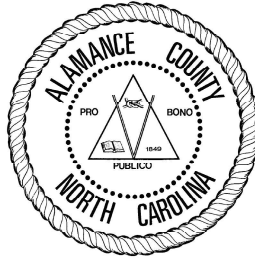


**Board Chair:**

Rodney Cheek

**Planning Director:**

Matthew Hoagland



Commissioners' Meeting Room

124 W Elm Street

Graham, NC 27253

August 14, 2025 at 7:00 PM

# **ALAMANCE COUNTY PLANNING BOARD AGENDA**

Livestream: <https://tinyurl.com/22kb3exe>

- I. CALL TO ORDER**
- II. ROLL CALL**
- III. APPROVAL OF PLANNING BOARD MINUTES**  
July 10, 2025 Regular Meeting
- IV. PUBLIC COMMENTS\***
- V. BOARD/COMMISSIONER RESPONSES**
- VI. OLD BUSINESS**
- VII. NEW BUSINESS**
  - 1. Consideration of Draft UDO Section 6.10 Amendments
  - 2. Consideration of Draft UDO Section 6.11 Amendments
- VIII. ANNOUNCEMENTS/DISCUSSION**
  - 1. Follow up on Staff Recommendation Policy Proposal
  - 2. BGMPO 2050 Pedestrian Transportation Plan Map
- IX. ADJOURNMENT**

*\*Meeting Notes:*

- 1. *Those wishing to make public comments should sign-in prior to the meeting.*
- 2. *In order to be fair and ensure that all citizens wishing to speak may be heard, the Chair may place time limits on public comments.*
- 3. *Any further discussion by the public on a given agenda item is subject to the discretion of the Chair of the Planning Board*

**Board Chair:**

Rodney Cheek

**Planning Director:**

Matthew Hoagland



Commissioners' Meeting Room

124 W Elm Street

Graham, NC 27253

July 10, 2025 at 7:00 PM

## **ALAMANCE COUNTY PLANNING BOARD**

Livestream: <https://tinyurl.com/22kb3exe>

### **I. CALL TO ORDER**

Called to order at 7:00 p.m.

### **II. ROLL CALL**

**Members Present:**

- Chairman Rodney Cheek
- Vice Chair Lee Isley
- Henry Vines Jr
- Henry Chandler
- Stephen Dobson
- Amie Perkins

**Members Absent:**

- Mac Jordan
- Tom King
- Ernest Bare

**Staff Present:**

- Matthew Hoagland: Planning Director
- Keyshawn Haith: Planner 1
- Rob Snow: Environmental Health Program Specialist
- Ryan Langley: Environmental Health Program Specialist

### **III. APPROVAL OF PLANNING BOARD MINUTES**

June 12, 2025, Regular Meeting

### **IV. PUBLIC COMMENTS\***

### **V. BOARD/COMMISSIONER RESPONSES**

### **VI. OLD BUSINESS**

1. Final Consideration of Staff Recommendation
  - Rural Preservation Ordinance
  - Land Use District Map
  - Subdivision Ordinance Amendments
  - Supplemental Definitions

**Board Chair:**  
Rodney Cheek

**Planning Director:**  
Matthew Hoagland



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July 10, 2025 at 7:00 PM

## **ALAMANCE COUNTY PLANNING BOARD**

Mr. Hoagland introduced the old business section by noting that the current agenda represented the culmination of months of work related to updates and revisions to the Rural Preservation Ordinance, Land Use District Map, Subdivision Ordinance, and supplemental definitions. He explained that the version presented reflected a staff recommendation shaped through ongoing consultation with the Planning Board but was not an official action. The purpose of the recommendation was to offer flexibility to the Board of Commissioners, who could either adopt the recommendation as-is, request modifications, or reject it altogether. An official recommendation would require a public hearing and formal vote by the Commissioners, while a staff recommendation could be presented informally for feedback.

Beginning with the Rural Preservation Ordinance, Mr. Hoagland highlighted a few organizational and content changes. The section outlining the official map (Section 5.4) was relocated earlier in the document to improve flow. Sections 5.1 through 5.3 remained unchanged from the April draft. Section 5.5 was updated to include the family subdivision option previously discussed in the Agricultural District and to correct a typographical error: the minimum lot size for cluster subdivisions in the AG district should be 15,000 square feet, not 8,000. In the Mill Village Districts section (5.6), a new subsection was added to provide specific setback standards for properties adjacent to sidewalks identified in the Burlington-Graham Metropolitan Planning Organization's 2050 Transportation Plan. Mr. Hoagland noted that this plan now includes Saxapahaw, making the area eligible for sidewalk funding through NCDOT. He explained that these setback requirements would apply only to parcels abutting future sidewalk corridors, to encourage uniformity in future development patterns. Section 5.7 was also expanded to provide more detail on the permitting and approval processes for special uses, accessory uses such as home occupations, and uses permitted with additional regulations, including airports, temporary fairgrounds, and family care homes.

Mr. Hoagland then reviewed the Land Use District Map. He stated there were no changes to the map since the last review. Significant adjustments had been made previously, including scaling back rural community districts in orange areas and modifying some transitional districts. No further questions or changes were brought up regarding the map.

The Board then turned to the Subdivision Ordinance. Mr. Hoagland explained that Section 6.9.2.3 had been relocated from the environmental regulations section to a more appropriate place under application procedures, with no change to the content. During this discussion, Amie Perkins raised a question about whether the term "file" was correct in reference to how the Register of Deeds handles plats. She suggested that "record" might be the appropriate

**Board Chair:**  
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term. Mr. Hoagland responded that the language likely came from state law but acknowledged her point and agreed to review it further.

