or Board of Commissioners may request additional information in addition to that required above, as they deem necessary.

**E. Public Input Meeting**

Before a public meeting may be held on a petition for a conditional zoning district, the applicant must file a written report detailing at least one (1) community meeting held by the applicant. The community meeting shall be held prior to any recommendation by the Planning staff and prior to the Planning Board's consideration of the request. The following procedures must be met:

1. Based on the perceived impact of the proposal, the affected property owners will be notified by the applicant. Such notice shall be mailed to said property owners not less than ten (10) days prior to the date of the public input meeting and a certification of this mailing shall be submitted as part of the required report. The notice shall contain information regarding the time and location of the public input meeting as well as a description of the proposal.
2. The report shall include, among other things, a listing of the following:
  - a. those persons and organizations contacted about the meeting,
  - b. the manner and date, time and location of the meeting,
  - c. a roster of persons in attendance at the meeting,
  - d. a summary of issues discussed at the meeting, and
  - e. a description of any changes to the rezoning petition as a result of the meeting.

**F. Review**

In evaluating an application for the establishment of a conditional zoning district, it is appropriate for the planning board and board of commissioners to consider the following:

1. Adherence to the general policies and objectives of the adopted land use plan, particularly in relation to the proposed site and surrounding area;
2. The potential impacts on the surrounding area, including but not limited to the absolute certainty the specific use(s), traffic, erosion, land values and the compatibility of land use activities.
3. Spot zoning
  - a. Size of tract;
  - b. Compatibility with adopted plan;
  - c. Public benefits and detriments of proposed rezoning; and
  - d. The relationship between proposed use and current use of adjacent properties.

**G. Conditions of Approval of Petition**

In approving a petition for the reclassification of a piece of property to a conditional zoning district, the planning board may recommend and the board of commissioners may of its own accord require that reasonable and appropriate conditions be attached to approval of the petition. Any such conditions shall be limited to those that address the conformance of the development plan and use of the site to county ordinances and adopted land development plans. Conditions should address the impacts reasonably expected to be generated by the development or use of the site.

The petitioner shall have a reasonable opportunity to consider and respond to any proposed conditions prior to final action by the board of commissioners. Only those conditions mutually agreed upon by board of commissioners and the applicant, with input from the public, may be incorporated into the conditional zoning district.

**H. Effect of Approval**

If a petition for conditional zoning district is approved the development and use of the property shall be governed by:

1. The standards and regulations applicable to the district's zoning classification;
2. The approved site plan for the district;
3. Any additional approved rules, regulations, and conditions, all of which shall constitute the zoning regulations for the approved district; and
4. All general and additional rules, regulations and conditions adopted as part of the conditional zoning district shall be an amendment to these regulations and the Zoning Map.

**I. Zoning Map Designation**

Following approval of the petition for a conditional zoning district, the subject property shall be identified on the Zoning Map by the appropriate district designation followed by the letters "CD" and the case number.

**J. Determination – Major Change Requiring an Amendment**

Before making a determination as to whether a proposed action is an amendment based upon a major change, the planning director shall review the record of the proceedings on the original application for the approval of the conditional zoning district.

1. A change in a specific or general use category shall constitute a new application.
2. The planning director shall use the following criteria in determining whether a proposed change is an amendment constituting a major change to the approved conditional zoning district:
  - a. An increase in intensity of use which means an increase in:
    - i. Usable floor area by more than 10%; or

- ii. Number of dwelling or lodging units by over 10%; or
- iii. Outside land area devoted to sales, displays, or demonstrations.
- b. Any change in use resulting in a more intensive use;
- c. Any change in parking areas resulting in an increase or reduction of 10% or more in the number of spaces approved by the board of commissioners.
- d. Structural alterations significantly affecting the basic size, as shown on the approved plan.
- e. A 10% or more decrease in the amount or location of open space, recreation facilities, or landscape screening.
- f. Substantial changes in pedestrian or vehicular access or circulation.
- 3. If the planning director determines that the proposed action requires an amendment, he shall require the applicant to file a request for approval of the amendment, which shall be submitted to the planning board and board of commissioners under the process described in this article.

**K. Minor Changes and Modifications**

The planning director shall have the delegated authority to approve minor changes in the conditional zoning district provided they are in harmony with the action of the board of commissioners. A minor change shall mean:

- 1. Any change in location or any increase in the size or number of signs.
- 2. Any change in use resulting in a less intensive use;
- 3. Increases the intensity of nonresidential development by no more than 10% or 1,000 square feet, whichever is less;
- 4. Any change(s) that increases the density of residential development by no more than 10%;
- 5. Any time an applicant agrees to impose standards that are more stringent than those previously approved by the board of commissioners; or
- 6. All other changes or modifications to the conditional zoning district shall be treated the same as amendments to these regulations or the zoning map and shall be processed in accordance with Section 17.2 of this Article.

**L. Review of Approval of a Conditional Zoning District**

It is intended that property shall be reclassified to a conditional zoning district only in the event of firm plans to develop the property. Therefore, no sooner than eighteen (18) months after the date of approval of the petition, the planning director shall examine the progress made toward developing the property in accordance with the approval petition and any conditions attached to the approval. If the planning director determines that progress has not been made in accordance with the approved petition and conditions, the planning director shall forward to the board of commissioners a report which may recommend that the property revert back to the previous zoning classification in accordance with the procedure set out in Section 17.2, as the same may from time to time be amended.

**Section 17.6 Maximum Number of Applications**

*In the case where a petition for a change in zoning classification has been denied by the Board of Commissioners after a public hearing, no new petition for the same change of the same property or any part thereof shall be filed within a period of twenty-four (24) months from the date of such decision by the Commissioners; further, no new petition for any other change in the zoning classification of the same property or any part thereof shall be filed within a period of twelve (12) months from the date of such decision by the Commissioners.*

*In any case where a petition for a change in zoning classification receives an unfavorable recommendation from the Iredell County Planning Board after a public meeting and the petitioner withdraws his application, no new petition for any change in zoning classification of the same property or any part thereof shall be filed within a period of one hundred eighty (180) days immediately following the withdrawal of the petition. However, if in the opinion of the Board of Commissioners, significant changes are made to the facts concerning the request, or specific changes are proposed to meet any concerns or questions posed by the Planning Board, the application may be re-submitted to the Planning Board for their consideration within that time.*

*Failure of the Board of Commissioners to set a public hearing on a rezoning proposal shall constitute denial of the request.*

*In no case shall fees charged to submit a rezoning application be refunded.*

Nothing in this Section is intended to prevent the submittal of a second application for the same property or any part thereof in any case where the first application is either withdrawn by the applicant prior to action by the Planning Board or action by the Planning Board is continued on the first application, provided that the second application is for a Conditional **Use Zoning** District(s).

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**ARTICLE V. ESTABLISHMENT OF ZONING DISTRICTS**

**Section 5.1 Conditional **Use Zoning** Districts**

There is also established a Conditional **Use Zoning** District (CUD) which corresponds to each of the districts authorized by this ordinance as follows:

- RA-CUD
- RU-R-CUD
- R-R-CUD
- R-20-CUD
- R-12-CUD
- R-8-CUD
- R-8A-CUD
- R-O-CUD
- O-I-CUD
- N-B-CUD
- H-B-CUD
- S-C-CUD
- C-B-CUD
- G-B-CUD
- M-1-CUD
- M-2-CUD

It is recognized that certain types of zoning districts would be inappropriate at certain locations in the absence of special conditions. Where the applicant for rezoning desires property to be rezoned to such a district in such situations, the Conditional Use **Zoning** District is a means by which such special conditions can be imposed in the furtherance of the purpose of this Ordinance. The Conditional Use **Zoning** District classification will be considered for rezoning only upon request of a property owner **or authorized agent**. ~~If for any reason any condition imposed pursuant to these regulations is found to be illegal or invalid or if the applicant should fail to accept any condition, it is the intent of this Ordinance that the authorization of such Conditional Use Permit shall be null and void and of no effect and that proceedings shall be instituted to rezone the property to its previous zoning classification.~~

Within a CUD, only those uses authorized as permitted ~~or conditional~~ uses in the zoning district with which the CUD corresponds shall be permitted, and all other requirements of the corresponding district shall be met as minimum standards. ~~In addition, within a CUD no use shall be permitted except pursuant to a Conditional Use Permit authorized by the Board of Commissioners, which shall specify the use or uses authorized. Such permit may further specify the location on the property of the proposed use or uses, the number of dwelling units, the location and extent of supporting facilities such as parking lots, driveways and access streets, the location and extent of buffer areas and other special purpose areas, the timing of development, the location and extent of rights-of-way and other areas to be dedicated for public use, and other such matters as the applicant may propose as conditions upon the request, but not to include architectural review or controls or other conditions not generally a part of land development controls. In granting a Conditional Use Permit the Board of Commissioners may impose such additional reasonable and appropriate safeguards upon such permit as it may deem necessary in order that the purpose and intent of this Ordinance are served, public welfare secured and substantial justice done.~~ **All Conditional Use Districts approved prior to January 15, 2008 shall hereby be replaced by a comparable Conditional District. For instance, a pre-existing GB-CUD designation will be changed to a GB-CD designation, including any associated conditions. All conditions and approvals shall continue to apply; however, changes to that district shall be handled through the conditional district process. Nothing in this section should be interpreted to invalidate any CUD which was legally adopted.**

**Section 5.2 Roadway Protection Overlay District (RPO)**

The Primary Use and Conditional Use **Zoning** Districts established above may also be zoned Roadway Protection Overlay District as designated herein and as shown on the Official Zoning Map. In such case, the land is subject to not only the requirements of the underlying Primary Use or Conditional Use **Zoning** District but also the additional requirements of the Overlay District.

