

CHRISTMAS PARADE

County Manager Heath explained that the Hertford Christmas Parade is scheduled for Saturday, December 6, 2014, at 2:00 p.m. He asked if any of the Commissioners were interested in participating. There being none, Chair Cole proceeded with the meeting.

PUBLIC COMMENTS

- Frank Tyner, Holiday Island resident, emphasized the urgency for the Board to adopt the Minimum Housing Standards Ordinance in order to provide an environment for people to live in. He provided copies of homes located near his home. He encouraged them to expand it from just landlord properties to all homes.
- Emerson Cullins, Snug Harbor resident, said the same thing applies to Snug Harbor that Mr. Tyner was talking about in Holiday Island. Mr. Cullins said that there are poor septic systems, unlicensed vehicles, etc.
- Chair Cole stated that some of the things that these individuals are referring to should not wait for the adoption of the Minimum Housing Standards Ordinance. Mr. Cullins said that Snug Harbor has tried to work with the Inspections Office and they made some progress but they still have a problem. The property is not inside Snug Harbor but outside in the County so Snug Harbor has no authority to act on it. Commissioner Miller-White states that this is a problem. Mr. Tyner said that there are a lot of health issues there too. Mr. Cullins mentioned about a piece of property on South Ocean Highway that has construction equipment and an old building that has no windows and should be demolished. He encourages the County to do something about these properties. Ms. Cole said that she did not think the Minimum Housing Standard Ordinance will solve these problems. Mr. Cullins said that it will not solve the problem but it is a step toward solving the problem. Mr. Tyner also said that farm animals are also a problem. County Attorney High asked if this was a problem that they dealt with earlier. Mr. Cullins said that Bill Polk, former Code Enforcement Officer, had worked with this property until he was threatened by a gun.
- Mr. Cullins also said that Snug Harbor has a very functioning protective covenant and bylaws and they are quite strictly enforced. It does make a difference within the confines of Snug Harbor but it the surrounding areas that are disappointing to residents.
- Chair Cole said that the Board will take their comments into consideration when they discuss this during their Work Session.

ADJOURNMENT

There being no further comments or business to discuss, the Regular Meeting was adjourned at 8:00 p.m. on motion made by Matthew Peeler, seconded by Edward R. Muzzulin.

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Janice McKenzie Cole, Chair

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Clerk to the Board

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**SPECIAL CALLED MEETING**  
November 17, 2014  
7:00 p.m.

The Perquimans County Board of Commissioners met in a Special Called Meeting on Monday, November 17, 2014, at 7:00 p.m. in the Commissioners' Room located on the first floor of the Perquimans County Courthouse Annex.

MEMBERS PRESENT:	Janice McKenzie Cole, Chair Benjamin Hobbs Tammy Miller-White	Edward R. Muzzulin, Vice Chair Kyle Jones Matthew Peeler
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MEMBERS ABSENT: None

OTHERS PRESENT:	Frank Heath, County Manager Hackney High, County Attorney	Mary Hunnicutt, Clerk to the Board
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After the Chair called the meeting to order, Commissioner Peeler gave the invocation.

BRANDON SHOAF, HERTFORD TOWN MANAGER

Mr. Shoaf thanked the Board for allowing him to speak to them. He then presented the Board with a copy of the Town of Hertford's Resolution requesting the NC Department of Transportation (NCDOT) to move the designation sign from the bridge on Center Hill Highway, SR 1110, close to Jimmy "Catfish" Hunter's home to the Highway 17 Bypass High Rise Bridge in memory/honor of Jimmy "Catfish" Hunter. Mr. Asbell presented this information to the Hertford Town Council on October 14, 2014 and the Council approved a Resolution requesting this change. Mr. Hunter's family is agreeable to this. They also spoke to the Council. They hoped that, not only would it bring visitors to the Town of Hertford, but that it would also bring more awareness to their cause for ALS. Mr. Shoaf has checked with NCDOT to make sure that they are interested. NCDOT checked to make sure if there were any conflicts. Since US 17 through Perquimans County is named after Bill Cox, NCDOT checked to make sure it would be okay to name a portion of the highway for someone else. They determined that it would be okay. The Division Staff of NCDOT has agreed verbally to move the sign if all three entities (Town of Hertford, Town of Winfall, and Perquimans County) would agree to proceed with this change. On motion made by Benjamin C. Hobbs, seconded by Edward R. Muzzulin, the Board unanimously approved the following Resolution:

**RESOLUTION IN MEMORY OF  
"Jim 'Catfish' Hunter"**

**WHEREAS**, the Hertford Town Council finds it would be fitting and proper to honor the memory of Jim "Catfish" Hunter both as a Professional Baseball Player and as a true friend of Hertford and Perquimans County; and

**WHEREAS**, James Augustus Hunter, known nationally as Jim "Catfish" Hunter, was born in Perquimans County on August 8, 1946, attended public school in Perquimans County, and played baseball for Perquimans County High School; and

**WHEREAS**, in 1964, Jim "Catfish" Hunter, upon graduation from Perquimans County High School, was drafted by the Kansas City Athletics, later to become the Oakland "A's", to begin his Professional Baseball Career in the American Baseball League; and

**WHEREAS**, Jim "Catfish" Hunter was an Outstanding Pitcher for the Kansas City Athletics, the Oakland Athletics, and the New York Yankees, winning 224 games which includes a **PERFECT GAME** on May 8, 1968 against the Minnesota Twins while playing for the Oakland Athletics and winning **FIVE WORLD SERIES GAMES** for the Oakland Athletics and the New York Yankees; and

**WHEREAS**, Jim "Catfish" Hunter was the 1974 recipient of the Cy Young Award and was elected to the Baseball Hall of Fame in Cooperstown, New York on January 14, 1987; and

**WHEREAS**, Jim "Catfish" Hunter has been a good neighbor, a friend and significant inspiration for our children and adults; and

**WHEREAS**, Jim "Catfish" Hunter, Jimmy, was always a favorite native son of Perquimans County until his death on September 9, 1999 from ALS.

**NOW, THEREFORE, BE IT RESOLVED** that in memory of Jim "Catfish" Hunter, the Hertford Town Council does hereby request and recommend to the North Carolina Department of Transportation that the designation of the bridge on Center Hill Highway, SR 1110, that is named for his memory be changed to the Highway 17 Bypass Bridge and named as follows:

THE JIMMY "CATFISH" HUNTER MEMORIAL BRIDGE

BE IT FURTHER RESOLVED that upon said designation, the North Carolina Department of Transportation is requested to have appropriate signage erected to make the general public aware of said dedication,

Adopted this the 14th day of October 2014.

Janice McKenzie Cole, Chair  
Perquimans County Board of Commissioners

ATTEST:

Mary P. Hunnicutt, Clerk to the Board  
Perquimans County Board of Commissioners

**ADMINISTRATIVE TEXT AMENDMENT NO. TXT-14-01**

Chair Cole called on Donna Godfrey, County Planner, to present the Administrative Text Amendment No. TXT-14-01 which was continued from the November 3, 2014 meeting. She presented the Board with a revised Article XVI and XXIII. She asked if any of the Board members had any questions. County Manager Heath asked County Attorney High if he felt comfortable that, if we had a Board of Adjustment appeal, we would now comply with the State law. Mr. High said that he did. There being no further questions, Edward R. Muzzulin made a motion to find Administrative Text Amendment No. TXT-14-01 to advance the public health, safety and general welfare, encourage orderly development, protect the quality of the environment, and generally uphold the requirements of State Law in accordance with the (County's) Land Use Plan and, therefore, to find it consistent with the specific intent of the proposed Ordinance; and motion to approve Case No. TXT-14-01 (Ordinance No. 89), to amend Articles I, II, III, IV, IX, XVI, XXII, XXIII & XXIV of the Zoning Ordinance to comply with NCGS 153A-345.1 and 160A-388, Board of Adjustment, regarding Special and Conditional Use Permits, Appeals of Decisions of Administrative Officials, Board Procedures and Judicial Review, *based upon the following Section 1302 and the Policy Guidelines contained in Sections 1302B(1) through (4) of the Zoning Ordinance:*

**Section 1302:**

Every proposed amendment, supplement, change, modification, or repeal of this Ordinance shall be referred to the Planning Board for its recommendation and report. The Planning Board shall hold a public meeting, at which the Board of County Commissioners may sit concurrently with the Planning Board if the Board of Commissioners so desires. Pursuant to Article XXIII, Notice of the public meeting shall be mailed to adjoining property owners in the envelopes provided by the applicant and notice shall be made by posting the property concerned. The Board of County Commissioners shall receive written notice of the meeting and its subject matter from the Planning Board.

**Section 1302B(1) through (4):**

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

The motion was seconded by Matthew Peeler and unanimously approved by the Board. A copy of Ordinance No. 89 – Zoning Ordinance Text Amendment No. TXT-14-01 is attached to these Minutes.