In Section 6.9.5, which addresses variances and appeals, the third sentence of part A was removed because it directed the Board of Adjustment to consider subjective factors—such as compatibility with the surrounding area or economic impact—which are outside the scope of quasi-judicial review. Part B of this section was simplified to reference state law regarding appeal procedures. Sections 6.9.6 through 6.9.8 remained unchanged.

Section 6.9.9 was updated to clarify that stream buffers will be treated as marginal land for purposes of calculating lot size. In Section 6.9.10, language was added to clarify that width standards for dead-end public roads apply to the travel surface. The standards for Class 1 private roads were revised to reference state law, specifically regarding disclosure requirements for property transfers. Mr. Hoagland explained that while the ordinance previously stated the county would ensure the disclosure statement was passed from one property owner to the next, this was not practical to enforce, and the provision was already covered under state regulations.

The most notable changes appeared in Section 6.9.11, where the family subdivision option was reintroduced. This provision allows a property owner to create up to four lots for direct family members, each with a minimum lot size of one acre. Mr. Hoagland noted that this approach is used in other counties and helps address concerns about inconsistent lot size standards for major and minor subdivisions. During discussion, Mr. Isley identified a typographical error where the term “marginal lane” appeared instead of “marginal land,” which Mr. Hoagland agreed to correct. Additionally, footnotes related to cul-de-sac frontage standards were moved to a clearer location in the document.

Other clarifications were made in Section 6.9.12, including a note that construction plans are required only for Class 2 and major subdivisions. This reflects existing practice but had not been explicitly stated in the ordinance. Language regarding environmental health was revised to require agencies be given an opportunity to comment, rather than mandating formal approval—again, to align with state statutes.

In closing the old business portion, Mr. Hoagland briefly addressed minor updates to the supplemental definitions, noting that only a couple of definitions had changed since the last version. He reiterated that should the Commissioners wish to proceed with formal adoption,

**Board Chair:**  
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the proposal would be returned to the Planning Board for an official recommendation and consistency statement per NCGS 160D.

Following the staff presentation, Mr. Isley requested that the Board express its views in a favorable or unfavorable format rather than a general consensus. Chairman Cheek invited comments from each member, leading to a broader discussion.

Mr. Isley shared that while he appreciated the considerable effort put into the proposed revisions by both staff and fellow board members, he could not support the recommendation. He referenced a prior consultant-led planning effort, which he described as deeply flawed, and contrasted it with the current proposal, which he acknowledged was better—but still not sufficient. In his view, the proposed plan failed to meet the county's current and future needs. Specifically, he believed the minimum lot sizes in both the Agricultural and Rural Residential Districts were too large, citing concerns about unnecessary pressure on landowners and property maintenance burdens on future homeowners. He argued that requiring two- to five-acre lots, as proposed in some areas, would discourage appropriate growth and could have negative environmental or visual impacts. He also stated that the rural zoning district on the map was too limited, and that the plan as presented did not support the county's need for flexible, scalable growth. While reiterating his respect for the time and thought put into the project, Mr. Isley ultimately stated that he was on the "unfavorable" side of the recommendation.

The Board then discussed the procedural requirements and timelines for moving forward. Mr. Hoagland explained that, while the Commissioners are not obligated to act on the recommendation immediately, any official ordinance amendment must follow the legal process, including a Planning Board recommendation, public notice, and formal public hearing. Mr. Cheek and Mr. Isley expressed concern about ensuring public input is maintained in the process. Mr. Hoagland confirmed that no ordinance changes could be adopted without the formal public hearing, and this was supported by the board's legal obligation under state law.

After extended discussion, Mr. Cheek asked for a consensus vote on the staff's recommendation. The Board reached a 5 to 1 favorable consensus. No official vote was taken, but this informal tally will be included in the minutes.

**Board Chair:**

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## **ALAMANCE COUNTY PLANNING BOARD**

### **VII. NEW BUSINESS**

### **VIII. ANNOUNCEMENTS/DISCUSSION**

While there were no official announcements made during the meeting, Planning Director Matthew Hoagland shared that pedestrian maps for Saxapahaw and a few other unincorporated areas have been successfully incorporated into the Burlington-Graham Metropolitan Planning Organization's (BGMPO) 2050 Master Transportation Plan. He noted this was a significant accomplishment staff had been working on behind the scenes, as inclusion in the plan is a prerequisite for future NCDOT funding eligibility.

### **IX. ADJOURNMENT**

Meeting Adjourned at 7:50 PM

## PART X. WATERSHED PROTECTION STANDARDS

<u>Section 6.10.1. Establishment Of Watershed Zones .....</u>	<u>p. 2</u>
<u>Section 6.10.2. Watershed Critical Areas.....</u>	<u>p. 2</u>
<u>Section 6.10.3. Balance Of Watershed .....</u>	<u>p. 2</u>
<u>Section 6.10.4. Buffers .....</u>	<u>p. 2</u>
<u>Section 6.10.5. Cluster Developments In Watersheds .....</u>	<u>p. 7</u>
<u>Section 6.10.6. Bona Fide Farms .....</u>	<u>p. 7</u>
<u>Section 6.10.7. Rules Governing the Interpretation of Watershed Area Boundaries ...</u>	<u>p.7</u>
<u>Section 6.10.8. Watershed Protection Permits .....</u>	<u>p. 8</u>
<u>Section 6.10.9. Hazardous Material Inventory and Spill Containment Plan .....</u>	<u>p. 9</u>
<u>Section 6.10.10. Watershed Management Plan .....</u>	<u>p. 9</u>

## 6.10 Watershed Protection Standards

It is the intention of this section to protect the watershed areas of Alamance County. Primarily these watershed areas include the water supply lakes for the cities of Burlington, Graham, Mebane and for the Orange Water and Sewer Authority. This section is administered in order to provide for a safe and potable water supply for present and future generations of Alamance County citizens. The authority of this section is established by virtue of N.C.G.S. § 160D-926 and Article 21 of Chapter 143 of the General Statutes of North Carolina.