**ARTICLE VI. SCHEDULE OF DISTRICT REGULATIONS**

**Section 6.1 R-A Residential Agricultural District**

A. **Uses.** See Article VIII entitled Table of Permitted Uses, ~~Conditional Uses~~ and Special Exceptions.

**Section 6.2 RU-R Rural Residential District**

A. **Uses.** See Article VIII entitled Table of Permitted Uses, ~~Conditional Uses~~ and Special Exceptions.

**Section 6.3 R-R Resort Residential District**

A. **Uses.** See Article VIII entitled Table of Permitted Uses, ~~Conditional Uses~~ and Special Exceptions.

**Section 6.4 R-20 Single-Family District**

A. **Uses.** See Article VIII entitled Table of Permitted Uses, ~~Conditional Uses~~ and Special Exceptions.

**Section 6.5 R-12 Single-Family District**

A. **Uses.** See Article VIII entitled Table of Permitted Uses, ~~Conditional Uses~~ and Special Exceptions.

**Section 6.6 R-8 Two-Family Residential District**

A. **Uses.** See Article VIII entitled Table of Permitted Uses, ~~Conditional Uses~~ and Special Exceptions.

**Section 6.7 R-8A Multi-Family Residential District**

A. **Uses.** See Article VIII entitled Table of Permitted Uses, ~~Conditional Uses~~ and Special Exceptions.

**Section 6.8 R-O Residential-Office District**

A. **Uses.** See Article VIII entitled Table of Permitted Uses, ~~Conditional Uses~~ and Special Exceptions.

**Section 6.9 O-I Office-Institutional District**

A. Uses. See Article VIII entitled Table of Permitted Uses, ~~Conditional Uses~~ and Special Exceptions.

**Section 6.10 N-B Neighborhood Business District**

A. Uses. See Article VIII entitled Table of Permitted Uses, ~~Conditional Uses~~ and Special Exceptions.

**Section 6.11 H-B Highway Business District**

A. Uses. See Article VIII entitled Table of Permitted Uses, ~~Conditional Uses~~ and Special Exceptions.

**Section 6.12 S-C Shopping Center District**

A. Uses. See Article VIII entitled Table of Permitted Uses, ~~Conditional Uses~~ and Special Exceptions.

**Section 6.13 C-B Community Business District**

A. Uses. See Article VIII entitled Table of Permitted Uses, ~~Conditional Uses~~ and Special Exceptions.

**Section 6.14 G-B General Business District**

A. Uses. See Article VIII entitled Table of Permitted Uses, ~~Conditional Uses~~ and Special Exceptions.

**Section 6.15 M-1 Light Manufacturing District**

A. Uses. See Article VIII entitled Table of Permitted Uses, ~~Conditional Uses~~ and Special Exceptions.

**Section 6.16 M-2 Heavy Manufacturing District**

A. Uses. See Article VIII entitled Table of Permitted Uses, ~~Conditional Uses~~ and Special Exceptions.

**Section 6.17 Conditional Use Zoning Districts**

**Requirements within a Conditional Use Zoning District.** Only those uses authorized as permitted uses, ~~conditional uses,~~ or special exceptions, in the zoning district with which the CUD corresponds shall be eligible to be permitted, and all other requirements of the corresponding district shall be met as minimum standards. ~~In addition, within a CUD no use shall be permitted except pursuant to a Conditional Use Permit authorized by the Board of Commissioners, which shall specify the use or uses authorized. Such permit may further specify the location on the property of the proposed use or uses, the number of dwelling units, the location and extent of supporting facilities such as parking lots, driveways and access streets, the location and extent of buffer areas and other special purpose areas, the timing of development, the location and extent of right-of-way and other areas to be dedicated for public use, and other such matters as the applicant may propose as conditions upon the request, but not to include architectural review or controls or other conditions not generally a part of land development controls. In granting a Conditional Use Permit the Board of Commissioners may impose such additional reasonable and appropriate safeguards upon such permit as it may deem necessary in order that the purpose and intent of this ordinance are served, public welfare secured and substantial justice done.~~

**Section 6.18.1 Roadway Protection Overlay District (RPO)**

E. Ingress and Egress Points.

1. On any lot in any planned multi-tenant development which contains more than one lot, no two points of ingress and egress (as measured at their closest distance) shall be closer than three-hundred (300) feet apart. No more than two (2) separate points of ingress and egress per lot or within a planned multi-tenant development shall be allowed per road front, except where included as a condition for a use ~~which requires a conditional use permit~~ located on a lot containing five (5) or more acres. Any use engaged in the sale of automobile fuels to the public and having more than three (3) fuel stations shall be allowed to have no more than one additional point of ingress and egress per road front provided that said point of ingress and egress is located no closer than forty (40) feet from any other such access point.

**Section 6.18.2 Roadway Protection Overlay District Two (RPO2)**

E. Ingress and Egress Points.

1. On any lot in any planned multi-tenant development which contains more than one lot, no two points of ingress and egress (as measured at their closest distance) shall be closer than three-hundred (300) feet apart. No more than two (2) separate points of ingress and egress per lot or within a planned multi-tenant development shall be allowed per road front, except where included as a condition for a use ~~which requires a conditional use permit~~ located on a lot containing five (5) or more acres. Any use engaged in the sale of automobile fuels to the public and having more than three (3) fuel stations shall be allowed to have no more than one additional point of ingress and egress per road front provided that said point of ingress and egress is located no closer than forty (40) feet from any other such access point.

**ARTICLE VIII. TABLE OF PERMITTED USES AND SPECIAL USES**

**Section 8.2 Meaning of Entries**

The meaning of the entries in the Table are as follows:

1. "X" indicates the use is permitted by right and a zoning permit may be obtained.
2. "S" indicates the use requires approval of a Special Use Permit in accordance with the procedures of Section 16.4.

The column on the far right, labeled "SR" (Special Requirements) means that there are special additional performance requirements that the use must comply with in its development. These requirements are contained in Article IX, "Special Requirements to the Table of Permitted and Special Uses." For any use subject to a Special Requirement, the Special Requirement shall represent the minimum conditions for issuance of ~~a Conditional Use Permit~~ or a Special Use Permit.

**ARTICLE IX. SPECIAL REQUIREMENT NOTES TO THE TABLE OF PERMITTED AND SPECIAL USES**

**SR 13. Planned Unit Development (PUD)**

- A. PUD's shall be permitted only when requested as a Conditional ~~Use and accompanied by a rezoning request~~ **Zoning District** to one or more of the following Zoning Districts: ~~CU-R-A; CU-RU-R; CU-R-R; CU-R-20; CU-R-12; CU-R-8; and CU-R-8A~~ **RA-CD, RU-R-CD, RR-CD, R-20-CD, R-12-CD, R-8-CD, AND R-8A-CD.**
- B. Application for PUD shall be approved only if the following findings are made:
  1. That application of planned unit development requirements to the property will produce a development of equal or higher quality than otherwise required by the strict application of district regulations that would otherwise govern;
  2. That application of planned unit development requirements to the property will encourage innovative arrangement of buildings and open spaces to provide efficient, attractive, flexible, and environmentally sensitive design;
  3. That application of planned unit development requirements to the property will produce a development functioning as a cohesive, unified project; and
  4. That application of planned unit development requirements to the property will not substantially injure or damage the use, value, and enjoyment of surrounding property nor hinder or prevent the development of surrounding property in accordance with the adopted plans and policies of the County.
- C. An approved PUD ~~Conditional Use Permit~~ and the approved verified development plan shall govern all uses and development activities in a PUD.
- D. Except as otherwise provided by this SR, a PUD shall be subject to all the applicable standards, procedures and regulations of the other parts of this ordinance.
- E. Minimum Size: No PUD shall be approved for a site of less than that fifteen (15) acres. The site must be contiguous property under unified ownership or control.
- F. USES: Uses permitted in a PUD shall be in accordance with the following schedule, provided, that uses to be in a PUD shall be stated in the conditional use permit.

Districts	Uses
All	1) All uses permitted in the corresponding Principal District 2) In PUDS of 25 acres or more, all uses permitted in the S-C and O&I Districts.

*G. Limitations on Uses: In a PUD that qualifies for such uses by size, O&I and S-C uses shall not exceed ten percent (10%) of the total land area and at no time shall the cumulative amount of land development for O&I and/or S-C purposes exceed the cumulative amount of land development for residential purposes.*

*H. Development Standards: Development in a PUD shall be exempt from the minimum required lot width, front yard, side yard and rear yard requirements of the Schedule of District Regulations and from Section 3.1 and 3.2 relating to relationship of buildings to lots and access to streets provided that the following development standards are followed. The overall residential density limitation and residential building types of the corresponding principal district shall apply in a PUD provided that a density bonus which may involve a different residential development type may be permitted during the PUD approval process as provided for herein.*

*1. Lot size: The exemption from the Schedule of District Regulation provisions shall not apply in the following situations:*

*No lot for a single family detached dwelling shall be less than the minimum lot size for a single-family dwelling in the zoning district in which the PUD is located. Cluster developments and single-family semi-detached developments are permitted subject to the Special Requirements for such developments. Where the zoning district permits two-family and multi-family developments such uses are permitted subject to the Special Requirements for such developments.*

*2. Vehicle Access:*

- a. Areas between structures shall be covered by easements where necessary for access and to provide for maintenance and utility service.*
- b. Primary vehicular access to office or commercial development shall not be through intervening residential development.*
- c. Local streets shall be located and designed so that they do not encourage through access by traffic with origins and destinations out side of the development.*

*3. Pedestrian Access: PUD's shall be designed and developed and uses so arranged to promote pedestrian access within the development.*

*4. Non-Residential Areas: Non-Residential areas in PUD's shall be designed and located to principally serve the residents of the PUD and the immediate surrounding area.*

*5. Boundary Treatment: The scale and setbacks of development in a PUD within one-hundred and fifty (150) feet of the perimeter of the PUD shall be in harmony with development on adjacent lands.*

*6. Environmentally Sensitive Areas: One of the principal purposes of the PUD procedure is to protect environmentally sensitive areas through the use of innovative arrangement of buildings and spaces. It is the intent of the PUD process that significant consideration in planning and design of PUD's shall be given to the following elements such as but not limited to:*

- a. Floodway and floodway fringe areas*
- b. Steep slopes and knolls*
- c. Wetlands*
- d. Water supply watersheds*
- e. Rock outcrops*
- f. Soil erosion and storm water management*
- g. Tree and foliage preservation*
- h. Habitat for threatened or endangered species*
- i. Areas of historical, archaeological or architectural significance.*
- j. Useable open space; recreation area*

*In any case where the Board of Commissioners finds in its opinion that the PUD provides for significant protection or enhancement of any one or more of the above elements, or a similar element as determined by the*

Board of Commissioners, the Board may award a bonus of up to ten (10) percent increase in residential dwelling units for a PUD and may permit such additional dwelling units to be of a development type not otherwise permitted in the PUD. The determination by the Board of the significant protection or enhancement of a particular element shall be based upon a comparison between the type of development that could be placed on the property under the current zoning and other regulations and the proposed development scheme for the PUD.