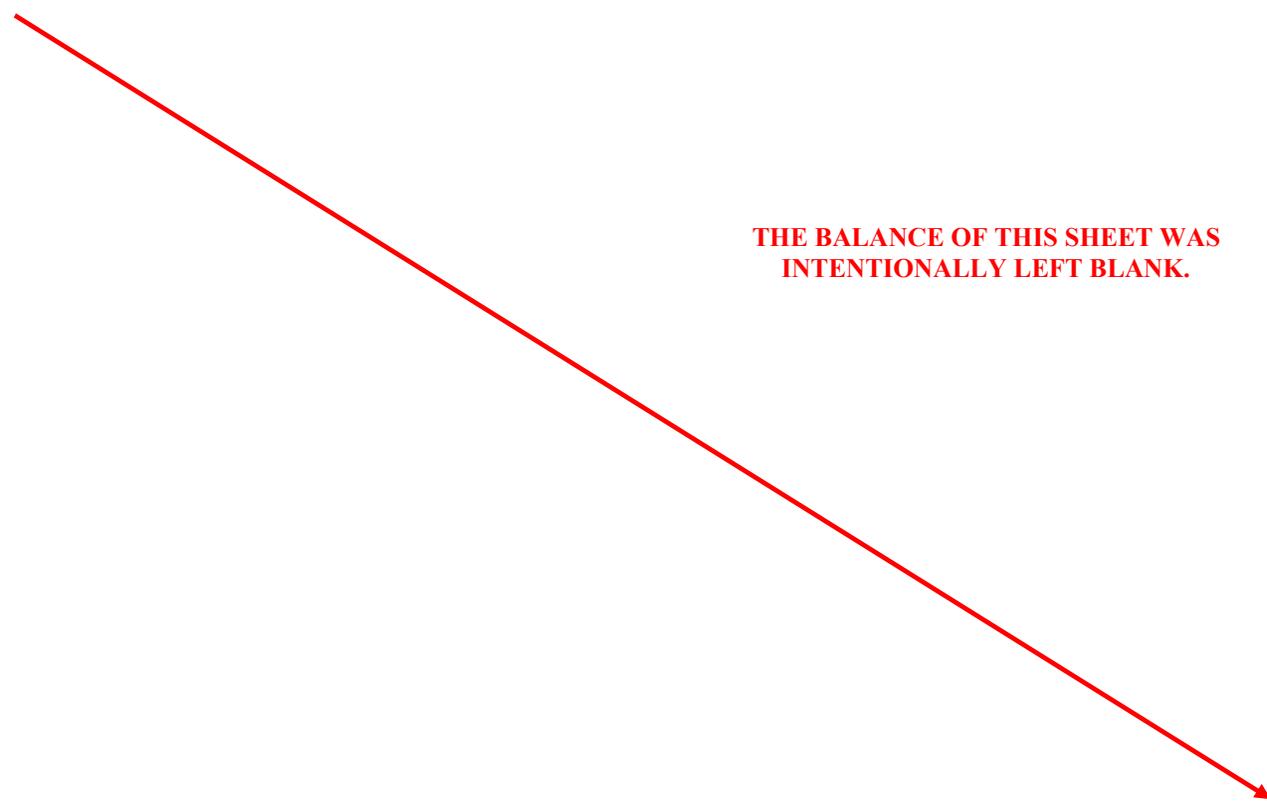
**ADJOURNMENT**

There being no further comments or business to discuss, the Special Called Meeting was adjourned at 7:10 p.m. on motion made by Matthew Peeler, seconded by Edward R. Muzzulin. The Board proceeded with the Regular Work Session.

Janice McKenzie Cole, Chair

Clerk to the Board

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**THE BALANCE OF THIS SHEET WAS INTENTIONALLY LEFT BLANK.**

**ATTACHMENT A**

**ORDINANCE NO. 89**

**AN ORDINANCE OF PERQUIMANS COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF NORTH CAROLINA, AMENDING, ADDING AND REPEALING SECTIONS OF THE PERQUIMANS COUNTY ZONING ORDINANCE AS ADOPTED BY ORDINANCE NO. 35, AS PREVIOUSLY AMENDED; THIS ORDINANCE AMENDS ARTICLES I, II, III, IV, IX, XVI, XXII, XXIII & XXIV TO UPDATE THE COUNTY’S ZONING ORDINANCE TO COMPLY WITH NORTH CAROLINA GENERAL STATUTES 160A-388 AND 153A-345.1 AND OTHERWISE REMOVE ANY DUPLICATIONS AND CONFLICTS PERTAINING TO THE BOARD OF ADJUSTMENT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PERQUIMANS COUNTY, NORTH CAROLINA THAT:**

**Section 1. Perquimans County Ordinance No. 35** (Zoning Ordinance), as previously amended, is hereby amended by revising **Articles I, II, III, IV, IX, XVI, XXII, XXIII & XXIV** to comply with North Carolina General Statutes 160A-388 and 153A-345.1 and otherwise remove any duplications and conflicts pertaining to the Board of Adjustment and by adding and substitution the following excerpts of **Articles I, II, III, IV, IX, XVI, XXII, XXIII & XXIV** attached hereto as **Exhibits A, B, C, D, E, F, G, H and J** and incorporated herein by reference, in its stead;

**Section 2. Severance Clause.** It is the intent of the Board of County Commissioners of Perquimans County, North Carolina, and it is hereby provided, that if any section, subsection, sentence, clause, phrase or provision of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining provisions of this Ordinance; and

**Section 3. Effective Date.** This Ordinance shall take effect upon its passage and enactment. This Ordinance shall be recorded in a book kept and maintained by the Clerk of the Board of County Commissioners of Perquimans County, North Carolina.

**PASSED AND ENACTED by the Board of County Commissioners of Perquimans County, North Carolina, this \_\_\_\_\_ day of \_\_\_\_\_, 2014.**

**BOARD OF COUNTY COMMISSIONERS OF  
PERQUIMANS COUNTY, NORTH CAROLINA**

By: \_\_\_\_\_  
Janice McKenzie Cole, Chair

ATTEST:

\_\_\_\_\_  
Mary P. Hunnicutt, Clerk to the Board

Effective Date: \_\_\_\_\_

**Exhibit “A”  
ARTICLE I. LEGAL PROVISIONS**

**Section 101. Title**

This Ordinance shall be known as the Zoning Ordinance of Perquimans County, North Carolina.

**Section 102. General Purposes**

This Ordinance is designed to (i) establish zoning regulations in Perquimans County, North Carolina; (ii) provide for the administration, amendment, and enforcement of this Ordinance; (iii) provide for and define the duties and powers of a Board of Adjustment in accordance with

the provisions of ~~North Carolina General Statutes~~, Article 18, Chapter 153A-345.1(a) and (b) and Article 19, Chapter 160A-388, of the North Carolina General Statutes as amended.

The purpose of this Ordinance is to provide for the public health, safety, and general welfare, encourage orderly development, protect the quality of the environment, and regulate the location and use of structures and land for commerce, industry, and residences in accordance with the ~~1993~~ 1998 Land Use Plan, as amended.

**Section 103. Enactment and Authority**

The Board of Commissioners of Perquimans County, North Carolina, pursuant to the authority granted by Chapter 153A-345.1 and Chapter 160A-388, of the North Carolina General Statutes, as amended, does hereby ordain and enact into law the following Articles and Sections.

**Section 104. Jurisdiction**

The provisions of this Ordinance shall apply within the areas designated as zoning districts on the official zoning atlas(es) by the Board of Commissioners of Perquimans County. The official zoning atlas(es) will be on file in the Planning ~~Department~~ and Zoning Office.

**Section 105. Bona Fide Farms Exempt**

This Ordinance shall in no way regulate, restrict, or prohibit bona fide farms and their related uses, but any use of such property for non-farm purposes shall be subject to regulations.

**Section 106. Interpretation and Conflict**

Whenever they are interpreted and applied, the provisions of this Ordinance shall be held to be minimum requirements for the promotion of the public safety, health, convenience, prosperity, and general welfare. It is not intended by this Ordinance to interfere with, abrogate, or annul any easements, covenants, or other agreements between parties. However, where this ordinance imposes a greater restriction upon the use of buildings or premises or upon the height of buildings, or requires larger open space than is imposed or required by other ordinances, rules, regulations, or by easements, covenants, or agreements, the provisions of this Ordinance shall govern.

**Section 107. Severability**

If any Article, Section, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid by the courts, such decision shall not affect the validity of the remaining portion of this Ordinance. The Board of County Commissioners hereby declares that it has passed this Ordinance and each Article, Section, sentence, clause, and phrase thereof, irrespective of the fact that any one (1) or more Articles, Sections, sentences, clauses, or phrases be declared invalid by the courts.

**Section 108. Relationship to Adopted Plans**

The land use plan adopted by the Board of Commissioners of the County of Perquimans indicates desired development at various levels of intensity. This document should be used as a guide for the application of this Ordinance to land within the areas covered.

**Section 109. Effective Date**

This Ordinance shall be in force from and after its passage and adoption.

Passed and adopted this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

ATTEST:

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

\_\_\_\_\_  
Chairman, Perquimans County  
Board of Commissioners

**Exhibit "B"**  
**ARTICLE II. ADMINISTRATIVE MECHANISMS**

**Part I. Planning Board**

**Section 201. Appointment and Terms of Planning Board Members**

- (a) The Board of County Commissioners shall appoint a Planning Board consisting of five (5) members.
- (b) The members of the Planning Board shall be residents of the County.
- (c) Members of the Planning Board serving upon the effective date of this Ordinance shall serve the balance of the term to which he or she was appointed.
- (d) New members of the Planning Board shall be appointed for a maximum of three years.
- (e) Members may be appointed up to three successive terms. If special circumstances warrant, the Board of County Commissioners may appoint a member to serve one additional term.
- (f) The Board of County Commissioners may remove members at any time for failure to attend or any other good cause related to the performance of duties. Any member who has three consecutive absences or has missed one-third of the meetings in a given year shall cause the Board of Commissioners to review the member's attendance record and vote to: (1) dismiss the member; or (2) allow the member to continue to serve. The Zoning Administrator shall keep the Board of Commissioners apprised as to attendance of Planning Board meetings.