### 6.10.1 ESTABLISHMENT OF WATERSHED ZONES

For purposes of this section, watersheds in Alamance County are hereby divided into the following zones, as appropriate:

- **Watershed Critical Area (WCA)**
- **Balance of Watershed (BOW)**

Within the two zones set forth the following watershed areas are identified:

#### **WATERSHED CRITICAL AREA (WCA):**

- Back Creek Watershed
- Stoney Creek Watershed
- Big Alamance Creek Watershed

#### **BALANCE OF WATERSHED (BOW):**

- Back Creek Watershed
- Stoney Creek Watershed
- Cane Creek Watershed
- Rocky River Watershed
- Haw River Watershed
- Upper Haw River Watershed



## 6.10.2 WATERSHED CRITICAL AREA

### **Watershed Critical Area (WCA)**

The WCA is the area extending either one mile from the normal pool elevation of a water supply reservoir or to the ridge line of the watershed (whichever comes first); or one mile upstream from the intake located directly in the stream or river (run of the river), or the ridge line of the watershed (whichever comes first). In order to maintain a predominantly undeveloped land use intensity pattern in the WCA, single-family residential, multi-family residential and non-residential development shall be allowed at a maximum of one dwelling unit or use per two acres (1 d.u. or use/2 ac.). Built-upon area for multi-family residential and non-residential development shall not exceed six percent (6%) of lot area except for expansion of existing development.

#### **1. Allowed Uses in Watershed Critical Area:**

- Agriculture subject to the provisions of the Food Security Act of 1985 and the Food, Agriculture, Conservation and Trade Act of 1990 and the rules and regulations of the Soil and Water Conservation Commission.
- Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 11.6101-.0209).
- Single-family residential development.
- Multi-family residential development.
- Non-residential development: Institutional, educational, religious, commercial, office or recreational.

#### **2. Prohibited Uses in Watershed Critical Area:**

- Cluster development
- Sites for land application of residuals or petroleum contaminated soils.
- Landfills, incinerators, and waste processors.
- Commercial use which sells, stores, or distributes motor fuel or other hazardous materials.
- Solid waste management facilities.
- Airports.
- Industry.
- Metal salvage facilities including junkyards.

- Manufacturing, use or storage of any Hazardous Production Material (HPM) or Highly Toxic Material (HTM) or determined by the Alamance County Board of Commissioners to be injurious to the health, safety or welfare of the County's residents due to the explosive, flammable or toxic characteristics of the materials.
- Package treatment plants, and community sewage facilities, except for subsurface septic tanks. (These facilities are allowed only if the Health Department determines that a public health problem can be alleviated by constructing such facilities.) Note: This provision does not prohibit the extension of municipal sewer lines (public) into the watershed critical area.
- Underground fuel or chemical storage tanks (except for L.P. Gas Storage).

### 3. Density and Built-upon Limits:

- Single-Family Residential.** Development shall not exceed one dwelling unit per two (2) acres on a project by project basis (1 d.u./2 ac.). No residential lot shall be less than two (2) acres.
- Multi-Family Residential and Non-Residential.** All multi-family residential and non-residential development shall require a minimum area of two (2) acres per dwelling unit or non-residential development use. No lot shall be less than two (2) acres. Development shall not exceed six percent (6%) built-upon area on a project by project basis. For the purpose of calculating built upon area, total project area shall include total acreage in the tract on which the project is to be developed.
- Existing Development.** Existing development is regulated under the provisions as stated in Section 3.2 of this ordinance.

- Above Ground Storage Tanks.** A spill containment plan is required for all new above ground storage tanks with accumulative capacity of over two hundred and fifty (250) gallons. (Except for L.P. Gas Storage).

### 6.10.3 BALANCE OF WATERSHED

The BOW is the entire land area contributing surface drainage to a specific point, the public water supply intake, minus the watershed critical area. In order to maintain a predominantly undeveloped land use intensity pattern in the BOW, single-family residential uses shall be allowed at a maximum of one dwelling unit per acre (1 d.u./ac.). No lot shall be less than one (1) acre. All multi-family residential and non-residential development shall require a minimum area of forty thousand square feet (40,000 sq. ft.) per dwelling unit or non-residential development use, when more than one unit or use is to be sited on a lot. Built-upon area shall not exceed twelve percent (12%) of lot area except for expansion of existing development (legal non-conformances).

### 1. Allowed Uses in Balance of Watershed:

- Agriculture, subject to the provision of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990.
- Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality. (15 NCAC 11.6101 - .0209).
- Single-family residential development.
- Multi-family residential development.
- Non-residential development: Institutional, educational, religious, commercial, office, industrial or recreational.
- Non-discharging landfills.

### 2. Prohibited Uses:

- Sites for land application of residuals or petroleum contaminated soils.
- Discharging landfills.
- Storage of hazardous materials unless a spill containment plan is implemented.