7. Unified Development Plan: The application for a PUD ~~Conditional Use Permit~~ as part of a rezoning to a Conditional Zoning District Use rezoning shall be accompanied by a unified development plan in the form of a site specific development plan (See Article XVII).
8. Phased Development: A PUD may be developed in phases in the same manner as a subdivision and subject to the phasing requirement for subdivisions.

#### SR 46. Septage or Residential Sludge Disposal Sites

- F. Site plans must have been approved by NCDEHNR when submitting application for ~~conditional~~ special use permit.

### ARTICLE XIV. SITE PLAN REQUIREMENTS

#### Section 14.0 General

- N. A description of any conditions placed on the property/project in conjunction with the approval of a special use ~~or conditional use~~ permit.

### ARTICLE XV. ADMINISTRATION

#### Section 15.2 Zoning Permit With Vested Rights

##### C. Board of Commissioners' Action

Once the public hearing has been conducted and concluded, the Board of Commissioners shall determine whether or not to approve the site-specific development plan and accord the vested right. In approving an application for vested rights of a site specific development plan, the Board of Commissioners may attach fair and reasonable ad hoc conditions which tend to support the required finding of facts as herein listed. The petitioner shall be given reasonable opportunity to consider and respond to any additional requirements prior to approval or denial by the Board of Commissioners. The Board of Commissioners may not require the landowner to waive his vested right as a condition of developmental approval.

The Board of Commissioners may approve the site specific development plan if it has evaluated an application and determined that:

1. The use meets all required specifications of the Zoning Ordinance, and
2. The use will not materially endanger the public health or safety and will not substantially injure the value of adjoining property if located where proposed. Conditions, if any, placed on the site specific development plan by the Board of Commissioners shall be adequate to meet this requirement.
3. If the site specific development plan is vested for a period of greater than two (2) years, this shall be based on one or more factors so described in Subsection 4 below.

The burden of proof of producing evidence to support these findings (and to overcome any challenges that approval of the site plan would be contrary to one or more of these findings) shall rest entirely with the landowner.

~~If the use or development for which the site specific development plan is submitted is a conditional use, the Board of Commissioners may approve the site specific development plan simultaneously with the approval of the conditional use permit. In no case, however, may a site specific development plan be approved for a use or development which requires the issuance of a conditional use permit without the conditional use permit having first been issued.~~

### ARTICLE XVIII. GENERAL LEGAL PROVISIONS; PENALTY FOR VIOLATION

#### Section 18.2 Effects Upon Outstanding Building Permits; ~~Conditional~~/Special Use Permits; Zoning Permits With Vested Rights; And Existing Planned Residential Districts (PRD)

Nothing herein contained shall require any change in the plans, construction, size or designated use of any building, structure or part thereof for which a building permit has been granted by the Building Inspector prior to the time of passage of this Ordinance or any amendment thereto; provided, however, that where construction is not begun under the outstanding permit within a period of one hundred eighty (180) days subsequent to the passage of this Ordinance or any amendment thereto, or where it has not been prosecuted to completion within eighteen (18) months subsequent to passage

of this Ordinance or any amendment thereto, any further construction or use shall be in conformity with the provisions of this Ordinance or any such amendment.

Nothing herein contained shall require any change in the plans, construction, size or designated use of any Zoning Permit which has been granted prior to the adoption of this Ordinance provided that a Building Permit has been obtained and construction begun within one hundred eighty (180) days of the date of the issuance of such permit and provided that such Building Permit is prosecuted to completion as provided for above.

Nothing herein contained shall require any change in the plans, construction, size or designated use of any ~~Conditional or~~ Special Use Permit which has been granted prior to the adoption of this Ordinance and which ~~Conditional or~~ Special Use is no longer carried forth on this Ordinance provided that a Building Permit has been obtained and construction begun within one hundred eighty (180) days of the date of the approval of such Permit and provided that such Building Permit is prosecuted to completion as provided for above. Such valid ~~Conditional or~~ Special Uses including those already existing for non- continued uses may be constructed, continued and reconstructed the same as any permitted use subject to such use limitations and other conditions as provided for in the original issuance of the ~~Conditional or~~ Special Use Permit. Any such ~~Conditional or~~ Special Use that is changed to any permitted use for any period of time shall not be permitted to resume the ~~Conditional or~~ Special Use.

Nothing herein contained shall require any change in any zoning vested right which has been established prior to the adoption of this ordinance during its vested rights period except to the extent permitted at the time of the approval of the site specific development plan and consistent with G.S. 153A-344.1.

Nothing herein contained shall require any change in the use for Planned Residential Development of any land that was zoned as Planned Residential District (PRD) prior to the adoption of this Ordinance. Although the adoption of this Ordinance does not carry forth the PRD as a Zoning District, it is the intent of this Ordinance that any land so zoned may be used for Planned Residential Development provided such development is in conformance with the requirements of the PRD as it existed in the Ordinance repealed by the adoption of this Ordinance and provided the land is not rezoned to another zoning district. If any land zoned PRD is rezoned to another zoning district then the land shall be accorded such development rights as are provided for in this Ordinance in such situations.

## ARTICLE XIX. DEFINITIONS

### A. General Definitions

~~Conditional Use. A use of land permitted in a Conditional Use District upon approval by the Board of Commissioners as part of the Conditional Use rezoning process.~~

Public Hearing. A duly advertised meeting called by the County Commissioners for the purpose of taking formal public comment, both in favor and opposition to a proposed action.

Public Meeting. An informal meeting to obtain comments from the public prior to the local government's decision on a proposed action. The proceedings may be recorded and a recommendation may be included.

\* \* \* \* \*

**Consideration of New Federal Emergency Management Agency (FEMA) Floodplain Maps & Adoption of a Flood Damage Prevention Ordinance Along with Flood Insurance Rate Maps:** Planning Director Ron Smith said the State Department of Crime Control and Public Safety (Division of Emergency Management) was requiring updated floodplain management measures, flood insurance studies, and flood insurance rate maps. He said the submission deadline was March 18, 2008, and the updates were necessary to remain in the National Flood Insurance Program which allows citizens to obtain flood insurance. Smith said over 9,000 affected property owners were notified about the revisions.

Commissioner Robertson said he understood the updates would not impact the agricultural areas.

Smith said this was correct.

Judy Honeycutt requested a copy of the ordinance, and one was given to her.

No one else desired to speak, and Commissioner Robertson made a motion to adopt the Flood Damage Prevention Ordinance along with the associated Flood Insurance Rating Maps.

VOTING: Ayes – 5; Nays – 0.

The updated ordinance, in its entirety, is as follows:

Division 1 STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES.

*Section 10-51*

**STATUTORY AUTHORIZATION**

*The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Parts 3 and 4 of Article 18 of Chapter 153A; and Part 121, Article 6 of Chapter 153A of the North Carolina General Statutes, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare.*

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

*Section 10-52*

**FINDINGS OF FACT**

- (a) The flood prone areas within the jurisdiction of Iredell 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.*

*Section 10-53*

**STATEMENT OF PURPOSE**

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

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

*Section 10-54*

**OBJECTIVES**

*The objectives of this ordinance are to:*

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

*Division 2.*

**DEFINITIONS**

*Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.*

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

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

*“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.*

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

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

*“Building” see “Structure”.*

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

*“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.*

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

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

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

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

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

- (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 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 a supplement to and shall be used in conjunction with the Flood Insurance Rate Map (FIRM).*

*“Flood Insurance” means the insurance coverage provided under the National Flood Insurance Program.*

*“Flood Insurance Rate Map (FIRM)” means an official map of a community, issued by the 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)” 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. 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 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, blockage of bridge openings, and the hydrological effect of urbanization of 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, limited to a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.*

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

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

*“Historic Structure” means any structure that is:*

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

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

*“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 1929, the North American Vertical Datum (NAVD) as corrected in 1988, or other vertical control datum used as a reference for establishing varying elevations within the floodplain, to which Base Flood Elevations (BFEs) shown on a FIRM are referenced. Refer to each FIRM panel to determine datum used.*

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

*“Non-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.*

*“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.*

*“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.*

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

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

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

- (a) built on a single chassis;*
- (b) 400 square feet or less when measured at the largest horizontal projection;*
- (c) designed to be self-propelled or permanently towable by a light duty truck; and*
- (d) 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 bottom of the lowest horizontal structural member of the lowest floor for structures within all Special Flood Hazard Areas.*

*“Regulatory Flood Protection Elevation” means the “Base Flood Elevation” plus the “Freeboard”. In “Special Flood Hazard Areas” where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE plus one (1) foot of freeboard. In “Special Flood Hazard Areas” where no BFE has been established, this elevation shall be at least 2 feet above the highest adjacent grade.*

