

Lansing, NC

Land Use Plan

2019



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Prepared by High Country Council of Governments in conjunction with the Town of Lansing



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Authority

Article 19 of North Carolina General Statute 160A provides municipalities with the authority to conduct planning efforts and establish development regulations. Towns are authorized to create or designate planning boards for the purpose of making studies, determining development objectives, preparing and adopting plans, establishing regulations, advising the municipal legislative body, and more. The two most prominent types of regulation that are enabled by this legislation are subdivision regulations (governing the division of land) and zoning (regulating and restricting the height, number of stories and size of buildings and other structures, the percentage of lots that may be occupied, the size of yards, courts and other open spaces, the density of population, and the location and use of buildings, structures and land). Additional regulations are enabled by the statute, including adoption and enforcement of minimum housing standards and stormwater control provisions.

Purpose

The purpose of the *Lansing Land Use Plan* is to gather and assess citizen input, evaluate existing conditions, guide future land use decisions, provide a legal foundation for future land use regulations, and inform long-range infrastructure policy.

Background

The community of Lansing grew from a rural trading post in the 19th century to an incorporated Town in 1928. Its growth during that time can largely be attributed to the construction of the Virginia-Carolina Railroad between 1914 and 1916. Lansing became a regular stop for the train, with a depot building constructed on a site where the Volunteer Fire Department stands today. The rail line provided a means for exporting timber from Ashe County into Southwest Virginia, spurring economic growth in the Lansing community in the process. Timber shipments dwindled by the 1930's, passenger service ended in the 1960's, and eventually all rail service ceased in 1977. Population loss and business closures occurred over the following decades. Today, Lansing boasts several small businesses, a growing reputation as an outdoor recreation destination, and a popular public park.



Goals & Objectives

Goal – Gauge public preference for future land use types and land use regulations

Objective: Develop and distribute a public survey that captures feedback about existing conditions, land use preferences, and perceived need for regulations

Objective: Conduct interviews with a diverse set of community stakeholders

Goal – Develop recommendations to guide future land use policy decisions

Objective: Create an inventory of existing land use within Lansing using a windshield survey

Objective: Evaluate existing land use regulations

Objective: Utilize findings, public input, and best practices to formulate a set of recommendations for policymakers

Goal – Analyze existing public infrastructure

Objective: Create an inventory of existing streets, water, sewer, stormwater, and sidewalks

Objective: Develop a set of recommendations to guide future public infrastructure policy decisions

Goal – Analyze environmental features

Objective: Analyze natural features within the study area including hydrology, floodplains, steep slopes, and wetlands

Objective: Utilize findings to formulate a set of recommendations for policymakers

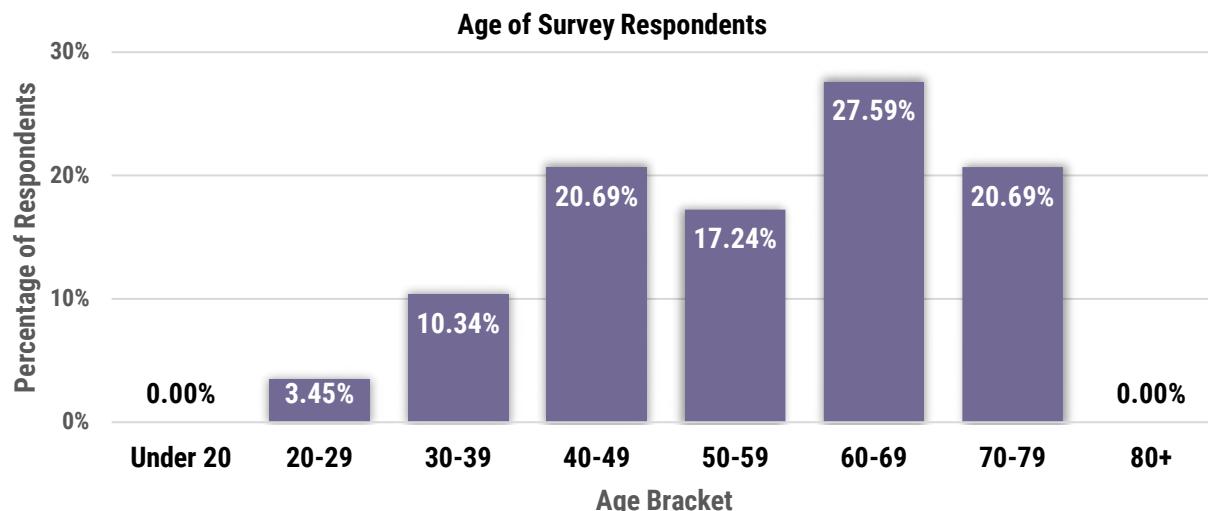


Public Involvement

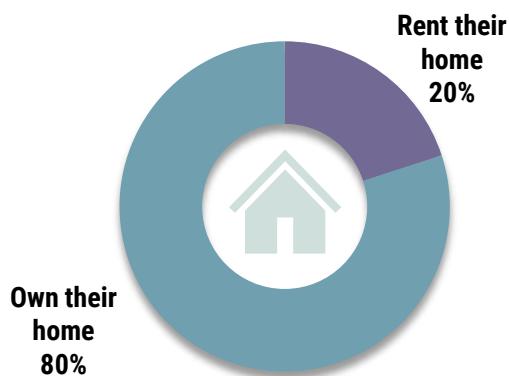
Survey

A public survey consisting of 23 questions was developed by High Country Council of Governments and presented to the Land Use Steering Committee for review and approval in June 2018. The survey was designed to gather feedback to inform the recommendations included within this plan. Paper copies of the survey were mailed to residents in June and July 2018 with their regular monthly water bill. Respondents had the option of either completing the paper survey and returning it to Town Hall or completing the survey online via a link on the Town website. Survey responses were accepted from early June to August 1, 2018.

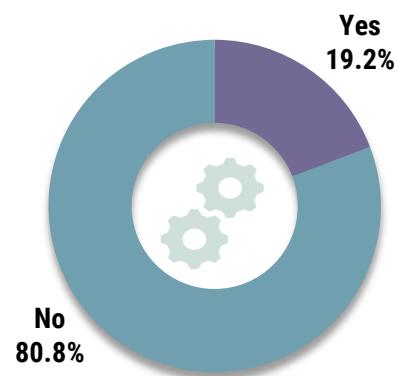
The Town received 29 survey responses in total, 18 of which came from Lansing residents. Participants represented a diverse cross-section of the local community, as shown by the profile of survey respondents in the following charts.



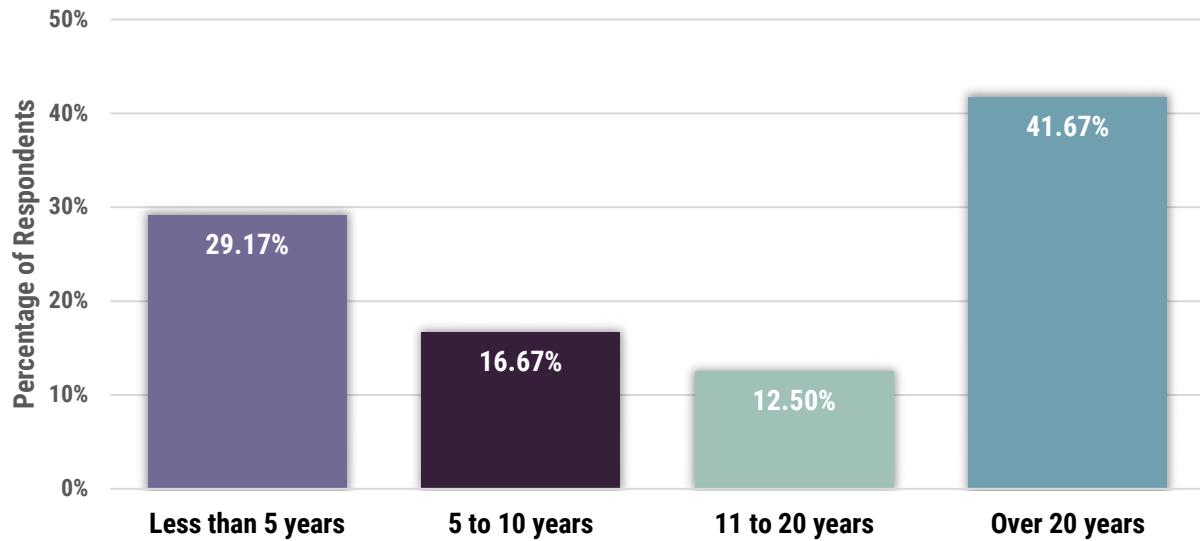
Q: Do you rent or own your home?
Survey Results



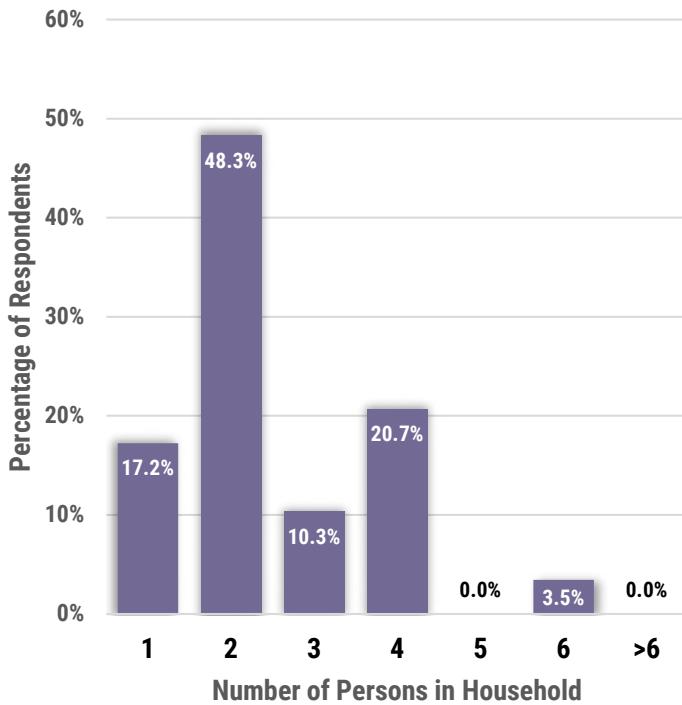
Q: Do you work in Lansing?
Survey Results



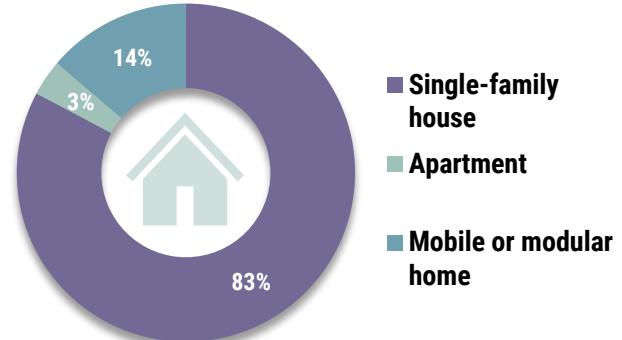
Q: How long have you lived in Lansing?
Survey Results



Household size of survey respondents



Q: In what type of housing do you live?
Survey Results



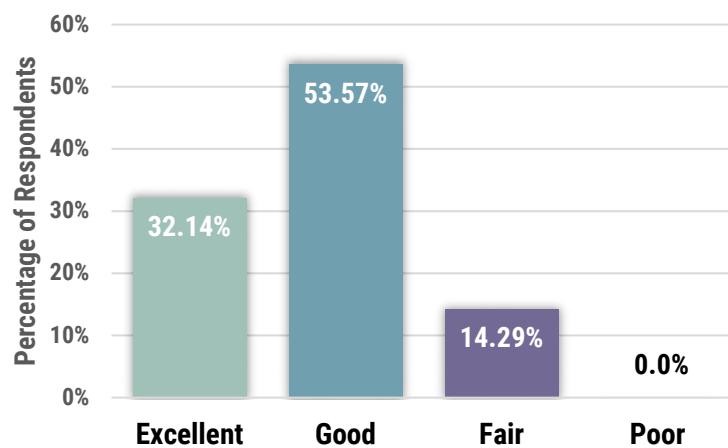
Thirteen respondents indicated that they own a business in Lansing and eight respondents indicated they own more than one property in Lansing. The diversity of respondents strengthens the conclusions that can be drawn from the survey results.



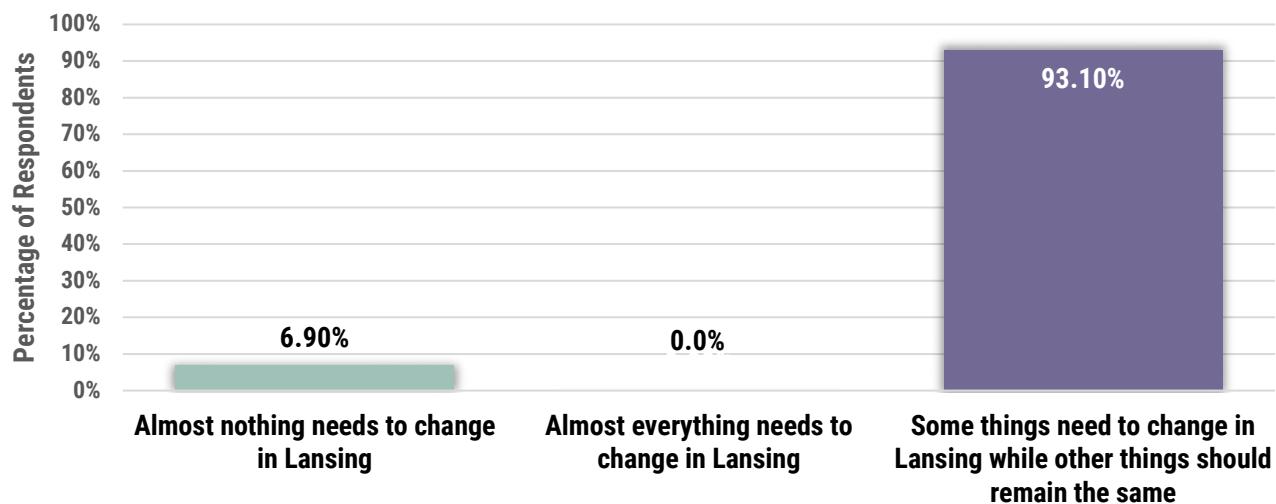
Survey Results

Survey responses provided feedback on how community members view current issues related to land use and their preferences for future development. Most respondents indicated that they felt Lansing was either a "good" or "excellent" place to live with some aspects that needed to change and some aspects that should remain the same. Commonly mentioned aspects that need to change included increasing the number of local businesses, slowing traffic through Town, improving the appearance of buildings, and expanding pedestrian and recreation facilities. Commonly mentioned aspects that do not need to change included Lansing's small-town charm, Town support for recreation and outdoor events, and lack of national chain businesses. When asked to identify things they liked most about Lansing, respondents overwhelmingly named Creeper Trail Park and downtown. Other responses included the rural setting, low density, parking, and sidewalks. When asked to name things they disliked most about Lansing, respondents primarily named rundown or vacant buildings, unkempt properties, and lack of retail establishments.

Q: Overall, how would you rate Lansing as a place to live?
Survey Results

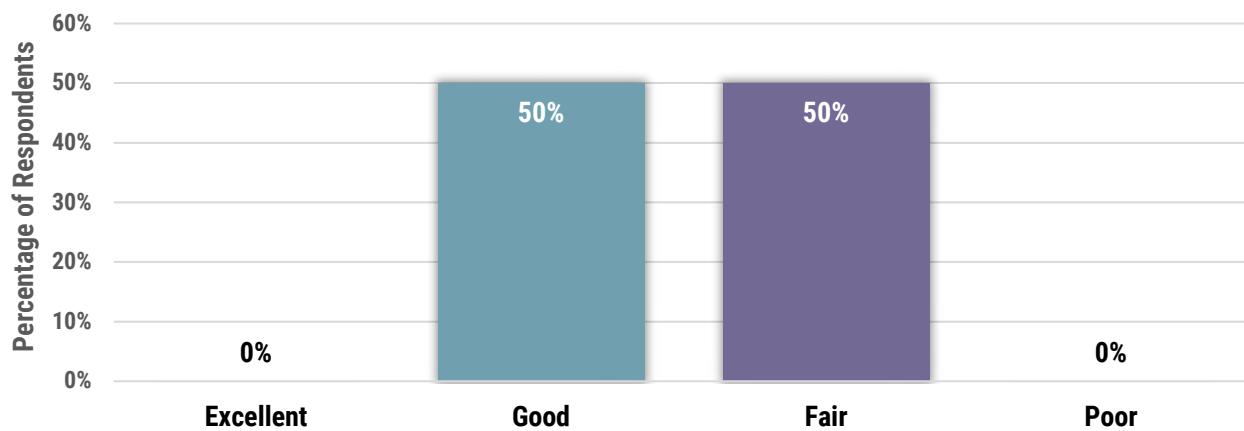


Respondents desire for change in Lansing
Survey Results

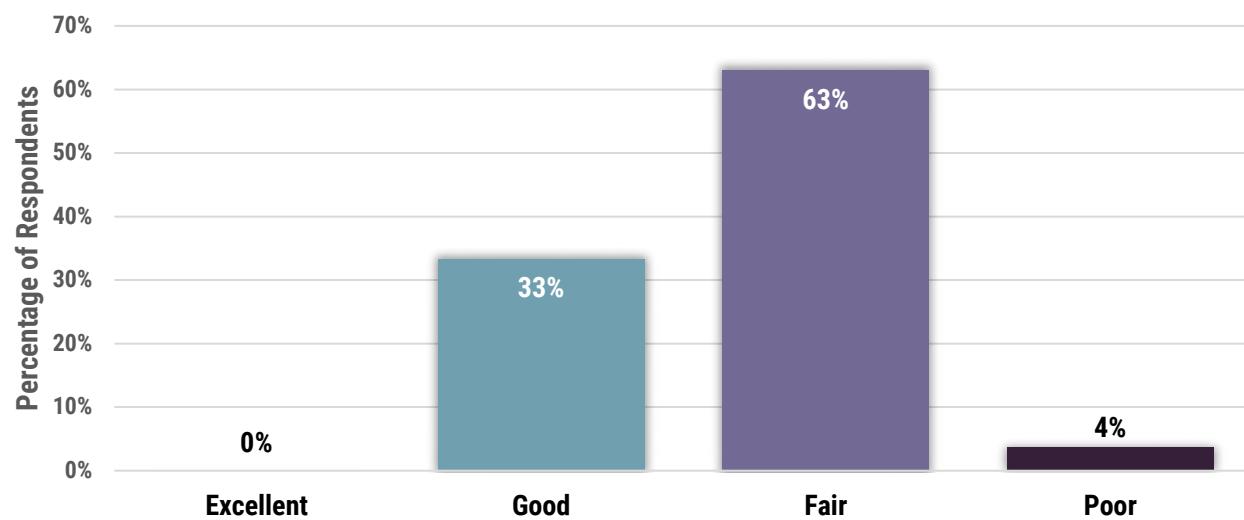


Respondents evenly felt that most homes in Lansing were either “good” or “fair” in terms of general appearance. By contrast, many more felt that businesses were either “fair” or “poor” rather than “good” in terms of general appearance. When asked what they felt was the primary reason(s) for vacant buildings in Lansing, respondents cited cost of rehabilitation, rundown nature of buildings, and rent or purchase price as being the chief factors. Others noted the presence of a flood zone in the downtown area as a hindrance to development.

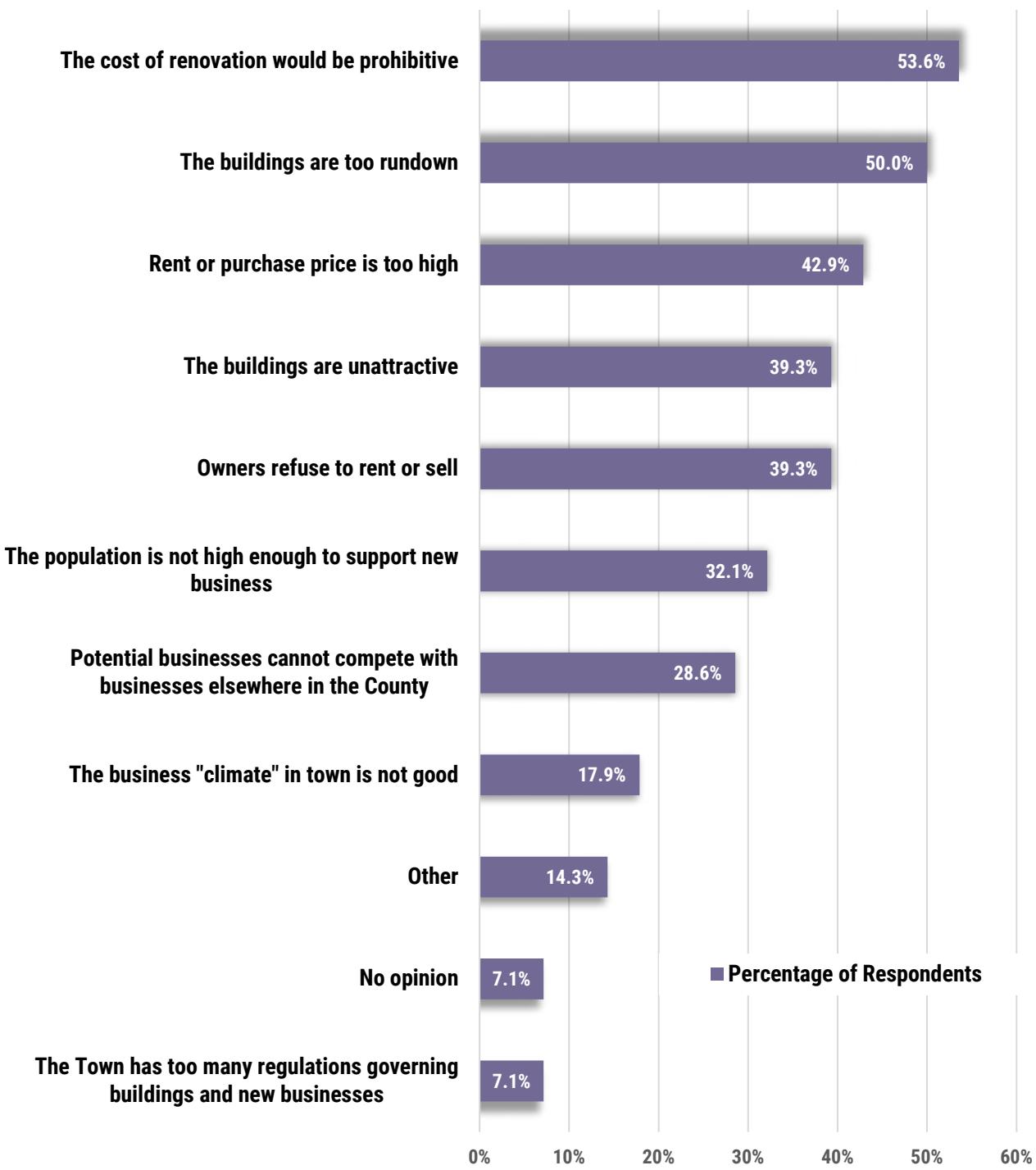
Q: How would you rate the general appearance of most homes in Lansing?
Survey Results



Q: How would you rate the general appearance of most businesses in Lansing?
Survey Results