### 3. Density and Built-upon Limits:

- a. **Single-Family Residential.** Development shall not exceed one dwelling unit per acre on a project by project basis (1 d.u./ac.). No residential lot shall be less than one acre, except within an approved cluster development whose overall project density is no greater than one dwelling unit per acre.
- b. **Multi-family Residential.** No lot shall be less than one (1) acre. Also, all multi-family residential development shall require a minimum area of forty thousand square feet (40,000 sq. ft.) for each unit located on a lot, as subject to Health Department approval. Development shall not exceed twelve percent (12%) built-upon area on a project by project basis. For the purpose of calculating built upon area, total project area shall include total acreage in the tract on which the project is to be developed.
- c. **Non-Residential.** No lot shall be less than one (1) acre. Also, non-residential development shall require a minimum area of forty thousand square feet (40,000 sq. ft.) for each use located on a lot, as subject to Health Department approval. Development shall not exceed twelve percent (12%) built upon area on a project by project basis. For the purpose of calculating built upon area, total project area shall include total acreage in the tract on which the project is to be developed.

4. **Special Non-Residential Intensity Allocation (SNIA).** Certain non-residential, specifically institutional uses, in the **Balance of the Watersheds (BOW)** may be allowed to exceed the limit of twelve percent (12%) built-upon area if they apply for approval under the Special Non-Residential Intensity Allocation (SNIA). Applicants shall apply to the Alamance County Planning Board, who shall make recommendation to the Board of County Commissioners. The Board of County Commissioners is authorized to approve SNIA's consistent with the provisions of this section.

- a. If the Board of County Commissioners approves the SNIA, an individual project can be developed up to seventy percent (70%) built-upon area. Up to ten percent (10%) of the balance of any designated watershed may be developed with this special allocation. The SNIA allocation is permitted only in the following watersheds:

Watershed	Maximum SNIA Acres Available
Back Creek	1,432
Stoney Creek	2,938
Cane Creek	164
Rocky River	554
Haw River	319
Big Alamance Creek	N/A

- b. The SNIA allocation shall be used only for **institutional uses** within the balance of the above watersheds. Eligible institutional uses include: churches, schools, fire stations and governmental buildings. Projects must minimize built-upon surface areas and direct stormwater away from surface waters to minimize water quality impacts, as certified by an engineer registered in the State of North Carolina.
- c. The Watershed Administrator in the Administrative Services Department shall forward the request to the Planning Board for the SNIA allocation as well as keep records of the number of acres available to be developed under the SNIA allocation.

#### 6.10.4 BUFFERS

##### STREAM AND POND BUFFER

The Jordan Lake Riparian Buffer Rules apply to all lands regulated by this section as required by 15A NCAC 02B .0267 as modified by 15A NCAC 02B .0295, Section 2 of Session Law 2013-395/Senate Bill 515, Section 52 of Session Law 2013-413/ House Bill 74, Section 13 of Session Law 2015-0246/House Bill 44/G.S. § 143-214.23A, Section 9 of Session Law 2017-209/ House Bill 56, and any successive revisions to these rules.

Agricultural Ponds are exempt per Session Law 2013-413, Section 52.

#### LAKE BUFFER

A one hundred foot (100') wide natural buffer shall be maintained around all water supply reservoirs, measured from the normal pool elevation outward. Desirable artificial streambank or shoreline stabilization is permitted. No new development is allowed in the buffer except for water dependent structures and public projects such as road crossings and greenways where no practical alternative exists, and other structures causing diminutive increases in impervious areas such as flag poles, signs and security lights.

#### 6.10.5 CLUSTER DEVELOPMENT IN WATERSHEDS

Clustering of development is allowed only in Balance of Watershed (BOW) areas. Provisions for clustering of development shall meet overall density standards set forth in this section, as well as the standards in the Alamance County Subdivision Ordinance.

#### 6.10.6 BONA FIDE FARMS

Bona fide farms are exempt from the watershed regulations. However, farms are subject to other federal, state and local regulations. A SCS (Soil Conservation Services) conservation plan for each farm or timber stand is highly desirable.

#### 6.10.7 RULES GOVERNING THE INTERPRETATION OF WATERSHED AREA BOUNDARIES

Where uncertainty exists as to the boundaries of the watershed areas, as shown on the Watershed Map, the following rules shall apply:

- a. Where area boundaries are indicated as approximately following either street, alley, railroad or highway lines or centerlines thereof, such lines shall be construed to be said boundaries.
- b. Where area boundaries are indicated as approximately following lot lines, such lot lines shall be construed to be said boundaries. However, a surveyed plat prepared by a registered land surveyor may be submitted to the County as evidence that one or more properties along these boundaries do not lie within the watershed area.

- c. Where the watershed area boundaries lie at a scaled distance more than twenty-five feet (25') from any parallel lot line, the location of watershed area boundaries shall be determined by use of the scale appearing on the watershed map.
- d. Where the watershed area boundaries lie at a scaled distance of twenty-five feet (25') or less from any parallel lot line, the location of watershed area boundaries shall be construed to be the lot line.
- e. Where other uncertainty exists, the Watershed Administrator in the Administrative Services Department shall interpret the Watershed Map as to location of such boundaries. This decision may be appealed to the Board of Adjustment.

#### 6.10.8 WATERSHED PROTECTION PERMIT

No building or built-upon area shall be erected, moved, enlarged or structurally altered, nor shall any building permit be issued nor shall any change in the use of any building or land be made until a Watershed Protection Permit has been issued by the Watershed Administrator in the Administrative Services Department. Single-family development is exempt from the requirement of obtaining a Watershed Protection Permit.

Prior to the issuance of a Watershed Protection Permit, the Watershed Administrator may consult with qualified personnel for assistance to determine if the application meets the requirements of this section.