**Section 202. Meetings of the Planning Board**

Meetings of the Planning Board shall be held at the call of the Chairman and at such other times the Planning Board may determine. Since the Planning Board only has advisory authority, it need not conduct its meetings strictly in accordance with the quasi-judicial procedures set for the Board of Adjustment and Board of County Commissioners. However, it shall conduct its meetings so as to obtain necessary information and to promote the full and free exchange of ideas.

- (a) Minutes shall be kept of all Planning Board meetings.
- (b) All meetings of the Planning Board shall be open to the public.

**Section 203. Quorum and Voting**

- (a) A quorum for the Planning Board shall consist of a majority of the board membership (excluding vacant seats). A quorum is necessary for the board to take official action.
- (b) All actions of the Planning Board shall be taken by majority vote, a quorum being present.

**Section 204. Planning Board Officers**

- (a) At its first meeting in June of each year, the Planning Board shall, by majority vote of its membership (excluding vacant seats) elect one of its members to serve as chairman and preside over the board's meetings and one member to serve as vice-chairman. The persons so designated shall serve in these capacities for terms of one year.
- (b) The chairman and vice-chairman shall take part in all deliberations and vote on all issues.

**Section 205. Powers and Duties of Planning Board**

- (a) The Planning Board shall:
  - (1) Make recommendations to the Board of County Commissioners concerning proposed zoning atlas changes and proposed textual Ordinance changes.
  - (2) Make recommendations to the Board of County Commissioners concerning proposed Conditional Use Permits.
- (b) The Planning Board may:
  - (1) Make studies and recommend to the Board of County Commissioners plans, goals, and objectives related to the growth, development, and redevelopment of the County.
  - (2) Develop and recommend to the Board of County Commissioners policies, ordinances, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner.
- (c) The Planning Board may adopt rules and regulations governing its procedures and operations not inconsistent with the provisions of this chapter.

**Part II. Board of Adjustment****Section 206. Appointment and Terms of Board of Adjustment**

- (a) The Board of County Commissioners shall appoint a Board of Adjustment consisting of five (5) members and two (2) alternates.
- (b) The members of the Board of Adjustment shall be residents of Perquimans County.
- (c) ~~Members of the Board of Adjustment serving upon the effective date of this Ordinance shall serve the balance of the term to which he or she was appointed.~~

- (d) New members of the Board of Adjustment shall be appointed for a maximum of three (3) years, but may be appointed for less in order to stagger terms ~~properly~~. In the filling of vacancies caused by the expiration of the expired or unexpired terms of existing Board of Adjustment members, certain members may be appointed for less than three years so that the terms of all members shall not expire at the same time.  
~~Terms will be staggered so that no more than fifty (50) percent of the members' terms expire at one time.~~
- (e) The terms of the Board of Adjustment members ~~shall~~ may be staggered as follows: the terms of two (2) members and one (1) alternate ~~shall~~ may expire in one year, the terms of two (2) more members ~~shall~~ may expire the next year, and the terms of the last member and one (1) alternate ~~shall~~ may expire the following year.
- (f) Members and alternates may be appointed up to three successive terms. If special circumstances warrant, the Board of County Commissioners may appoint a member to serve one additional term.
- (g) The Board of County Commissioners may remove members at any time for failure to attend or any other good cause related to the performance of duties. Any member who has three consecutive absences or has missed one-third of the meetings in a given year shall cause the Board of Commissioners to review the member's attendance record and vote to: (1) dismiss the member; or (2) allow the member to continue to serve. The Zoning Administrator shall keep the Board of Commissioners apprised as to attendance of Board of Adjustment meetings.

**Section 207. Board of Adjustment Officers**

- (a) At its first regular meeting in June, the Board of Adjustment shall, by majority vote of its membership (excluding vacant seats) elect one of its members to serve as chairman and preside over the board's meetings and one member to serve as vice-chairman. The persons so designated shall serve in these capacities for terms of one year. Vacancies may be filled for the unexpired terms only by majority vote of the board membership (excluding vacant seats).
- (b) The chairman and vice-chairman of the Board of Adjustment may take part in all deliberations and may vote on all issues.

**Section 208. Meetings of the Board of Adjustment**

- (a) The Board of Adjustment shall be held at the call of the Chairman and other such times as the Board may determine.
- (b) The Board shall conduct its meetings in accordance with the quasi-judicial procedures set forth in Article XIX "Hearing Procedures" and Article XVI "Appeals and Variances."
- (c) All meetings of the Board shall be open to the public.

**Section 209. Quorum**

- (a) A quorum for the Board of Adjustment shall consist of the number of members equal to four-fifths of the regular board membership (excluding vacant seats). A quorum is necessary for the board to take final action.
- (b) A member who has withdrawn from the meeting without being excused shall be counted as present for purposes of determining whether a quorum is present.

**Section 210. Powers and Duties of the Board of Adjustment**

- (a) It is the intent of this Ordinance that all questions of interpretation and enforcement shall be presented first to the Zoning Administrator or his authorized agent. It is further intended that the duties of the County Commissioners shall not include the hearing and passing upon disputed questions that may arise in connection with the enforcement of this Ordinance.
- (b) The Board of Adjustment shall hear and decide all matters upon which it is required to act under any statute or County ordinance that regulates land use or development, including:
  - (1) Applications for special or conditional use permits as provided for in Articles VIII and IX or elsewhere in this Zoning Ordinance or in any other ordinance that regulates land use or development as authorized by the Board of County Commissioners, unless the Planning Board or Board of County Commissioners are designated by such regulations to hear and decide such requests.
  - (2) Applications for Appeals of decisions of administrative officials charged with enforcement of this Zoning Ordinance, including any final and binding order, requirement, determination from any order, decision, requirement, or interpretation made by the Zoning Administrator.
  - (3) Applications for variances to Zoning Ordinance requirements.

- (4) Any other matter the Board is required to act upon according to any other County Ordinance.
- (c) The Board of Adjustment may create and designate specialized boards to hear technical appeals.
- (d) Voting
- (1) ~~The concurring vote of four (4) out of five (5) members counting present alternates as necessary shall be required to reverse any order, requirement, decision, or determination of any administrative official charged with enforcement of this Ordinance or to decide in favor of the applicant on any matter which it is required to pass under the Zoning Ordinance or to effect any variation of such Ordinance shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For the purposes of this subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members. (also referenced in Section XXIII)~~ four-fifths or eighty percent (80%) of the Board of Adjustment
- (2) An alternate member, while attending any regular or special meeting of the Board and serving in the absence of a regular member, has and may exercise all the powers and duties of a regular member. An alternate member shall ~~not~~ only when he is not filling in for an absent regular member.
- (e) Decisions of the Board of Adjustment  
The Board may, so long as such action is in conformity with the terms of this Ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination, and to that end shall have powers of the Zoning Administrator from whom appeal is taken. Appeals shall be in conformance with Article XVI "Appeals and Variances."

### **Part III. Board of County Commissioners**

#### **Section 211. Conditional Use Permits, Amendments to the Zoning Text, Amendments to the Zoning Atlas**

Unless otherwise specifically provided in this Ordinance, in acting upon conditional use permit requests or in considering amendments to this Ordinance or the Zoning Atlas, the Board of County Commissioners shall follow the regular, voting, and other requirements as set forth in other provisions of general law.

### **Part IV. Planning and Zoning Administrator**

#### **Section 212. The Planning and Zoning Administrator**

- (a) ~~Primarily~~ Primary responsibility for administering and enforcing this Ordinance may be assigned to one (1) or more individuals by the County Manager. The person or persons to whom these functions are assigned shall be referred to in this Ordinance as the "Zoning Administrator." The term "Planning Staff" shall be used interchangeably with the term "Zoning Administrator."
- (b) Any function or responsibility assigned by this Ordinance to the Zoning Administrator may be delegated by such person to another employee or agent acting under the Administrator's control or at his direction, unless the County Manager prohibits such delegation.

### **Exhibit "C"**

### **ARTICLE III. ADMINISTRATION**

#### **Section 301. Zoning Enforcement Officer**

The Planning and Zoning Administrator (Zoning Administrator), and ~~his~~ authorized agents, are hereby authorized, and it shall be their duty, to enforce the provisions of this Ordinance. This official shall have the right to enter upon the premises at any reasonable time necessary to carry out ~~his~~ their duties. It is the intention of this Ordinance that all questions arising in connection with enforcement and interpretation shall be presented first to the Zoning Administrator. Appeal from ~~his~~ the decision of the Zoning Administrator shall be made to the Board of Adjustment.

In administering the provisions of this Ordinance, the Zoning Administrator shall:

- (a) Make and maintain records of all applications for permits and requests listed herein and records of all permits issued or denied, with notations of all special conditions or modifications involved.

- (b) File and safely keep copies of all plans submitted, and the same shall form a part of the records of his office and shall be available for inspection at reasonable time by any interested person.
- (c) Transmit to the appropriate board or commission and the Board of County Commissioners all applications and plans for which their review and approval is required
- (d) Conduct inspections of the premises and, upon finding that any of the provisions of this Ordinance are being violated, notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it.