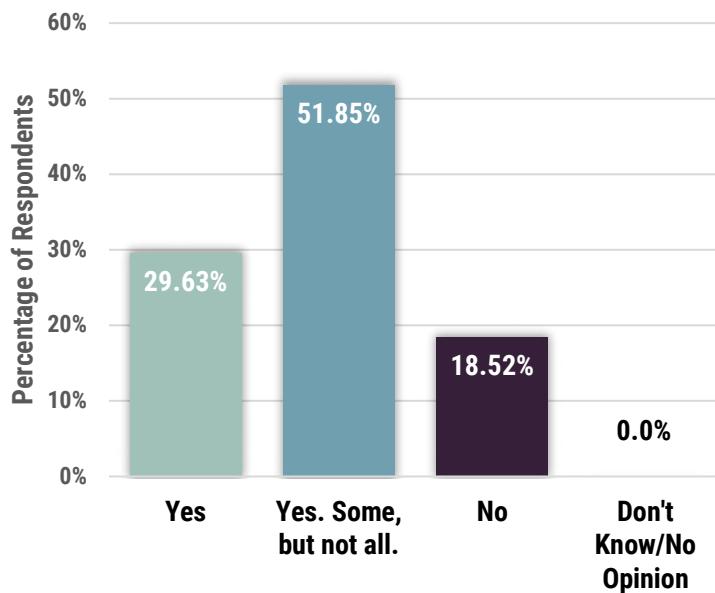


Q: What is the primary reason(s) for the number of vacant buildings in Lansing?
Survey Response

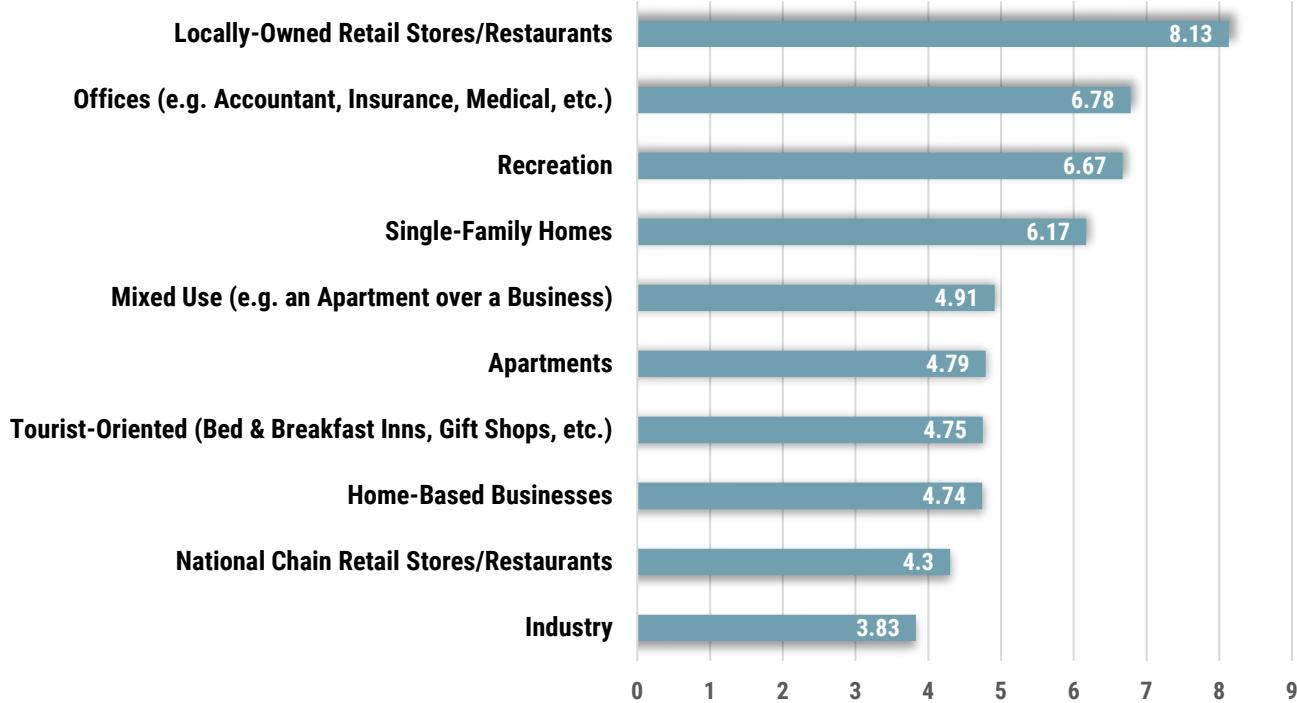


In terms of future development, the majority of those completing the survey felt the Town should encourage development of rural and undeveloped land within Town limits, but not all of it. This is in keeping with preferences expressed elsewhere in the survey citing Lansing's small town, rural charm as one of its best attributes. The most popular types of development preferred by respondents included locally-owned retail stores/restaurants, offices, recreation, and single-family homes. The least popular types included industry and national chain retail stores/restaurants.

Q: Should the town encourage development of rural and undeveloped land within Town limits?
Survey Results



Q: What type of development would you like to see?
Survey Response

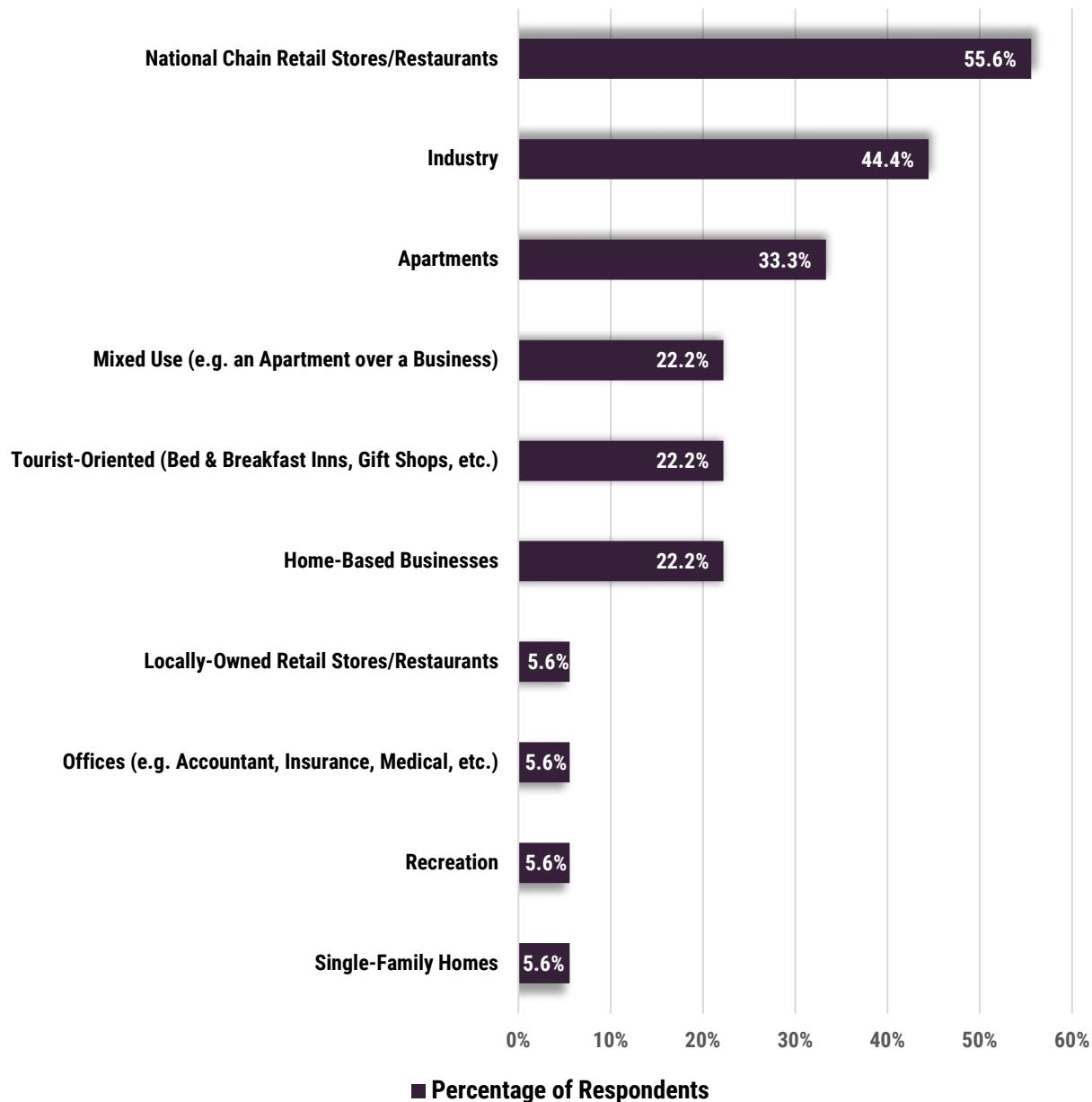


■ Score based on aggregate ranking (higher score = development type most respondents would like to see)



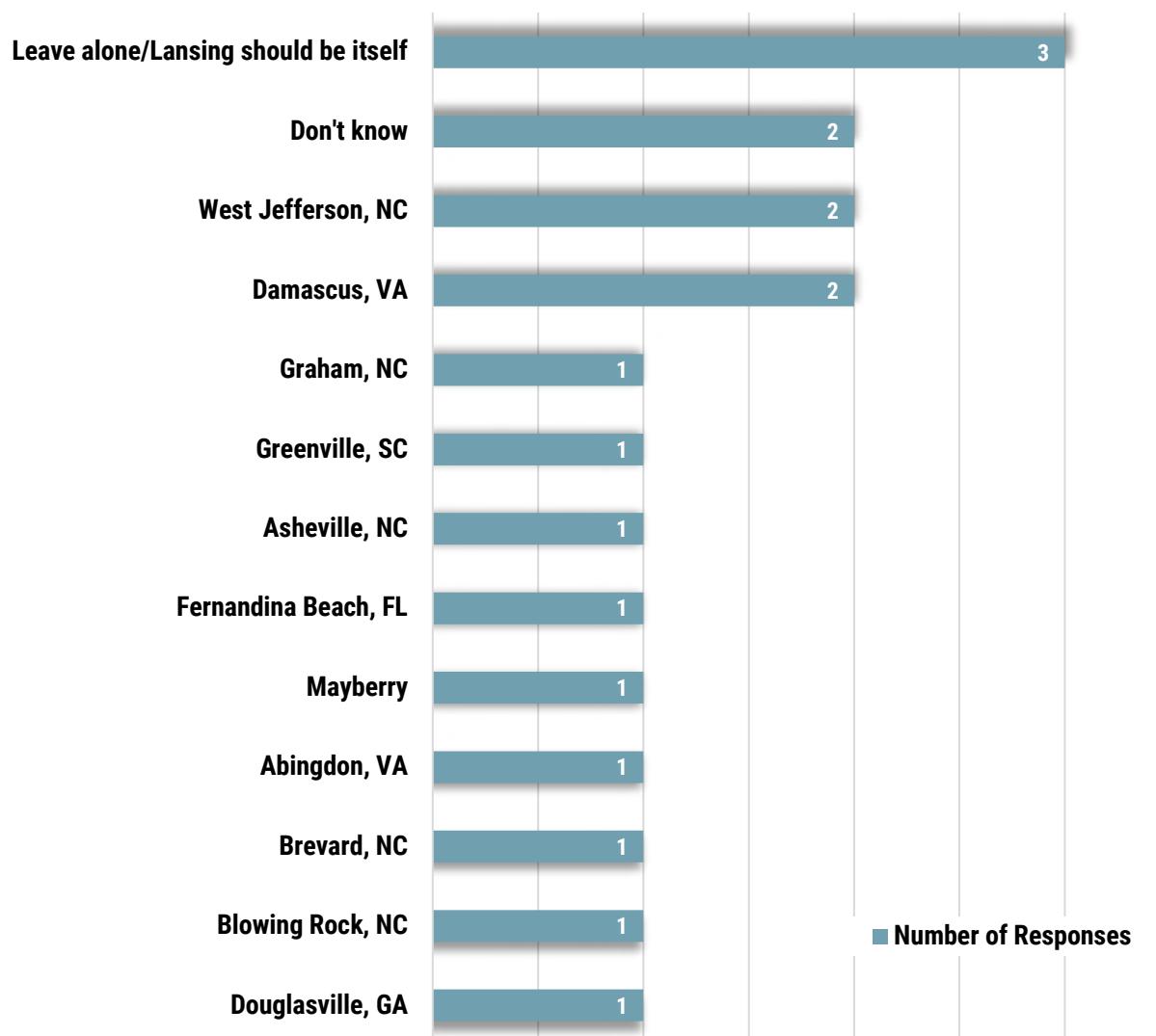
When asked what types of development they would expressly NOT like to see happen in Lansing, survey respondents overwhelmingly chose national chain retail stores/restaurants, followed by industry and apartments. Survey results indicated a clear preference for the Town to develop commercially, but with locally-owned businesses and less-intensive uses such as offices.

Q: What type of development would you NOT like to see?
Survey Response



Survey participants provided a variety of responses when asked what community should be the model for how Lansing should (re)develop. The most popular response was to leave the Town as it is and let it develop its own distinct character. Other popular responses included the communities of West Jefferson and Damascus, Virginia. A complete listing of responses can be seen in the chart below. When asked to identify characteristics of the model town that appealed to them, survey respondents cited features such as well-maintained buildings, welcoming public spaces, vibrant downtowns, and successful local businesses.

Q: What town should be the model for how Lansing should (re)develop?
Survey Response



Participants in the survey were asked to evaluate a list of statements concerning land use in Lansing and indicate their level of agreement with each item on the list. For each item, respondents had the option to *Strongly Agree*, *Agree*, *Disagree*, *Strongly Disagree*, leave the item blank, or select *Don't Know/No Opinion*. To quantify average level of agreement across multiple completed surveys, a numerical value was assigned to each of the four levels of agreement. *Strongly Disagree* was coded as a 1, *Disagree* was coded as a 2, *Agree* was coded as a 3, and *Strongly Agree* was coded as a 4. Responses were then averaged and compiled into the chart on the following page. Statements receiving the highest level of agreement appear on the top of the chart with higher average scores. Statements receiving the lowest level of agreement appear towards the bottom of the chart with lower average scores.

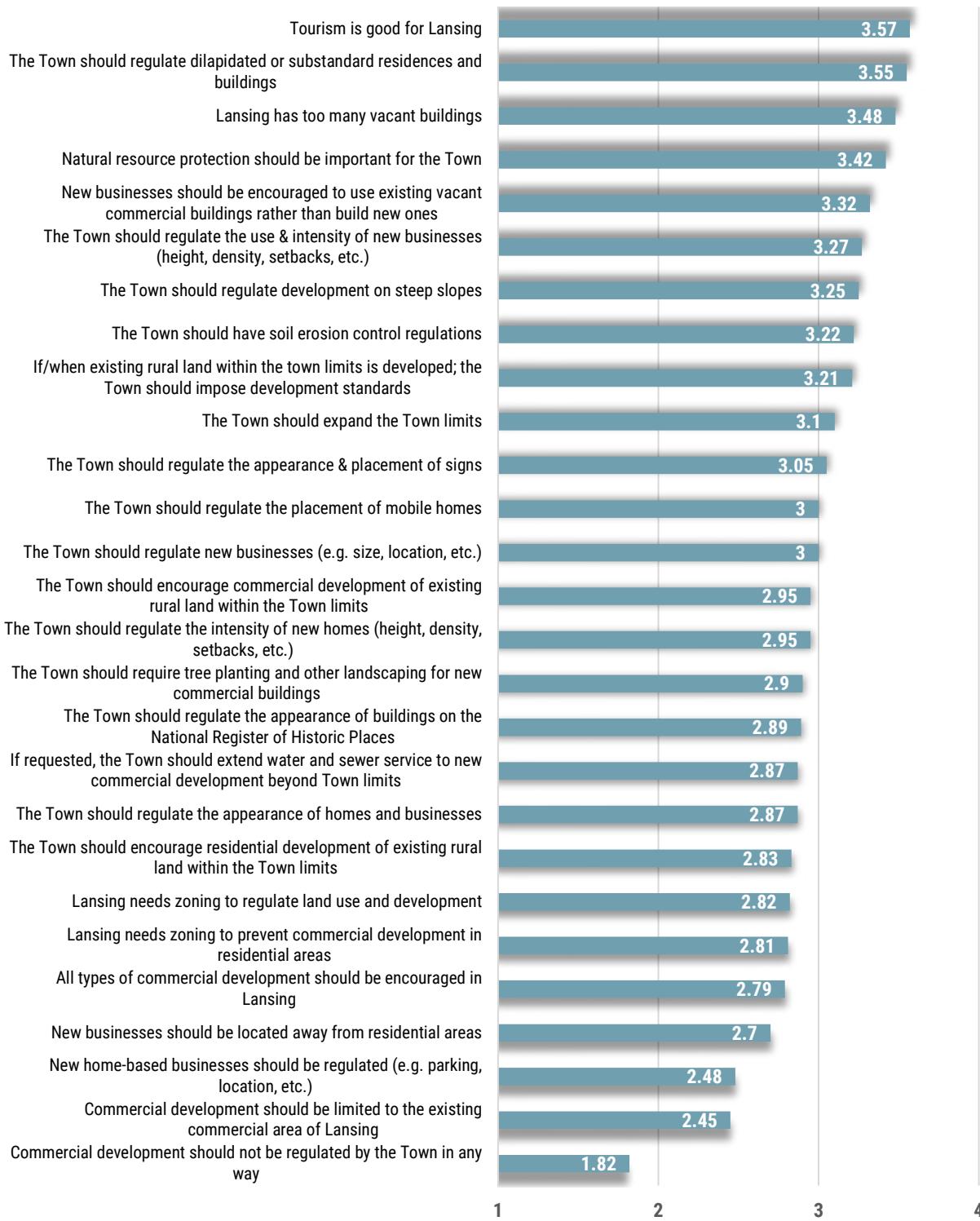
In keeping with answers to previous survey questions, respondents again indicated strong levels of support for regulation of dilapidated buildings and decreasing building vacancy. Other popular statements included protection of natural resources, the benefits of tourism, environmental regulations related to steep slopes and erosion, regulation of new businesses, and controlled development of existing rural land within Town. Regulation of residential uses received less support than commercial uses, except for placement of mobile homes. Statements concerning the need for zoning within Town scored on the lower end of responses.



Responses to this question, and the wider survey in general, indicate that participants were not in favor of regulations typically associated with traditional Euclidian Zoning. Euclidian Zoning, which focuses on controlling land use through segregation of uses by location, has been the predominant model for zoning codes in the United States for the past half century. Most people associate the term "zoning" with this type of regulation. Other types of zoning regulation, such as Form-Based Codes, may be more welcome in Lansing based on stated preferences for environmental regulation, sign regulation, tourism development, and downtown improvement. Instead of focusing on segregation of uses, Form-Based Codes focus on physical form of structures and aesthetic standards to ensure compatible development.



Q: Do you agree or disagree with the following statements?
Survey Response

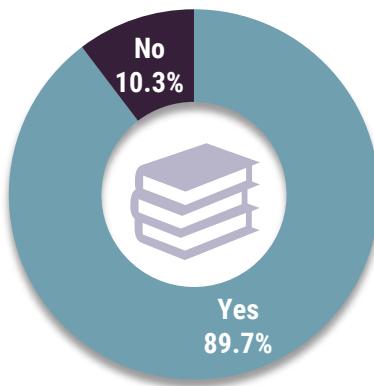


■ **Score based on aggregate ranking (higher scores = most agreement with statement; lower scores = least agreement with statement)**

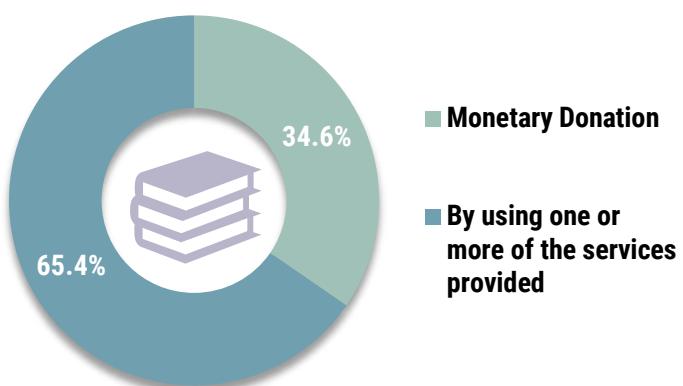


Survey respondents were asked a series of questions to gauge demand for a public library in Lansing. Support for a library, after school, or summer program in Town was high among survey participants, as indicated in the charts below. Most indicated that their support would take the form of using one or more of the services provided by the new library, but 34.6% indicated they would be willing to provide a monetary donation. If a new library were to be established, survey participants indicated high levels of preference for children's programs, computer access/Wi-Fi, and nature/science fiction books.

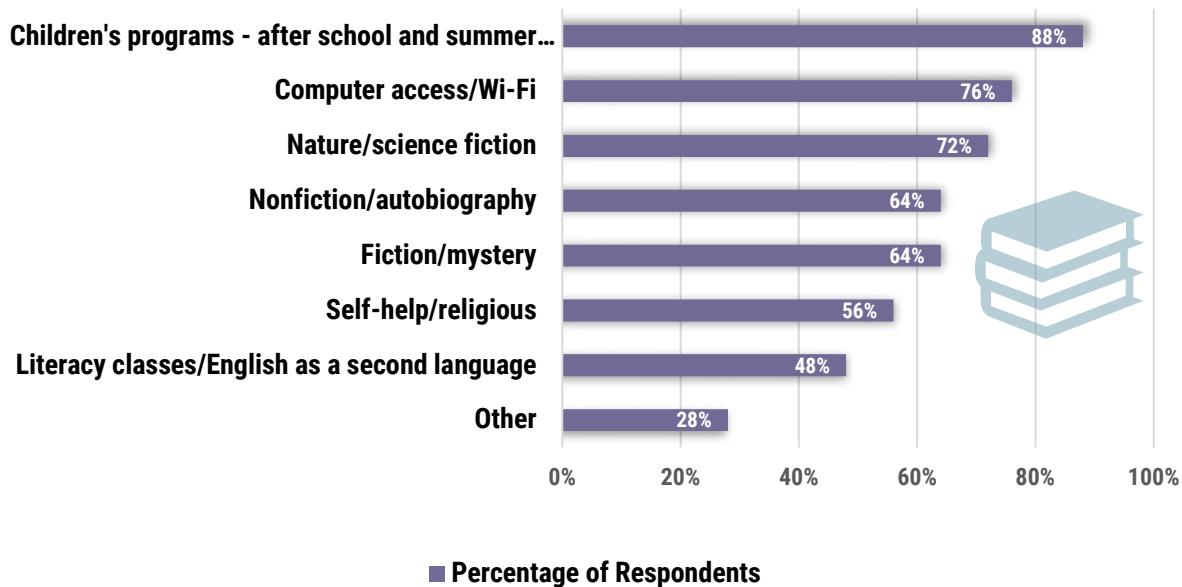
Q: Would you support a library, after school, or summer program in Lansing?
Survey Results



Q: In what manner would you support a library, after school, or summer program in Lansing?
Survey Results



Q: What type of books/services would you like to be available?
Survey Response



Stakeholder Outreach

The **Land Use Steering Committee** identified a list of stakeholders to represent various segments of the community such as newcomers, business owners, young citizens, retired citizens, realtors, renters, and more. High Country Council of Governments (HCCOG) staff contacted each stakeholder and asked them to participate in a phone interview to discuss land use in Lansing. A total of 10 stakeholders agreed to participate. Their collective input provided a level of nuanced detail not captured by the public survey, and was valuable in shaping the recommendations within this plan.