A Watershed Protection Permit shall expire if a Building Permit or Watershed Occupancy Permit for such use is not obtained by the applicant within twelve (12) months from the date of issuance.

**a. Building Permit Required.**

No permit required under the North Carolina State Building Code shall be issued for any activity until a Watershed Protection Permit is issued. Single-family residential development is exempt from the Watershed Protection Permit requirement.

**b. Watershed Protection Occupancy Permit.**

The Watershed Administrator shall issue a Watershed Protection Occupancy Permit certifying that all requirements of this section have been met prior to the occupancy or use of a building hereafter erected, altered or moved and/or prior to the change of use of any building or land.

A Watershed Protection Occupancy Permit, either for the whole or part of a building, shall be applied for coincidental with the application for a Watershed Protection Permit and shall be issued or denied within ten (10) days after construction is approved by the Inspections Department.

When a change in use of land or use of an existing building occurs, the Watershed Administrator shall issue a Watershed Protection Occupancy Permit certifying that all requirements of this section have been met coincidental with the Watershed Protection Permit.

No building or structure which has been erected, moved, or structurally altered may be occupied until the Watershed Administrator has approved and issued a Watershed Protection Occupancy Permit.

If the Watershed Protection Occupancy Permit is denied, the Watershed Administrator in shall notify the applicant in writing stating the reasons for denial.

#### **6.10.9 HAZARDOUS MATERIAL INVENTORY AND SPILL CONTAINMENT PLAN**

An inventory of hazardous materials as applicable to Section 6.10.10 of this ordinance shall be kept in the Alamance County Emergency Management Office.

All spill containment plans required for new above ground storage tanks shall be kept on file in the Alamance County Emergency Management Office.

#### **6.10.10 WATERSHED MANAGEMENT PLAN**

The purpose of the Management Plan is to document industries that are located within the County's watershed boundaries which use, store or manufacture chemicals that could potentially pose a threat to water quality. The Management Plan will be used to verify that the hazardous materials inventory of each industry is up to date and kept on file in the Alamance County Emergency Management Office. The Toxic Chemical Release Inventory and response plan which is required under SARA Title III legislation is maintained by the Environmental Protection Agency (EPA). Also, the Alamance County Emergency Management Office maintains a computerized list of SARA Title III facilities.

## PART XI. WIRELESS COMMUNICATIONS FACILITIES

<u>Section 6.11.1. Applicability .....</u>	<u>p. 2</u>
<u>Section 6.11.2. Exceptions to Applicability .....</u>	<u>p. 2</u>
<u>Section 6.11.3. Location Requirements .....</u>	<u>p. 2</u>
<u>Section 6.11.4. Development Standards .....</u>	<u>p.3</u>
<u>Section 6.11.5. Collocation and Shared Facilities .....</u>	<u>p. 6</u>
<u>Section 6.11.6. Use by Emergency Services .....</u>	<u>p. 7</u>
<u>Section 6.11.7. Removal of Abandoned Towers, Antennae, and Support Structures.....</u>	<u>p. 7</u>
<u>Section 6.11.8. Permit Requirements.....</u>	<u>p. 8</u>
<u>Section 6.11.9. Administrative Approvals .....</u>	<u>p. 10</u>
<u>Section 6.11.10. Planning Board Review .....</u>	<u>p. 11</u>
<u>Section 6.11.11. Board of Commissioners Review .....</u>	<u>p. 11</u>
<u>Section 6.11.12. Issuance of Permit .....</u>	<u>p. 12</u>



## ~~6.11 Wireless Communications Facilities~~

### 6.11.1 APPLICABILITY

The purpose of this section is to establish standards for the location, permitting, and appearance of wireless telecommunication facilities located on property within Alamance County's ordinance-making jurisdiction. The regulations contained within this section shall apply to any Wireless Communications Facilities constructed on or after February 18, 2013.

### 6.11.2 EXCEPTIONS TO APPLICABILITY

The provisions of this section shall not be deemed to apply to: a) any tower, antenna, or other communication structure located on property owned, leased, or otherwise controlled by Alamance County; or b) any amateur radio facility that is owned and operated by a federally-licensed amateur radio station operator.

### 6.11.3 LOCATION REQUIREMENTS ~~FOR WIRELESS COMMUNICATION TOWERS~~

- ~~1. Any wireless communication tower constructed after February 18, 2013 may not be located within 1 mile of an existing tower.~~
- ~~2. Towers shall be located at least 1.5x height of the tower from any existing non-owner occupied residential or non-residential structure.~~
- ~~3. A tower may be located on the same lot as a residential structure, as long as the residential structure is occupied by the property owner.~~
- ~~4. A tower may not be located on top of any residential structure.~~
- ~~5. A tower may not be located on the same lot as an outdoor storage yard.~~
- ~~6. A lot that contains a wireless communication facility may be no smaller than 30,000 square feet.~~
- ~~7. A tower may not be constructed within a locally or nationally designated historic district. A tower may not be located within 1,000 feet of a locally or nationally designated historic district or historic landmark.~~
- ~~8. A tower may not be constructed within 1.5x the fall zone from a public right-of-way.~~
- ~~9. The siting of all wireless communication towers must comply with the requirements of the National Environmental Policy Act, the Federal Communications Commission, and the Federal Aviation Administration; and subject to the regulations below.~~

6.11.3.1 Wireless Communication Facilities may be located on properties under the following conditions, provided all setback, spacing, and dimensional requirements are met:

- On any lot at least 30,000 square feet in size;
- On the same lot as a residential structure, as long as the residence is occupied by the property owner;

- In a location at least one-hundred and fifty (150) percent the height of the tower from any public right of way or regularly occupied structure, as defined by Section 6.11.4.2.