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

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

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

*“Solid Waste Disposal Facility” means any facility involved in the disposal of solid waste, as defined in NCGS 130A-290(a)(35).*

*“Solid Waste Disposal Site” means, as defined in NCGS 130A-290(a)(36), any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.*

*“Special Flood Hazard Area (SFHA)” means the land in the floodplain subject to a one percent (1%) or greater chance of being flooded in any given year, as determined in Article 3, Section B of this ordinance.*

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

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

*“Substantial Damage” means damage of any origin sustained by a structure during any one-year period whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. See definition of “substantial improvement”.*

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

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

*“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 Divisions 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 coastal or riverine areas.*

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

*Sec. 10-55 through 10-60 reserved.*

*Division 3.*

## **GENERAL PROVISIONS**

*Section 10-61 .*

### **LANDS TO WHICH THIS ORDINANCE APPLIES**

*This ordinance shall apply to all Special Flood Hazard Areas within the jurisdiction of Iredell County and within the jurisdiction of any other community whose governing body agrees, by resolution, to such applicability.*

*Section 10-62.*

**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 Iredell County dated March 18<sup>th</sup> 2008 which are adopted by reference and declared to be a part of this ordinance.*

*The initial Flood Insurance Rate Maps are as follows for the jurisdictional areas at the initial date:  
Iredell County Unincorporated Area, dated May 15, 1980.*

*Section 10-63*

**ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT**

*A Floodplain Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities within Special Flood Hazard Areas determined in accordance with the provisions of Division 3, Section 10-62 of this ordinance.*

*Section 10-64*

**COMPLIANCE**

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

*Section 10-65*

**ABROGATION AND GREATER RESTRICTIONS**

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

*Section 10-66*

**INTERPRETATION**

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

- (a) considered as minimum requirements;*
- (b) liberally construed in favor of the governing body; and*
- (c) deemed neither to limit nor repeal any other powers granted under State statutes.*

*Section 10-67*

**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 Iredell County or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.*

*Section 10-68*

**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 Iredell County from taking such other lawful action as is necessary to prevent or remedy any violation.*

*Sections 10-69 through 10-73 reserved*

*Division 4.*

**ADMINISTRATION**

Section 10-74

DESIGNATION OF FLOODPLAIN ADMINISTRATOR

The Director of Planning or his/her designee, hereinafter referred to as the "Floodplain Administrator", is hereby appointed to administer and implement the provisions of this ordinance.

Section 10-75

FLOODPLAIN DEVELOPMENT APPLICATION, PERMIT AND CERTIFICATION REQUIREMENTS

- (1) Application Requirements. Application for a Floodplain Development Permit shall be made to the Floodplain Administrator prior to any development activities located within Special Flood Hazard Areas. The following items shall be presented to the Floodplain Administrator to apply for a floodplain development permit:
- (a) A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:
    - (i) the nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;
    - (ii) the boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in Division 3, Section 10-62, or a statement that the entire lot is within the Special Flood Hazard Area;
    - (iii) flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in Division 3, Section 10-62;
    - (iv) the boundary of the floodway(s) or non-encroachment area(s) as determined in Division 3, Section 10-62;
    - (v) the Base Flood Elevation (BFE) where provided as set forth in Division 3, Section 10-62; Division 4, Section 10-76; or Division 5, Section 10-88; and
    - (vi) the old and new location of any watercourse that will be altered or relocated as a result of proposed development; and
  - (b) Proposed elevation, and method of elevation, of all development within a Special Flood Hazard Area including but not limited to:
    - (i) Elevation in relation to mean sea level of the proposed reference level (including basement) of all structures;
    - (ii) Elevation in relation to mean sea level to which any non-residential structure in Zone AE, A or AO will be flood-proofed; and
    - (iii) Elevation in relation to mean sea level to which any proposed utility systems will be elevated or floodproofed.
  - (c) 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.
  - (d) A Foundation Plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this ordinance are met. These details include but are not limited to:
    - (i) The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls); and
    - (ii) Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with Division 5, Section 10-62(4)(c) when solid foundation perimeter walls are used in Zones A, AO, AE, and AI-30.
  - (e) Usage details of any enclosed areas below the lowest floor.
  - (f) Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage;

- (g) *Certification that all other Local, State and Federal permits required prior to floodplain development permit issuance have been received.*
  - (h) *Documentation for placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure that the provisions of Division 5, Section 10-87, subsections (6) and (7) of this ordinance are met.*
  - (i) *A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.*
- (2) Permit Requirements. *The Floodplain Development Permit shall include, but not be limited to:*
- (a) *A description of the development to be permitted under the floodplain development permit.*
  - (b) *The Special Flood Hazard Area determination for the proposed development in accordance with available data specified in Division 3, Section 10-62.*
  - (c) *The regulatory flood protection elevation required for the reference level and all attendant utilities.*
  - (d) *The regulatory flood protection elevation required for the protection of all public utilities.*
  - (e) *All certification submittal requirements with timelines.*
  - (f) *A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse, as applicable.*
  - (g) *The flood openings requirements, if in Zones A, AO, AE or AI-30.*
- (3) Certification Requirements.
- (a) Elevation Certificates
    - (i) *An Elevation Certificate (FEMA Form 81-31) is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to mean sea level. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit.*
    - (ii) *An Elevation Certificate (FEMA Form 81-31) 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. Any work done within the seven (7) day calendar period and prior to submission of the certification shall be at the permit holder's risk. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being permitted to proceed. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop-work order for the project.*
    - (iii) *A final 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. 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.*
  - (b) Floodproofing Certificate

*If non-residential floodproofing is used to meet the regulatory flood protection elevation requirements, a Floodproofing Certificate (FEMA Form 81-65), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design*

*elevation of the reference level and all attendant utilities, in relation to mean sea level. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.*

- (c) 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 in accordance with the provisions of Division 5, Section 10-87(3)(b).*
- (d) If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; a professional engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.*
- (e) Certification Exemptions. The following structures, if located within Zone 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 Division 5, Section 10-87(6)(a);*
  - (ii) Temporary Structures meeting requirements of Division 5, Section 10-87(7); and*
  - (iii) Accessory Structures less than 150 square feet meeting requirements of Division 5, Section 10-87(8).**

#### *Section 10-76*

#### *DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR*

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

- (1) Review all floodplain development applications and issue permits for all proposed development within Special Flood Hazard Areas to assure that the requirements of this ordinance have been satisfied.*
- (2) Review all proposed development within Special Flood Hazard Areas to assure that all necessary Local, State and Federal permits have been received.*
- (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 maintained.*
- (5) Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of Division 5, Section 10-90 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 and substantially improved structures, in accordance with the provisions of Division 4, Section 10-75 (3).*
- (7) Obtain actual elevation (in relation to mean sea level) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with the provisions of Division 4, Section 10-75(3).*
- (8) Obtain actual elevation (in relation to mean sea level) of all public utilities in accordance with the provisions of Division 4, Section 10-75(3).*
- (9) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the provisions of Division 4, Section 10-75(3) and Division 5, Section 10-87(2).*

- (10) *Where interpretation is needed as to the exact location of boundaries of the Special Flood Hazard Areas, floodways, or non-encroachment areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this division.*
- (11) *When Base Flood Elevation (BFE) data has not been provided in accordance with Division 3, Section 10-62, 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 Division 5, Section 10-88(2)(b), in order to administer the provisions of this ordinance.*
- (12) *When Base Flood Elevation (BFE) data is provided but no floodway or non-encroachment area data has been provided in accordance with Division 3, Section 10-62, obtain, review, and reasonably utilize any floodway data or non-encroachment area data available from a Federal, State, or other source in order to administer the provisions of this ordinance.*
- (13) *When the lowest floor and the lowest adjacent grade of a structure or the lowest ground elevation of a parcel in a Special Flood Hazard Area is above the 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, recognizing that such information may be subject to the Privacy Act of 1974, as amended.*
- (15) *Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the Floodplain Administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the Floodplain Administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.*
- (16) *Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this ordinance, the Floodplain Administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing or in charge of the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.*
- (17) *Revoke floodplain development permits as required. The Floodplain Administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, and specifications; for refusal or failure to comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable State or local law may also be revoked.*
- (18) *Make periodic inspections throughout the special flood hazard areas within the jurisdiction of the community. The Floodplain Administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.*
- (19) *Follow through with corrective procedures of Division 4, Section 10-77.*
- (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 Division 3, Section 10-62 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).*

#### *Section 10-77*

#### *CORRECTIVE PROCEDURES*

- (1) *Violations to be Corrected: When the Floodplain Administrator finds violations of applicable State and local laws, it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.*

- (2) *Actions in Event of Failure to Take Corrective Action: If the owner of a building or property shall fail to take prompt corrective action, the Floodplain Administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:*
- (a) *that the building or property is in violation of the floodplain management regulations;*
  - (b) *that a hearing will be held before the Floodplain Administrator at a designated place and time, not later than ten (10) days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and*
  - (c) *that following the hearing, the Floodplain Administrator may issue an order to alter, vacate, or demolish the building; or to remove fill as applicable.*
- (3) *Order to Take Corrective Action: If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator shall find that the building or development is in violation of the Flood Damage Prevention Ordinance, 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. (One-hundred-eighty (180) calendar days or less is recommended) 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.*
- (4) *Appeal: Any owner who has received an order to take corrective action may appeal the order to the Board of Adjustment by giving notice of appeal in writing to the Floodplain Administrator and the 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.*
- (5) *Failure to Comply with Order: Civil Penalties and Citation Process. If the owner or occupant of a property fails to comply with a Notice of Violation from which no appeal has been taken, or a final decision by the Board of Adjustment following an appeal, the owner or occupant shall be subject to such remedies and penalties as may be provided for by State law or by Section 1.7 of the Code of Iredell County through the procedure detailed below:*