Participating stakeholders represented a diverse cross-section of the community. Some had moved to Lansing as recently as 6 months prior to the time of the interview, while others had lived in Town or the surrounding area for nearly 60 years. About half were born in Ashe County or nearby, with the rest having moved into the area from locations across the United States. The diversity of stakeholders helped ensure a wide range of perspectives on current land use within the Town and visions for the community moving forward.

While answers were mixed, stakeholders frequently cited Creeper Trail Park, the mountainous setting, and affordable cost of living as reasons they chose to reside in Lansing. One relative newcomer to the community noted that they felt it is a “Town on the rise” and they were excited to “get in on the ground floor.” Interviewees gave a variety of answers when asked about their first impressions of Lansing. Some mentioned that they initially thought it was rundown and poor, with properties that needed cleaning up. Others mentioned the scenic surroundings and impressive park.

When asked how they would describe the Town to someone who had never visited, one stakeholder responded “It’s a good place to find peace of mind. You can walk around Town with your family. It’s a good place to relax and be content.” One person characterized it as “gritty and stacked with potential,” while another said it was “a great small town that hasn’t lost its feel of classic Americana. It is a great culture shock for folks to experience.” Others described it as a place with great outdoor opportunities and local restaurants.

*“A great small town
that hasn’t lost its
feel of classic
Americana.”*

A couple of common themes emerged among stakeholder responses when asked how Lansing has changed over the years. Half of respondents indicated that the number of businesses and offices downtown had decreased, pulling life out of the community in the process. Of particular concern were the loss of the Town’s only bank and doctor’s office, and the closure of the Lansing School, which collectively drained people out of the community. Several stakeholders felt these losses transformed Lansing from a place to



stop and live to a place that is just along the way to somewhere else. Many noted the need for basic service businesses such as a medical office, bank, and clothing store to draw folks back into Town. Despite their expressed concerns, nearly all stakeholders voiced optimism about the community's future. Many noted that the Town was becoming increasingly proactive, with recent successes such as Creeper Trail Park representing a step in the right direction. Others pointed to Lansing's growing reputation as an artisan and outdoor recreation community.

Stakeholders were asked to express their feelings about each of the following types of land use development within Lansing: apartments, single-family homes, local retail, national retail, home-based businesses, offices, mixed-use, recreation, industry, and tourist-oriented. A summary of responses for each land use type is contained within the table below and on the following page.

Land Use Type	Stakeholder Response
Apartments	Most respondents felt more development of apartments would be good for Lansing and that demand existed for them. Of those who supported apartments, some felt that mixed-use apartments would be more appropriate for Town than standalone apartment complexes.
Single Family Homes	Stakeholders had a mixed reaction. Some felt there were enough already, while others thought more were needed. Among those who felt there were enough, commonly expressed concerns included rising prices due to second-home construction and limited area for development due to infrastructure and topography. Among those who wanted to see more, reasons cited were the need for places for people to live and that home-ownership lent itself to community involvement and investment.
Local Retail	All stakeholders felt this was an important land use type to cultivate and expand within Town. Many expressed a goal of seeing every storefront in the downtown area full.
National Retail	Just over half of respondents stated that they would not like to see this land use type within town. Reasons cited were that it would "ruin the town's unique character" and detract from locally-owned businesses. Among supporters of this land use type, many cited the need for business growth regardless of source.
Home-Based Businesses	Nearly all stakeholders were either supportive of this land use type or had no opinion on it. Some indicated that it was a great way for entry into the market and a fair method for residents to make a living. One respondent expressed concern over business traffic on residential streets.
Offices	This land use type enjoyed universal support from stakeholders. Many mentioned that services were needed such as a medical office or bank.



Land Use Type	Stakeholder Response
Mixed-Use	This land use type received broad support among interviewed stakeholders. Reasons for support included its benefits to accessibility and efficient use of limited space within the corporate limits.
Recreation	All respondents felt this land use type was important for the Town. While most thought there is room for expansion of recreational land, some felt the existing acreage dedicated to it is sufficient.
Industry	Stakeholders expressed a desire to limit this type of land use to the outskirts of town rather than near the downtown core. Many felt that light industrial may be the best fit, as it would provide the economic benefits while reducing potential property devaluation and environmental harm.
Tourist-Oriented	Respondents felt that growth in this land use type would be beneficial, but only in moderation. Many saw tourism as a potential economic driver of Lansing's future economy but expressed concern over becoming a tourist-town. Some mentioned that they felt West Jefferson had recently grown as a tourist town and is no longer affordable for the locals. Stakeholders wished to balance the benefits of tourism with the need to remain "a community that people are actually living in."

Stakeholders were asked if they thought it would be good for the high number of large rural tracts within town to develop. All respondents expressed a desire to see these tracts develop, aside from two participants who had no opinion. One mentioned that increased infill activity would enhance Lansing's village aesthetic, which was echoed by another who felt that there was enough rural land surrounding Town. Most respondents desired to see this land develop for residential or commercial enterprises rather than agriculture.

All respondents hoped to see the population of Lansing grow over the coming years. Many indicated that population growth would better sustain local businesses, which in turn could attract more population. Stakeholders cited numerous characteristics of the Town that could attract growth including outdoor recreational opportunities, local restaurants, safety, the close-knit community, and welcoming people. Several stakeholders felt the area was poised for growth. One respondent predicted that growth may come as a by-product of West Jefferson's success. They believed that Ashe County residents who are looking for an affordable place to live, but who still want a "town feel," may migrate to the area. One respondent noted that "Lansing is a gem that is being polished right now."

"Lansing is a gem that is being polished right now."



Stakeholders had mixed feelings on where new residents would live if Town population were to grow. Some felt there was enough vacant housing to accommodate growth, while others thought that new housing would need to be constructed. A couple of respondents believe that corporate limits would have to expand to accommodate growth, while others felt that new construction should be limited to areas with adequate infrastructure. One expressed concern over parking availability if growth occurred. Another felt that growth would be most beneficial if it were to begin in the downtown core then slowly expand outwards. Participating stakeholders were asked to give their personal vision for Lansing. A diagram capturing each respondent's vision is below.

What's Your Vision for Lansing?

Cleaned up, but not necessarily changed.
Less empty storefronts.

An idyllic small town representing moral values. Clean, safe, and family-oriented.

Renovate the abandoned hardware store.
More businesses.

Hustling and bustling, but still a unique small town

Full storefronts and cleaned up properties

A clean, quaint little town with benches, landscaping, and more events in the park

A destination for short-term visits. Not a retirement community.

More people, employment, and entertainment in a cleaned-up downtown

An arts school in the old Lansing School building

Having a bank in Town again



Public Input Summary

Feedback solicited via the survey and stakeholder interviews revealed several takeaways regarding public preferences in Lansing:

- Residents are concerned about the appearance of Town, especially vacant and rundown commercial properties in the downtown area
- There is a desire to see development and population growth occur
- Residents value scenic beauty and the natural environment within and surrounding Lansing and support regulations that would preserve these aspects
- There is widespread recognition that tourism is important to Lansing's future, but also a desire to see the Town remain a close-knit country community
- A public library would be supported and utilized by residents
- There is support for regulations that would improve or preserve Lansing's small-town charm, but not for arbitrary restrictions and segregation of non-disruptive land uses
- Residents view Lansing as a place filled with potential and are excited about the future



Demographics

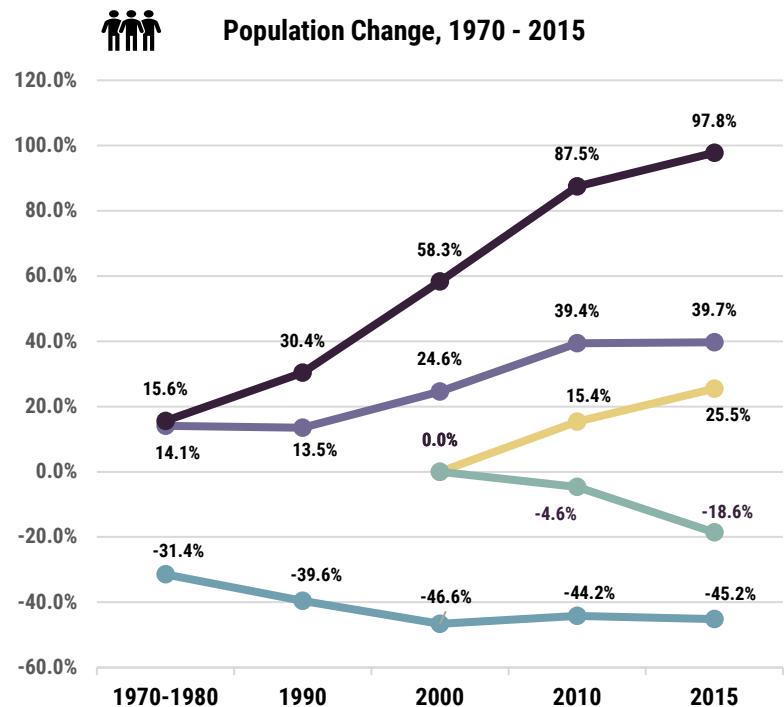
Population

Lansing experienced significant population decline between 1970 and 2000, losing nearly half of its residents in a 30-year span. That trend has since leveled out, with the population hovering between 150 and 160 from 2000 to 2015. Population totals for Lansing's two zip codes are heading in opposite directions. The 28643 zip code is steadily increasing in population while the 28693 zip code is decreasing. Ashe County's population has grown by nearly 40% since 1970, but growth rate has slowed considerably since 2010. Meanwhile, North Carolina has experienced rapid population gains, particularly since 2000. Population trends for the five political jurisdictions can be seen in the table in the upper right and in the chart below.

Total Population, 1970 - 2016

Year	Lansing	28643 Zip Code	28693 Zip Code	Ashe County	North Carolina
1970	283	N/A	N/A	19,571	5,084,411
1980	194	N/A	N/A	22,325	5,880,095
1990	171	N/A	N/A	22,209	6,632,448
2000	151	3,052	1,782	24,384	8,046,813
2010	158	3,521	1,700	27,281	9,535,483
2015	155	3,830	1,450	27,332	10,056,683

Source: North Carolina State Agency Data, Office of the Governor & American Community Survey



Map of Lansing and surrounding zip codes



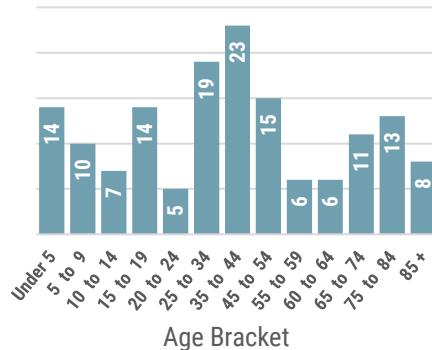
Source: North Carolina State Agency Data, Office of the Governor



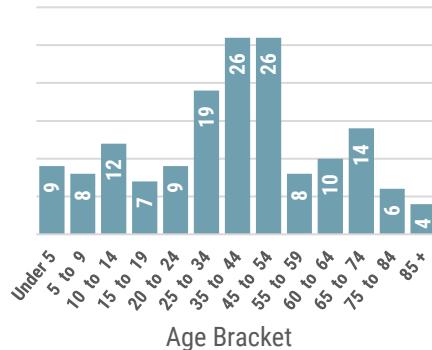
According to the 2010 census, most of Lansing's population is between the ages of 25 and 54. The number of residents under the age of 25 and over the age of 55 is roughly the same. When compared to figures from the 2000 decennial census, one can see that the average age of Lansing residents is increasing. The number of residents under the age of 20 dropped by 20% from 2000 to 2010, while the number of residents between the ages of 20 and 54 grew by 22.5%. The amount of the population age 55 and older remained roughly the same. Population between ages 35 and 54 increased sharply, growing by nearly 37%. The trend of an aging population is in-line with countywide and zip-code level demographic changes during the same period. A breakdown of the 2010 population by sex and race can be seen below and on the following page.

Source: U.S. Census

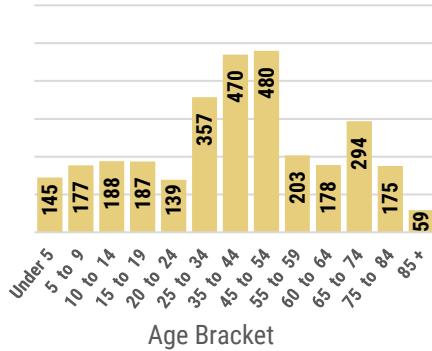
Number of Lansing Residents by Age Bracket, 2000



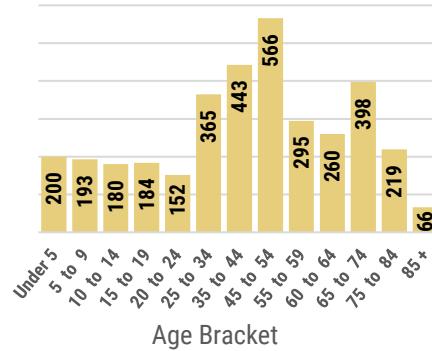
Number of Lansing Residents by Age Bracket, 2010



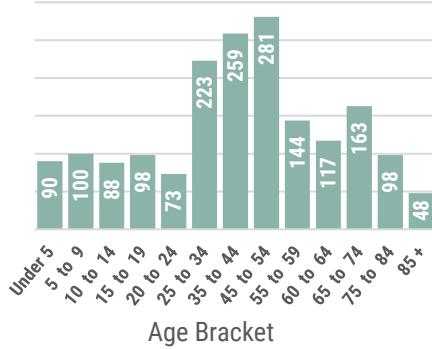
Number of 28643 Zip Code Residents by Age Bracket, 2000



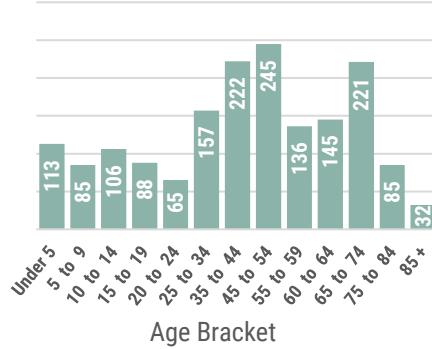
Number of 28643 Zip Code Residents by Age Bracket, 2010



Number of 28693 Zip Code Residents by Age Bracket, 2000



Number of 28693 Zip Code Residents by Age Bracket, 2010



2010 Population by Sex

	Lansing	28643 Zip Code	28693 Zip Code	Ashe County	North Carolina
Male	48.1%	49%	51.3%	49.4%	48.7%
Female	51.9%	51%	48.7%	50.6%	51.3%

Source: U.S. Census

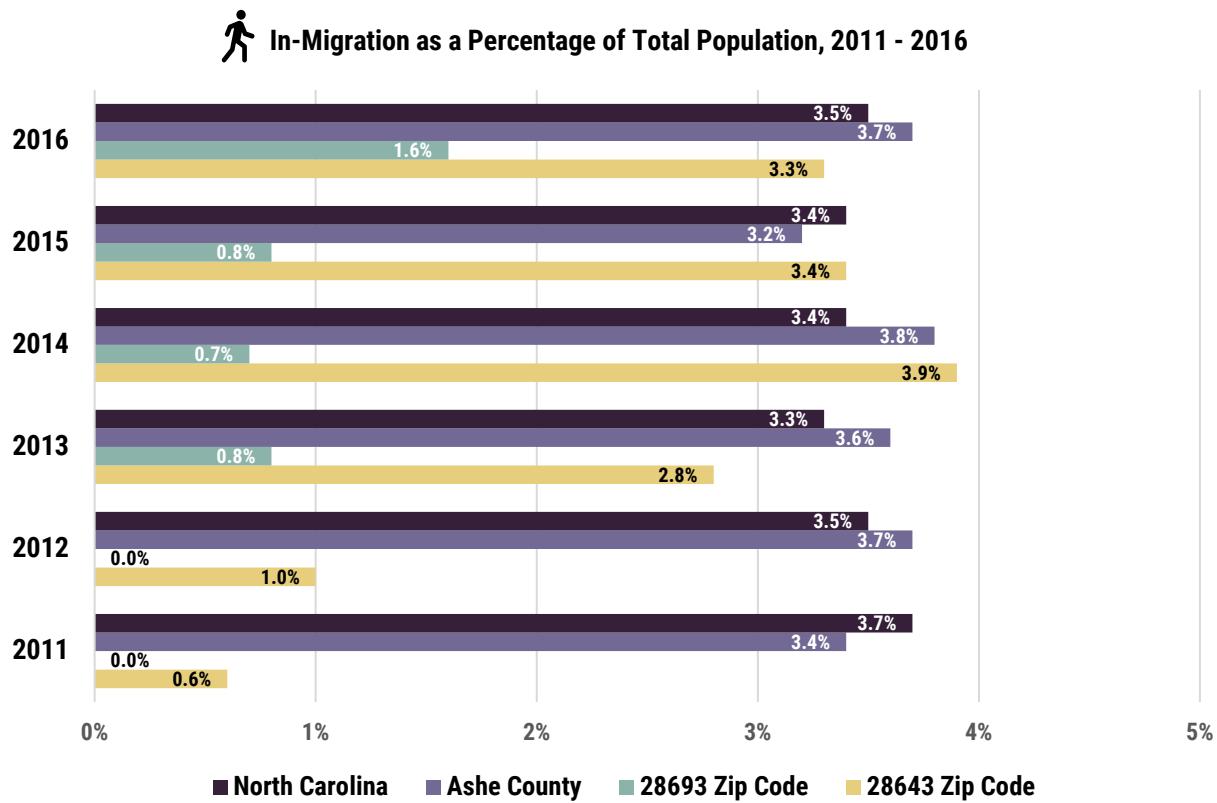


Population by Race, 2010

	Lansing	28643 Zip Code	28693 Zip Code	Ashe County	North Carolina
White	94.3%	97.8%	96.2%	95.5%	68.5%
Black or African American	1.3%	0.3%	0.4%	0.6%	21.5%
Asian	0.0%	0.1%	0.2%	0.4%	2.2%
Another Race	1.2%	0.8%	1.9%	2.5%	5.6%
Two or More Races	3.2%	1.0%	1.3%	1.0%	2.2%

Source: U.S. Census

Each year, the U.S. Census Bureau's American Community Survey compiles estimates of the number of residents that migrated into a political jurisdiction or tabulation area from another location. The chart below shows the percentage of each jurisdiction's population that migrated into the area during each year from 2011 to 2016. It is important to note that these figures are only estimates and have increasingly larger margins of error for jurisdictions with smaller populations. For this reason, migration figures for the Town of Lansing were omitted from the chart.

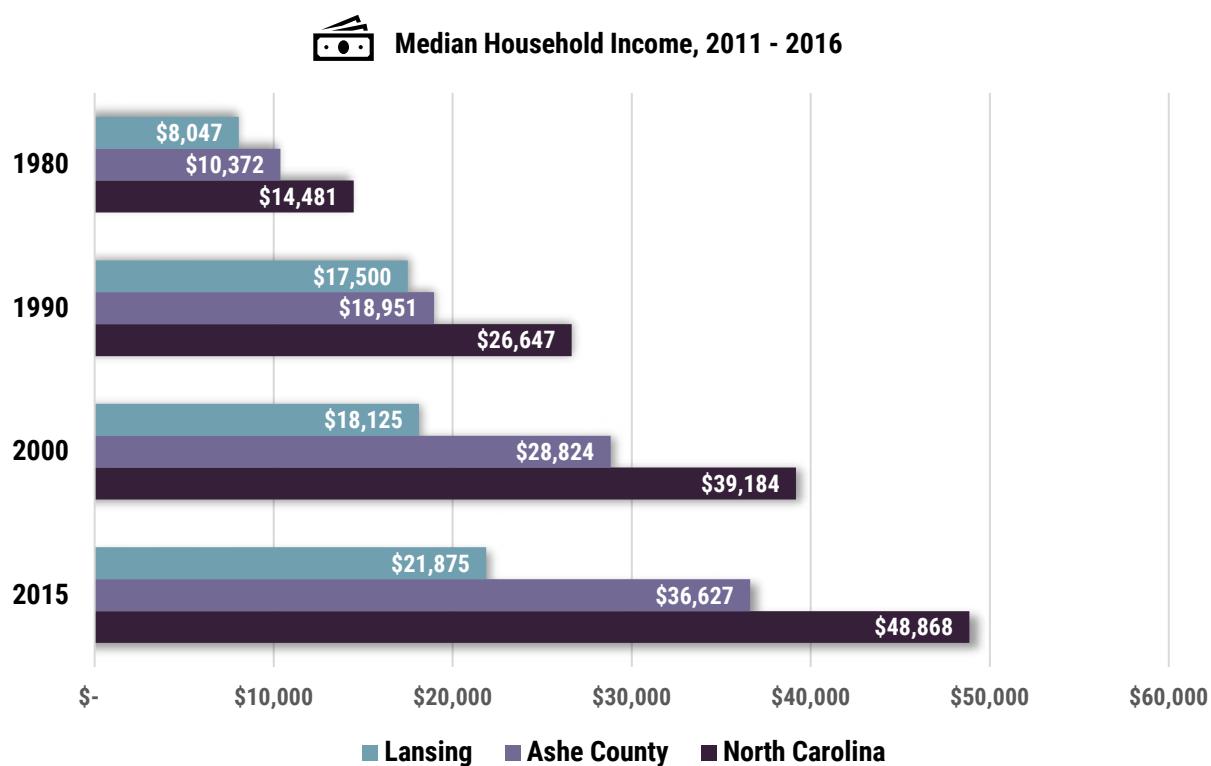


Source: American Community Survey



Economic Characteristics of the Population

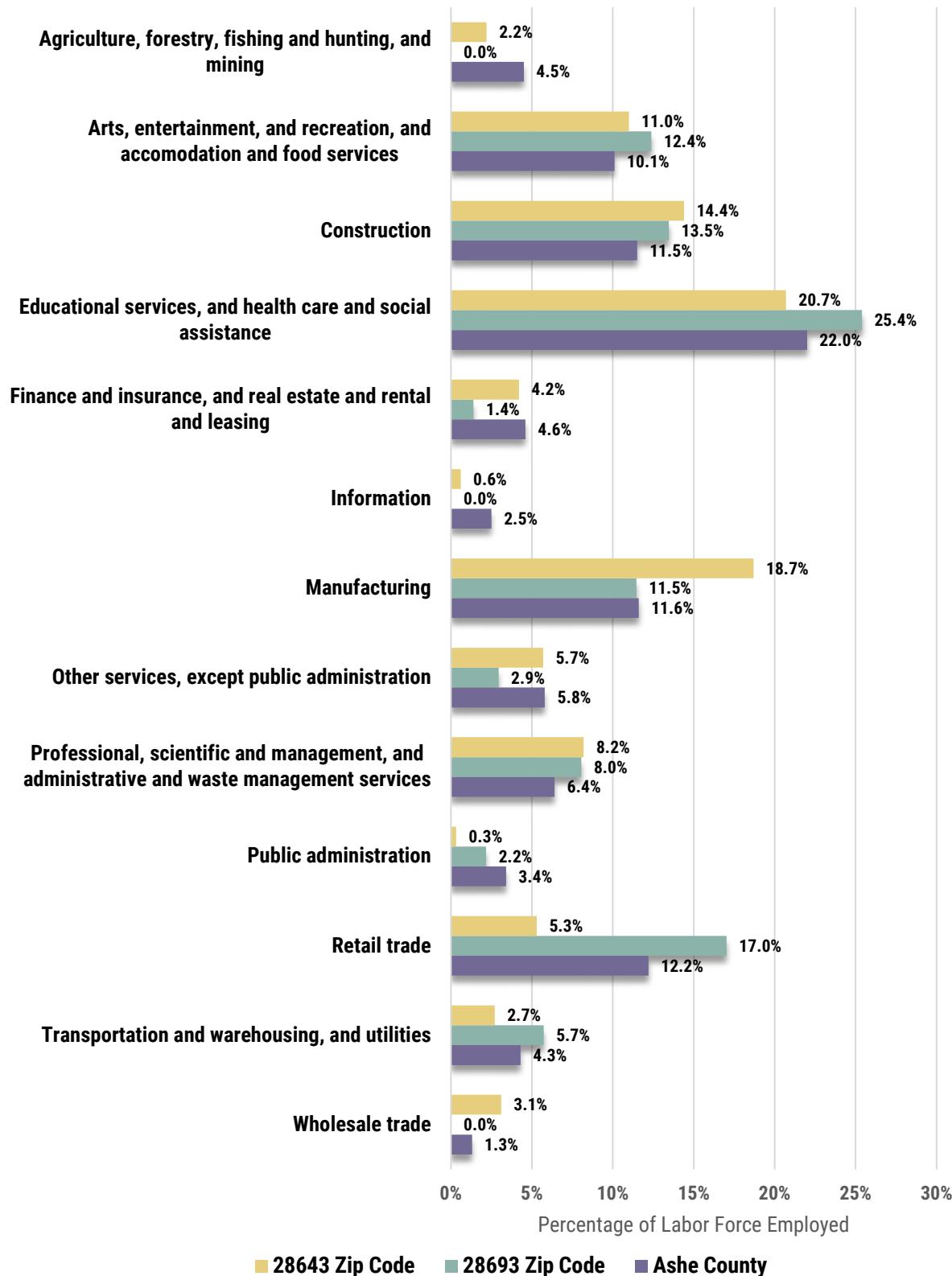
Median household income in Lansing grew by just over 20% between 2000 and 2015, from \$18,125 to \$21,875. Despite that growth, income for Town residents still lagged behind income figures for Ashe County and the state, as shown in the chart below.