### **Section 302. Zoning Permits**

(a) Zoning Permit Required A valid Zoning Permit shall be presented with any application for a Building Permit. No Building Permit shall be issued for any activity in a zoned area until such Zoning Permit is presented.

(b) It shall be unlawful to commence the excavation for, or the construction of, any building or other structure including accessory structures; or to commence the moving alteration or repair of any structures; or the use of any land or building, including accessory structures, until the Zoning Administrator has issued a Zoning Permit for such work or use including a statement of the plans, specifications, and intended use of such land, or structures, in all respects conforms with the provisions of this Ordinance. Application for a Zoning Permit shall be made in writing to the Zoning Administrator on forms provided for that purpose. Zoning Permits shall be void after six (6) months from the date of issue unless substantial progress on the project has been made by that time.

(c) Approval of Plans

It shall be unlawful for the Zoning Administrator to approve any plans or issue a Zoning Permit for any purpose regulated by this Ordinance until he has inspected such plans in detail and found them in conformity with this Ordinance. To this end, the Zoning Administrator shall require that every application for a Zoning Permit be accompanied by a plan or plat drawn to scale and showing the following in sufficient detail to enable him to ascertain whether the proposed activity is in conformance with this Ordinance.

- (1) The actual shape, location, and dimensions of the lot.
- (2) The shape, size and location of all buildings or other structures to be erected, altered, or moved, and of any building or other structures already on the lot.
- (3) The existing and intended use of all such buildings or other structures.
- (4) Such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this Ordinance are being observed.

(b) Issuance of Zoning Permits

If the proposed activity as set forth in the application is in conformity with the provisions of this Ordinance, the Zoning Administrator shall issue a Zoning Permit. If any application for a Zoning Permit is not approved, the Zoning Administrator shall state in writing on the application the cause for such disapproval. Issuance of a permit shall in no case be construed as waiving any provision of this or any other ordinance or regulation.

### **Section 303. Certificates of Occupancy**

No new building or part thereof shall be occupied, and no addition or enlargement of any existing building shall be occupied, and no existing building after being altered or moved shall be occupied, and no change of occupancy shall be made in any existing building or part thereof, until the Building Inspector, having received a copy of the issued Zoning Permit from the applicant, has issued a Certificate of Occupancy. The change of occupancy provision shall not apply to rooms intended for transit rental. A Temporary Certificate of Occupancy may be issued for a portion or portions of a building, which may safely be occupied prior to final completion and occupancy of the entire building or for other temporary uses.

The owner or his agent may make application for a Certificate of Occupancy at the same time as submitting an application for a Building Permit, if needed, or for a Zoning Permit. The Certificate shall be issued automatically by the Building Inspector after all final inspections have been made.

In the case of existing buildings or other uses not requiring a Building Permit, after supplying the information and data necessary to determine compliance with this Ordinance and appropriate regulatory codes of Perquimans County for the occupancy intended, the Zoning Administrator shall issue a Certificate of Occupancy when, after examination and inspection, it

is found that the building or use in all respects conforms to the provisions of this Ordinance and appropriate regulatory codes of Perquimans County for the occupancy intended.

**Section 304. Other Permits**

The Zoning Administrator shall be authorized to issue other permits as required by this Ordinance or the Board of County Commissioners.

**Section 305. Public Hearing Procedures**

See Article XXIII "Hearing Procedures for Appeals and Applications."

**Section 306. Appeals**

Legislative Appeals: Appeals may be taken to the Board of County Commissioners by any person, firm, or corporation aggrieved, or by any officer, department, or board of the county affected by a decision of the Planning Board. Such appeals should be filed with the Board of County Commissioners by written notice specifying the grounds for appeal. Appeal shall be filed within ninety (90) days from the date of the action being appealed. Appeals shall be effective upon receipt.

Appeals in the Nature of Certiorari: ~~Appeals may be taken to the Board of Adjustment by any person, firm, or corporation aggrieved, or by an officer, department, or board of the County affected by any decision of an administrative official, charged with the enforcement or interpretation of this Ordinance, thought to be in error. Such appeals shall be filed with the Board of Adjustment by notice specifying the grounds for appeal. The Board of Adjustment shall hear and decide appeals of decisions of administrative officials charged with enforcement of this ordinance and may hear appeals arising out of any other ordinance that regulates land use or development, as authorized by the Board of County Commissioners and pursuant to all of the following:~~

- (1) Any person who has standing under N.C.G.S 160A-393(d) or the County or the Board of County Commissioners may appeal a decision to the Board of Adjustment. An appeal is taken by filing a notice of appeal with the County Clerk. The notice of appeal shall state the grounds for the appeal.
- (2) Appeal by the owner of the property or their authorized agent who sought the decision shall be filed within ~~sixty (60)~~ thirty (30) days from the action being appealed receipt of written notice as required by North Carolina General Statutes, 160A-388(b1). Any other person with standing to appeal shall have thirty (30) days from receipt from any source of actual or constructive notice of the decision within which to file an appeal. (moved to Article XVI: The officer from whom the appeal is taken shall forthwith transmit to the Board of Adjustment all papers constituting the record upon which the action appealed from was taken together with any additional written reports or documents as he deems pertinent. The Board of Adjustment may, after a public hearing, so long as such action is in conformity with the terms of this Ordinance, reverse or affirm, wholly or in part, or modify any order, requirement, decision, or determination as ought to be made, and to that end shall have the powers of the administrative official from whom the appeal was taken.)

Further appeals from decisions made by the Board of Adjustment or from any action of the Board of County Commissioners shall be taken directly to the courts as provided by law.

**Section 307. Fees**

Each applicant shall pay a nonrefundable fee, according to the fee schedule set by the Board of Commissioners and available in the Planning ~~Department~~ and Zoning Office, to Perquimans County to cover the costs of advertisement and administration of applications for Conditional Use Permits, rezonings, textual changes to the Ordinance, variances, and appeals to the Board of Adjustment. A receipt for this fee shall be issued by the County. However, this fee shall not apply to requests originating with any Perquimans County department, board, or agency.

**Section 308. County May Appeal**

In all cases the Board of County Commissioners reserves the right to appeal any decision of the Zoning Administrator to the Board of Adjustment and any decision of the Board of Adjustment to the courts.

**Section 309. Vested Rights**

(a) Purpose

The purpose of this section is to implement provisions G.S. 153A-344.1 that establishes a statutory vested right upon the approval of a site-specific development plan.

(b) Procedure

- (1) At the time that the landowner submits an application for a subdivision plat or Conditional Use Permit the landowner must declare he is seeking to acquire a vested right pursuant to G.S. 153A-344.1 and the Perquimans County Zoning Ordinance by completing the appropriate form.
- (2) For subdivision plats, where a vested right will be sought, the Zoning Administrator will advertise and schedule a public hearing following the same procedure used for Conditional Use Permits (the scheduling of public hearings is automatic for Conditional Use Permits).
- (3) For proposed developments that do not require subdivision plat approval or a Conditional Use Permit, the landowner may seek to establish a vested right by following procedures for a Conditional Use Permit.
- (4) A variance shall not constitute a site-specific development plan. Furthermore, the approval of a site-specific development plan with the condition that a variance is obtained shall not confer a vested right unless and until the necessary variance is obtained.

(c) Establishment of Vested Right

- (1) A vested right shall be deemed established upon the valid approval, or conditional approval, of the above mentioned subdivision plat or Conditional Use Permit. Such vested right shall confer upon the landowner the right to undertake and complete the development and use of said property under the terms and conditions of the subdivision plat or Conditional Use Permit.
- (2) A right that has been vested as provided for in this section shall remain vested for a period of two (2) years. This vesting shall not be extended by any amendments or modifications unless expressly provided by the County. The county may, but is not required to, extend the vested term to a maximum total of five (5) years.

(d) Termination

A vested right, once established as provided for in this section, precludes any zoning action by the county which would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property as set forth in an approved site-specific development plan, except that the right will be terminated in the following circumstances:

- (1) With written consent of the affected landowner;
- (2) Upon finding that natural or man-made hazards on or in the immediate vicinity of the property, if uncorrected, would pose a threat to the public health, safety, and welfare if the project were to proceed as contemplated in the site-specific development plan;
- (3) To the extent that the affected landowner receives compensation for all costs and losses;
- (4) Upon finding that the landowner, or his representative, intentionally supplied inaccurate information or made material misrepresentations that made a difference in the plan approval by the county;
- (5) Upon the enactment of a State or federal law or regulation that precluded development as contemplated in the site-specific development plan; or,
- (6) At the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed.

**Exhibit "D"**

**ARTICLE IV. ENFORCEMENT AND PENALTIES**

**Section 401. Enforcement Authority**

This Ordinance shall be enforceable in accordance with provisions available in the General Statutes of North Carolina Article 18, Chapter 153A.

**Section 402. Violation**

It is unlawful and a violation of this Ordinance to establish, create, expand, alter, occupy, or maintain any use, land development activity, or structure, including but not limited to signs and buildings, that violates or is inconsistent with any provision of this Ordinance or any order, approval, or authorization issued pursuant to this Ordinance. Approvals and authorizations include, but are not limited to, conditional use permits, building permits, zoning permits, certificates of occupancy, variances, development plans, planting plans, site plans, sign plans, and conditions of such permits, certificates, variances, and plans. It is also a violation to engage in any

construction, land development activity, or use without all approvals and authorizations required by this Ordinance.