6.11.3.2 Wireless Communication Facilities may not be located on property under the following conditions:

- On top of a residential structure;
- On the same lot as a junkyard, automobile graveyard, or similar outdoor storage yard as defined by this Ordinance;
- Within a locally or nationally designated historic district;
- Within one thousand (1,000) feet of a locally or nationally designated historic district or historic landmark;

#### 6.11.4 DEVELOPMENT STANDARDS FOR WIRELESS COMMUNICATION TOWERS

a)

##### 6.11.4.1. HEIGHT LIMITS

Administrative approval may be granted by the Planning Department for wireless communication towers that do not exceed ninety (90) feet in height. A tower that is proposed to exceed ninety (90) feet in height must receive approval from the Board of Commissioners. The approval procedure shall be in accordance with ~~the quasi-judicial hearing procedures established herein.~~ section 6.11.10 of this Ordinance.

b)

##### 6.11.4.2. SETBACKS

***Residential Regularly Occupied Structures*** - A wireless communication facility must be located at least one-hundred and fifty (150) percent the height of the tower ~~x 1.5~~ from any ~~residential-regularly occupied~~ structure. Regularly occupied structures include residences, commercial establishments, churches, and similar uses where individuals may inhabit the premises on a frequent basis. This ~~does~~ spacing shall not apply to a residential structure that is occupied by the owner of the property upon which the wireless communication facility is located, or an accessory structure like a barn or storage shed. The setback requirement for residential structures occupied by the property owner may be reduced with design certification by an engineer.

***Fall Zone*** - The setback must include enough area to contain the fall zone entirely within the boundaries of the property owned or leased by the wireless communication provider. Fall zones shall be measured three hundred and sixty (360) degrees out from the center of the tower base in a distance equal to one hundred (100) percent the height of the tower.

~~**Roads**—A wireless communication facility must be located at least 1.5x the fall zone from any public right-of-way or private road.~~

**Power Lines** - A freestanding wireless communication tower must be located at least one hundred and fifty (150) percent the height of the tower ~~x1.5~~ from any high-tension power lines.

**Airports** - A wireless communication facility must be located at least two thousand, five hundred (2,500) feet from any public or private airport.

~~**Accessory Structures** —In measuring setbacks, an accessory structure constructed to house equipment relating to the wireless communication facility must be included as part of the wireless communication facility. The edge of an accessory structure to a property line shall constitute an appropriate measurement.~~

e)

#### 6.11.4.3 LANDSCAPING AND AESTHETICS

- Wireless communication facilities should be placed in a location that will provide for proper functioning, and one that will have minimal visual impact.
- All landscaping should be designed to be compatible with existing structures and landscapes on the property and on adjoining parcels.
- The color of a wireless communication facility should be neutral or compatible with its surroundings. In addition, colors must meet FAA standards.
- The use of camouflage or stealth technology is strongly encouraged.
- A vegetative buffer must be placed around the base of a wireless communication tower and any associated structures, such as an equipment facility or guy anchors. This buffer should be at least ten (10) feet wide and should include, at a minimum, one (1) row of evergreen or deciduous trees placed no further than eight (8) feet apart and one (1) row of evergreen shrubs spaced no more than five (5) feet apart.
- Existing vegetation on the site should be preserved as much as possible and incorporated into the site design.
- Vegetated buffers should be created through minimal grading activities and, as much as possible, should preserve existing mature growth on the site.
- Upon a showing that the existing site vegetation will provide a suitable buffer for the base of the tower or the perimeter of the site and minimize visual impacts, the ~~Administrator~~ Planning Director, or their designee, may grant a waiver of the buffer requirements contained above. A site inspection may be required in order to make such determinations.

d)

#### 6.11.4.4. FENCING

A wireless communication facility must have a commercial-grade safety fence placed around the base of the tower and any ~~accessory structures~~ supporting equipment shelters or cabinets. This fence should be at least eight (8) feet in height and constitute an opaque barrier. If the wireless communication facility has guy wire anchors, a separate fence with the same features as above may be placed around the base of each wire anchor.

e)

#### 6.11.4.5. LIGHTING

A wireless communication tower shall not be artificially lighted unless required by the FAA or other applicable authority. All lighting installed at a wireless communication facility must comply with FAA regulations.

Any lighting at a wireless communication facility should be down shielded in order to contain the light on the property leased or owned by the wireless communication provider. At no time should any wireless communication facility lighting shine directly upon an adjacent property.

Unless otherwise required by the FAA, a red light and a type of ~~lense~~ lens used to reduce ground lighting must be used when the wireless communication facility is within one hundred (100) feet of a residential dwelling.

f)

#### 6.11.4.6. SIGNAGE

No signage, logos, symbols, or any messages of a commercial or non-commercial nature are permitted on any wireless communication facility, accessory structure, or security fencing. This provision does not include the identification signage detailed below.

One small sign measuring no more than two (2) feet by three (3) feet that contains provider information, emergency telephone numbers, and any other information required by local, state, and federal regulations governing wireless communication facilities is permitted. This sign must be placed in a visible location on the security fencing.

g)

#### 6.11.4.7. STRUCTURAL INTEGRITY

Each wireless communication facility and any ~~accessory structures~~ supporting equipment must be constructed and maintained in accordance with all state and federal building code requirements.