*1. The Floodplain Administrator shall issue a citation (by certified or registered mail to his last known address, by personal service, or by posting notice conspicuously on the property) giving seven (7) days to bring the violation into compliance and notifying that the penalty for the violation is one hundred dollars (\$100.00). If the owner or occupant comes into compliance within the seven (7) days, a one hundred dollar (\$100.00) penalty will be collected. If the owner or occupant fails to come into compliance, a second citation will be issued (by certified or registered mail to his last known address, by personal service, or by posting notice conspicuously on the property) extending the deadline by another seven (7) days and assessing a penalty of one hundred dollars (\$100.00) for the previous seven (7) days. There will be a continued accrual of one hundred dollars (\$100.00) per day for each day the violation continues thereafter. Further failure to come into compliance will result in the case being submitted to the County Attorney for enforcement and potential legal action.*

*2. In any case where the same owner and same parcel are involved in the same violation (repeat offender), the citation process above will be utilized. A one hundred dollars (\$100.00) minimum penalty will be collected.*

#### *Section 10-78*

#### *VARIANCE PROCEDURES*

- (1) *The Board of Adjustment as established by Iredell County, hereinafter referred to as the "appeal board", shall hear and decide requests for variances from the requirements of this ordinance.*
- (2) *Any person aggrieved by the decision of the appeal board may appeal such decision to the Court, as provided in Chapter 7A of the North Carolina General Statutes.*
- (3) *Variances may be issued for:*
  - (a) *the repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure;*
  - (b) *functionally dependent facilities if determined to meet the definition as stated in Division 2 of this ordinance, provided provisions of Division 4, Section 10-78(9)(b), (c), and (e) have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety; or*
  - (c) *any other type of development, provided it meets the requirements of this Section.*

- (4) *In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:*
- (a) *the danger that materials may be swept onto other lands to the injury of others;*
  - (b) *the danger to life and property due to flooding or erosion damage;*
  - (c) *the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;*
  - (d) *the importance of the services provided by the proposed facility to the community;*
  - (e) *the necessity to the facility of a waterfront location as defined under Division 2 of this ordinance as a functionally dependent facility, where applicable;*
  - (f) *the availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;*
  - (g) *the compatibility of the proposed use with existing and anticipated development;*
  - (h) *the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;*
  - (i) *the safety of access to the property in times of flood for ordinary and emergency vehicles;*
  - (j) *the expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and*
  - (k) *the costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.*
- (5) *A written report addressing each of the above factors shall be submitted with the application for a variance.*
- (6) *Upon consideration of the factors listed above and the purposes of this ordinance, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this ordinance.*
- (7) *Any applicant to whom a variance is granted shall be given written notice specifying the difference between the 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.*
- (8) *The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the State of North Carolina upon request.*
- (9) *Conditions for Variances:*
- (a) *Variances shall not be issued when the variance will make the structure in violation of other Federal, State, or local laws, regulations, or ordinances.*
  - (b) *Variances shall not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge.*
  - (c) *Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.*
  - (d) *Variances shall only be issued prior to development permit approval.*
  - (e) *Variances shall only be issued upon:*
    - (i) *a showing of good and sufficient cause;*
    - (ii) *a determination that failure to grant the variance would result in exceptional hardship;*  
*and*

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

(10) A variance may be issued for solid waste disposal facilities or sites, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in Special Flood Hazard Areas provided that all of the following conditions are met.

(a) The use serves a critical need in the community.

(b) No feasible location exists for the use outside the Special Flood Hazard Area.

(c) The reference level of any structure is elevated or 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 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.

Sections 10-79 through 10-85 reserved

Division 5

#### PROVISIONS FOR FLOOD HAZARD REDUCTION

Section 10-86

#### GENERAL STANDARDS

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

(1) All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.

(2) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(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, 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 Division 4, Section 10-78(10). A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is

*either elevated or floodproofed to at least the regulatory flood protection elevation and certified in accordance with the provisions of Division 4, Section 10-75(3).*

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

#### *Section 10-87*

#### *SPECIFIC STANDARDS*

*In all Special Flood Hazard Areas where Base Flood Elevation (BFE) data has been provided, as set forth in Division 3, Section 10-62, or Division 5, Section 10-88, the following provisions, in addition to the provisions of Division 10-86, Section A, are required:*

- (1) Residential Construction. New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in Division 2 of this ordinance.*
- (2) Non-Residential Construction. New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in Division 2 of this ordinance. Structures located in A, AE, AO, 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 flood proofing elevation shall be in accordance with Division 5, Section 10-91(2). 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 Division 4, Section 10-75(3), along with the operational and maintenance plans.*
- (3) Manufactured Homes.*
  - (a) New and replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the regulatory flood protection elevation, as defined in Division 2 of this ordinance.*
  - (b) Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by certified engineered foundation system, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance pursuant to NCGS 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis thirty-six (36) inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above thirty-six (36) inches in height, an engineering certification is required.*
  - (c) All enclosures or skirting below the lowest floor shall meet the requirements of Division 5, Section 10-87(4).*
  - (d) An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the Floodplain Administrator and the local Emergency Management coordinator.*

- (4) Elevated Buildings. Fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor:
- (a) shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas;
  - (b) shall be constructed entirely of flood resistant materials at least to the regulatory flood protection elevation; and
  - (c) 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:
    - (i) A minimum of two flood openings on different sides of each enclosed area subject to flooding;
    - (ii) The total net area of all flood openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding;
    - (iii) If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;
    - (iv) The bottom of all required flood openings shall be no higher than one (1) foot above the adjacent grade;
    - (v) Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and
    - (vi) Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.
- (5) Additions/Improvements.
- (a) Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
    - (i) not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure.
    - (ii) a substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
  - (b) Additions to post-FIRM structures with no modifications to the existing structure other than a standard door in the common wall shall require only the addition to comply with the standards for new construction.
  - (c) Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
    - (i) not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction.
    - (ii) a substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
- (6) Recreational Vehicles. Recreational vehicles shall either:
- (a) be on site for fewer than 180 consecutive days and be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions); or
  - (b) meet all the requirements for new construction.
- (7) Temporary Non-Residential Structures. Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the Floodplain Administrator a plan for the removal of such structure(s) in

*the event of a hurricane, flash flood or other type of flood warning notification. The following information shall be submitted in writing to the Floodplain Administrator for review and written approval:*

- (a) a specified time period for which the temporary use will be permitted. Time specified may not exceed three (3) months, renewable up to one (1) year;*
  - (b) the name, address, and phone number of the individual responsible for the removal of the temporary structure;*
  - (c) the time frame prior to the event at which a structure will be removed (i.e., minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);*
  - (d) a copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and*
  - (e) designation, accompanied by documentation, of a location outside the Special Flood Hazard Area, to which the temporary structure will be moved.*
- (8) Accessory Structures. When accessory structures (sheds, detached garages, etc.) are to be placed within a Special Flood Hazard Area, the following criteria shall be met:*
- (a) Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);*
  - (b) Accessory structures shall not be temperature-controlled;*
  - (c) Accessory structures shall be designed to have low flood damage potential;*
  - (d) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;*
  - (e) Accessory structures shall be firmly anchored in accordance with the provisions of Division 5, Section 10-86(1);*
  - (f) All service facilities such as electrical shall be installed in accordance with the provisions of Division 5, Section 10-86(4); and*
  - (g) Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below regulatory flood protection elevation in conformance with the provisions of Division 5, Section 10-86(4)(c).*

*An accessory structure with a footprint less than 150 square feet that satisfies the criteria outlined above does not require an elevation or flood proofing certificate. Elevation or flood proofing certifications are required for all other accessory structures in accordance with Division 4, Section 10-75(3).*

#### *Section 10-88*

#### *STANDARDS FOR FLOODPLAINS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS*

*Within the Special Flood Hazard Areas designated as Approximate Zone A and established in Division 3, Section 10-62, where no Base Flood Elevation (BFE) data has been provided by FEMA, the following provisions, in addition to the provisions of Division 5, Section 10-86, shall apply:*

- (1) No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of twenty (20) feet each side from top of bank or five times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.*
- (2) The BFE used in determining the regulatory flood protection elevation shall be determined based on the following criteria:*
  - (a) When 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 Division 5, Sections 10-86 and 10-87.*

- (b) *When floodway or non-encroachment data is available from a Federal, State, or other source, all new construction and substantial improvements within floodway and non-encroachment areas shall also comply with the requirements of Division 5, Sections 10-87 and 10-90.*
- (c) *All subdivision, manufactured home park and other development proposals shall provide Base Flood Elevation (BFE) data if development is greater than five (5) acres or has more than fifty (50) lots/manufactured home sites. Such Base Flood Elevation (BFE) data shall be adopted by reference in accordance with Division 3, Section 10-62 and utilized in implementing this ordinance.*
- (d) *When Base Flood Elevation (BFE) data is not available from a Federal, State, or other source as outlined above, the reference level shall be elevated or floodproofed (nonresidential) to or above the regulatory flood protection elevation, as defined in Division 2. All other applicable provisions of Division 5, Section 10-87 shall also apply.*

*Section 10-89*

**STANDARDS FOR RIVERINE FLOODPLAINS WITH BASE FLOOD ELEVATIONS BUT WITHOUT ESTABLISHED FLOODWAYS OR NON-ENCROACHMENT AREAS**

*Along rivers and streams where BFE data is provided by FEMA or is available from another source but neither floodway nor non-encroachment areas are identified for a Special Flood Hazard Area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:*

- (1) *Standards of Division 5, Sections 10-86 and 10-87; and*
- (2) *Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community.*