Source: U.S. Census Bureau

Lansing area residents are employed in a wide range of industries, as shown on the chart on the following page (accurate Town-level data not available). According to the American Community Survey, the largest sectors of employment for the area's population is educational services, health care, and social assistance followed by manufacturing, arts, entertainment, recreation, accommodation, and food services. Area residents have much lower employment levels within sectors such as agriculture, forestry, finance and insurance, information, transportation, warehousing, and utilities.

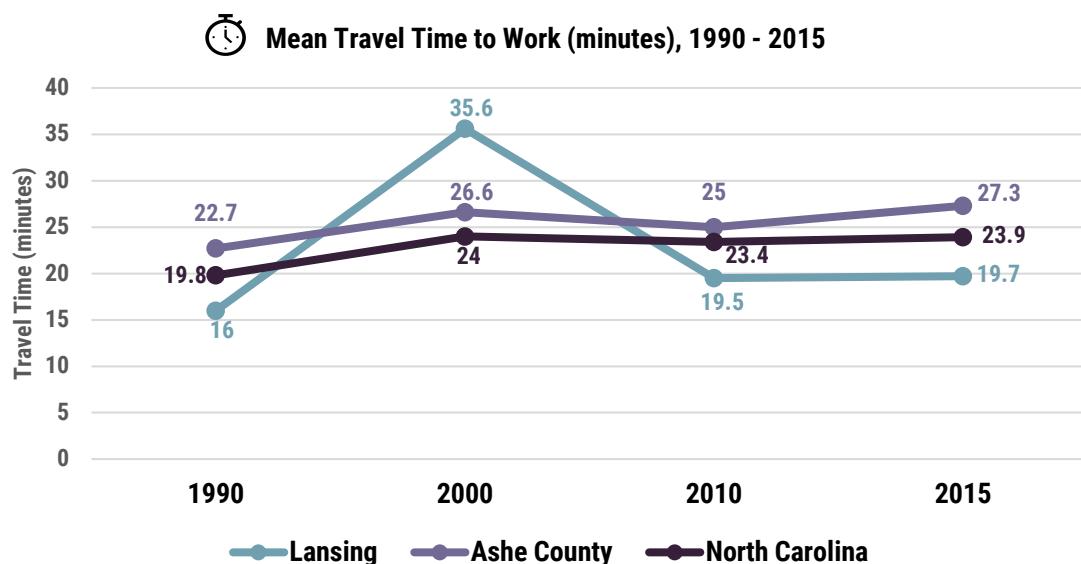
Occupation by Industry, 2016



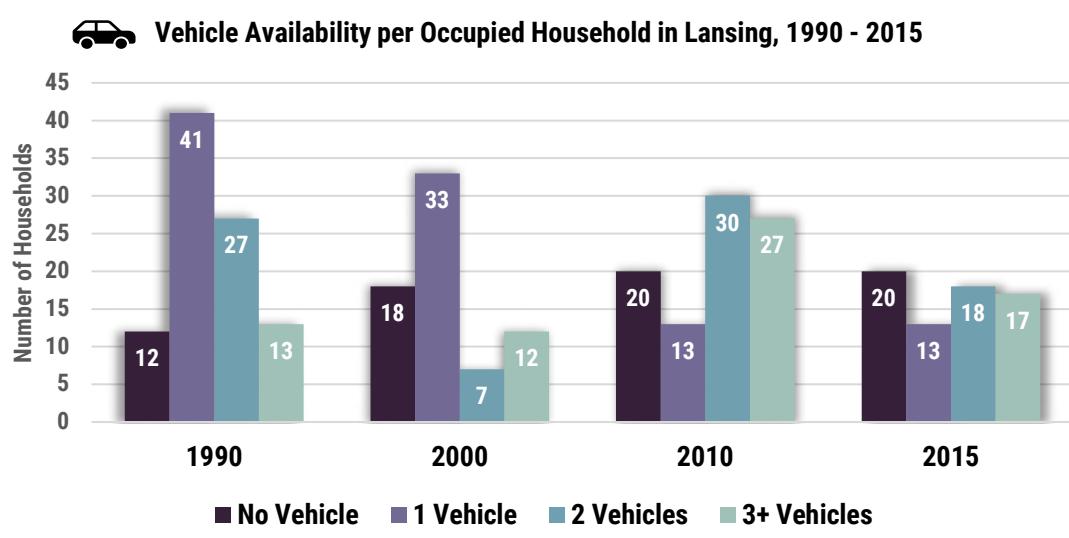
Source: American Community Survey



Many Lansing residents commute for work, with an average one-way travel time of 19.7 minutes as of 2015. While some residents may have much longer commutes, the mean travel time suggests that a majority work within Ashe County. Notably, commute time for Town residents is lower than the County and State and has fallen considerably since its high of 35.6 minutes in the year 2000. Though commuting trends may be relatively better than countywide figures, they still represent a significant burden on Town residents. As shown in the chart at the bottom of this page, nearly 30% of occupied households in Lansing do not have a vehicle. Lack of transportation availability, combined with the need to commute for access to employment, may represent an impediment to household financial success for some Town residents.



Source: U.S. Census Bureau



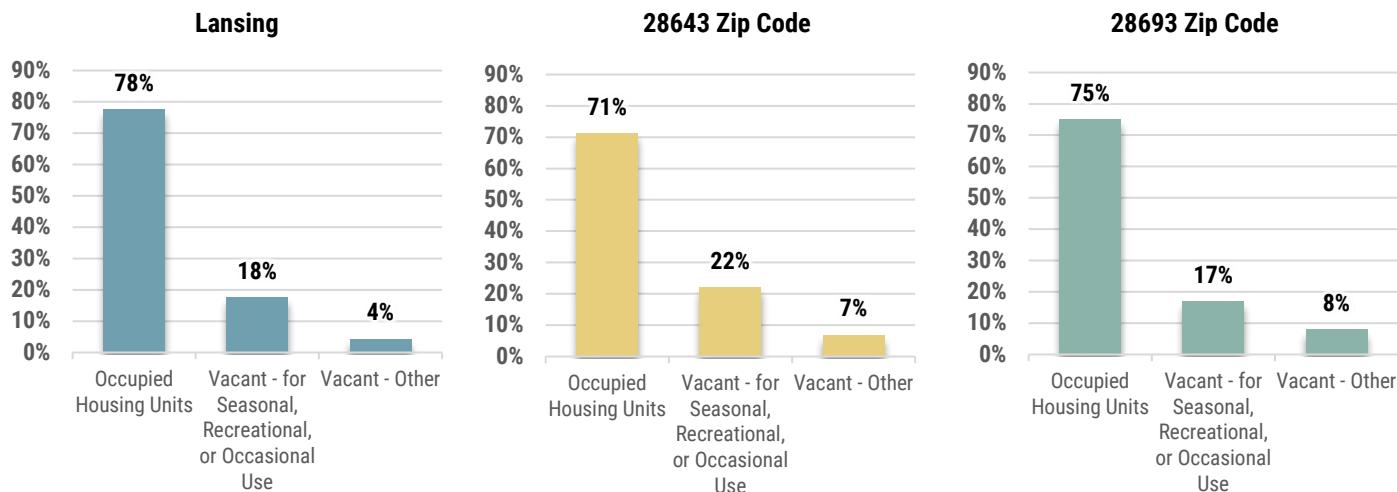
Source: U.S. Census Bureau



Housing Characteristics

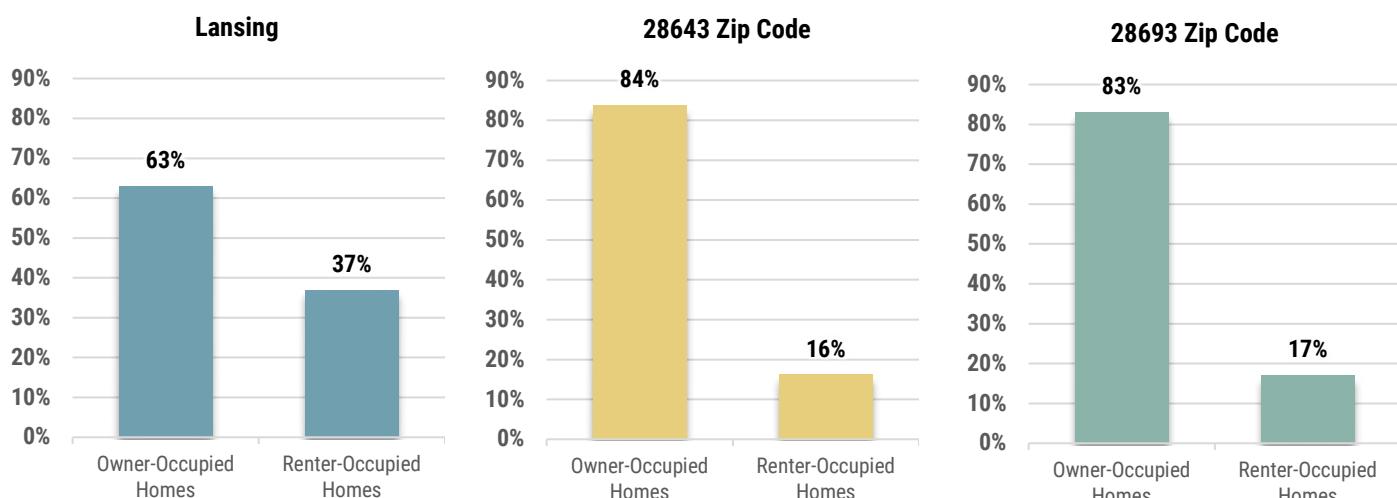
According to the decennial census, there were 90 total housing units within the corporate limits of Lansing in 2010. Of those, approximately 78% were occupied. Most occupied housing units were owner-occupied, but renter-occupied units still accounted for 37.1% of the total. Lansing has a much higher rental rate than its surrounding zip codes.

🏡 Housing Occupancy, 2010



Source: 2010 U.S. Decennial Census

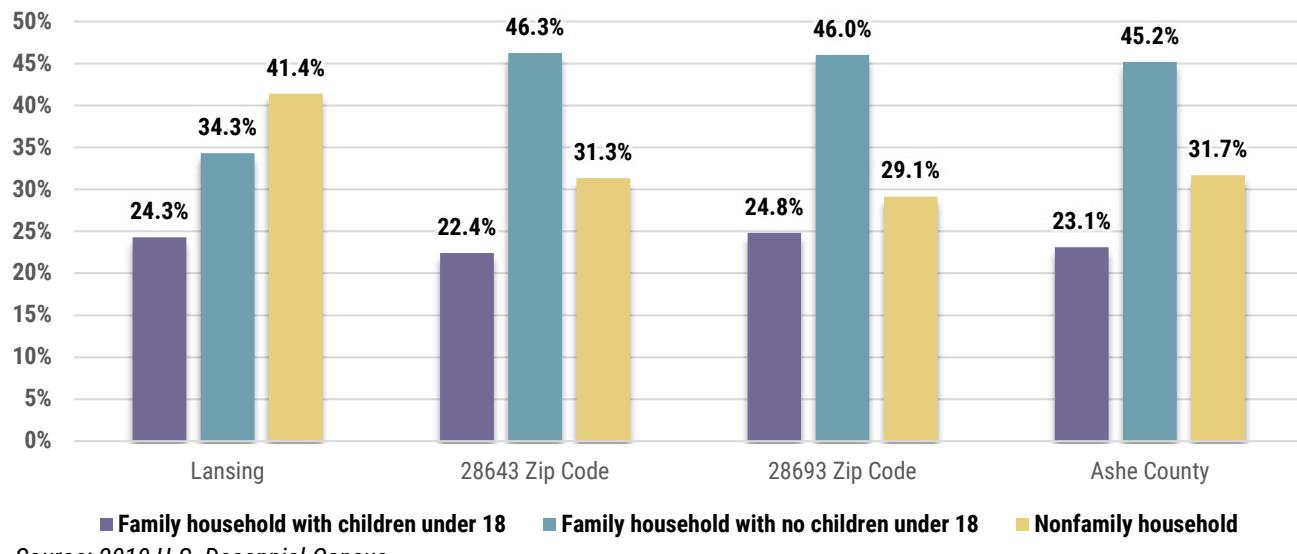
🏡 Housing Tenure, 2010



Source: 2010 U.S. Decennial Census



⬆️ Households by Type, 2010

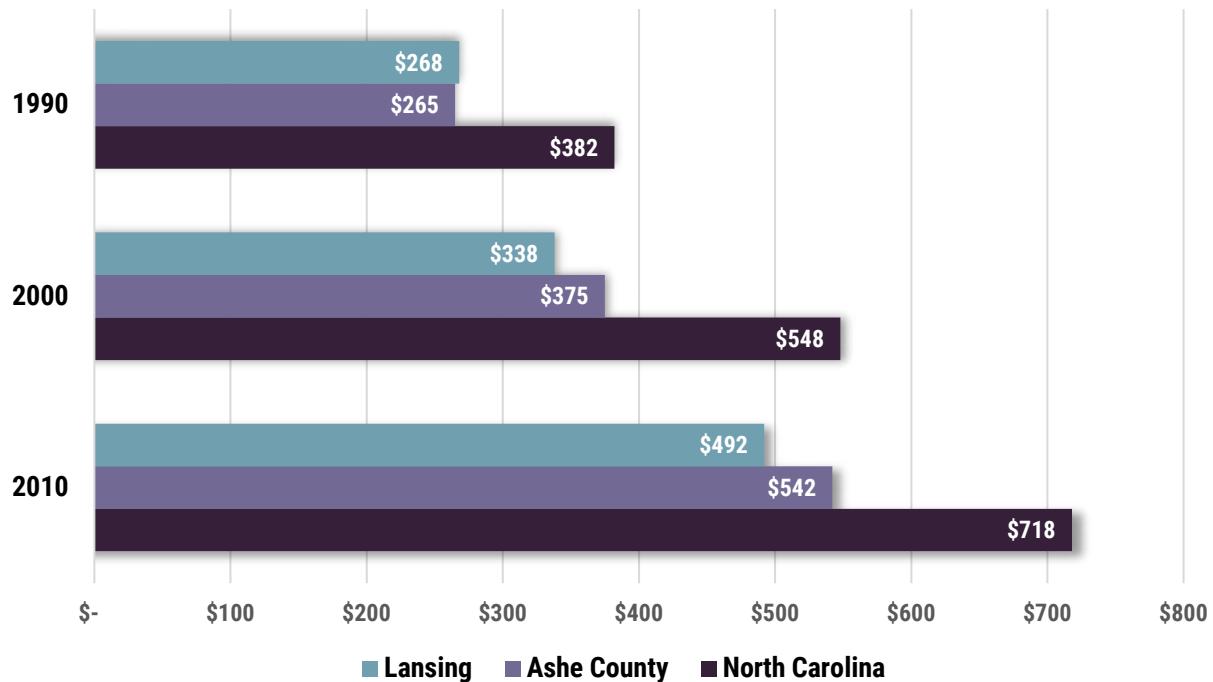


■ Family household with children under 18 ■ Family household with no children under 18 ■ Nonfamily household

Source: 2010 U.S. Decennial Census

The average household size within the Town as of 2010 was 2.26 persons. As shown in the chart above, most housing units in Lansing accommodated nonfamily residents at higher rates than neighboring zip codes or the County as a whole. Residential rent within the Town and County increased significantly between 2000 and 2010, by nearly 50% in both jurisdictions. Median housing values increased dramatically during this period as well.

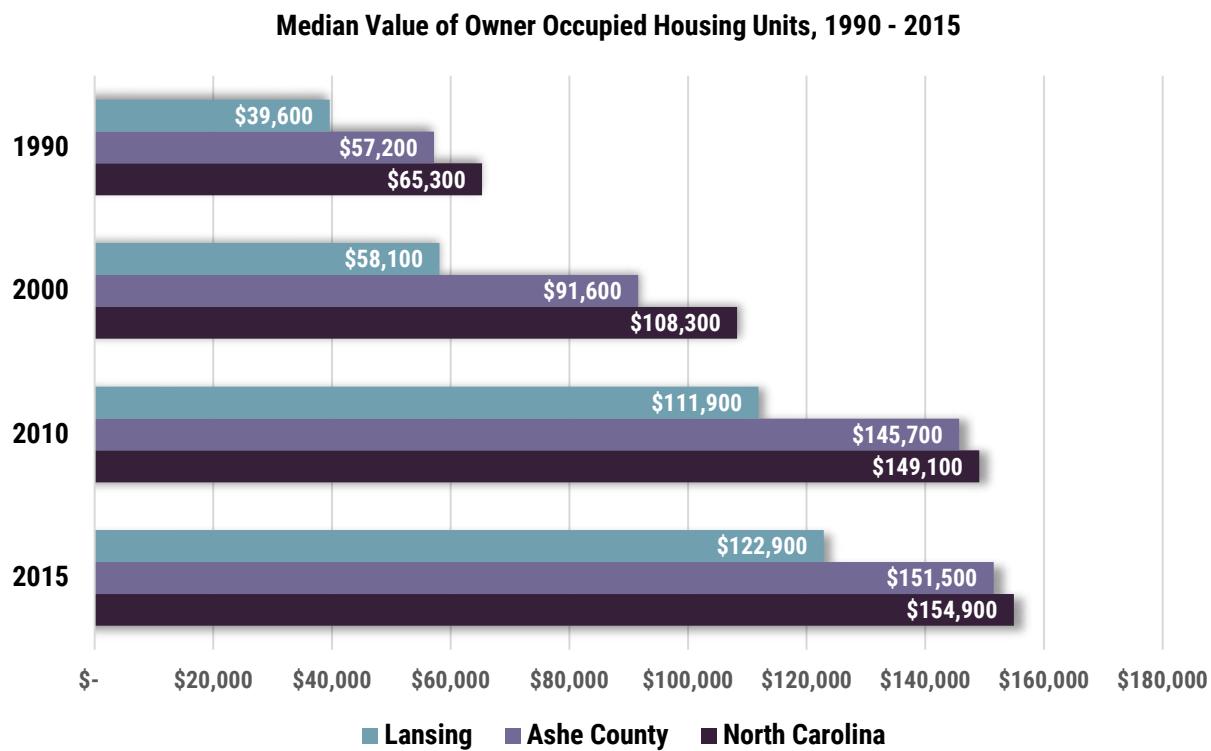
🏡 Median Gross Monthly Rent, 1990 - 2010



Source: U.S. Census Bureau



As of 2010, median monthly rent within Town was \$492, \$50 less than the countywide rate and \$226 less than the statewide rate. Median value of owner occupied housing units in Lansing in 2015 was \$122,900, which fell approximately \$30,000 below Ashe County and state averages.



Land Use

Existing Land Use

Development within the corporate limits of Lansing is characterized by a dense downtown area surrounded by sparse construction in the outskirts. The most predominant land use type within Town in terms of acreage is residential/rural, while the most predominant type in terms of total number of parcels is residential. A table containing statistics related to existing land use can be found on the next page, while a map displaying the location of land use types within Town can be found on page 33. The following classifications were used to analyze and catalogue existing land uses:

Agriculture – Includes land used solely to produce crops, poultry, or livestock products.

Commercial – Includes land dedicated to the sale of both wholesale and retail goods and services, and land dedicated to uses pertaining to the rendering of executive, professional, or “white-collar” services.

Government – Includes all government buildings, including fire and police, as well as parcels that are dedicated to public utilities.

Industrial – Includes all land uses that pertain to the manufacturing, fabrication, mass storing, and/or distribution of goods.

Institutional – Includes all land uses that are deemed to be of public importance or of cultural value. This includes civic clubs, churches, cemeteries, schools, nursing centers, non-profits, or any other use that involves the provision of cultural or civic services to the Town.

Manufactured Home Park – Includes parcels that contain multiple single-wide or double-wide mobile homes where residents lease the land their home is situated upon rather than owning it.

Mixed – Includes land where multiple disparate uses, such as residential and commercial, are located on a single parcel in a structure designed to accommodate both. A common example of mixed development is a structure that contains a storefront on the first floor with a residential dwelling on the second floor.

Recreational – Includes all land that is primarily dedicated to public and private recreation.

Residential – Includes property where single family homes or duplexes are the primary land use. This classification does not include parcels over 2.0 acres in size that may contain a residential dwelling but are predominately vacant/undeveloped or feature significant agriculture usage. *Note: There are no existing multi-family residential land uses in Lansing.*



Residential/Agricultural – Includes property that features single family homes or duplexes and significant agricultural usage on a single parcel.

Residential/Rural – Includes parcels over 2.0 acres in size that contain single family homes or duplexes but are predominately vacant/undeveloped and not used for agriculture.

Rural – Includes undeveloped parcels in a natural state that have no residential or agricultural use.

Vacant – Includes undeveloped parcels that have been cleared and that have no residential or agricultural use.