Each day of a violation is a separate and distinct violation.

### **Section 403. Persons Liable**

The owner, tenant, or occupant of any building or land or part thereof and any architect, builder, contractor, agent, or other person who participates in, assists, directs, creates, or maintains any situation that is contrary to the requirements of this Ordinance may be held responsible for the violation and be subject to the penalties and be subject to the remedies herein provided.

### **Section 404. Complaints Regarding Violations**

When a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written or verbal complaint. Such complaint shall state fully the cause and basis thereof and shall be filed with the Zoning Administrator, or his authorized agent. An investigation shall be made within ten (10) days. Actions as provided in these regulations shall be taken.

When a violation is discovered, and is not remedied through informal means, written notice of the violation shall be given. This notice shall be delivered by hand delivery or certified mail to the violator's last known address, or hand delivery to or posting the notice at the property in violation.

The notice shall include a description of the violation and its location, the measures necessary to correct it, the possibility of civil penalties and judicial enforcement action and notice of right to appeal. The notice shall also state the time period allowed, if any, to correct the violation; said time may vary depending on the nature of the violation and the knowledge of the violator. This notice is an administrative determination subject to appeal as provided below.

### **Section 405. Appeal to Board of Adjustment**

A violator who has received a notice of violation may appeal the determination that a violation has occurred to the Board of Adjustment by filing a written request in the Perquimans County Planning ~~Department~~ and Zoning Office and paying the appropriate fee within thirty (30) days of receipt of the notice of violation. See Article XVI "Appeals and Variances" for procedure. Citations that follow the original notice of violation may not be appealed to the Board. The Board shall hear the appeal and may affirm, or reverse, wholly or partly, or may modify the determination of the violation. If there is not appeal, the determination of the Zoning Administrator is final.

### **Section 406. Failure to Comply with Notice or Board of Adjustment Decision**

If the violator does not comply with the notice of violation, which has not been appealed, or with a final decision of the Board of Adjustment, the violator shall be subject to enforcement action as prescribed by State law or by this Ordinance.

### **Section 407. Criminal Penalties**

Any act constituting a violation of the provisions of this Ordinance or a failure to comply with any of its requirements shall render the violator, upon conviction, guilty of a misdemeanor and subject him to be fined not more than fifty dollars (\$50) or imprisoned not more than thirty (30) days for each violation. Each day such violation continues, however, shall be a separate and distinct offense, punishable as provided by G.S. 14-4.

### **Section 408. Civil Penalties**

Any act constituting a violation of the provisions of this Ordinance or a failure to comply with any of its requirements, including violations of any conditions and safeguards established in connection with the grants of variances, or conditional use permits, shall also subject the offender to a civil penalty of not more than fifty dollars (\$50) for each day the violation continues. If the offender fails to pay this penalty within ten (10) days after being cited for the violation, the penalty may be recovered by the County in a civil action in the nature of debt. A civil penalty may not be appealed to the Board of Adjustment if the offender was sent a final notice of violation in accordance with Article III "Administration" Section 306 and did not take an appeal to the Board of Adjustment within the prescribed time.

In addition to the injunction, the court may enter an order of abatement as part of the judgment in the case. An order of abatement may direct that buildings or other structures on the property be closed, and demolished, or removed; that fixtures, furniture, or other movable property be removed from buildings on the property; that grass and weeds be cut; that improvements or repairs be made; or that any other action be taken that is necessary to bring the property into compliance with this Ordinance. If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, he may be cited for contempt and the County may execute the order of abatement. The County shall have a lien on the property for the cost of executing an order of abatement.

**Section 409. Equitable Relief**

Perquimans County may apply to the District Court, Civil Division, or any other court of competent jurisdiction for an appropriate equitable remedy. In all such cases, the County's remedy at law shall be deemed inadequate.

**Section 410. Combination of Remedies**

The County may choose to enforce this Ordinance by any one, all, or combination of the above procedures.

**Section 411. Revocation of Zoning Permits, Conditional Use Permits, and Variances**

- (a) A granting Board may reverse any decision without a public hearing upon finding:
  - (1) That the approval was obtained by fraud;
  - (2) That the use for which such approval was granted is not being executed;
  - (3) That the use for which such approval was granted has ceased to exist or has been suspended for one year or more;
  - (4) That the permit granted is being, or recently has been, exercised contrary to the terms for conditions of such approval;
  - (5) That the permit granted is in violation of an ordinance or statute;
  - (6) That the use for which the approval was granted was so exercised as to be detrimental to the public health or safety, or so as to constitute a nuisance.

When the permit is revoked, the granting Board shall provide to the permittee a written statement of the decision and reasons therefore.

- (b) Before a zoning permit maybe revoked, the Administrator shall give the permit recipient a ten (10) days notice of intent to revoke the permit and shall inform the recipient of the alleged reasons for the revocation and of his right to obtain an informal hearing on the allegations. If the permit is revoked, the Administrator shall provide to the permittee a written statement of the decision and the reasons therefore.
- (c) No person shall continue to make use of land or buildings in the manner authorized by any zoning or conditional use permit after such permit has been revoked in accordance with this section.

**Section 412. Judicial Review**

- (a) Every decision of the Board of Commissioners granting or denying a conditional use permit and every final decision of the Board of Adjustment shall be subject to review by the Superior Court of Perquimans County by proceedings in the nature of Certiorari.
- (b) The petition for the Writ of Certiorari must be filed with the Perquimans County Clerk of Court within thirty (30) days after the latter of the following circumstances:
  - (1) A written copy of the Board's decision has been filed in the office of the Administrator; and,
  - (2) A written copy of the Board's decision has been delivered, by personal service or certified mail, return receipt requested, to the applicant and every other aggrieved party who has filed a written request for such copy at the hearing of the case.
  - (3) A copy of the petition for Writ of Certiorari shall be served upon Perquimans County.

**Exhibit "E"**  
**ARTICLE IX. CONDITIONAL USES**

**Section 902. Procedures**

Conditional Use Permits shall be reviewed by the Perquimans County Planning Board for recommendation to the Perquimans County Board of County Commissioners according to the regulations stipulated in Article XXIII "Hearing Procedures for Appeals and Applications." Conditional Use Permits shall be granted by the Perquimans County Board of County

Commissioners as permitted by N.C.G.S. ~~153A-135~~ 153A-340 and 160A-388 for all conditional uses enumerated in the Table of Uses. These uses may be established only after approval by the Board of County Commissioners.

The owner or owners of all the property included in the petition for a Conditional Use Permit shall submit required application information to the County Planning ~~Department~~ and Zoning Office at least three weeks prior to the Planning Board meeting at which it is to be heard. Such application shall include all of the requirements pertaining to it in this Ordinance.

Applications shall include a Site Plan and ~~be accompanied by a~~ the Application fee as set ~~according to~~ by the Board of County Commissioners and posted in the Planning ~~Department~~ and Zoning Office Fee Schedule.

All requests for Conditional Use Permits shall be considered by Planning Board and the Board of County Commissioners within ninety (90) days from submission of a completed Application to the Planning ~~Department~~ and Zoning Office. However, this requirement is not intended to prevent the Board of County Commissioners from delaying action after review.

### **Exhibit "F"**

## **ARTICLE XVI. APPEALS AND VARIANCES**

### **Section 1601. Initiation of Appeals and Requests for Variance**

An appeal to the Board of Adjustment or request of a Variance from the requirements of this Ordinance may be taken by any person, firm, or corporation aggrieved, or by any governmental officer, department, board, or agency affected by any decision of the Zoning Administrator, or his authorized agent, based in whole or in part upon the provisions of this Ordinance. Such appeal shall be taken within thirty (30) days after the decision being appealed is made, by filing it on a form provided by the Planning Department with the Zoning Administrator and with the Board a notice of appeal, specifying grounds thereof.

(fka Section 1605): Every appeal and request for Variance shall be referred to the Board of Adjustment. The Board of Adjustment shall hold a public hearing. The Board of County Commissioners shall receive written notice of the meeting and its subject matter from the Board of Adjustment.

### **Section 1602. Duty of the Zoning Administrator ~~Upon Notice of Appeal~~**

Upon Notice of Appeal or the filing of a Variance Request, The the Zoning Administrator shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken or regarding the variance request. Notice of the public hearing shall be mailed to adjoining property owners in the envelopes provided by the applicant. Notice shall be made by posting the property concerned. Notice of hearings conducted pursuant to this section shall be mailed to the person or entity whose appeal, application or request is the subject of the hearing and shall be made to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing.

Further appeals from the Board of Adjustment or from any action of the Board of County Commissioners shall be taken directly to the courts as provided by law.

### **Section 1603. Hearing Required; Notice**

The process for public hearing outlined in Article XXIII "Hearing Procedures for Appeals and Applications" shall be followed.

### **Section 1604. Effect of an Appeal**

An appeal stays all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board, after the notice of appeal has been filed with him, that by reason of the facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property or that because the violation charge is transitory in nature, a stay would seriously interfere with the enforcement of the Ordinance, in which case, proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the Board or by a court of record to whom an appeal has been made.

### **Section 1605. Action by the Board of Adjustment**

Every appeal and request for Variance shall be referred to the Board of Adjustment. The Board of Adjustment shall hold a public hearing. Notice of the public hearing shall be mailed to adjoining property owners in the envelopes provided by the applicant. Notice shall be made by posting the property concerned. The Board of County Commissioners shall receive written notice of the meeting and its subject matter from the Board of Adjustment.