*Section 10-90*

**FLOODWAYS AND NON-ENCROACHMENT AREAS**

*Areas designated as floodways or non-encroachment areas are located within the Special Flood Hazard Areas established in Division 3, Section 10-62. 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 Division 5, Sections 10-86 and 10-87, 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 Division 5, Section 10-90(1) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this ordinance.*
- (3) *No manufactured homes shall be permitted, except replacement manufactured homes in an existing manufactured home park or subdivision, provided the following provisions are met:*
  - (a) *the anchoring and the elevation standards of Division 5, Section 10-87(3); and*
  - (b) *the no encroachment standard of Division 5, Section 10-90(1).*

*Section 10-91*

**STANDARDS FOR AREAS OF SHALLOW FLOODING (ZONE AO)**

*Located within the Special Flood Hazard Areas established in Division 3, Section 10-62, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to Division 5, Sections 10-86 and 10-87, all new construction and substantial improvements shall meet the following requirements:*

- (1) *The reference level shall be elevated at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, plus a freeboard of one (1 ) foot, above the highest adjacent grade; or at least four (4) feet above the highest adjacent grade if no depth number is specified.*
- (2) *Non-residential structures may, in lieu of elevation, be flood proofed to the same level as required in Division 5, Section 10-91(1) so that the structure, together with attendant utility and sanitary facilities, below that level shall be watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required in accordance with Division 4, Section 10-75(3) and Division 5, Section 10-87(2).*
- (3) *Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.*

*Division 6*

**LEGAL STATUS PROVISIONS**

*Section 10-92*

**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 April 7, 1987 as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this ordinance shall not affect any action, suit or proceeding instituted or pending. All provisions of the flood damage prevention ordinance of Iredell County enacted on April 7, 1987, as amended, which are not reenacted herein are repealed.*

*The date of the initial flood damage prevention ordinance for each municipal jurisdiction within Iredell County is as follows:*

- Town of Davidson: January 10, 1995*
- Town of Mooresville: May 5, 1980*
- City of Statesville: September 17, 1979*

*Section 10-93*

**EFFECT UPON OUTSTANDING FLOODPLAIN DEVELOPMENT PERMITS**

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

*Section 10-94*

**EFFECTIVE DATE:** *March 18, 2008*

*This ordinance shall become effective upon adoption*

*Section 10-95*

**-----CONSENT AGENDA-----**

**MOTION** by Commissioner Williams to approve the following 20 consent agenda items.

VOTING: Ayes – 5; Nays – 0.

(All items were summarized during the briefing session.)

**1. Request from the Iredell-Statesville School System for Approval of a Capital Outlay Budget Amendment:** (BA#1 for the school system is for maintenance projects (\$350,000 for roofing and \$82,000 for boiler/HVAC), and the recognition of a \$150,000 donation from the Lowes Corporation for a field house at Lake Norman High.

**2. Request for Approval of an Inter-Local Agreement with the Town of Harmony Regarding Zoning Assistance:** Planning and Development Director Ron Smith said the zoning inter-local agreement with Harmony would soon expire, and a renewal document was recommended. He said his office had adequate staff to assist the town with any zoning matters.

The agreement reads as follows:

WHEREAS, Iredell County and the Town of Harmony desire to enter into an agreement, concerning the implementation and enforcement of zoning within the incorporated area of the Town of Harmony, in order to facilitate growth and land use planning; and

WHEREAS, Article 322 of Chapter 153A authorizes the County to enter into such an agreement and Article 363 of Chapter 160A authorizes the Town of Harmony to enter into such an agreement; and

WHEREAS, NCGS 160A-360 authorizes the Town of Harmony to implement zoning within the corporate limits; and

WHEREAS, the Iredell County Board of Commissioners has agreed for the Iredell County Department of Planning and Development to assist the Town of Harmony with this implementation; and

WHEREAS, the Iredell County Board of Commissioners has agreed that the County staff will serve as staff to the Town of Harmony concerning all zoning matters.

NOW THEREFORE, the parties do mutually agree as follows:

1. Sphere of Influence.

- A) The Town of Harmony will maintain a Zoning Ordinance similar to the Iredell County Zoning Ordinance.
- B) Iredell County shall provide staff from the Department of Planning and Development to assist the Town with the implementation of an adopted Zoning Ordinance.
- C) Iredell County shall provide staff to assist the Town Council concerning all rezoning, expansion of non-conforming use, special use permit, variance, and change in nonconforming use hearings.
- D) Iredell County shall provide staff to enforce the zoning code concerning any violation procedures that may arise.
- E) Iredell County shall charge and receive a fee for all zoning permits, rezoning applications, variances, amendments, and special use permits for property within the corporate limits based upon the Iredell County Planning Department's Fee Schedule.
- F) Iredell County shall be financially responsible for all required legal ads for rezonings, variances, amendments, and special use permits.
- G) The Town of Harmony shall provide a meeting place for all required public hearings.
- H) The Town of Harmony shall be responsible for any litigation.

2. Term.

The term of this agreement shall be two years from the date of execution hereof, which shall be deemed the effective date of this Agreement. It is the intent of Iredell County and Harmony that lines of communication shall remain open for discussion of extension of this Agreement as it nears expiration.

3. Amendment.

This document shall be amended only by a written document executed in the same manner as this Agreement. This document may be cancelled at any time upon thirty (30) days written notice by the Iredell County Board of Commissioners or the Town Council for the Town of Harmony.

4. Integration.

This instrument contains the entire agreement between Iredell County and the Town of Harmony, and no statement, either oral or written, made by an agent of either party which is not contained herein shall be valid or binding.

IN WITNESS WHEREOF, Iredell County and the Town of Harmony cause this agreement to be signed by their duly authorized representatives the day and year first above written.

\* \* \* \* \*

**4. Request for Approval of a Resolution of Intent in Conjunction with the Abandonment of T-Lane or SR-2957:** Planning Director Ron Smith said the county previously approved a request from the State Department of Transportation to abandon maintenance on SR 2957. He said, now, in order for the road to be officially closed, a public hearing was necessary. Smith requested adoption of the following resolution which calls for a hearing on February 5, 2008.

RESOLUTION OF INTENT BY THE BOARD OF COUNTY COMMISSIONERS, IREDELL COUNTY,  
NORTH CAROLINA, TO ABANDON STATE ROAD 2957- T LANE.

WHEREAS, in 1970, the Maidaree Cornelius plat was recorded in Plat Book 10, Page 48, of the Iredell County Registry, which shows T Lane (SR 2957) where it intersects with Langtree Road (SR 1102) as was depicted on the recorded plat on May 6, 1970; and

WHEREAS, a certain street is located on said plat and more specifically identified on the Iredell County GIS Grid Map 4645, Blocks 75, 76, 84 & 85; and

WHEREAS, T Lane (SR 2957) is a rural paved road, which crosses the property of the petitioner for a distance of 1,500 feet and dead ends at property owned by the petitioner; and

WHEREAS, the Iredell County Board of Commissioners approved, on December 4, 2007, a petition from the Division of Highways of the North Carolina Department of Transportation for the approval of a road abandonment from the State Maintained System; and

WHEREAS, the land owner, Lowe's Home Centers, Inc., has other more convenient access to the property and consents to the abandonment of the road pursuant to G.S. 153A-241; and

WHEREAS, the abandonment of said road is not contrary to public interest and no other individual owning property on said road other than the petitioner will be deprived of reasonable means of ingress and egress to his/her property.

NOW THEREFORE BE IT RESOLVED by the Chairman and Members of the Board of County Commissioners of Iredell County, North Carolina, that they do hereby declare their intention to abandon the public road herein described, and call a special hearing on the question to be heard on the 5th day of February, 2008, at 7:00 P.M., in the Commissioners Meeting Room of the Iredell County Government Center (Old Courthouse) at 200 S. Center Street, Statesville, North Carolina, and that a copy of this resolution be posted, published and mailed as required by G.S. 153A-241.

**4. Request for Review/Approval of the Transportation Improvement Program (TIP) Priority List of Needs for 2009-2015:** Planning Director Ron Smith said that on January 23, 2008, the State Department of Transportation would hold a public meeting concerning the draft 2009-2015 TIP projects. Smith requested review of the most recent TIP list and advisement of any changes.

(The board did not desire changes, and Mr. Smith will present the TIP list as follows.)

<b>FUNDED:</b>	<b>TIP #</b>
1. Widening of Brawley School Road from Chuckwood Road to Williamson Road and Williamson Road to I-77 including interchange	R-3833
2. Construction of Highway 70 from Statesville to county line	R-2911
3. Langtree Road/I-77 interchange	I-4411
<b>PARTIALLY FUNDED:</b>	
1. I-40/I-77 interchange	I-3819
2. I-40/Highway 21 improvements	I-3819
<b>UNFUNDED:</b>	
1. I-77 widening from county line to 1-40	I--4750
2. Highway 150 widening from county line to 1-77	R-2307
3. Cornelius Road interchange at 1-77 and connector road built to Mazeppa Road	
4. Highway 21/Highway 115 widening	R-2522
5. Gardner Bagnal Road widening	U-4749
6. Brawley School Road widening from Talbert Road to Highway 21	R-3833

\* \* \* \* \*

**5. Request for Approval to Accept Grant Funding from the Kate B. Reynolds Charitable Trust for the Healthy Carolinians Program:** Health Director Donna Campbell said a \$30,000 grant had been awarded to the Healthy Carolinians Program and the funding would be directed to health care accessibility, chronic disease reduction, health promotion, and risk reduction.

**6. Request from the Health Department for Approval to Write Off Uncollected Patient Accounts:** Health Director Donna Campbell said since June 30, 2004, a total of \$19,385.24 had accumulated in uncollected accounts. Campbell said write-offs were allowed on an annual basis.

**7. Request for Approval of the December Refunds and Releases:** Tax Administrator Bill Doolittle requested approval of the following refunds and releases.