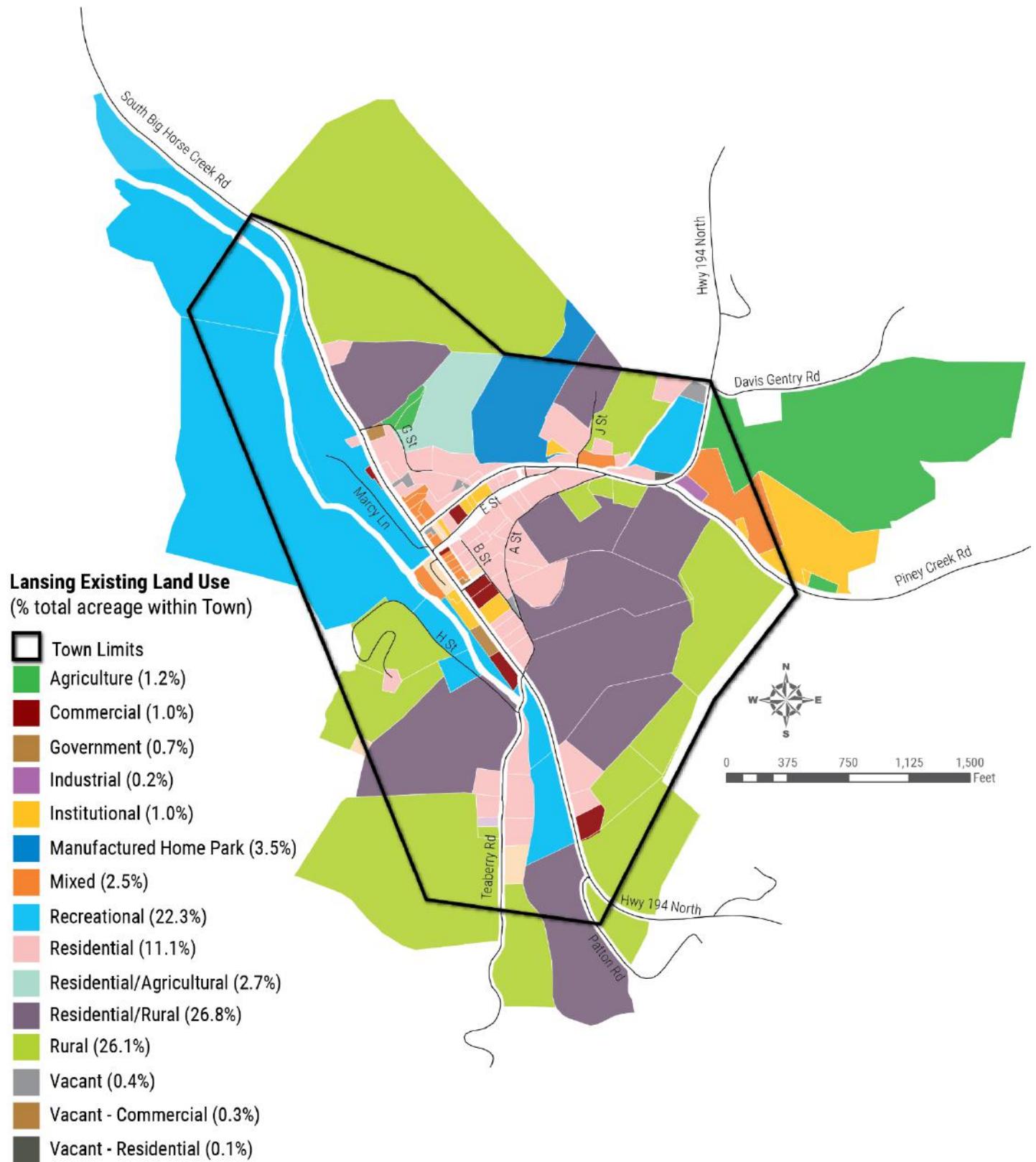
Vacant-Commercial – Includes parcels with a building that was formerly used for commercial purposes but is now unoccupied.

Vacant-Residential – Includes parcels with a building that was formerly used for residential purposes but is now unoccupied.

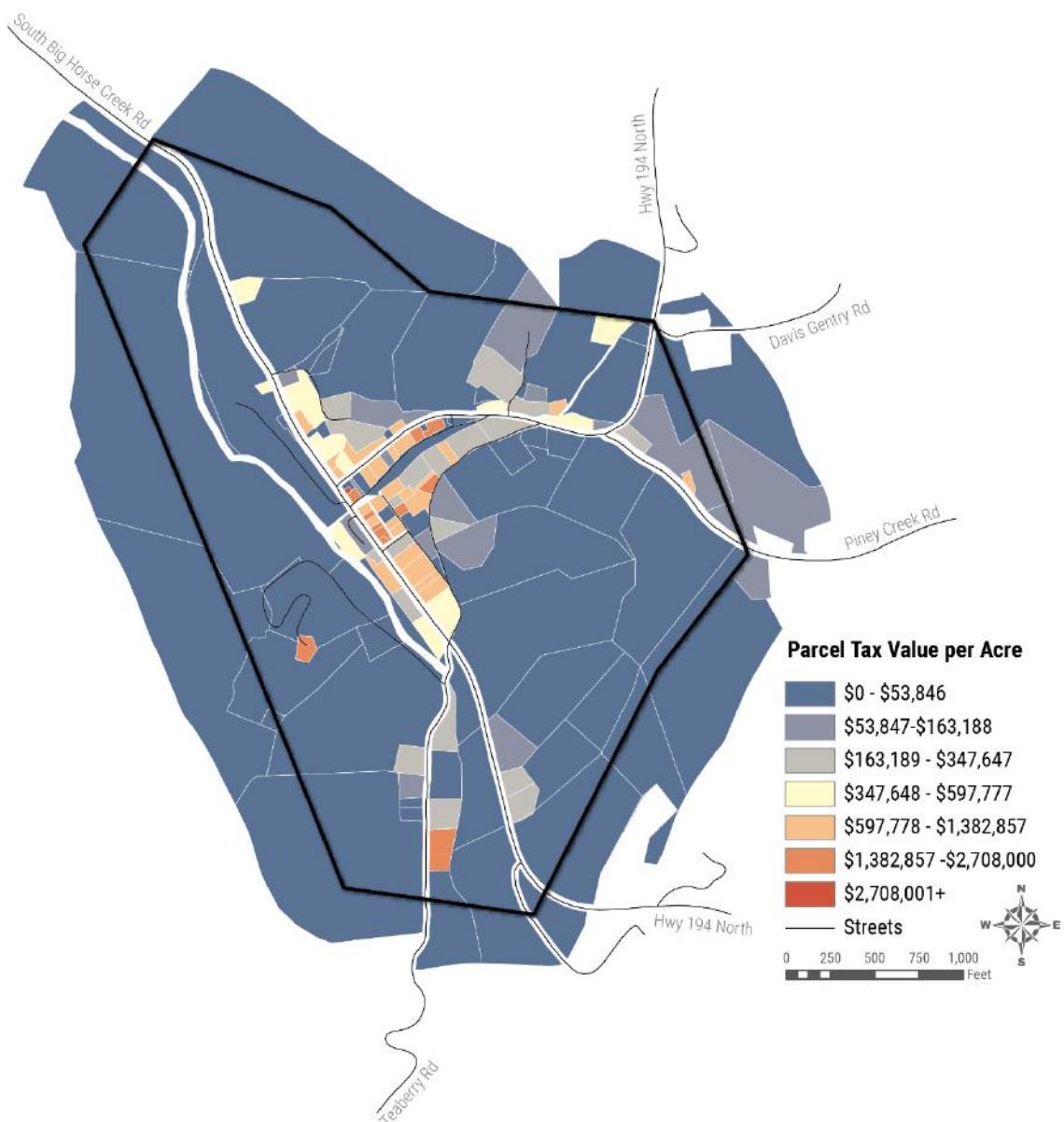
Breakdown of Existing Land Use in Lansing

Land Use Classification	Number of Parcels	Percentage of Total Parcels	Acres	Percentage of Total Acreage
Agriculture	4	2.8%	2.39	1.2%
Commercial	8	5.6%	1.85	1.0%
Government	6	4.2%	1.38	0.7%
Industrial	1	0.7%	0.33	0.2%
Institutional	11	7.7%	1.98	1.0%
Manufactured Home Park	1	0.7%	6.8	3.5%
Mixed	15	10.6%	4.94	2.5%
Recreational	9	6.3%	43.45	22.3%
Residential	52	36.6%	21.61	11.1%
Residential/Agricultural	1	0.7%	5.25	2.7%
Residential/Rural	9	6.3%	52.12	26.8%
Rural	15	10.6%	50.77	26.1%
Vacant	5	3.5%	0.77	0.4%
Vacant – Commercial	3	2.1%	0.6	0.3%
Vacant - Residential	2	1.4%	0.28	0.1%





52.9% of the land area within Lansing is classified as either rural or residential/rural, indicating that there is ample space for future development without expanding corporate limits. This is true even when accounting for environmental factors (see Environmental Features section for more information). Lansing's most productive land in terms of tax value can be found in the downtown area where the development pattern is characterized by a mix of uses, clustered structures, and small parcels. As illustrated by the map below, this type of development pattern generates a much higher rate of tax value per acre as compared to the rural perimeter of Town. Promoting this form of development and focusing on areas where infrastructure is already present provides the most sustainable path for growth of the Town's population, businesses, and tax base.



Existing Land Use Regulations

Unlike Jefferson and West Jefferson, Lansing has not adopted subdivision regulations, zoning, or an extraterritorial jurisdiction. The only land use regulation currently enforced by the Town is an ordinance providing for the prevention and abatement of public nuisances on private property. This ordinance addresses overgrown vegetation that impairs vehicular traffic sightlines, accumulation of offensive animal or vegetable matter, excess rubbish or junk, hazardous waste accumulation, storm damaged structures, and fire-damaged structures. The Town has adopted regulations governing parking signage in the public right-of-way, but otherwise places no restrictions on signage located on private property.

The unincorporated area surrounding the Town is not subject to zoning restrictions either but does fall under the jurisdiction of Ashe County's subdivision regulations. The County has also enacted a set of high impact land use regulations that establish criteria relating to land uses that may create potential danger from explosions, production of objectionable levels of noise, odors, vibrations, fumes, light, or smoke or have impacts upon the areas adjacent to them. These regulations are only in effect within the unincorporated areas of the County.

The Federal Emergency Management Agency designates Special Flood Hazard Areas throughout the United States. These are areas that will be inundated by a flood event having a 1-percent chance of being equaled or exceeded in any given year. More information on these areas can be found on pp. 50-51. Before property owners can purchase insurance from the National Flood Insurance Program, communities must first adopt a federally prescribed set of standards governing development within these flood hazard areas. The intent of these standards is to minimize risk to property and persons in the event of a flood. Ashe County has adopted a Flood Damage Prevention Ordinance containing these standards. Its provisions apply to the entirety of the County, including all incorporated areas.

The County issues building permits for residential and commercial structures within Lansing according to the standards set forth in the North Carolina State Building Code, which encompasses regulations related to structural composition, energy conservation, fire prevention, fuel gas, mechanical, and plumbing. Additionally, the North Carolina Department of Environmental Quality requires property owners and developers anywhere in the State to obtain a permit for any construction, grading, or clearing activities that disturb an area greater than one acre. Disturbance of this size must meet certain stormwater requirements intended to protect water quality and control runoff. Construction or grading of an area less than one acre within the Town of Lansing is not required to adhere to these standards.



North Carolina General Statute 160A, Article 4A permits municipalities to expand their corporate limits through annexation and sets forth the process and requirements governing any expansion. Annexation has been a popular method in years past of increasing a municipality's tax base and providing a short-term infusion to revenue. However, North Carolina law requires expansion of public services, including water and wastewater, to any annexed property. The long-term cost of maintaining such infrastructure, as well as any new publicly dedicated roadways, should be thoroughly considered before an annexation is undertaken. In all but a few instances, such as where a new development would significantly increase tax and utility revenue, annexation very seldom makes financial sense for a community of Lansing's size.

Land Use Recommendations

- ***Adoption of a zoning ordinance or subdivision regulations does not appear to be necessary at this time.*** Development and population growth are not occurring at a pace that would justify the need for these types of regulation. Responses gathered through the public input process indicate that most citizens place a higher emphasis on seeing development occur and are less concerned about segregation of uses. Additionally, consistent enforcement of these types of regulation may prove burdensome on staff. Should the pace of development and population growth increase, the Town should revisit the issue and consider regulations that focus on form and promotion of compact development rather than segregation of uses, thus maximizing developable land within Town limits.
- ***Adopt non-residential property maintenance regulations.*** Public input participants consistently ranked property maintenance as a top priority for the community, particularly with regards to vacant commercial properties in the downtown area. North Carolina General Statutes authorize local governments to adopt and enforce regulations governing property maintenance. Appendix A contains a chart developed by the University of North Carolina School of Government detailing authorized regulations depending upon property condition. An example vacant commercial property maintenance ordinance from Warrenton, NC is included within Appendix A as well. Any non-residential property maintenance regulations adopted by Lansing should act as a supplement to the existing ordinance, which provides for the prevention and abatement of public nuisances on private property. Ordinance provisions should take into consideration the increased demand on staff time and resources required to administer it.



- ***The Town should not expand corporate limits at this time.*** The state requirement to extend water and sewer infrastructure to any newly annexed areas make it financially unviable for Lansing except in rare circumstances where a large development would significantly increase Town revenue and water/wastewater consumption. Ample undeveloped land exists within corporate limits to accommodate future small-scale growth.
- ***Request Ashe County to expand the jurisdiction of its High Impact Land Use, Adult Establishments, Communications Towers, and Electronic Gaming ordinances to cover all areas within corporate limits.*** G.S. 153A-320 and G.S. 160A-360 allow counties within North Carolina to exercise any planning and development regulation powers within a city's corporate limits at the request of the city's legislative body. Copies of these four County ordinances are provided in Appendix B. Extension of these ordinances to govern their respective activities within Lansing would provide a degree of protection in the absence of a Town zoning ordinance and without adding administrative duties onto Town staff.
- ***Adopt a basic stormwater management ordinance to protect neighboring properties, public health, and the environment.*** A model local government stormwater management ordinance developed by High Country Council of Governments is attached in Appendix C to serve as a template.
- ***Adopt a straightforward sign ordinance designed to prevent installation of signs which may pose safety risks or detract from the aesthetic beauty of the community.*** The Board of Mayor and Aldermen should hold work sessions, designate a committee made up of community members, or utilize a hybrid of the two methods to develop a set of regulations that require approval for new signs and stipulate a minimal set of restrictions on their size, character, and location. It is important that the new ordinance be easy to administer for Town staff and readily understandable to property owners. Any sign restrictions should be content-neutral in order to comply with the U.S. Supreme Court's ruling in *Reed v. Town of Gilbert*. Ashe County's sign regulations, attached as Appendix D, is provided as a framework for the discussion.



- ***Develop a streetscape plan for the downtown area.*** A streetscape plan could address pedestrian improvements, parking, roadway geometry alterations to improve safety, and aesthetic enhancements in the downtown area. NCDOT should be consulted throughout the plan development process in order to ensure plan recommendations are feasible. Having a streetscape plan could open the door for external funding to implement plan elements. Streetscape improvements would build upon the Town's work at Creeper Trail Park and potentially induce private investment in downtown storefronts. Grant funding for a plan may be possible through funding agencies such as Appalachian Regional Commission and Golden LEAF. The Town may also be able to work with either the North Carolina State University College of Design or UNC Charlotte Master of Urban Design program to see if plan development could be a student project at little or no cost to the Town.
- ***Encourage infill development.*** Development and/or redevelopment in areas with existing infrastructure (roads, water, wastewater) provides additional tax revenue without increasing long-term maintenance costs. It also adds to the dense urban fabric that differentiates Lansing from the surrounding countryside and strengthens its "mountain town" character.
- ***Collaborate with community organizations or private developers to encourage renovation and highest use of the former Lansing Elementary School building.*** The stone structure's iconic architecture, history, and size makes it a fixture within Town. Leaders should actively pursue projects and funding that would result in adaptive reuse of the building while preserving its character. Ideally, such a project would result in a use of the building that would draw more residents and/or visitors into Town.



Infrastructure

The location and condition of public infrastructure is a major component affecting development decisions. A community's ability or inability to provide critical infrastructure plays a determining role in the level of private investment the community can expect to attract and how well it can grow property values over time. It also has a direct impact on the quality of life for residents who rely on it every day. The following types of infrastructure will be addressed for the purposes of this plan: water, wastewater, roadways, public transportation, sidewalks, and parks.

Water

The Town of Lansing owns and operates a public water supply and distribution system which provides potable water to a large portion of the Town's homes and businesses. The system includes three wells, a 50,000-gallon storage tank, and approximately 16,418 feet of Polyvinyl Chloride water main. The water main, storage tank, and well on H St. were all installed in 1990. A second well off G St. was installed in 2010 and a third well, known as the Blackburn well, was installed in 2011. As of 2017, the system had a total of 97 metered connections collectively using an average of 0.012 Millions of Gallons per Day (MGD), and only used 27% of its available water supply. The water distribution system is in good condition, but the water tank needs a new interior coating within the next 5-10 years to prevent corrosion. The Town has no debt service related to its water system.

Average Daily Water Usage, 2017

Month	Average Daily Use (MGD)	Max Day Use (MGD)	Month	Average Daily Use (MGD)	Max Day Use (MGD)
Jan	0.0110	0.0120	July	0.0120	0.0130
Feb	0.0100	0.0110	Aug	0.0110	0.0120
Mar	0.0100	0.0110	Sep	0.0130	0.0140
Apr	0.0100	0.0110	Oct	0.0160	0.0170
May	0.0110	0.0120	Nov	0.0140	0.0150
June	0.0110	0.0120	Dec	0.0130	0.0130

Water Sources, 2017

Well	Average Daily Withdrawal (MGD)		Max Day Withdrawal (MGD)	Well Depth	Casing Depth	Well Diameter
	MGD	Days Used				
Blackburn	0.0050	295	0.006	500 ft	100 ft	8 inches
G St. Well	0.0060	309	0.009	700 ft	300 ft	8 inches
H St. Well	0.0070	131	0.008	605 ft	100 ft	8 inches



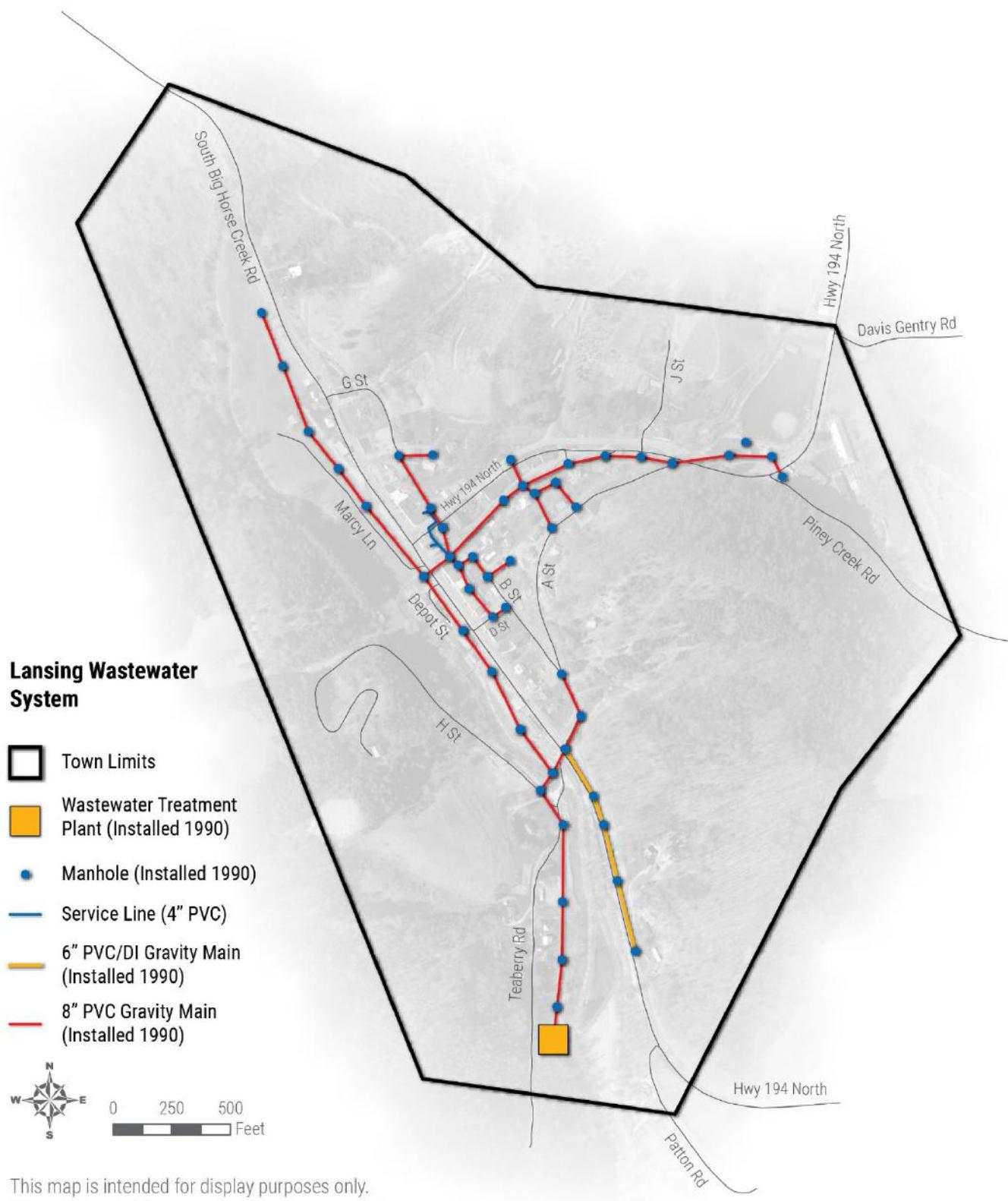
Lansing Water System

- Town Limits
- Water Main (4" PVC)
- Storage Tank (50,000 Gallons)
- Well



This map is intended for display purposes only.
It is not intended for survey, engineering, excavation, or legal purposes.





This map is intended for display purposes only.
 It is not intended for survey, engineering, excavation, or legal purposes.



Wastewater

The Town of Lansing owns and operates a public sewer system which allows for the safe and sanitary collection and treatment of the Town's wastewater. The system served 90 total connections and only treated 20% of its permitted capacity of 0.0500 MGD in 2017. It is comprised of approximately 8,600 feet of gravity main and a treatment plant, all of which was installed in 1990. The plant discharges treated water into Big Horse Creek, which feeds into the New River Basin. The plant's metal clarifier is beginning to corrode and will need to be replaced within the next 15-20 years to ensure continued operation of the system. Infill and infiltration of the gravity main network is not significant at this time but testing and spot maintenance are warranted due to the system's age. The Town has no debt service related to its wastewater system.