~~(a) Administrative Review~~

The Board of Adjustment shall hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the Zoning Administrator, or his authorized agent, in the enforcement of this Ordinance.

(a) Appeals in the Nature of Certiorari

The Board of Adjustment shall hear and decide appeals (from) decisions of administrative officials charged with enforcement of this Zoning Ordinance and may hear appeals arising out of any other ordinance that regulates land use or development, as authorized by the Board of County Commissioners and pursuant to all of the following:

- (1) Any person who has standing under N.C.G.S. 160A-393(d) or the County may appeal a decision of the Zoning Administrator or other Administrative Official to the Board of Adjustment. An appeal is taken by filing a notice of appeal with the County Clerk. The notice of appeal shall state the grounds for the appeal.
- (2) The official who made the decision shall give written notice to the owner of the property that is the subject of the decision and to the party who sought the decision, if different from the owner. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail.
- (3) The owner or other party shall have 30 days from receipt of the written notice within which to file an appeal. Any other person with standing to appeal shall have 30 days from receipt from any source of actual or constructive notice of the decision within which to file an appeal.
- (4) It shall be conclusively presumed that all persons with standing to appeal have constructive notice of the decision from the date a sign containing the words "Zoning Decision" or "Subdivision Decision" in letters at least six inches high and identifying the means to contact an official for information about the decision is prominently posted on the property that is the subject of the decision, provided the sign remains on the property for at least 10 days. Posting of signs is not the only form of constructive notice. Any such posting shall be the responsibility of the landowner or applicant. Verification of the posting shall be provided to the official who made the decision. Absent an ordinance provision to the contrary, posting of signs shall not be required.
- (5) The official who made the decision shall transmit to the board all documents and exhibits constituting the record upon which the action appealed from is taken. The official shall also provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner.
- (6) An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from unless the official who made the decision certifies to the Board of Adjustment after notice of appeal has been filed that because of the facts stated in an affidavit, a stay would cause imminent peril to life or property or because the violation is transitory in nature, a stay would seriously interfere with enforcement of the ordinance. In that case, enforcement proceedings shall not be stayed except by a restraining order, which may be granted by a court. If enforcement proceedings are not stayed, the appellant may file with the official a request for an expedited hearing of the appeal, and the Board of Adjustment shall meet to hear the appeal within 15 days after such a request is filed. Notwithstanding the foregoing, appeals of decisions granting a permit or otherwise affirming that a proposed use of property is consistent with the ordinance shall not stay the further review of an application for permits or permissions to use such property; in these situations the appellant may request and the board may grant a stay of a final decision of permit applications or building permits affected by the issue being appealed.
- (7) Subject to the provisions of subdivision (6) of this subsection, the Board of Adjustment shall hear and decide the appeal within a reasonable time.
- (8) The official who made the decision shall be present at the hearing as a witness. The appellant shall not be limited at the hearing to matters stated in the notice of appeal. If any party or the city would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the board shall continue the hearing. The Board of Adjustment may reverse or affirm, wholly or partly, or may modify the decision appealed from and shall make any order, requirement, decision, or determination that ought to be made. The board shall have all the powers of the official who made the decision.

- (9) When hearing an appeal pursuant to G.S. 160A-400.9(e) or any other appeal in the nature of certiorari, the hearing shall be based on the record below and the scope of review shall be as provided in G.S. 160A-393(k).
- (10) The parties to an appeal that has been made under this subsection may agree to mediation or other forms of alternative dispute resolution. The ordinance may set standards and procedures to facilitate and manage such voluntary alternative dispute resolution.
- (11) ~~Further appeals from decisions made by the Board of Adjustment or from any action of the Board of County Commissioners shall be taken directly to the courts as provided by law.~~ [NCGS 160A-388(e2)(2) added to Draft Ord. No. 2A:] Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to NCGS 160A-393. A petition for review shall be filed with the clerk of superior court by the later of 30 days after the decision is effective or after a written copy thereof is given in accordance with subdivision (1) of this subsection Section 1607(a). When first-class mail is used to deliver notice, three days shall be added to the time to file the petition. (Note to Hack: WHERE and WHAT IS SUBSECTION (1)?)
- ~~(b) Special and Conditional Use Permits The ordinance may provide that the Board of Adjustment may hear and decide special and conditional use permits in accordance with standards and procedures specified in the ordinance. Reasonable and appropriate conditions may be imposed upon these permits.~~ (Note from Planning Staff (to be removed from final ordinance): State Law language shown here in strikethrough and underline fashion in order to inform the BCC about optional use of the BOA for considering conditional use permits – to remind us to mention it during review of the required changes).
- (b) Zoning Variances
- (1) ~~Upon appeal in specific cases, the Board may authorize variance(s) from the terms of this Ordinance as will not be contrary to the public interest. In cases where, due to special conditions, a literal enforcement of the provisions of this Ordinance will result in undue hardship, a variance may be appropriate in order that the spirit of this Ordinance shall be observed and substantial justice done.~~
- (2) ~~The Board shall not grant a variance unless and until the following facts are each found, based on competent evidence presented at the public hearing:~~
- ~~(a) There are special conditions and circumstances that exist which are peculiar to the land, structure, or building involved and which are not applicable to other land, structures, or buildings in the same district;~~
- ~~(b) Granting the variance requested will not confer upon the applicant any special privileges that are denied to other residents of the zoning district in which the property is located;~~
- ~~(c) A literal interpretation of the provisions of this Ordinance would deprive the applicant of rights that are granted to other residents of the zoning district in which the property is located;~~
- ~~(d) The requested variance will be in harmony with the purpose and intent of this Ordinance and will not be injurious to the neighborhood or otherwise detrimental to the general welfare;~~
- ~~(e) No nonconforming use of neighboring lands, structures, or buildings in the same district and no permitted use in another district shall be considered grounds for the issuance of a variance.~~
- (3) ~~The Board of Adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance and that the variance is the minimum condition that will make possible the reasonable use of the land, building, or structure.~~
- (4) ~~Before making any finding in a specified case, the Board shall first determine that the proposed variance will not impair an adequate supply of light and air to adjacent property and will not materially increase the public danger of fire and safety. Nor will it impair the public health, safety, morals, and general welfare.~~
- (5) ~~In granting any variance, the Board may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance and punishable under Article IV “Enforcement and Penalties” and the variance may be revoked. Moved to 1605(b)~~
- (6) ~~The applicant, the Board of County Commissioners, and the Planning and Zoning Administrator shall be given written copies of the Board’s decision and the reasons therefore.~~
- (1) When unnecessary hardships would result from carrying out the strict letter of a zoning ordinance, the Board of Adjustment shall vary any of the provisions of the ordinance upon a showing of all of the following:

- a) Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
- b) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
- c) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
- d) The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

- (2) No change in permitted uses may be authorized by variance.
- (3) ~~In granting any variance, the Board may prescribe~~ Appropriate conditions and safeguards may be imposed on any variance, provided that the conditions are reasonably related to the variance and otherwise in conformity with this Ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance and punishable under Article IV "Enforcement and Penalties" and the variance may be revoked. [derived in part from NCGS 160A-388(d) and County's current Section 1605(b)(5)]
- (4) Any other ordinance that regulates land use or development may provide for variances consistent with the provisions of this subsection.
- (5) The applicant, the Board of County Commissioners, and the Planning and Zoning Administrator shall be given written copies of the Board's decision and the reasons therefore. [(Note from Planning Staff (to be removed from final ordinance): Fka Section 1605(b)(6)]

(c) Decisions of the Board of Adjustment

The Board of Adjustment may, so long as such action is in conformity with the terms of this Ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination, and to that end shall have powers of the Zoning Administrator from whom appeal was taken.

**Section 1606. Voting**

- (a) The concurring vote of four-fifths of the board shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For the purposes of this subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.
- (b) A member of any board exercising quasi-judicial functions pursuant to this Article shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

**Section 1607. Quasi-Judicial Decisions and Judicial Review**

- (a) The board shall determine contested facts and make its decision within a reasonable time. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Each quasi-judicial decision shall be reduced to writing and reflect the board's determination of contested facts and their application to the applicable standards. The written decision shall be signed by the chair or other duly authorized member of the board. A quasi-judicial decision is effective upon filing the written decision with the clerk to the board or such other office or official as the ordinance specifies. The decision of the board shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request for a copy, prior to the date the

decision becomes effective. The person required to provide notice shall certify that proper notice has been made.

- (b) Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to G.S. 160A-393. A petition for review shall be filed with the clerk of superior court by the later of 30 days after the decision is effective or after a written copy thereof is given in accordance with ~~subdivision (1) of this subsection~~ Section 1607(a). When first-class mail is used to deliver notice, three days shall be added to the time to file the petition.

### **Section 1608. Oaths**

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

### **Section 1609. Subpoenas**

The Board of Adjustment through the chair, or in the chair's absence anyone acting as chair, may subpoena witnesses and compel the production of evidence. To request issuance of a subpoena, persons with standing under G.S. 160A-393(d) may make a written request to the chair explaining why it is necessary for certain witnesses or evidence to be compelled. The chair shall issue requested subpoenas he or she determines to be relevant, reasonable in nature and scope, and not oppressive. The chair shall rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the chair may be appealed to the full Board of Adjustment. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the Board of Adjustment or the party seeking the subpoena may apply to the General Court of Justice for an order requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties.