Breakdown of Releases:	
County	167,991.47
Solid Waste Fees	161,465.50
E. Alex. Co. Fire #1	19.86
Shepherd's Fire #2	565.16
Mt. Mourne Fire #3	880.11
All County Fire #4	6,275.16
Statesville City	36,813.51
Statesville Downtown	433.96
Mooresville Town	82,838.55

Mooresville	
Downtown	0
Mooresville School	14,339.35
Love Valley	0
Harmony	129.43
Troutman	2,071.19
Davidson	0
<b>Total</b>	<b>\$473,823.25</b>

Breakdown of Refunds:

County	21,447.68
Solid Waste Fees	70.00
E. Alexander Co. Fire #1	0
Shepherd's Fire #2	247.61
Mt. Mourne Fire #3	344.73
All County Fire #4	186.24
Statesville City	187.82
Statesville Downtown	0
Mooresville Town	34,632.39
Mooresville Downtown	0
Mooresville School	4,118.44
Love Valley	0
Harmony	0
Troutman	119.18
Davidson	0

**Total \$61,354.09**

**8. Request for Approval of a Solid Waste Security Light Contract for the Harmony Transfer Station Site (866 West Memorial Highway, Harmony, NC):** Deputy County Manager Susan Blumenstein said the monthly cost for this Duke Energy three-year security light would be \$11.75.

**9. Request for Approval of a Two-Year Contract for Cellular Amplifier Equipment & Service with Sprint Solutions, Inc:** Deputy County Manager Susan Blumenstein said a two-year Sprint agreement would improve cellular communications between the sheriff's office and the Iredell County Government Center-South. (Cellular amplifier equipment will be provided at no cost to the county.)

**10. Request for Approval to Award a \$152,939 Contract to Nixon Power for a Generator System at the Detention Center:** Facility Services Director Jeff Frazier recommended for a backup generator bid to be awarded to Nixon Power at \$152,939. He said the staff was seeking a generator that would allow for the current load as well as future growth. Frazier said the actual low bidder was Lake Electric; however, the staff did not feel the generator type submitted would allow for growth. (The board awarded the bid to Nixon Power.)

VENDOR	A1	A2	INSURANCE	NON-COLLUSION	STATEMENT OF WORK	Exceptions	Bid Price	Additions	Notes	Total Bid Price
Nixon Power	X	n/a	X	X	X	Minor Contract Issue	136,889	16,050	Increase for Alternative to 450KW Generator Set	152,939
GL Wilson		n/a					No bid			
Sure-Gen		n/a					No bid			
National		n/a					No bid			
CW Electric		n/a					No bid			
Lake Electric	X	n/a	X	X	X	None	109,964			109,964
Harkey	X	n/a	X	X	X	None	250,150			250,150
Energy United	X	n/a	X	X	X	None	256,000			256,000
Cummins Atlantic	X						Combined with Lake Electric			

**11. Request from the Social Services Department for Approval of a 60-Month Rental Agreement for Network Printers with Kearns Business Solutions:** Deputy County Manager Susan Blumenstein said this agreement would provide 75 network printers, along with the set-up, training, and support/maintenance. She said advantages to leasing the equipment rather than an actual purchase were (1) \$10,000 would be saved over the life of the contract (2) there would not be a large upfront cost as with an actual purchase and (3) the county would not have to absorb the costs associated with surplus/disposing of the equipment. Blumenstein said the first month's rental would be \$1,870.

**12. Request for Approval of Budget Amendment #30 to Accept Criminal Justice Partnership Program Discretionary Funding for the Purpose of Renovating the 227 Harrill Street Property & to Allow the Appropriate Punishment Options Staff to Occupy the Building Upon Completion of the Renovations (Authorization for County Manager to Negotiate a Lease with APO):** This budget amendment was approved. (See briefing minutes for additional information.)

**13. Request for Approval of Budget Amendment #31 for the Replacement of Three Law Enforcement Canines:** Chief Deputy Rick Dowdle requested to use \$28,000 in seized funds and \$12,600 in commissary funds for the purpose of replacing three canines.

**14. Request from the Sheriff's Department for Approval of Budget Amendment #32 to Purchase a Secure View Receiver for Mobile Telephones (Susteen Industries is the sole provider):** Chief Deputy Rick Dowdle requested to use \$3,700 in seized funds for the purchase of a secure view receiver for mobile telephones. (The instrument will download numbers from cell phones.)

**15. Request from the Sheriff's Department for Approval of Budget Amendment #33 for a Copy Machine Replacement:** Chief Deputy Rick Dowdle requested to use \$4,800 in seized funds to purchase a new copier (includes one year of maintenance) for the narcotics division.

(After Dowdle explained the agenda items, Commissioner Robertson asked for an update regarding the sheriff's request for additional jail beds. Dowdle confirmed that 300 additional beds were needed. He said then, the department would have a total of 500 beds at the Water/Stockton Street site, along with the 87 beds at the prison camp facility.)

**16. Request from the Solid Waste Department for (1) Approval of a Site Suitability Contract with Municipal Engineering on Parcels known as the Steele and Fanjoy Properties & (2) Approval to Amend the Capital Project Ordinance:** Deputy County Manager Susan Blumenstein and Administrative Officer Susan Cornell said this \$160,000 contract would include the environmental assessment, boundary survey, hydrogeology testing, and reporting on the newly acquired Steele property as well as the remaining Fanjoy property. Blumenstein said \$8,000 had already been paid to secure the environmental assessment.

**17. Request for Approval of a Resolution Calling for a Public Hearing on Tuesday, January 29, 2008 Concerning the Financing of Certain School Facilities & Land Acquisition to Provide for Expansion of a Solid Waste Disposal Facility Pursuant to An Installment Financing Agreement:** Deputy County Manager Susan Blumenstein described the following resolution during the briefing session.

RESOLUTION CALLING FOR A PUBLIC HEARING  
CONCERNING THE FINANCING OF CERTAIN SCHOOL FACILITIES  
AND LAND ACQUISITION TO PROVIDE FOR EXPANSION OF A SOLID WASTE DISPOSAL  
FACILITY PURSUANT TO AN INSTALLMENT FINANCING AGREEMENT

WHEREAS, the Board of Commissioners for the County of Iredell, North Carolina (the "County") is considering the financing of (i) the expansion of Celeste Henkel Elementary School, including the replacement of existing classrooms and the construction and equipping of additional classrooms, a new administration area and a media center, (ii) the construction and equipping of a new 950-student elementary school ("Coddle Creek Elementary School"), including the acquisition of land therefor, (iii) the expansion of East Iredell Elementary School, including the construction and equipping of additional classrooms and resource rooms, a media center and administration area and the reconfiguration of existing classrooms, (iv) the construction and equipping of a new elementary school ("Cloverleaf Elementary School") to replace two existing elementary schools, (v) the expansion of Shepherd Elementary School, including the construction and equipping of additional classrooms and resource rooms, (vi) the expansion of South Iredell High School, including the construction of additional classrooms, a new gymnasium and locker rooms and a media center, (vii) the expansion of Statesville High School, including the construction and equipping of additional classrooms and resource rooms, a new administration area and a media center, the renovation of existing classrooms, and related site work, (viii) the construction and equipping of a new 750-student elementary school ("Rocky River Road Elementary School"), and (ix) the conversion of the existing Mooresville Intermediate School to a new middle school, including the construction of additional classroom space, the renovation of existing space and the construction of new athletic facilities, including a baseball field, tennis courts, a football stadium and related bathroom facilities (collectively, the "Schools Project") pursuant to an Installment Financing Agreement, to be dated as of March 1, 2008 or such other date as the parties thereto shall mutually agree upon (the "Installment Financing Agreement"), between Iredell County Public Facilities Corporation, a North Carolina non-profit corporation (the "Corporation") and the County; and

WHEREAS, at a regular meeting of the Board of Commissioners of the County held on December 4, 2007, the Board of Commissioners adopted a resolution calling for a public hearing concerning the financing of the School Project pursuant to the Installment Financing Agreement to be held on Tuesday, December 18, 2007 and directing the Clerk to the Board of Commissioners to publish notice of said public hearing; and

WHEREAS, at a regular meeting of the Board of Commissioners for the County held on December 18, 2007, the Board of Commissioners conducted such public hearing, no one appeared, either in person or by attorney, to be heard with respect to the Installment Financing Agreement, the Clerk to the Board of Commissioners announced that no statement relating to said matter had been received and the Board of Commissioners adopted a resolution making certain findings relating to the Financing of the School Project pursuant to an installment financing agreement and authorizing the Director of Finance and Administrative Services to file an application for approval thereof by the Local Government Commission; and

WHEREAS, the Board of Commissioners for the County is considering the financing of the acquisition of an approximately 189-acre tract of land adjacent to the County's solid waste disposal facility in Statesville, North Carolina to provide for expansion of such solid waste disposal facility (the "Landfill Project") pursuant to the Installment Financing Agreement; and

WHEREAS, pursuant to the Installment Financing Agreement, the Corporation will finance the School Project and the Landfill Project (collectively, the "Project"), and the County will make Installment Payments (as defined in the Installment Financing Agreement) in amounts sufficient to pay the principal and interest with respect to Certificates of Participation (Iredell County Public Improvement Projects), Series 2008 (the "2008 Certificates"), to be executed and delivered by the Corporation for the purpose of financing the Project, it being the express intention of the Board of Commissioners that only the principal amount of 2008 Certificates necessary to accomplish the purposes stated in the Installment Financing Agreement will be executed and delivered (estimated not to exceed \$120,000,000 principal amount); and the County's obligations under the Installment Financing Agreement will be secured by, among other things, a deed of trust on all or part of certain real property to be owned by the County, consisting of the sites of Celeste Henkel Elementary School, Coddle Creek Elementary School, East Iredell Elementary School, Shepherd Elementary School, South Iredell High School, Cloverleaf Elementary School, Rocky River Road Elementary School, and Mooresville Middle School, including all buildings, improvements and fixtures now or hereafter located thereon; and

WHEREAS, the Installment Financing Agreement, if entered into, will comply in all respects with Section 160A-20 and Chapter 159, Article 8, of the General Statutes of North Carolina and the guidelines of the Local Government Commission of North Carolina for all financings undertaken pursuant to said Section and Article; and

WHEREAS, said Section 160A-20 requires that, before entering into an installment financing agreement involving real property, the County shall hold a public hearing on such agreement; now, therefore,

BE IT RESOLVED by the Board of Commissioners for the County of Iredell:

Section 1. A public hearing with respect to the Installment Financing Agreement is hereby directed to be held on Tuesday, January 29, 2008, at 7:00 P.M., in the Commissioners' Meeting Room at the Iredell County Government Center, 200 South Center Street, Statesville, North Carolina.