Average Daily Wastewater Discharges, 2017

Month	Average Daily Discharge (MGD)	Month	Average Daily Discharge (MGD)
Jan	0.0070	July	0.0090
Feb	0.0060	Aug	0.0120
Mar	0.0070	Sep	0.0100
Apr	0.0140	Oct	0.0130
May	0.0100	Nov	0.0100
June	0.0100	Dec	0.0100

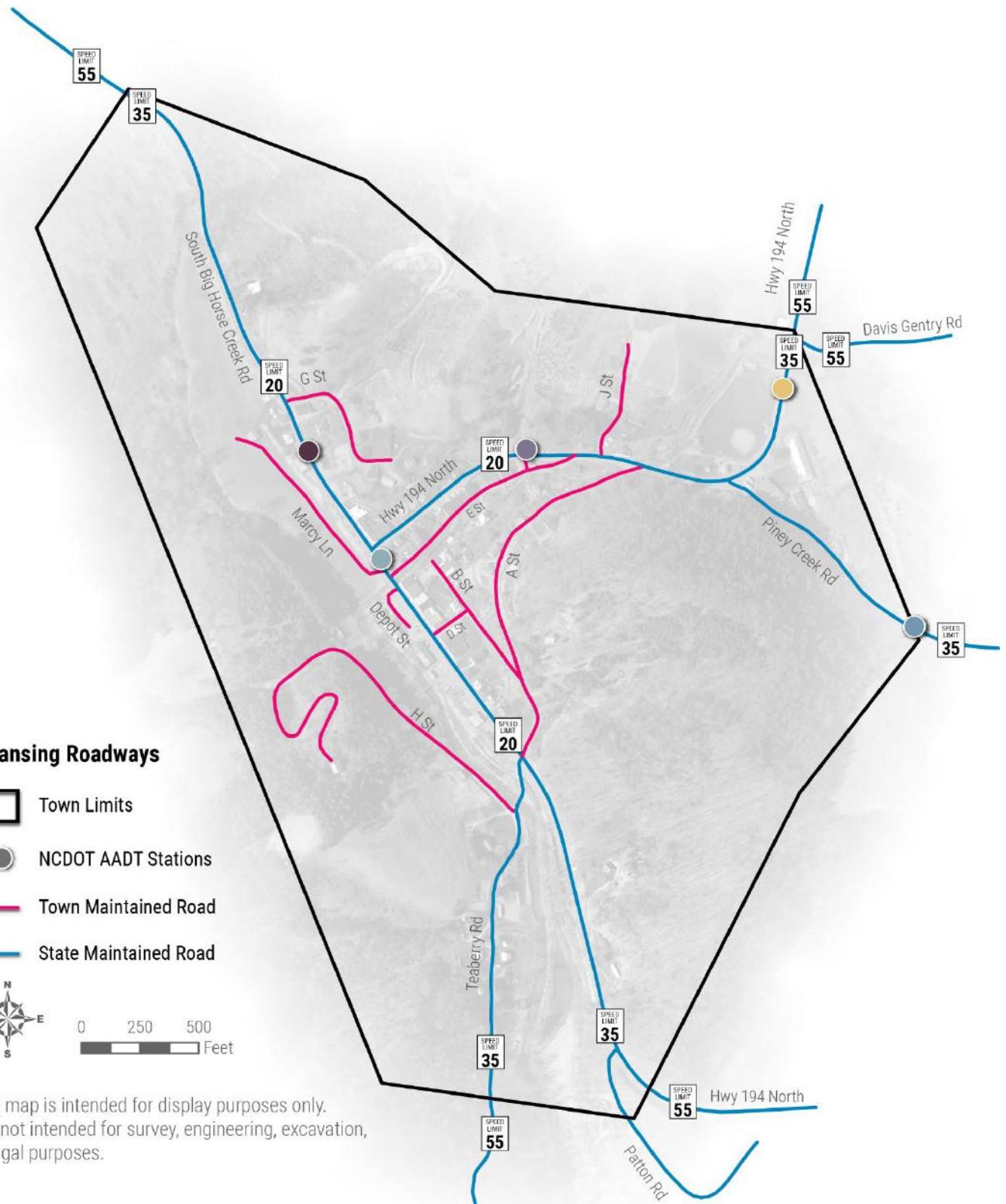
Roadways

Lansing has 2.98 miles of public roadways within corporate limits. Of this total, 1.5 miles are Town-maintained, and 1.48 miles are maintained by the North Carolina Department of Transportation (NCDOT). A map displaying the location and ownership of streets can be seen on the following page. The primary roadways that carry vehicular traffic through Lansing are NC Highway 194 and South Big Horse Creek Road (SR 1353). Local traffic is served by a network of secondary roadways. Speed limits drop from 55mph to 35mph along the major roadways as they cross into Town, before eventually dropping to 20mph in the downtown area. There were 7 crashes within Town limits between January 1, 2015 and December 31, 2017, none of which were fatal.

Average Annual Daily Traffic Counts – NCDOT Stations in Lansing

Year	NC 194 - Between Baldwin Jones Rd. and Piney Creek Rd.	NC 194 – Junction with F St.	NC 194 – near CT Park Entrance	SR 1353 – Just north of Hwy 194	Piney Creek Rd. at Lansing Town Limits
2012	1,500	2,100	3,600	1,800	Not Available
2013	1,400	1,900	3,300	Not Available	420
2014	Not Available	Not Available	3,900	1,600	Not Available
2015	1,400	1,900	3,400	Not Available	430
2016	1,400	1,900	2,900	1,200	Not Available
2017	1,300	1,600	2,900	Not Available	Not Available





This map is intended for display purposes only.
It is not intended for survey, engineering, excavation,
or legal purposes.

The Department of Transportation has conducted several long-term infrastructure studies and plans to identify mobility needs for Ashe County and its municipalities. The *Ashe County Comprehensive Transportation Plan* (CTP), completed in November 2010, identified the need for improvements along NC 194 from NC 88 to SR 1353 to better accommodate bicycle traffic along the roadway shoulder. The CTP also recommended that pedestrian improvements were necessary along NC 194 from SR 1353 to A St. in the downtown area. The *High Country Bike Plan*, completed in March 2014, recommended that 4 to 5-foot shoulders were needed along NC 194 from Warrensville to the Virginia state line to better accommodate bicycle traffic. High Country COG and NCDOT staff prepared the *Town of Lansing Pedestrian Plan* in 2010, which identified areas for pedestrian improvement and outlined potential measures to achieve traffic calming along NC 194 in downtown.

NCDOT has two upcoming bridge replacement projects in Lansing. The bridge spanning Big Horse Creek on Teaberry Rd. will be replaced, along with a bridge on NC 194 just south of the intersection with SR 1353. Both projects are currently scheduled to be completed within the next couple of years.

Public Transportation

Ashe County Transportation Authority (ACTA) provides public transportation services to the residents of Lansing and the surrounding area. There is no fixed-route service in Town, but a consistent demand-response service is provided on weekdays to carry passengers to in-county and out-of-county destinations.

Sidewalks

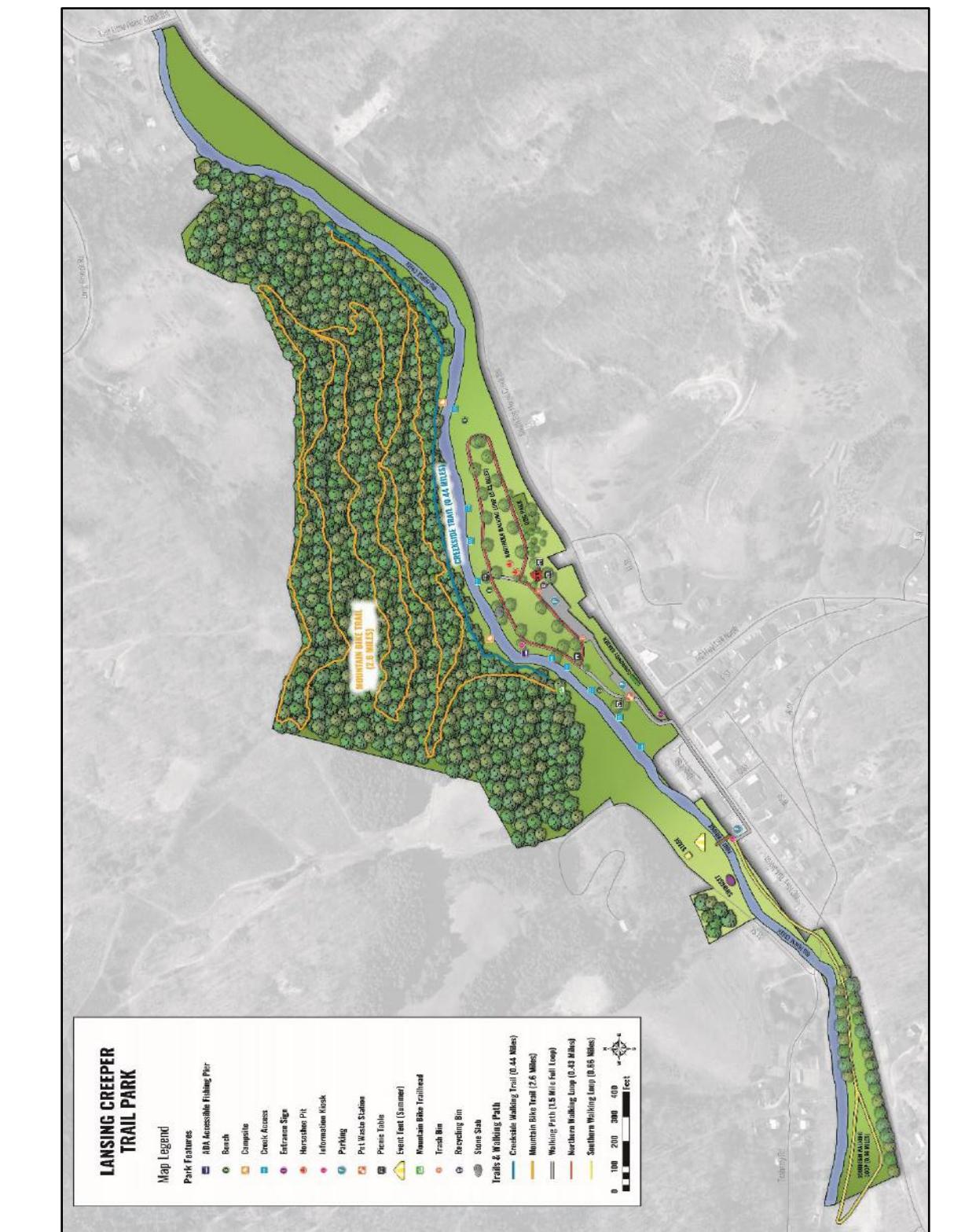
Non-recreational pedestrian facilities within Lansing include intermittent sidewalk along NC 194 from D St. to the intersection with SR 1353, sidewalk extending north along the east side of SR 1353 from the intersection with NC 194 for approximately 250ft., and sidewalk along NC 194 extending east from the intersection with SR 1353 for 150ft. The *Town of Lansing Pedestrian Plan* identified several barriers to expansion of the pedestrian network, including a lack of publicly owned right-of-way, narrow streets with limited building setbacks, large open driveways and parking, presence of a flood zone throughout much of Town, and lack of crossing areas along NC 194 and SR 1353. Despite these barriers, having pedestrian facilities that are comfortable, well-maintained, accessible, and safe positively benefit the economic and community well-being of Lansing.

Parks

The Town of Lansing owns and operates Creeper Trail Park for the enjoyment of Town and County residents alike. The Park has grown tremendously in recent years and offers numerous recreational opportunities including walking trails, mountain biking, fishing, a dog park, community garden, and camping. The Park also hosts several



community events throughout the year and offers space that can be rented for private events. A map of Creeper Trail Park is below.



Infrastructure Recommendations

- ***Begin capital planning for clarifier replacement at the Town's wastewater treatment plant.*** This should be the Town's highest infrastructure priority. The existing metal clarifier is 28 years old and operates in a corrosive environment. Tim Church, who works with the Town of Jefferson Public Works Department and manages Lansing's water and wastewater systems, estimates that the existing clarifier will need to be replaced within the next 15-20 years *at the latest*. An engineer's preliminary opinion of probable cost for wastewater treatment plant improvements was compiled as part of a 2017 Community Development Block Grant application by the Town. The estimated cost for the proposed project (which included clarifier replacement and reconfiguration, construction of a new blower/lab building, and improvements to vehicular access) totaled \$779,000.

The Town should continue to actively pursue grant funding to complete necessary upgrades but should not rely solely on an external solution. Town leaders should reevaluate utility rates to ensure that an adequate amount is charged to cover not only annual operational costs, but also short and long-term system maintenance needs. Any revenue that exceeds annual operational costs, or additional revenue generated by rate increases, should be placed into a capital reserve fund specifically earmarked for addressing long-term needs. Establishing and adhering to this practice will situate the Town in a better fiscal position to address replacement of the clarifier as it nears the end of its functionality.
- ***Coat the Interior of the Town's water storage tank within the next 5-10 years to prevent corrosion.*** Tim Church estimates the cost for this to be close to \$15,000. Logistically, coating the interior may be challenging since the system only has one water storage tank and the project would require the tank to be empty for approximately 3 days. The Town would need to seek guidance from an engineer and the North Carolina Department of Environmental Quality to formulate a method to keep the system operational while the tank is emptied.
- ***Maintenance of water and sewer mains should be a consistent activity.*** The Town's water and wastewater mains are currently in good shape. However, regular and preventative maintenance can significantly increase their lifespan and save the community a considerable amount of money on replacement and major repairs in the future.
- ***Continue to assess the feasibility of a standalone or branch library within corporate limits.*** Libraries function as important community centers that provide valuable learning resources that some residents may not otherwise have access to.



Results from the public input survey demonstrate high levels of support for a library in Lansing, with one-third of respondents indicating they would be willing to lend financial support to the endeavor. Town leaders should carefully consider location, initial funding, and ongoing operation costs during their assessment. A possible alternative to a full branch may be regular “pop-up” library events held in Town Hall in partnership with Ashe County Library.

- ***Revisit the recommendations made by the Lansing Pedestrian Plan to evaluate their feasibility.*** Recommendations included sidewalk improvements and extensions that were intended to enhance the pedestrian network in various areas of downtown. The plan also suggested several traffic calming measures to address speeding along NC 194, an issue that was frequently mentioned in the public input process for this plan. A long-term solution to speeding will require alterations to the roadway geometry and increased enforcement efforts. Short-term measures may include installation of high-visibility crosswalks or radar speed signs such as the one pictured to the right. Any activities should be coordinated with NCDOT. A copy of the *Lansing Pedestrian Plan* is attached as Appendix E.
- ***Do not accept public dedication of any existing private streets or newly proposed streets.*** It is often the desire of property owners and private developers to dedicate existing or newly constructed streets to the local government. Doing so relieves them of long-term maintenance costs and responsibilities and shifts that burden onto taxpayers. While it may appear that Lansing would be gaining an asset, it would instead be gaining a liability in this regard.
- ***Growth in the water and wastewater customer base should only occur through infill development.*** While expansion of the water and wastewater system may bring additional customers onto the system, it is highly unlikely that new revenue generated by such an expansion would cover the initial and long-term costs associated with it. Conversely, infill development increases customer consumption and system revenues without adding significantly to long-term maintenance costs.



Environmental Features

Land use and development patterns are influenced by their surrounding environment. Natural features and statutory regulations often dictate where growth can occur and what form it will take. The following section addresses environmental features that impact development within the Town of Lansing.

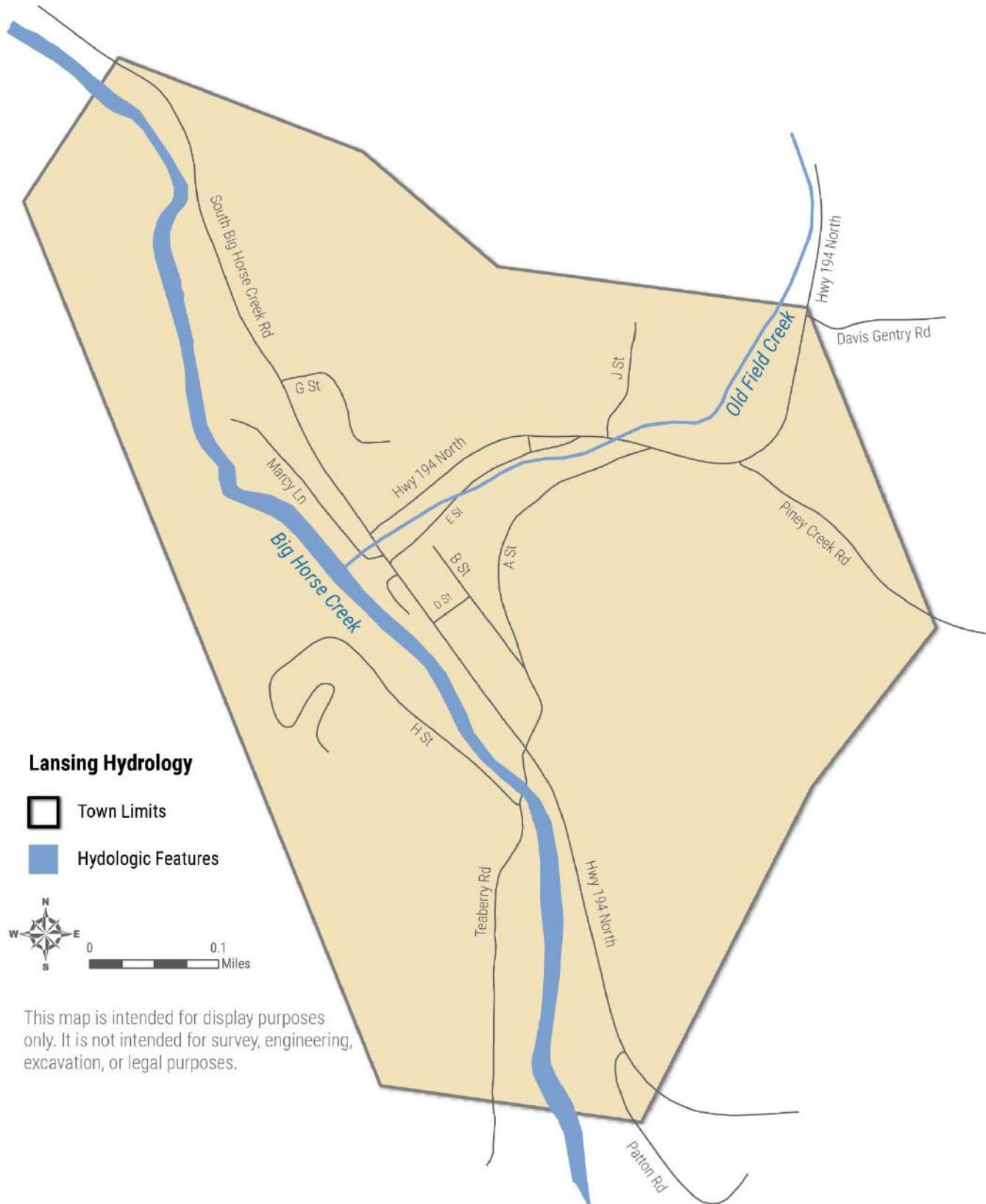
Hydrology

The majority of Ashe County, including all of Lansing, falls within the New River Basin. Two streams – Big Horse Creek and Old Field Creek – flow through the Town of Lansing. Old Field Creek, the smaller of the two, flows south into corporate limits near NC 194 before traveling through downtown and discharging into Big Horse Creek in Creeper Trail Park. Big Horse Creek flows south through Town and Creeper Trail Park roughly parallel to SR 1353 and NC 194. It discharges into the North Fork of the New River a couple of miles southeast of Lansing. A map of the two streams as they pass through Town can be seen on the following page. There are no designated wetlands within corporate limits.

Big Horse Creek and Old Field Creek are both classified as Class C streams by the North Carolina Department of Environmental Quality, indicating that they are not part of a water supply watershed. Big Horse Creek has a supplemental classification of HQW (High Quality Waters), which mandates adherence to certain development requirements within a specified buffer of the stream. Old Field Creek has supplemental classifications of HQW and TR (Trout Waters). A table of requirements related to each state classification is below.

Area Affected		Stream Classification		
		C	HQW	TR
Receiving Stream	Within 1 mile from & draining to classified waters	Receiving Stream & 25' Buffer Area		
Wastewater Discharges Allowed	Domestic & Industrial	Domestic & Industrial	Domestic & Industrial	
Allowable Density	Low Density Option	No Restrictions	1 Dwelling Unit/Acre or 12% Built Upon Area	No Restrictions
	High Density Option		No Limit Specified (Must Control Runoff)	
Stream Buffers	None Required	Low Density – 30 High Density – N/A	25' Buffer Between Stream & Graded Area	
Erosion & Sediment Controls	Standard Rules	More Stringent Rules Apply	More Stringent Rules Apply plus Special Buffer Zone	
Agriculture Best Management Practices Mandated	Yes	Yes	Yes	
Forest Practices Guidelines Rule Standards Mandated	Yes	Yes	Yes	
Transportation Best Management Practices Mandated	No Specific BMPs required	Stricter Erosion Controls Apply	Stricter Erosion Controls Apply	
Landfills Allowed	No Specific Restrictions	New Discharging Landfills Possibly Restricted	No Specific Restrictions	
Dams/Water Resource Projects	No Specific Restrictions	No Specific Restrictions	No Specific Restrictions	





This map is intended for display purposes only. It is not intended for survey, engineering, excavation, or legal purposes.



Floodplains

The Federal Emergency Management Agency (FEMA) designates “Special Flood Hazard Areas” throughout the United States. These areas, commonly referred to as floodplains, consist of property adjacent to a creek, stream, or river which would be inundated by a flood event having a 1-percent chance of being equaled or exceeded in any given year. A flood event of this magnitude was often referred to as a “100-year flood” in previous FEMA terminology.