### **Section 1606 1610. Withdrawal of the Request for Variance**

Any request for Variance submitted in accordance with the provisions of this Article may be withdrawn at any time, but fees are nonrefundable.

## **Exhibit "G"**

### **ARTICLE XXII. COMMUNICATIONS TOWER ORDINANCE: REGULATING THE DEPLOYMENT OF TELECOMMUNICATIONS INFRASTRUCTURE**

#### **Section 2201. Purpose and Authority**

(a) Title

This Article shall be known and may be cited as the "Communications Tower Ordinance of Perquimans County, North Carolina" also known as "Article XXII", "the Cell Tower Ordinance", "this Ordinance" and "Ordinance" herein. Other excerpts of the Perquimans County Zoning Ordinance may be cited as "the Zoning Ordinance" and "zoning regulations."

(c) Authority

The provisions of this Communications Tower Ordinance are adopted under authority granted by the General Assembly of the State of North Carolina with particular reference to Article 6 of Chapter 153A of the North Carolina General Statutes.

#### **Section 2211. Review & Decision Making Bodies**

- (a) Powers and Duties of the Board of Adjustment: The Board of Adjustment shall have the following powers and duties:

- (1) Administrative Review: To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Planning and Zoning Administrator in the enforcement of this Ordinance.
- (2) Variances: The Board of Adjustment shall have the power to authorize, in specific cases, minor variances from the terms of this Ordinance as will not be contrary to the public interests where, owing to special condition, a literal interpretation of this Ordinance will result in practical difficulties or unnecessary hardship, so that the spirit of this Ordinance shall be observed, public safety and welfare secured, and substantial justice done. Such variances may be granted in such individual case of unnecessary hardships

only upon findings of the Board of Adjustment after a public hearing in accordance with Articles XVI and XXIII.

- (3) Procedures: Appeals from the enforcement and interpretation of this Ordinance and requests for variances shall be filed with the Planning and Zoning Administrator specifying the grounds thereof. The Planning and Zoning Administrator shall transmit to the Board of Adjustment all applications and records pertaining to such appeals and variances. ~~The Board shall fix a thirty (30) day period for the hearing of appeals, giving notice to all participants by first class mail. An appeal stays all proceedings in furtherance of the action appealed from unless the Planning and Zoning Administrator certifies to the Board that by reason of facts stated in the record a stay would, in his opinion, cause eminent peril to life and or property. In such a case proceedings shall not be stayed other than by an order from the Perquimans County Superior Court.~~
- (4) Fees: The County Board of Commissioners shall set a fee, payable to Perquimans County, North Carolina, to cover the necessary administrative costs and advertising of each application for a variance or appeal. The set fee shall be posted in the County's Planning and Zoning Office.

- (b) Planning Board Review and Board of County Commissioners Action: The Planning Board shall consider new applications for Level III and IV Permits at a public meeting and make recommendation to the Board of County Commissioners. The BCC shall consider the application, the Planning Board recommendation and comments at a public hearing and may grant or deny the Conditional Use Permit pursuant to Article IX of the Zoning Ordinance.
- (c) Planning and Zoning Administrator: The Planning and Zoning Administrator or his/her designee will review new applications for Level I and II Permits and make a determination as to whether a given request constitutes major modifications requiring additional review at a public meeting by the Planning Board and BCC.

### **Section 2213. Administration, Fees, Enforcement & Penalties**

- (a) Administration: This Ordinance shall be administered and enforced by the Planning and Zoning Administrator of Perquimans County or designee. The County may, through contract, secure the professional services of telecommunications consultants to assist County staff in the implementation of this Ordinance. Such professional, services include, but are not limited to, review and evaluation of permit applications, determination of compliance with existing and proposed Federal regulations, minimization of the aesthetic impact, review of the technical data and expert testimony as needed. ~~See also Section 2213(~~ ).
- (b) Review Fees: The Perquimans County Board of Commissioners shall set a fee, payable to Perquimans County, to cover the necessary processing cost of all Communications Tower Permits. The set fee shall be posted in the Planning and Zoning Office. Applications for a Communications Tower Permit requiring a new or additional tower or increases in tower or alternative structure height (not including the height of a co-locating antenna), shall require payment of a nonrefundable application fee. Private business users operating a single communication tower for their own use at their principal place of business and governmental users are exempt from the application fees.
- (c) Supplemental Review: The County reserves the right to require a supplemental review for any Permit (Level I, II, III, or IV) subject to the following:
- (1) Where due to the complexity of the methodology or analysis required to review an application for a Permit (Level I, II, III or IV) facility, the County may require the applicant to pay for a technical review by a third party expert, the costs of which shall be borne by the applicant and be in addition to other applicable fees. Schedules of current fees are listed in the Perquimans County Fee Schedule.
  - (2) Based on the results of the expert review, the approving authority may require changes to the applicant's application or submittals.
  - (3) The supplemental review may address any or all of the following:
    - (a) The accuracy and completeness of the application and any accompanying documentation.
    - (b) The applicability of analysis techniques and methodologies.
    - (c) The validity of conclusions reached.
    - (d) Whether the proposed communications facility complies with the applicable approval criteria set forth in these codes.
    - (e) Other items deemed by the County to be relevant to determining whether a proposed communications facility complies with the provisions of these codes.

- (d) Enforcement: If the Ordinance Administrator shall find that any of the provisions of this Ordinance are being violated, it shall notify in writing the person responsible for the violation, specifying the nature of the violation and what corrective measures must be taken. The Planning and Zoning Administrator shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of additions, alterations, or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by other zoning regulations contained herein and other laws to insure compliance with or to prevent violation of the provisions of this Ordinance.

### **Section 2215. Interpretation of Certain Terms & Definitions**

- (a) Interpretation: The following assumptions shall be made:
- (1) Words used in the present tense include the future tense.
  - (2) Words used in the singular number include the plural, and words used in the plural number include the singular.
  - (3) The word “shall” is always mandatory and not merely directory.
  - (4) The word “may” is permissive.
  - (5) The words “used” or “occupied” include the words intended, designed, or arranged to be used or occupied.
- (b) Definitions:
- (1) Board of Adjustment- The Board of Adjustment of Perquimans County as defined by the Perquimans County Zoning Ordinance.
  - (18) Variance- A modification of the terms of this Ordinance where a literal enforcement of this Ordinance would result in an unnecessary hardship and shall be reviewed and issued by the Board of Adjustment.
  - (19) ~~Variance- A modification of the terms of this Ordinance where a literal enforcement of this Ordinance would result in an unnecessary hardship and shall be reviewed and issued by the Board of Adjustment.~~

### **Exhibit “H”**

## **ARTICLE XXIII: HEARING PROCEDURES FOR APPEALS AND APPLICATIONS**

### **Section 2301. Hearing Required on Appeals and Applications**

- (a) Before making a decision on an appeal or an application for variance or Conditional Use Permit, or a petition from the Administrator to revoke a Conditional Use Permit, the Board of Adjustment ~~or~~ or the Board of County Commissioners, as the case may be, shall hold a hearing of the appeal or application.
- (b) The Board of County Commissioners shall act in a legislative capacity on rezonings and amendments to the Ordinance’s text. The Board of County Commissioners and Board of Adjustment shall act in a quasi-judicial capacity when ruling on Conditional Use Permits and Appeals, respectively. In these instances, action by the Board of County Commissioners or Board of Adjustment requires a majority vote, ~~while action by the Board of Adjustment requires a vote of (four-fifths) 4/5~~, as stipulated in Section ~~210 (e)~~ 210(d) “Powers and Duties of the Board of Adjustment.”
- (c) Subject to subsection (d), the hearing shall be open to the public and all persons interested in the outcome of the appeal or application shall be given an opportunity to present evidence and arguments and ask questions of persons who testify.
- (d) The Board of Adjustment or Board of Commissioners may place reasonable and equitable limitations on the presentation of evidence and arguments and the cross examination of witnesses so that the matter at issue may be heard and decided without undue delay.
- (e) The hearing board may continue the hearing until a subsequent meeting and may keep the hearing open to take additional information up to the point a final decision is made. No further notice of a continued hearing need be published unless a period of eight (8) weeks or more elapses between hearing dates.

### **Section 2302. Notice of Hearing**

- (a) **Conditional Use Permits**:
- (1) The Applicant shall provide two sets of addressed, stamped envelopes to all adjacent property owners as shown on the County tax listing within one hundred fifty (150) feet of the subject property as well as two self-addressed stamped envelopes.
  - (2) The Zoning Administrator shall send notice to the adjacent property owners no later than ten (10) days prior to the public meeting or public hearing in question. Notice shall

be mailed twice, once before the Planning Board meeting and once before the Board of County Commissioners' public hearing.

**(3) The Zoning Ordinance may provide that the Board of Adjustment may hear and decide special and conditional use permits in accordance with standards and procedures specified in the Ordinance. Reasonable and appropriate conditions may be imposed upon these permits.**

(4) The Zoning Administrator shall give notice to other potentially interested persons by publishing a notice in the newspaper having general circulation in the area one time not less than ten (10) nor more than twenty-five (25) days prior to the date fixed for the hearing.