Each wireless communication tower must be constructed to accommodate the following number of antenna arrays:

1. Towers up to 90 feet: 1 array;
2. Towers between 91 feet and 120 feet: 2 arrays; and

3. Towers exceeding 120 feet: 3 arrays

h)

#### 6.11.4.8. POWER OUTPUT AND EMISSIONS

Applicants for a permit for a wireless communication facility shall be required to submit documentation that shows that power output levels at the facility do not exceed those levels certified by the FCC. The wireless communications provider that owns the wireless communication facility may be asked on a periodic basis to provide the Administrator with documentation that demonstrates that the facility is in compliance with FCC output standards.

Emissions from a wireless communication facility shall not interfere with radio frequencies or television reception.

i)

#### 6.11.4.9. ACCESS TO WIRELESS COMMUNICATION FACILITY

Access to the wireless communication facility site must be provided by an easement of no less than thirty (30) feet in width. The road base constructed shall be no less than ten (10) feet and no greater than eighteen (18) feet in width. This road must be of gravel construction and should be maintained regularly by the wireless communications provider. The access road to a wireless communication facility should be gated for security purposes with commercial-grade fencing.

### **6.11.5 COLLOCATION AND SHARED FACILITIES**

- 1- An applicant for a wireless communication facility permit must demonstrate that it has made a good faith effort to place its wireless communication equipment onto an existing wireless communication facility structure. This shall be a condition of the permit, as provided in Section 6.11.18, below.
- 2- An applicant for a wireless communication facility permit that cannot collocate and will place its equipment on a newly-constructed wireless communication structure must submit a collocation agreement with its permit application. This collocation agreement shall outline the applicant's policy for collocation on its structure and shall also provide information that illustrates the means by which the applicant will determine what rental rates to charge other users. These lease rates must be commercially reasonable and should not act as a deterrent to collocation.
- 3- Any wireless communication tower over ninety (90) feet should be constructed to accommodate multiple antenna arrays, pursuant to Section ~~6.11.4.(g)~~ 6.11.4.7.

#### 6.11.6 USE BY EMERGENCY SERVICES

A wireless communication provider must make the wireless communication facility available, free of charge, to the County for emergency service use. This use shall include, but is not limited to, an antenna array and space for electronic equipment within an accessory building. An antenna array placed by the County's emergency services shall only be located on a tower capable of handling multiple arrays. Any use by emergency services should not interfere with the proper functioning of the tower or of any wireless communication facilities within a one-mile radius.

#### 6.11.7 REMOVAL OF ABANDONED TOWERS, ANTENNAE, AND SUPPORT STRUCTURES

- (1) The owner of a wireless communication facility must provide the Administrator with written notice if the facility is going out of service.
- (2) A wireless communication facility at which use has been discontinued for a period of one hundred and eighty (180) days shall be deemed abandoned.
- (3) A wireless communication facility shall not be considered abandoned unless all service providers with antenna arrays attached to the facility have discontinued use of the facility.
- (4) If the Administrator determines that a wireless communication facility has been abandoned, he or she shall send a written notice by certified mail, return receipt requested, to the owner of the wireless communication facility and to the property owner (if different). This notice shall contain information regarding why the wireless communication facility has been deemed abandoned and the availability of an appeals process for this decision.
- (5) Once the written notice has been received, the wireless communication facility owner has sixty (60) days in which to remove the facility from the property.
- (6) The County may require each applicant to post a performance bond to cover the potential costs of removal.
- (7) If the owner of the wireless communication facility believes that the Administrator's determination has been made in error, it may file a written appeal with the Board of Adjustment prior to the expiration of the sixty (60) day period for removal. Such appeal shall be heard by the Board within thirty (30) days of the filing of the appeal and any proceedings to remove the abandoned wireless communication facility shall be stayed pending the outcome of this appeal.

- (8) If the owner of the abandoned wireless communication facility does not remove the facility within the required removal period, the County may remove the facility and recover the costs from the owner. If the owner is no longer in business or cannot be located, the cost of removal may be assessed to the real property owner.
- (9) The County may assess civil penalties pursuant to the established fee schedule if the owner of the abandoned wireless communication facility fails to remove the structure within the required removal period.

#### 6.11.8 PERMIT REQUIREMENTS FOR WIRELESS COMMUNICATION FACILITY

- (a) It shall be a violation of this Ordinance to construct and operate any wireless communication facility in Alamance County's ordinance-making jurisdiction without a permit issued pursuant to this section.
- (b) Any entity or individual desiring to construct and/or operate a wireless communication facility within Alamance County's ordinance-making jurisdiction must apply to the Alamance County Planning Department for a permit. This application must include:
  - 1. The name and address of the owner(s);
  - 2. The physical address of the property, including tax map block and lot numbers;
  - 3. The name and address of the agent(s) and officers, if the applicant is a corporation;
  - 4. Documents that demonstrate a need for coverage in the geographical area;
  - 5. Sealed drawings from an architect or engineer licensed in the State of North Carolina that contain the items listed below in (c);
  - 6. A copy of the applicant's collocation agreement or, in the absence of collocation, evidence that collocation is not feasible in accordance with the requirements set forth below in (d);
  - 7. Documentation from an architect or engineer licensed in the State of North Carolina that the proposed wireless communication facility has the structural integrity to accommodate more than one user, if the proposed facility is over ninety (90) feet in height;
  - 8. Certification from the FAA that the proposed wireless communication facility will not pose a hazard to air navigation;
  - 9. Documentation from a North Carolina Division of Highways engineer that his or her office has reviewed the proposed project and has determined that no highway access or right-of-way issues need to be resolved prior to approval of the application; and
  - 10. Proposed sedimentation control measures that have been approved by the North Carolina Department of Environment and Natural Resources.