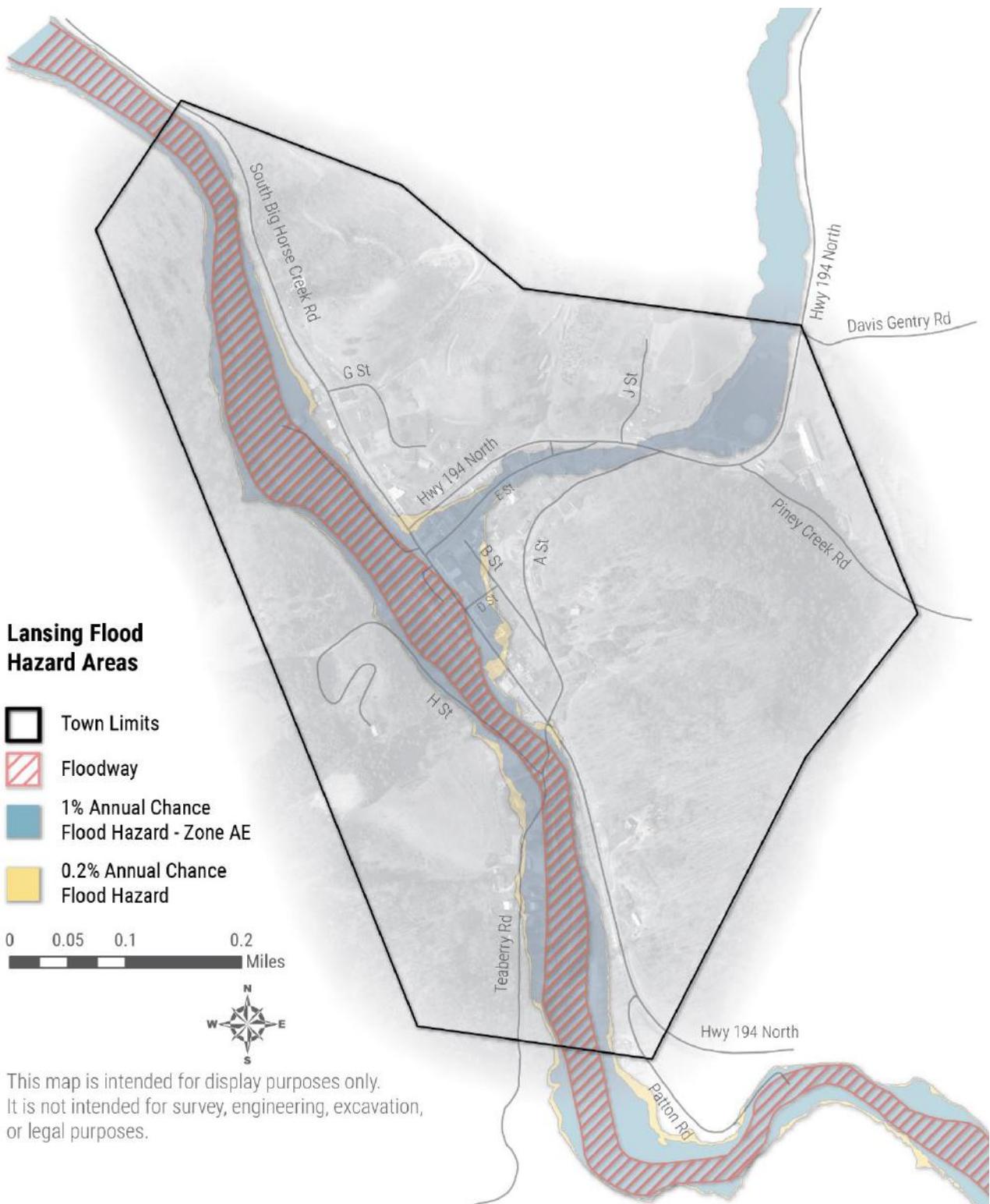
Development within these areas is heavily regulated to minimize loss of life and property. In addition to Special Flood Hazard Areas, FEMA designates “Floodways,” which is the channel of a stream and adjacent land areas that must be reserved to discharge flood waters without increasing water surface elevation beyond a specified height. Development within a Floodway is severely restricted. FEMA also identifies areas that would be inundated by a flood event having a 0.2-percent chance of being equaled or exceeded in any given year (formerly referred to as a “500-year flood”). These areas have far fewer development restrictions. A map illustrating the location of these various FEMA-designated areas within the Town of Lansing can be found on the following page.

Property owners can purchase insurance from the National Flood Insurance Program (NFIP) once their community has adopted a federally prescribed set of standards governing development within FEMA-designated flood hazard areas. Ashe County has adopted a Flood Damage Prevention Ordinance containing these standards. Its provisions apply to the entire County, including Lansing.

Much of downtown Lansing falls within a Special Flood Hazard Area. In addition to the threat posed to life and property, this designation also means increased costs for any major renovation or new construction project in the area. All such projects must incorporate special structural measures as mandated by the Ashe County Flood Damage Prevention Ordinance. The presence of a flood zone was frequently cited by public input participants as a principal reason for stagnant development downtown.

FEMA has a process for property owners to request amendment of the flood maps. This process requires a licensed land surveyor or registered professional engineer to prepare documentation proving that the property in question should not fall within the floodplain. The process would be costly, with little guarantee that much, if any, of the downtown area was incorrectly designated as a Special Flood Hazard Area.







Topography

As is the case for most mountain communities, Lansing features areas of significant topographic relief. Elevations within the corporate limits range from 2,640 feet above sea level to 2,920 feet above sea level. The Town is characterized by a three-pronged valley with downtown as its center. Most development is clustered within this area. As illustrated by the map on the previous page, a significant portion of the community features slopes steeper than a 30-percent grade. Development in these areas is extremely challenging. Construction of single-family homes may be possible, but cost-prohibitive. Development in these areas should be regulated for the benefit of public safety and to prevent accelerated soil erosion, increased runoff, slope instability, and negative visual impacts.

Environmental Recommendations

- ***Adopt a basic stormwater management ordinance to protect neighboring properties, public health, and the environment.*** A model local government stormwater management ordinance developed by High Country Council of Governments is attached in Appendix C to serve as a template.
- ***Adopt an ordinance that requires evaluation of slope stability for proposed developments on slopes equal or greater than 30-percent.*** This would protect the community and neighboring property owners and ensure safe construction and grading practices. Once adopted, Town staff should make the County Building Inspections Department aware of the new ordinance and forward a map displaying the location of slopes greater than 30-percent. The Town should request Building Inspections staff to direct any person seeking a building permit in any steep slope area to communicate with Lansing staff to satisfy the new ordinance requirements prior to issuance of a building permit.
- ***Educate downtown property owners on development requirements within the Special Flood Hazard Area.*** Be aware of development requirements and have resources available at Town Hall for those interested in new construction or renovation of an existing structure in a floodplain. A copy of the Ashe County Flood Damage Prevention Ordinance is attached as Appendix F.



Implementation Strategies

Recommendations That Require No Current Action

Plan Section	Recommendation	Future Considerations
Land Use	<p>Adoption of a zoning ordinance or subdivision regulations does not appear to be necessary at this time</p>	<p>Adoption of the other land use ordinances recommended within this plan will address many of the concerns that commonly warrant development regulation. Should development activity or population growth increase measurably in coming years, Lansing should revisit the need for subdivision regulations and/or a zoning ordinance. Any future zoning ordinance should focus on building form rather than segregation of uses.</p>
Land Use	<p>The Town should not expand corporate limits at this time</p>	<p>Annexation law in North Carolina requires extension of water and wastewater infrastructure to any area of annexation. Lansing should only consider an annexation request if it serves a development that will generate enough revenue to cover long-term maintenance costs associated with infrastructure expansion.</p>
Infrastructure	<p>Do not accept public dedication of any existing private streets or newly proposed streets</p>	<p>It is unlikely that this situation would present itself, but if it does the Town should refuse to accept public dedication of any new streets unless the petitioner can demonstrate that a new development will generate enough property taxes to cover the long-term maintenance cost of infrastructure.</p>
Infrastructure	<p>Growth in the water and wastewater customer base should only occur through infill development</p>	<p>Additional revenue, either through increased usage or utility rates, will be necessary to maintain Lansing's water and wastewater systems in the future. Growth in usage will only be beneficial if it occurs without incurring additional long-term maintenance expense. As such, the Town should only seek/expect growth in usage to occur via infill development.</p>



Implementation Strategies for Recommendations That Require Action

Plan Section	Recommendation	Suggested Timeframe	Suggested Action Steps	Possible Resources
Land Use	Adopt non-residential property maintenance regulations	6-12 months	Hold Board work sessions or establish a committee to review example ordinances, identify regulations, establish procedures, and submit a draft ordinance to the Board for public hearing and approval.	An example ordinance is included in Appendix A. The UNC School of Government has resources related to this topic and may provide guidance on a draft ordinance.
Land Use	Request Ashe County to expand jurisdiction of its High Impact Land Use, Adult Establishments, Communication Towers, and Electronic Gaming ordinances to cover all areas within corporate limits	6-12 months	Hold discussions with the County Planning Department and Manager to ascertain their preference for handling the process. Submit a formal request from the Board to the County Commission to amend the ordinances to add Lansing as part of their effective jurisdiction.	Ashe County Planning Department and Manager's Office; NC G.S. 153-A-320 and G.S. 160A-360
Land Use/ Environ. Features	Adopt a basic stormwater management ordinance to protect neighboring properties, public health, and the environment	12 months	Review the provided model stormwater ordinance and discuss administration of provisions with Town staff. Once finalized, send to Board for consideration.	Model Stormwater Ordinance developed by High Country COG (Appendix C)
Land Use	Adopt a straightforward sign ordinance designed to prevent installation of signs which may pose safety risks or detract from the aesthetic beauty of the community	12-18 months	Hold Board work sessions, designate a committee, or both to develop a set of minimalistic sign regulations that will be easy to enforce for Town staff. The primary intent of the regulations should be to prevent installation of hazardous or overly large signs.	Ashe County Sign Regulations are included in Appendix D as a possible starting point for discussion. The UNC School of Government has resources related to this topic and may provide guidance.



Implementation Strategies for Recommendations That Require Action (continued)

Plan Section	Recommendation	Suggested Timeframe	Suggested Action Steps	Possible Resources
Land Use	Develop a streetscape plan for the downtown area	16-24 months	Reach out to the NCSU College of Design and UNC Charlotte Master of Urban Design program to see if development of a streetscape plan could be a student project. If this is not possible, work with High Country COG to seek funding from ARC or Golden LEAF for plan development.	NCSU College of Design; UNC Charlotte Master of Urban Design Program; ARC; Golden LEAF
Land Use	Encourage Infill Development	Ongoing	Encourage folks who express interest in moving to Lansing or opening a new business to consider areas and existing structures where infrastructure is already in place.	N/A
Land Use	Collaborate with community organizations or private developers to encourage renovation and highest use of the former Lansing Elementary School Building	Ongoing	Support organizations such as GLAD or private developers when a potential project arises. Lansing could issue a resolution of support for an ARC grant application or apply for a Building Reuse Grant from the NC Department of Commerce if a private company is interested in renovating the building and creating new jobs.	ARC, NC Department of Commerce Building Reuse Grant
Infrastructure	Continue to assess the feasibility of a standalone or branch library within corporate limits	Ongoing	Maintain communication with Ashe County Public Library about the possible location, funding, and operation of a branch library in Lansing. A regular pop-up or mobile library may be another option.	Ashe County Public Library
Infrastructure	Begin capital planning for clarifier replacement at the Town's wastewater treatment plant	Replacement is necessary within the next 15-20 years	Actively pursue grant funding to complete the necessary upgrades. Reevaluate utility rates to ensure adequate revenue to cover short and long-term maintenance needs. Any revenue that exceeds annual operational costs should be placed into a capital reserve fund specifically earmarked for addressing long-term needs. This will situate the Town in a better fiscal position to address replacement when the time arrives.	High Country COG can help identify possible grant opportunities. The UNC Environmental Finance Center provides several utility rate-setting tools.



Implementation Strategies for Recommendations That Require Action (continued)

Plan Section	Recommendation	Suggested Timeframe	Suggested Action Steps	Possible Resources
Infrastructure	Coat the interior of the Town's water storage tank within the next 5-10 years to prevent corrosion	5-10 years	Seek guidance from an engineer or other expert within the field to formulate a method to keep the system operational while the tank is being coated. Communicate with Tim Church about permitting requirements. Begin budgeting as soon as possible to cover the estimated \$15,000 cost, which may increase with inflation.	NC Rural Water Association may be able to provide technical assistance or guidance
Infrastructure	Maintenance of water and sewer mains should be a consistent activity	Ongoing	Work with Tim Church and NC Rural Water Association to perform smoke testing of the wastewater system and leak detection on the water system. Allocate a defined percentage of utility revenues each year for minor maintenance as needs are identified.	NC Rural Water Association provides free on-site technical assistance with leak detection and smoke testing
Infrastructure	Revisit the recommendations made by the Lansing Pedestrian Plan to evaluate their feasibility	Ongoing	Provide a copy of the Pedestrian Plan to all Board members to refamiliarize them. Identify recommendations that are feasible and ensure they are addressed in any new streetscape plan. Maintain regular communication with NCDOT staff and the High Country RPO about possible projects and funding streams.	NCDOT, High Country RPO
Land Use/ Environ. Features	Adopt a basic stormwater management ordinance to protect neighboring properties, public health, and the environment	12 months	Review the provided model stormwater ordinance and discuss administration of provisions with Town staff. Once finalized, send to the Board for consideration.	Model Stormwater Ordinance developed by High Country COG (Appendix C)



Implementation Strategies for Recommendations That Require Action (continued)

Plan Section	Recommendation	Suggested Timeframe	Suggested Action Steps	Possible Resources
Environmental Features	Adopt an ordinance that requires evaluation of slope stability for proposed developments on slopes equal or greater than 30%	12-24 months	Hold a Board work session or form a committee to review steep slope development regulations from other communities and identify regulations that Lansing feels are necessary and can be enforced by Town staff. Communicate with the Ashe County Building Inspections Office to develop a process where property owners seeking a building permit for a steep slope area are made aware of the Town's regulations.	UNC School of Government; Ashe County Building Inspections Department
Environmental Features	Educate downtown property owners on development requirements within the Special Flood Hazard Area	Ongoing	Be aware of development requirements and have resources available at Town Hall for those interested in new construction or renovation of an existing structure in a floodplain.	FEMA; North Carolina's Flood Information Center; Ashe County Building Inspections Department



Appendix A

UNC School of Government Property Maintenance Authorized
Regulations Chart

&

Warrenton, NC Property Maintenance Ordinance

Repair of Nonresidential Buildings: NC Local Government Authority

Regulation / Order	NCGS Authority	Statutory standards	Recoup costs
Green Condition: Good condition but vacant			
Ordinance could require: <ul style="list-style-type: none"> • Vacant property registration 	160A-174 & 153A-121 (General ordinance-making power) 160A-194 & 153A-134 (Regulating businesses)	“detrimental to the health, safety, or welfare of its citizens and the peace and dignity” of the city/county	- Admin fee - Decriminalized civil penalty (GS 160A-175)
Yellow Condition: Obviously vacant or visible maintenance deficiencies (not dangerous or hazardous)			
Ordinance could require: <ul style="list-style-type: none"> • Keep bldg. appearance in good repair • Exhibit no evidence of vacancy Failure to comply, obtain: <ul style="list-style-type: none"> • Injunction or • Court order of abatement Gov't may effectuate if owner cited for contempt for failing to comply with court order	160A-174 & 153A-121 (General ordinance-making power) 160A-194 & 153A-134 (Regulating businesses) In urban redevelopment area: “program of compulsory repair” and “loans therefor” 160A-503 & 160A-512 via 160A-456 & 153A-376	<ul style="list-style-type: none"> • “detrimental to the health, safety, or welfare of its citizens and the peace and dignity” of the city/county • <i>State v. Jones</i> (1982): “aesthetic considerations may constitute a valid basis for the exercise of the police power” if public benefit outweighs private harm: <ul style="list-style-type: none"> ○ “protection of property values” ○ “preservation of the character and integrity of the community” ○ “promotion of the comfort, happiness, and emotional stability of area residents” 	- Admin fee - Decriminalized civil penalty (GS 160A-175) - Costs of executing court order are mechanic's lien on property (GS 160A-175)
Red Condition: Building is dangerous or hazardous but can be repaired at reasonable cost			
May order repair only if: <ul style="list-style-type: none"> • 160A-439: “dangerous and injurious” bldg. with repair cost <50% bldg. “value” (EXCEPT manuf. & warehousing) • 160A-441: “abandoned structure” that is a “hazard” with repair cost that is “reasonable” as determined by local government 	160A-439 (Nonresidential Buildings) - Counties: 153A-372.1 160A-441 (Minimum Housing for any “abandoned” structure that is a “hazard”) - Counties: 160A-442(1) In urban redevelopment area: “program of compulsory repair” and “loans therefor” 160A-503 & 160A-512 via 160A-456 & 153A-376	160A-439: Repair cost LESS than 50% building value & “standards shall address only conditions that are dangerous and injurious to public health, safety, and welfare and identify circumstances under which a public necessity exists for the repair, closing, or demolition of such buildings or structures.” OR 160A-441: Repair cost is “reasonable” (% defined by local govt per GS 160A-443) for “...any abandoned structure which [is] a health or safety hazard [for enumerated reasons].”	- Admin fee - Civil penalty authorized under GS 160A-439 but NOT 160A-441 - Costs become lien collected as special assessment - Costs also lien on owner's other property within city (but not home)
Black & Blue Condition: Building in need of demolition or removal			
Ordinance can be enacted “to prevent the demolition by neglect of any designated landmark or any [structure] within an established historic district.”	160A-400.14 (Delay in demolition of landmarks and buildings in historic district) - Counties: 160A-400.2 40A-3(b)(8) (Eminent domain)	Governing board may establish standards and requirements but ordinance shall “provide appropriate safeguards to protect property owners from undue economic hardship.”	General authority to enforce & effectuate ordinances (same as yellow condition) (GS 160A-175)

CHAPTER 154: Vacant Commercial Property Registration Ordinance

154.01 Intent and Scope.

It is the purpose and intent of the Warrenton Town Board of Commissioners, through the adoption of this Chapter, to establish a vacant property registration ordinance as a mechanism to preserve the historic integrity of Warrenton's Historic District and to protect the Town's commercial districts from becoming blighted through the lack of adequate maintenance and security of abandoned and vacant properties. Additionally the Town desires to deter crime and theft of materials, to minimize loss of property value to vacant properties and surrounding occupied properties, to reduce the risk of damage from fire, flooding or other hazards, and to promote the comfort, happiness and emotional stability of area residents. The Town finds that the presence of properties exhibiting evidence of vacancy pose special risks to the health, safety, and welfare of the community and therefore require heightened regulatory attention. The provisions of this Chapter shall apply to all properties in the C-1 and C-2 Business districts of the Town of Warrenton.

154.02 Definitions.

For the purposes of this Chapter, certain words and phrases used in this Chapter are defined as follows:

“Days” means consecutive calendar days.

“Evidence of Vacancy” means any aesthetic condition that on its own or combined with other conditions present would lead a reasonable person to believe that the Property is vacant. Such conditions include, but are not limited to, overgrown or dead vegetation, extensively chipped or peeling exterior paint, exterior walls in poor condition, porches and steps in poor condition, roof in poor condition, broken windows and other signs of general disrepair, accumulation of newspapers, circulars, flyers or mail, past due utility notices or disconnected utilities, accumulation of trash, junk or debris, the absence of window coverings such as curtains, blinds, or shutters, the absence of furnishings or personal items consistent with commercial habitation, statements by neighbors, passersby, delivery agents, government employees that the Property is vacant.

“Government Agency” means any public body having authority over the Property and residents of the Town, including but not limited to the Town of Warrenton, Warren County, Warrenton Police Department, Warrenton Rural Volunteer Fire Department, Warren County Sheriff's Office

“Government Official” means any public official representing a public body which has authority over the Property and residents of the Town, including but not limited to the Town Administrator, County Building Inspector, Town Police Chief, County Fire Marshall, Mayor.

“Historic District” means the state-designated Warrenton Historic District, as listed in the National Register of Historic Places and/or defined in the ordinances establishing the Warrenton Historic District Commission.

“Local” means located within forty (40) road or driving miles distance of the subject Property.

“Non-residential Property” means any real property used or intended to be used for anything other than residential property as defined herein.

“Out of Area” means located in excess of forty (40) road or driving miles distance away from the subject Property.

“Owner” means any person, partnership, association, corporation or fiduciary having a legal or equitable title or any interest in any real property. No trustee in any Deed of Trust shall be considered an owner.

“Owner of Record” is the person or entity listed on recorded deed, probated will or heir by intestacy.

“Property” means any unimproved or improved real property or portion thereof, situated in the Town and includes the buildings or structures located on the Property regardless of condition.

“Residential Property” means a building, or portion thereof, designed exclusively for residential occupancy, including one-family, two-family, multiple dwellings, mobile homes, house trailers, boarding and lodging houses, apartment houses, and apartment hotels.

“Town” means the Town of Warrenton corporate limits and its Extra Territorial Jurisdiction.

“Utilities” means water, sewer, telephone, natural and propane gas, and electricity services.

“Vacant” means a Property that has not been legally occupied for thirty days. Legally occupied means occupancy by the owner or any business or individual whose presence therein is with the consent of the owner.

154.03 Registration

- (a) Any vacant commercial property located within the Town’s C-1 and C-2 districts must be registered by the Owner with the Town Administrator, either (1) of the Owner of a Vacant Property’s own accord before receiving a Notice of Registration Requirement, or (2) within 30 days of receiving a Notice of Registration Requirement from the Town.
- (b) The Town will send a Notice of Registration Requirement to the Owner of Record of Properties that exhibit Evidence of Vacancy. Owner shall register Property within the time period set forth in Section 3(a) of this

Chapter unless Owner can provide clear and convincing evidence to the Town Administrator, within such time period, that the Property is not Vacant.

- (c) The Registration shall contain:
 - (i) the name of the Owner (corporation or individual),
 - (ii) the direct street/office mailing address of the Owner and P.O. Box if applicable,
 - (iii) a direct contact name and phone number
 - (iv) the name, address and telephone number of any local property management company hired by the Owner to meet the Maintenance requirements of this Chapter if Owner's principal residence is not Local.
- (d) Any changes in the information in (b)(i)-(b)(iv) of this Section shall be reported to the Town within thirty (30) days of such changes.
- (e) Registration must be renewed annually.
- (f) Vacant properties shall remain subject to the annual registration, maintenance, and security requirements of this Chapter as long as they remain Vacant.
- (g) Once the Property is no longer Vacant or is sold, the owner must provide written proof of occupancy or sale to the Town Administrator.

154.04 Fees.

- (a) The fee for registering a Vacant Property shall be \$15 annually, beginning on July 1. Fees will not be prorated.
- (b) Registration fee may be waived by the Town Council if Owner can demonstrate with clear and convincing evidence (1) that the Property has been sold, or (2) that the Property will be occupied within 30 days from the date of Notice of Registration Requirement.

154.05 Maintenance Requirements.

Properties subject to this Chapter shall be kept in compliance with the following maintenance requirements:

- (a) The exteriors of building(s)/structure(s) on the Property shall be painted and maintained in a way that does not exhibit any Evidence of Vacancy.
- (b) The yard(s) of the Property shall be maintained in a way that does not exhibit Evidence of Vacancy.
- (c) The deck(s) and porch(s) located on the Property shall be maintained in a way that does not exhibit Evidence of Vacancy.
- (d) The window(s) and door(s) of building(s)/structure(s) of the property shall be intact and operable and shall be maintained in a way that does not exhibit Evidence of Vacancy.
- (e) Instances of visible rotting of building(s)/structure(s) located on the Property or portion thereof shall be corrected in order to eliminate Evidence of Vacancy, with the exterior painted and kept in good aesthetic condition.
- (f) The Property shall be maintained so as to exhibit no Evidence of Vacancy.

- (g) The storefronts and facades of buildings shall be maintained in a way that does not exhibit Evidence of Vacancy.
- (h) The interiors, when visible to passersby through storefront windows, shall be maintained in a way that does not exhibit Evidence of Vacancy.

154.06 Security Requirements.

Vacant properties subject to this Chapter shall comply with the following security requirements.

- (a) The Property shall be maintained in a secure manner so as not to be accessible to unauthorized persons. This includes, without limitation, the closure and locking of windows, doors (including but not limited to walk-through, sliding, and garage), gates, pet doors, and any other such opening of such size that it may allow a child to access the interior of the Property or structure(s).
- (b) Broken windows shall be replaced and/or re-glazed; windows at street level shall not be boarded up.

154.07 Requirement to Hire Local Property Management Company for Out of Area Owners.

- (a) If the Property Owner's principal residence is not Local, then a Local property management company shall be contracted to fulfill the maintenance and security requirements of this Chapter, set forth in Sections 5 and 6, and any other applicable laws.
- (b) The Property shall be posted with the name and 24-hour contact phone number of the local property management company. The posting shall be 18 inches by 24 inches and shall be of a font that is legible from a distance of 45 feet and shall contain along with the name and 24-hour contact number the words "THIS PROPERTY MANAGED BY" and "TO REPORT PROBLEMS OR CONCERNS CALL." The posting shall be placed in the interior of a window facing the street to the front of the Property so it is visible from the street, or secured to the exterior of the building/structure facing the street to the front of the Property so it is visible from the street or, if no such area exists, on a stake of sufficient size to support the posting in a location that is visible from the street to the front of the Property but not readily accessible to vandals. The exterior posting must be constructed of and printed with weather resistant materials.
- (c) The requirement set forth in part (a) of this section may be waived by the Town Board for owners who (1) reliably demonstrate an ability to maintain the property and (2) have not received any citations for maintenance violations in the previous quarter.