**(b) Amendments to the Zoning Atlas**

(1) The Applicant shall provide two sets of addressed, stamped envelopes to all adjacent property owners as shown on the County tax listing within one hundred fifty (150) feet of the subject property as well as two self-addressed stamped envelopes.

(2) The Zoning Administrator shall send notice to the adjacent property owners no later than ten (10) days prior to the public meeting or public hearing in question. Notice shall be mailed twice, once before the Planning Board meeting and once before the Board of County Commissioners public hearing.

(3) The Zoning Administrator shall give notice to other potentially interested persons by publishing a notice in the newspaper having general circulation in the area one time not less than ten (10) nor more than twenty-five (25) days prior to the date fixed for the hearing.

**(c) Large Amendments to the Zoning Atlas**

In the case of an amendment to the Zoning Atlas that involves more than fifty (50) properties, owned by a total of at least fifty (50) different property owners, the County may notify using the procedures outlined in N.C.G.S. 153A-343.

**(d) Amendments to the Zoning Ordinance**

The Zoning Administrator shall give notice to other potentially interested persons by publishing a notice in the newspaper having general circulation in the area one time not less than ten (10) nor more than twenty-five (25) days prior to the date fixed for the hearing.

**(e) Variances**

(1) The Applicant shall provide one set of addressed, stamped envelopes to all adjacent property owners as shown on the County tax listing within one hundred fifty (150) feet of the subject property as well as a self-addressed, stamped envelope.

(2) [NCGS 160A-388(a2) added to Ord. Draft 2c]: Notice of hearings pursuant to this section shall be mailed to the person or entity whose appeal, application or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and to any other persons entitled to receive notice as provided by the zoning ordinance. In the absence of evidence to the contrary, the County may rely upon the county tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the County shall also prominently post a notice of hearing on the site that is the subject of the hearing or on adjacent street or highway right-of-way.

~~(3) The Zoning Administrator shall send notice to the adjacent property owners no later than ten (10) days prior to the public meeting or public hearing in question.~~

(4) The Zoning Administrator shall give notice to other potentially interested persons by publishing a notice in the newspaper having general circulation in the area one time not less than ten (10) nor more than twenty-five (25) days prior to the date fixed for the hearing.

**(f) Appeals** – [NCGS 160A-388(b1)(1) through (10) added to Ord. Draft 2c]: The Board of Adjustment shall hear and decide appeals from decisions of administrative officials charged with enforcement of the zoning and may hear appeals arising out of any other ordinance that regulates land use or development, pursuant to all of the following:

~~(1) In the case of an appeal, the Zoning Administrator shall give notice to the appellant and any other person who makes a written request for such notice by mailing to such persons a written notice not later than ten (10) days before the hearing.~~

(1) Any person who has standing under G.S. 160A-393(d) or the County may appeal a decision to the board of adjustment. An appeal is taken by filing a notice of appeal with the city clerk. The notice of appeal shall state the grounds for the appeal.

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

- (3) The owner or other party shall have 30 days from receipt of the written notice within which to file an appeal. Any other person with standing to appeal shall have 30 days from receipt from any source of actual or constructive notice of the decision within which to file an appeal.
  - (4) It shall be conclusively presumed that all persons with standing to appeal have constructive notice of the decision from the date a sign containing the words "Zoning Decision" or "Subdivision Decision" in letters at least six inches high and identifying the means to contact an official for information about the decision is prominently posted on the property that is the subject of the decision, provided the sign remains on the property for at least 10 days. Posting of signs is not the only form of constructive notice. Any such posting shall be the responsibility of the landowner or applicant. Verification of the posting shall be provided to the official who made the decision. Absent an ordinance provision to the contrary, posting of signs shall not be required.
  - (5) The official who made the decision shall transmit to the board all documents and exhibits constituting the record upon which the action appealed from is taken. The official shall also provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner.
  - (6) An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from unless the official who made the decision certifies to the board of adjustment after notice of appeal has been filed that because of the facts stated in an affidavit, a stay would cause imminent peril to life or property or because the violation is transitory in nature, a stay would seriously interfere with enforcement of the ordinance. In that case, enforcement proceedings shall not be stayed except by a restraining order, which may be granted by a court. If enforcement proceedings are not stayed, the appellant may file with the official a request for an expedited hearing of the appeal, and the board of adjustment shall meet to hear the appeal within 15 days after such a request is filed. Notwithstanding the foregoing, appeals of decisions granting a permit or otherwise affirming that a proposed use of property is consistent with the ordinance shall not stay the further review of an application for permits or permissions to use such property; in these situations the appellant may request and the board may grant a stay of a final decision of permit applications or building permits affected by the issue being appealed.
  - (7) Subject to the provisions of subdivision (6) of this subsection, the board of adjustment shall hear and decide the appeal within a reasonable time.
  - (8) The official who made the decision shall be present at the hearing as a witness. The appellant shall not be limited at the hearing to matters stated in the notice of appeal. If any party or the city would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the board shall continue the hearing. The board of adjustment may reverse or affirm, wholly or partly, or may modify the decision appealed from and shall make any order, requirement, decision, or determination that ought to be made. The board shall have all the powers of the official who made the decision.
  - (9) When hearing an appeal pursuant to G.S. 160A-400.9(e) or any other appeal in the nature of certiorari, the hearing shall be based on the record below and the scope of review shall be as provided in G.S. 160A-393(k).
  - (10) The parties to an appeal that has been made under this subsection may agree to mediation or other forms of alternative dispute resolution. The ordinance may set standards and procedures to facilitate and manage such voluntary alternative dispute resolution.
- (d) The Zoning Administrator shall make every reasonable effort to comply with the notice provisions set forth in this Section. However, it is not the Board's intention that failure to comply with any of the notice provisions that are not statutorily required shall render any decision invalid.

### **Section 2303. Evidence**

- (a) The provisions of this Section apply to all hearings for which notice is required by Section 2201.
- (b) All persons who intend to present evidence to the permit issuing board, rather than arguments only, shall be sworn.
- (c) All findings and conclusions necessary to the issuance or denial of the requested permit or appeal (crucial findings) shall be based on reliable and competent evidence. In no case may crucial findings be based solely upon incompetent evidence (hearsay) unless competent evidence is not reasonably available, the evidence in questions appears particularly reliable, and the matter at issue is not seriously disputed.

**Section 2304. Modification of Application at Hearing**

- (a) In response to questions or comments by persons appearing at the hearing or to suggestions or recommendations by the Board of commissioners or Board of Adjustment, the applicant may agree to modify his application, including the plans and specifications submitted.
- (b) Unless such modifications are so substantial or extensive that the Board cannot reasonably be expected to perceive the nature and impact of the proposed changes without revised plans before it, the Board may approve the application with the stipulation that the permit will not be issued until plans reflecting the agreed upon changes are submitted to and reviewed by the planning staff.

**Section 2305. Record**

Accurate minutes shall also be kept of all such proceedings.

**Section 2306. Written Decision**

- (a) Any decision made by the Board of Adjustment or Board of Commissioners regarding an appeal, variance, or the issuance or revocation of a Conditional Use Permit shall be reduced to writing and mailed by certified mail return receipt requested to the applicant or appellant and all other persons who make a written request for a copy.
- (b) In addition to a statement of the Board's ultimate disposition of the case and any other information deemed appropriate, the written decision shall state the Board's findings and conclusions, as well as supporting reasons or facts, whenever this Ordinance requires the same as a prerequisite to taking action.

**Exhibit "J"**

**ARTICLE XXIV. DEFINITIONS AND WORD INTERPRETATIONS**

In the construction of this Ordinance, the word interpretations and definitions contained in this Article shall be observed and applied, except when the context clearly indicates otherwise. In further amplification and for clarity of interpretation of the context, the following definitions of word usage should apply:

- (i) Words used in the present tense shall include the future; and words used in singular number shall include the plural number, and the plural the singular.
- (ii) The word "shall" is mandatory and not discretionary.
- (iii) The word "may" is permissive.
- (iv) The word "person" includes a firm, association, organization, partnership, corporation, trust, and company as well as an individual.
- (v) The word "lot" shall include the words "piece," "parcel," "tract," and "plot."
- (vi) The word "building" includes all structure of every kind, except fences and walls, regardless of similarity to buildings.
- (vii) The phrase "used for" shall include the phrases "arranged for," "designed for," "intended for," and "occupied for."

**Applicant:** The property owner(s) or authorized agent submitting a petition or application pursuant to procedures covered by this Zoning Ordinance.

**Board of Adjustment:** A local body, created by ordinance, whose responsibility is to hear appeals from decisions of the Zoning Administrator and to consider requests for variances from the terms of the Zoning Ordinance.

**Board of County Commissioners:** The governing body of Perquimans County.

**Ordinance:** This, the Zoning Ordinance, including any amendments. Whenever the effective date of the Ordinance is referred to, the reference includes the effective date of any amendment to it.

**Variance:** A variance is a relaxation of the terms of the Zoning Ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the applicant, a literal enforcement of the Ordinance would result in unnecessary and undue hardship. As used in this Ordinance, a variance is authorized only for height, area, and size of a structure or size of yards and open space.

**Zoning:** A police power measure, enacted primarily by general purpose units of local government, in which the community is divided into districts or zones within which

permitted and conditional uses are established, as are regulations governing lot size, building bulk, placement, and other development standards. Requirements vary from district to district, but they must be uniform within districts. The Zoning Ordinance consists of two parts – a text and an atlas.

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