(c) The sealed drawings submitted with the application must include

1. A scaled vicinity map showing the location of the proposed facility in relation to nearby roads, communities, and towns;
2. All property lines associated with the site;
3. The location of all proposed structures on the site;
4. Elevations of all proposed structures and a description or sample of the color(s) that will be associated with them;
5. A description of the height of the proposed structures;
6. Basic site plan information, such as existing topography (with 5' contours), proximity to floodplains and floodways, soil characteristics, existing vegetation, and other site elements that may restrict development;
7. A site plan showing any proposed alteration of topography and vegetation;
8. The location of any existing streets, buildings, railroads, transmission lines, sewers, bridges, culverts, drainpipes, and easements, to the extent that these may be determined from a field inspection of the property;
9. Landscaping plans that include buffer areas;
10. Plans for parking and security fencing;
11. Plans showing any access easement(s) and proposed points of ingress and egress in relation to a public or private road(s); and
12. Plans identifying any adjacent uses within five hundred (500) feet of the fall zone.

(d) If an applicant does not propose to collocate on an existing wireless communication facility, evidence must be shown to demonstrate that no existing wireless communication facility can accommodate the applicant's technological needs. This evidence should be in the form of letters sent to and received from the owners of existing wireless communication facilities in which it is demonstrated that one of the following conditions applies:

1. No antennae are located within the geographic area that is required for the applicant's technological needs;
2. No existing towers or structures within the geographic area are of sufficient height to meet the applicant's needs;
3. No existing towers or structures have the structural strength to support the proposed antenna and related equipment;



4. The proposed wireless communication facility would cause electromagnetic interference with antennae on existing towers or structures or vice versa;
5. The fees, costs, or contractual provisions for collocation required by the owner of an existing wireless communication facility that would meet the applicant's technological needs exceed the cost of new facility development;
6. Any other factors that render the use of existing towers or structures within the geographic area infeasible.

In addition, an applicant should include a summary explanation of why it believes that its proposed wireless communication facility cannot be located on an existing tower or structure.

- (e) A one-time permit fee of \$2,500 shall accompany the application.

#### 6.11.9 ADMINISTRATIVE APPROVALS

- (a) Administrative approval may be obtained for
1. Wireless communication towers that do not exceed ninety (90) feet in height;
  2. Placing an antenna array upon an existing wireless communication facility; or
  3. The operation of a temporary wireless communication facility.
- (b) In each instance, the applicant must submit all documentation required in Section 14, above, to the Planning Department for administrative review.
- (c) Upon review, the Administrator will determine whether the submitted application complies with the terms of this Ordinance. The Administrator may issue an approval, an approval with conditions, or a denial.
- (d) If the Administrator denies the application, the reasons for the denial must be outlined in a letter sent to the applicant via certified mail, return receipt requested. The applicant may make any suggested changes and submit its application to the Planning Board in accordance with the procedure outlined in Section 16, below.
- (e) If the Administrator issues an approval or an approval with conditions, he or she shall also issue a wireless communication facility permit to the applicant. This permit shall entitle the applicant to proceed with construction and operation in accordance with the submitted development plan.

#### **6.11.10 REVIEW OF PERMIT APPLICATION BY ADMINISTRATOR AND PLANNING BOARD REVIEW**

- (a) Upon submission of the application, the Administrator will review the application for compliance with the provisions of this Ordinance. During this review period, the Administrator may request additional information from the applicant.
- (b) After administrative review, the application will be presented to the Alamance County Planning Board for further review. Review by the Planning Board shall occur within sixty (60) days of the submission of the application. Following its review, the Planning Board may approve the application, deny the application, or approve the application conditions.
- (c) If the Planning Board denies the application or gives conditional approval, the reasons for its action shall be noted in the Board's minutes. The owner may resubmit its application after making any corrective changes.
- (d) If, upon correction and resubmission of the application, the Planning Board again denies or approves the application with conditions, the applicant may submit its application directly to the Board of Commissioners.

#### **6.11.11 REVIEW OF PERMIT APPLICATION BY BOARD OF COMMISSIONERS REVIEW**

- (a) After the Planning Board has rendered a decision on the application, the applicant may submit an application and final development plan to the Board of Commissioners. This plan may incorporate any changes suggested by the Planning Board or any additional information that the applicant wishes to provide.
- (b) Review by the Board of Commissioners shall occur within sixty (60) days of submission of the application. This review shall also include consideration of the advisory decision rendered by the Planning Board. Following its review, the Board of Commissioners may approve the application, deny the application, or approve the application with conditions.
- (c) If the Board of Commissioners denies the application or gives conditional approval, the reasons for its action shall be noted in the Board's minutes. The owner may resubmit its application after making any corrective changes.
- (d) If, upon correction and resubmission of the application, the Board of Commissioners again denies the application, the applicant may initiate an appeal in the Superior Court of Alamance County. This appeal must be filed with the Clerk of Superior Court for Alamance County within thirty (30) days of the decision by the Board of Commissioners.

#### 6.11.12 ISSUANCE OF PERMIT

- (a) It shall be a violation of this Ordinance to operate any wireless communication facility located within Alamance County's ordinance-making jurisdiction without a permit issued pursuant to this section.
- (b) If the above application procedure is followed and the Board of Commissioners approves the application or approves the application with conditions, the Board will issue a permit for the wireless communication facility. This permit shall entitle the applicant to proceed with construction and operation in accordance with the final development plan.

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