Section 2. The Clerk to the Board of Commissioners is hereby directed to publish notice of said public hearing, in substantially the following form, once at least ten (10) days prior to the date of the public hearing as required by Section 160A-20(g) of the General Statutes of North Carolina:

NOTICE OF PUBLIC HEARING BY  
THE BOARD OF COMMISSIONERS FOR THE COUNTY OF IREDELL,  
NORTH CAROLINA, CONCERNING THE FINANCING OF CERTAIN SCHOOL  
FACILITIES AND THE ACQUISITION OF CERTAIN LAND TO PROVIDE FOR EXPANSION OF THE  
COUNTY'S SOLID WASTE DISPOSAL SYSTEM  
PURSUANT TO AN INSTALLMENT FINANCING AGREEMENT

NOTICE IS HEREBY GIVEN to all interested persons that the Board of Commissioners for the County of Iredell, North Carolina (the "County") is considering the financing of (i) the expansion of Celeste Henkel Elementary School, including the replacement of existing classrooms and the construction and equipping of additional classrooms, a new administration area and a media center, (ii) the construction and equipping of the new 950-student Coddle Creek Elementary School, including the acquisition of land therefor, (iii) the expansion of East Iredell Elementary School, including the construction and equipping of additional classrooms and resource rooms, a media center and administration area and the reconfiguration of existing classrooms, (iv) the construction and equipping of the new Cloverleaf Elementary School to replace two existing elementary schools, (v) the expansion of Shepherd Elementary School, including the construction and equipping of additional classrooms and resource rooms, (vi) the expansion of South Iredell High School, including the construction of additional classrooms, a new gymnasium and locker rooms and a media center, (vii) the expansion of Statesville High School, including the construction and equipping of additional classrooms and resource rooms, a new administration area and a media center, the renovation of existing classrooms, and related site work, (viii) the construction and equipping of the new 750-student Rocky River Road Elementary School, (ix) the conversion of the existing Mooresville Intermediate School to a new middle school, including

the construction of additional classroom space, the renovation of existing space and the construction of new athletic facilities, including a baseball field, tennis courts, a football stadium and related bathroom facilities, and (x) the acquisition of an approximately 189 acre tract of land adjacent to the County's solid waste disposal facility in Statesville, North Carolina to provide for the expansion of the such solid waste disposal facility (collectively, the "Project"), pursuant to an Installment Financing Agreement, to be dated as of March 1, 2008 or such other date as the parties thereto shall mutually agree upon (the "Installment Financing Agreement"), between Iredell County Public Facilities Corporation, a North Carolina non-profit corporation (the "Corporation") and the County. It is expected that the Corporation will execute and deliver Certificates of Participation, evidencing proportionate and undivided interests in the installment payments to be made by the County under the Installment Financing Agreement, in an aggregate principal amount not exceeding \$120,000,000 for the purpose of financing the Project.

NOTICE IS HEREBY FURTHER GIVEN that the Board of Commissioners will hold a public hearing in the Commissioners' Meeting Room at the Iredell County Government Center, 200 South Center Street, Statesville, North Carolina, on January 29, 2008, at 7:00 P.M., or an adjournment thereof, at which time any person may be heard regarding the proposed Installment Financing Agreement.

\* \* \* \* \*

**18. Request for Approval of a Right-of-Way Agreement & Authorization for the County Manager to Sign the Same (Property is on Highway 3-Coddle Creek Road & is a Mooresville Graded School Site):** County Manager Mashburn said that due to a Certificates of Participation issuance involving this tract of property, the county held the title. He said this was why the right-of-way agreement needed approval from the county.

**19. Request for Approval of the December 18, 2007 Minutes**

**20. Call for a Public Hearing on Tuesday, February 5, 2008, at 7 P.M., Regarding a Request from NGK Ceramics, Inc., for the Release of Zoning Jurisdiction to the Town of Mooresville:** (The planning staff will send the appropriate notices to the adjacent property owners and publish a legal notice.)

-----END OF CONSENT AGENDA-----

**ANNOUNCEMENT OF VACANCIES OCCURRING ON BOARDS & COMMISSIONS**

- Iredell County Zoning Board of Adjustment (4 announcements)
- Purchase of Development Rights Technical Review Committee (2 announcements)
- Board of Equalization & Review for 2008 (6 announcements)
- Adult Care Home Community Advisory Committee (1 announcement)

**APPOINTMENTS TO BOARDS & COMMISSIONS**

**Statesville Planning Board (ETJ) (1 appointment):** MOTION by Commissioner Tice to postpone this appointment until the February 5 meeting.

VOTING: Ayes – 5; Nays – 0.

Note: Commissioner Johnson requested assistance from Planning Director Ron Smith and Planner Ben Stikeleather in searching for a candidate who resided in the ETJ area.

**Nursing Home Advisory Committee (4 appointments):** MOTION by Commissioner Tice to postpone these appointments until the February 5 meeting.

VOTING: Ayes – 5; Nays – 0.

**Home and Community Care Block Grant Committee (2 appointments):** Commissioner Tice nominated Mildred Johnson and Vickie Caldwell.

MOTION by Chairman Norman to appoint M. Johnson and Caldwell to this committee.

VOTING: Ayes - 5; Nays – 0.

**Criminal Justice Partnership Program Committee (2 appointments):** Commissioner Williams nominated Brian Shoemaker.

No further nominations were submitted, and Commissioner Johnson made a motion to (1) close the nominations (2) appoint Shoemaker by acclamation and (3) postpone the remaining appointment until the February 5 meeting.

VOTING: Ayes – 5; Nays – 0.

### PUBLIC COMMENT PERIOD

Victor Crosby, a resident of 190 Castle Creek Road, Statesville, NC, spoke about a proposed multi-county plan to provide water and sewer, renewable energy, medical assistance, improved transportation, and communication services. Mr. Crosby provided the following written statement outlining his request.

*TO WHOM IT MAY CONCERN*

*THE SEVEN COUNTIES OF IREDELL, ALEXANDER, WILKES, YADKIN, DAVIE, ROWAN, AND CABARRUS WERE ORIGINALLY ALL A PART OF ROWAN COUNTY. MY LATE FATHER-IN-LAW, LEE ALEXANDER, MY CHILDREN, MY GRANDCHILDREN, FOR 100 YEARS, HAVE PRODUCED FOOD, FEED, FIBER, AND OTHER FARM PRODUCTS AND DELIVERED TO ALL SEVEN COUNTIES. BEFORE THAT, THE AREA, PRODUCED AN ABUNDANCE OF ALCOHOL THAT COULD BE USED FOR TRUCKS, TRACTORS, LAWN MOWERS AND CARS AND ELECTRIC GENERATORS.*

*DURING THE ENTIRE HISTORY OF THAT AREA, WATER POWER WAS USED FOR ALL INDUSTRY. ALL OF THESE COUNTIES SHARE WATER SUPPLIES FROM THE YADKIN RIVER WATERSHED.*

*THESE SEVEN COUNTIES COULD WORK TOGETHER TO DEVELOP WATER RESOURCES, SEWER PROJECTS, ENERGY DEVELOPMENT, TRANSPORTATION, COMMUNICATION, AND MEDICAL SERVICES. I HAVE CONTACTED ALL SEVEN COUNTIES TO SEE IF THEY ARE INTERESTED IN WORKING TOGETHER AND THEY HAVE EXPRESSED A DESIRE TO MEET IN IREDELL COUNTY AS A CENTRAL LOCATION TO SEE WHAT CAN BE DONE. THE RURAL DEVELOPMENT ADMINISTRATION HAS SAID THERE IS MONEY FOR MULTI-COUNTY PROJECTS THAT IS NOT AVAILABLE FOR INDIVIDUAL COUNTIES. I WOULD REQUEST YOUR SUPPORT TO START THESE VALUABLE PROJECTS FOR THE COUNTIES.*

The board listened to Mr. Crosby's presentation, but did not take any action.

**NEW BUSINESS:** Commissioner Ken Robertson, the Centralina board delegate, mentioned there was an effort being taken by the Council of Governments to obtain authority for counties to build roads. Mr. Robertson said he was not in agreement with this stance, and he had verbally shared his opinion at the Centralina meetings. Robertson said he had concerns that if the authority were granted, the state would reduce transportation funding, but not lessen the tax burden.

**COUNTY MANAGER'S REPORT:** County Manager Mashburn distributed written activity reports. He also mentioned there were delays in the EMS base project in Mooresville.

**CLOSED SESSION:** At 7:50 P.M., Chairman Norman, pursuant to G.S. 143-318.11 (a) (3) Legal, G.S. 143-318. 11 (a) (4) Economic Development, and G.S. 143-318.11 (a) (5) Property Acquisition made a motion to enter into closed session.

VOTING: Ayes – 5; Nays – 0.

(RETURN TO OPEN SESSION AT 8:25 P.M.)

**ADJOURNMENT:** MOTION by Chairman Norman at 8:25 P.M., to adjourn the meeting. (A special meeting of the board will be held Tuesday, January 29, 2008, at 7 P.M., in the Iredell County Government Center, 200 South Center Street, Statesville, NC.)

VOTING: Ayes – 5; Nays – 0.

Approval: \_\_\_\_\_

\_\_\_\_\_  
Clerk to the Board