154.08 Inspections.

The Town shall have the authority and the duty to inspect properties subject to this Chapter for compliance and to issue citations for any violations. The Town shall have the discretion to determine when and how such inspections are to be made,

provided that their policies are reasonably calculated to ensure that this Chapter is enforced.

154.09 Enforcement; Violations; and Penalties.

- (a) It shall be unlawful for any Owner to be in violation of any of the provisions of this Chapter.
- (b) Any person who violates a provision of this Chapter or fails to comply with any order made thereunder and from which no appeal has been taken, or who shall fail to comply with such order as affirmed or modified by appeal, or by a court of competent jurisdiction, within the time fixed herein, shall severally, for each and every such violation and noncompliance respectively, be guilty of a misdemeanor, punishable as provided in this Chapter.
- (c) The imposition of one penalty for any violation shall not excuse the violation, or authorize its continuance.
- (d) All such persons shall be required to submit an acceptable plan of action to the Town Administrator within 10 business days of notification. This plan of action must include, but is not limited to, a description of the work to be done, by whom and a specific schedule. Plans shall be reviewed by the Board of Commissioners and work is to commence within 15 days of Board approval. When not otherwise specified, failure to meet any stated condition within 10 days of required action shall constitute a separate offense.
- (e) Penalties for failure to comply:
 - 1) Initial Registration. Failure to initially register with the Town within the time frame required is punishable by a civil penalty of \$50.
 - 2) Changes to Registration. Failure to report changes to registration information within time frame required is punishable by a civil penalty of \$50.
 - 3) Annual Registration. Failure to register annually is punishable by a civil penalty of \$50.
 - 4) Maintenance and Security Requirements. Failure to meet the maintenance and security requirements is punishable by a civil penalty of \$500.
 - 5) Failure to submit plan. Failure to submit plan of corrective action is a violation punishable by a civil penalty of \$50.
 - 6) Failure to implement plan. Failure to implement plan within 15 days of approval or complete it in a timely manner is a violation punishable by a civil penalty of \$500.

154.10 Appeals.

Any person aggrieved by any of the requirements of this Chapter may present an appeal in writing to the Board of Commissioners.

154.11 Severability.

Should any provision, section, paragraph, sentence or word of this Chapter be determined or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions,

sections, paragraphs, sentences or words of this chapter shall remain in full force and effect.

154.12 Preemption.

Except as specifically preempted by N.C.G.S. § 160A-441, et. seq. 160A-439 or town ordinances promulgated pursuant to N.C.G.S. § 160A-439, et. seq., this Chapter shall apply to all Vacant Properties in the C-1 and C-2 zoning districts in the Town of Warrenton.

Appendix B

Ashe County High Impact Land Use, Adult Establishments,
Communication Towers, and Electronic Gaming Ordinances

CHAPTER 166: HIGH IMPACT LAND USE

Section

- 166.01 Title
- 166.02 Purpose
- 166.03 Authority
- 166.04 Jurisdiction
- 166.05 Definitions
- 166.06 Prohibitions
- 166.07 Classifications
- 166.08 Location distance restrictions
- 166.09 Setbacks, buffers and dust controls
- 166.10 High impact land use permits
- 166.11 Appeals and variances
- 166.12 Non-conforming use
- 166.13 Conflict with other laws
- 166.14 Separability
- 166.99 Penalties for violations

§ 166.01 TITLE.

This chapter shall be known and may be cited as the Ashe County High Impact Land Use Chapter.

(Ord. passed 10-3-16)

§ 166.02 PURPOSE.

For the purpose of promoting the health, safety, and general welfare of its citizens and the peace and dignity of the county, the County Commissioners hereby establish certain criteria relating to high impact land uses to accommodate those activities as identified and defined in this chapter. High impact land uses, by their very nature, create potential danger from explosions, produce objectionable levels of noise, odors, vibrations, fumes, light, or smoke and have impacts upon the areas adjacent to them. These ordinance provisions are intended to allow for the placement and growth of high impact land uses while attempting to support the health, safety and general welfare standards of established residential and commercial areas in Ashe County.

(Ord. passed 10-3-16)

§ 166.03 AUTHORITY.

This chapter is adopted under the authority granted to Ashe County in G.S. Ch. 153A.

(Ord. passed 10-3-16)

§ 166.04 JURISDICTION.

In accordance with G.S. § 153A-122, this chapter shall apply to all unincorporated areas of Ashe County in which no town or city is exercising extraterritorial jurisdiction under G.S. Ch. 160A, Art. 19.

(Ord. passed 10-3-16)

§ 166.05 DEFINITIONS.

Words and phrases defined in this section shall have the following meanings when used in this chapter:

ADMINISTRATOR. The Planning Director of Ashe County, or other individual designated by the County Manager to be the person in charge of issuing the permits provided for in this chapter and the supervision of the regulatory activities needed to carry out the purposes of this chapter.

AREA OF OPERATION. The portion of a tract of land on which a high impact land use is situated that is actually in use or is planned for use to conduct the activities for which this chapter requires a permit, and shall include any area occupied by buildings, structures, equipment, storage and stationary equipment used or planned for use in the conduct of these activities.

ASPHALT PLANT. A commercial facility for the manufacture and production of a thick, dark tar-like variety of bitumen, which, when mixed with proper amounts of sand or gravel or both, results in material suitable for paving or roofing.

ASSISTED LIVING CENTER. A group housing and services program for two or more unrelated adults that makes available for its residents no less than one meal a day, provides housekeeping services, and provides personal care services directly or through a formal written agreement with one or more North Carolina licensed home care or hospice agencies.

CHEMICAL MANUFACTURER. A commercial facility involved in the production, synthesis, formation, processing, or refining of chemical products.

CHEMICAL STORAGE CENTER. A commercial facility used primarily for the storage of chemical compounds.

CHILD CARE CENTER. A facility, whether or not operated for profit and without regard to the time of day, where three or more children of school age receive supervised care away from their residences and parents.

CHIP MILL. A commercial facility that grinds logs into wood chips for production of paper, particle board and other similar products.

CONCRETE MIXING PLANT. A commercial facility utilizing equipment that combines materials including, but not limited to, sand, water, aggregate, ash, and cement to form concrete and shall include both "ready mix" and "central mix" facilities.

DAY CARE CENTER. A facility, whether or not operated for profit and without regard to its hours of operation, where six or more individuals are afforded opportunity for temporary provision of activities designed to assist persons with disabilities or elderly persons without daytime home care.

DWELLING UNIT. A permanent structure constructed for the purpose of housing natural persons that has not been classified by government authority as uninhabitable.

EDUCATIONAL CENTER. An elementary school, secondary school, charter school, private school, community college, college, university, or similar institution providing for the education of individuals. Its area shall include all spaces utilized for educational instruction and spaces actually needed for related activities regularly conducted for the benefit of its students.

EXPLOSIVES MANUFACTURER. A commercial facility used for manufacturing of a chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion, and shall include, but is not limited to: dynamite, black powder, pellet powder, initiating explosives, detonators, safety fuses, squibs, detonating cord, igniting cord, igniters, and display fireworks. Facilities not included in this category are those producing only hand-loaded small arms ammunition.

EXPLOSIVES STORAGE WAREHOUSE. A commercial facility used for the storage of products created by an explosives manufacturer.

FUEL STORAGE CENTER. A commercial facility used for the storage, distribution, mixing, or transfer of flammable or combustible liquids, gases, or solids, including propane, methane, ethanol, gasoline, kerosene, oil, coal, and other fuels, received or

transferred by truck, train, tank vessel, pipelines, tank car, piping, portable tank, portable containers, or by similar method, and stored in quantities greater than a one-day supply for a customer of this facility. Facilities not included in this category are gasoline dispensing facilities used solely for distribution to individual consumers, and any fuel storage center at an agricultural farm, residence, business, or other facility where use of the product is limited to on-site consumption.

HIGH IMPACT LAND USE. An activity which creates potential danger from explosions or produces levels of noise, odors, vibrations, fumes, light, smoke, air pollution or water pollution that have an adverse effect on the health, safety or general welfare of the citizens of Ashe County, which include asphalt plants, quarries, stone crushing operations, incinerators, sawmills, chip mills, tub grinding operations, explosives manufacturers, explosives storage warehouses, fuel storage centers, concrete mixing plants, chemical manufacturers, chemical storage centers and medical waste disposal centers.

HISTORIC SITE. An area of land determined by the Secretary of the Interior to qualify as a registered historic district, or:

- (1) A structure listed individually in the National Register of Historic Places - as maintained by the U.S. Department of the Interior;
- (2) A structure preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; or
- (3) A structure certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district.

INCINERATOR. A facility designated as a "hazardous waste incinerator" and having its operation regulated by the U.S. Environmental Protection Agency.

MEDICAL CENTER. A facility which has an organized medical staff and which is designed, used, and operated to provide health care, diagnostic and therapeutic services.

MEDICAL WASTE DISPOSAL CENTER. A facility that stores or treats medical waste at a location separate from the facility where it was generated.

NURSING HOME. A facility maintained for the provision of nursing or convalescent care for three or more persons unrelated to the operator, and which operates under a license from the State of North Carolina.

PERSON. An individual, corporation, partnership, business entity or a named group organized to advocate a public position related to an existing or proposed high impact land use.

PLACE OF WORSHIP. A church or similar facility used on a regular basis for the primary purpose of serving as a place of public worship. Its area shall include all spaces utilized for worship services and spaces actually needed for related activities regularly conducted for the benefit of its congregation members.

PROTECTED SITE. A location in Ashe County used by its citizens for activities that are expected to be conducted without interruption by loud noise, noxious odors, smoke or fumes, disturbing vibrations, or pollution of air or water. Designated sites deserve to be protected by regulated distances and by buffers from any high impact land use, based on the classification of that use. The following are protected sites: educational centers, day care centers, assisted living centers, nursing homes, medical centers, places of worship, dwelling units, public outdoor recreational facilities, historic sites, the New River (including its North Fork and South Fork) and the Blue Ridge Parkway.

PUBLIC OUTDOOR RECREATION FACILITY. A tract of land owned by a government agency or a non-profit community group intended for public use as active or passive recreation. Its area shall include all spaces regularly utilized for its intended purposes.

PULP MILL. A commercial facility engaged in activities classified by the U.S. Environmental Protection Agency as belonging to a "pulp and paper mill" with its operation regulated by that agency.

QUARRY. A commercial facility for the dredging, digging, extraction, or mining of minerals, ores, soils, and other solid matter. Facilities not included in this category are tracts of land less than one acre in size when used either:

- (1) For excavation or grading when conducted solely in aid of on-site farming or on-site construction of commercial or residential buildings; or
- (2) Removal of ores or mineral solids when done solely for the purpose and to the extent necessary to determine the location, quantity, or quality of any natural deposit.

SAWMILL. A commercial facility where logs are customarily processed into lumber, finished wood products or mulch. Facilities not included in this category are those employing less than three full-time employees, and in operation for a duration of less than six months at the same area of operation.

STONE CRUSHING OPERATION. A commercial facility engaged in the use of mechanized equipment or machinery to reduce the size of stone material or material having the qualities of stone.

TUB GRINDING OPERATION. A commercial facility engaged in the use of mechanized equipment to produce organic mulch from natural inert or organic material such as tree stumps, tree branches, brush and other type of natural forestry waste material. Facilities not included in this category are those employing less than three full-time employees, and in operation for duration of less than six months at the same area of operation.

VEGETATIVE BARRIER. Plant material on a strip of land having a designated width along a specified land feature with the purpose of separating that land feature from view or pollution.

(Ord. passed 10-3-16)

§ 166.06 PROHIBITIONS.

A facility defined by this chapter as a **HIGH IMPACT LAND USE** shall not begin construction of or operate that facility without a High Impact Land Use Operational Permit issued by the Ashe County Planning Department, and no area of operation, building or structure subject to or regulated by this chapter shall be erected, moved, added to, or structurally altered without approval of a revised high impact land use operational permit from the Ashe County Planning Department.

(Ord. passed 10-3-16)

§ 166.07 CLASSIFICATIONS.

(A) These high impact land uses shall be designated as Class 1: Asphalt Plant, Incinerator, Quarry, Stone Crushing Operation, Concrete Mixing Plant, Pulp Mill, Chip Mill, Sawmill and Tub Grinding Operation.

(B) These high impact land uses, when their area of operation is confined to permanent stand-alone structures, shall be designated as Class 2: Chemical Manufacturer, Chemical Storage Center, Explosives Manufacturer, Explosives Storage Warehouse, Fuel Storage Center, and Medical Waste Disposal Center.

(Ord. passed 10-3-16)

§ 166.08 LOCATION DISTANCE RESTRICTIONS.

(A) A high impact land use shall not be located nearer to a protected site than 2,000 feet, measured from the area of operation to the protected site.

(B) The area of operation shall also be setback 1,000 feet from the property line of the high impact land use.

(Ord. passed 10-3-16)

§ 166.09 SETBACKS, BUFFERS AND DUST CONTROLS.

For Class 1 facilities, a high impact land operational permit shall be issued only when the applicant has included in its plan of operation and fully described in its application for a permit the following mandatory provisions:

- (1) A vegetative barrier, approved by the Administrator, sufficient in width and all-year existence, to serve as a buffer to lessen the visual impact of the area of operation both at road grade level and from all sides, and provide noise and particulate matter reduction.
- (2) Inclusion of a dust-alleviation surface material for roads within, and leading to, the area of operation.
- (3) Permanent paving material applied along any exit onto a public roadway for a distance of 100 feet.

(4) A security fence which surrounds the entire area of operation. The material shall be chain link, nine gauge or better, and seven feet in height with one or more strands of barbed or razor wire above the top. A gate that is closed and locked when the facility is not in operation shall be part of the security fence.

(Ord. passed 10-3-16)

§ 166.10 HIGH IMPACT LAND USE PERMITS.

(A) A high impact land use operational permit is required from the Planning Department for the establishment and operation of a facility designated by this Chapter as a "High Impact Land Use."

(B) Uniform fees for all applications shall be set in the Planning Department schedule of fees, and must be paid at the time of application for a permit.

(C) The application shall include such information as may reasonably be required by the Administrator, including a description of all existing or proposed buildings or alterations; existing and proposed uses of the buildings; the exact location within a tract upon which the area of operation will be placed; conditions existing on that tract; list of names and addresses of adjacent property owners; and such other matters as may be necessary to determine conformance with and provide for the enforcement of this chapter.

(D) In the discretion of the Administrator, there will be consultation with other local, state, and Federal agencies when a report from such agency would be relevant in determining whether the applicant is able to comply with applicable laws. These contacts may include the Regional Superintendent of the Blue Ridge Parkway upon receipt of an application for a high impact land use which is to be located within a view area of the Blue Ridge Parkway (as determined by the National Park Service). Upon receipt of a written unfavorable recommendation from a local, state or Federal agency, that recommendation will be presented to the applicant for comment or acceptance. Upon receipt of a written request from a local, state or Federal agency that the permit be denied, it shall be presumed that approval of the application would be a violation of the duty to protect the welfare of the citizens of Ashe County.

(E) Upon receipt of an application, the Administrator shall send written notice to adjacent property owners to advise them of the application and provide to them a summary of the ordinance provisions.

(F) The Administrator shall review the permit application and other relevant information, and shall notify the applicant in writing as to action taken with respect to the permit. The notice shall be one of the following:

(1) (a) The Administrator has determined that the permit application, or the proposed high impact land use, or both, failed to meet one or more of the requirements of this chapter, or that one or more of the certifications required in the permit application cannot truthfully and correctly be made, and therefore the application for a high impact land use permit is denied.

(b) The notice shall be issued no later than 45 days after receipt of a permit application, shall describe all reasons for the denial, and shall refer to specific sections of this chapter with which the application or proposed high impact land use does not comply. The applicant shall have 60 days from receipt of that written notification to comply with the unmet requirements described in the notice. The permit application shall expire at the end of that time unless the applicant has complied with all unmet requirements described in the notice or an appeal of the Administrator's decision is pending.

(2) The Administrator has determined that the application and proposed high impact land use meet all requirements of this chapter, but necessary Federal and state permits have not been issued, the applicant has requested a conditional permit, and a conditional high impact land use permit will be issued. This permit shall expire at the end of 18 months from the issuance date, unless extended by the Administrator for good cause shown.

(3) The Administrator has determined that that all requirements of this chapter have been met and all necessary local, state and Federal permits have been issued to the applicant, and an operational high impact land use permit will be issued.

(G) An operational high impact land use permit shall expire and shall be invalid in the event construction of the area of operation has not begun within 12 months of the date on which the permit was issued, unless this time period is extended by the Administrator for good cause shown. This permit shall remain valid so long as there is continued compliance with certifications contained in the application and with requirements of this chapter. No permit may be assigned or transferred by the holder to any other person without approval from the Administrator.

(H) The Administrator may revoke a conditional permit or an operational permit for the following reasons, after due notice and an opportunity for the permit holder to be heard:

(1) The holder has violated one or more terms or conditions of the permit or a requirement of the chapter.

(2) The application on which issuance of the permit was based contains a material misrepresentation, either of commission or omission.

(Ord. passed 10-3-16)

§ 166.11 APPEALS AND VARIANCES.

(A) An appeal from a decision of the Administrator or the Ashe County Planning Department may be made to the Ashe County Planning Board.

(1) Any person who is directly affected may appeal a decision to the Planning Board by filing a notice of appeal with the Clerk to the Planning Board. The notice of appeal shall state the grounds for appeal.

(2) The Clerk to the Planning Board shall notify all persons identified as participants in the application process of the appeal. Effective notice is required, and may be through mail, telephone or electronic communication.

(3) An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from unless the Administrator certifies to the Planning Board that because of facts stated in affidavit format, a stay would cause imminent peril to life or property, or because the violation is transitory in nature and a stay would seriously interfere with enforcement of the ordinance. Upon filing of that certificate with the Clerk to the Board, enforcement proceedings may continue unless halted by a restraining order granted by a court. If enforcement proceedings are not stayed, the appellant may file with the Clerk to the Board a request for an expedited hearing of the appeal, and the Planning Board shall meet to hear the appeal within 15 days after such a request is filed.

(4) By the vote of a majority of the Board membership, the act of the Administrator may be upheld, modified, or overruled in part or in its entirety.

(B) When unnecessary hardship would result from carrying out the strict letter of this chapter, the Planning Board, by a majority vote of its membership, may authorize, as a variance, a modified application to any of the provisions of this chapter upon a showing of all of the following:

(1) Unnecessary hardship would result from the strict application of this chapter. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

(2) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. A hardship resulting from personal circumstances, as well as hardship resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.

(3) 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 self-created hardship.

(4) The requested variance is consistent with the spirit, purpose, and intent of the chapter, such that public safety is secured, and substantial justice is achieved.

(5) Appropriate conditions may be imposed on any allowed variance, provided that the conditions are reasonably related to the variance.

(Ord. passed 10-3-16)

§ 166.12 NON-CONFORMING USE.

Any existing use that is not in compliance with the requirements of this chapter at the time of its enactment may continue to operate as a non-conforming use, but may not expand the size of the area of operation existing at the time of this enactment without a variance permit.

(Ord. passed 10-3-16)

§ 166.13 CONFLICT WITH OTHER LAWS.

Wherever the provisions of this chapter or application of this ordinance impose higher standards than are required in any other local

ordinance or regulation, other than Ashe County ordinances to control specific land uses, provisions and application of this chapter shall govern. Whenever the provisions of any other statute or local ordinance or regulation, other than Ashe County ordinances to control specific land uses, impose higher standards than are required by the provisions of this chapter, the provisions of such other statute or local ordinance or regulation shall govern.

(Ord. passed 10-3-16)

§ 166.14 SEPARABILITY.

Should any section or provision of this chapter be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of this chapter as a whole or any part thereof which is not specifically declared to be unconstitutional or invalid.

(Ord. passed 10-3-16)

§ 166.99 PENALTIES FOR VIOLATIONS.

(A) *Misdemeanor.* Any person who violates a provision of this chapter shall be guilty of a misdemeanor and shall be subject to punishment as provided for by G.S. § 14-4. Each day of a violation of this chapter shall be a separate offense.

(B) *Financial penalties.* In addition to criminal penalties for a violation of this chapter, the Board of County Commissioners may impose civil penalties for each day's continuation of the offense. The amount shall be limited to \$500 per day. A penalty unpaid 30 days after the offender has been cited for violation of this chapter may be recovered in a civil action in the General Court of Justice.

(C) *Other remedies.* All appropriate remedies for relief authorized by G.S. § 153A-123, including orders for mandatory and prohibitory injunctions and for abatements, may be used to enforce this chapter.

(Ord. passed 10-3-16)

CHAPTER 165: ELECTRONIC GAMING

Section

- 165.01 Title
- 165.02 Authority and purpose
- 165.03 Territorial coverage
- 165.04 Definitions
- 165.05 Permit required
- 165.06 Permitted process
- 165.07 Permit issued
- 165.08 Operation requirements
- 165.09 Non-conforming use
- 165.10 Variances

- 165.99 Penalty

§ 165.01 TITLE.

This chapter shall be known and may be cited as the Ashe County Electronic Gaming Ordinance.

(Ord. passed 7-16-12)

§ 165.02 AUTHORITY AND PURPOSE.

Pursuant to the authority granted to counties by G.S. §§ 153A-121 *et seq.* and other pertinent statutes and amendments thereto, it is the purpose of this chapter to regulate the use of electronic gaming operations and to describe the conditions by which a permit for installing such a system may be obtained.

(Ord. passed 7-16-12)

§ 165.03 TERRITORIAL COVERAGE.

This chapter shall apply to all areas of unincorporated Ashe County which are not included in the extraterritorial jurisdiction of any municipalities. All municipalities and their respective corporate limits shall be exempted from the ordinance, unless they choose to adopt this chapter or some form thereof.

(Ord. passed 7-16-12)

§ 165.04 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BUSINESS. A commercial trade or enterprise in regular operation, including but not limited to retail, wholesale, manufacturing, industrial, agricultural, financial, professional, and other similar trades or operations.

COUNTY. The County of Ashe.

ELECTRONIC GAMING OPERATIONS. Any business enterprise, whether as a principal or an accessory use where persons utilize electronic machines including but not limited to computers and gaming terminals, to conduct games of chance, including sweepstakes, and where cash, merchandise or other items of value are redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played or by predetermined odds. This term includes, but is not limited to internet cafes, internet sweepstakes, beach sweepstakes or cybercafes. This does not include any lottery approved by the State of North Carolina.

OPERATOR. The person who owns or is responsible for operation of an electronic gaming operation.

PERSON. Any individual, natural person, firm, partnership, association, corporation, legal representative or other recognized legal entity.

SHALL. Any place the word "shall" appears in this chapter it is mandatory.

(Ord. passed 7-16-12)

§ 165.05 PERMIT REQUIRED.

No person shall establish, place, operate, maintain, expand, or enlarge electronic gaming operations without a permit as required hereunder. The application for issuance of and all other matters pertaining to such site permit shall be governed by the provisions of this chapter.

(Ord. passed 7-16-12) Penalty, see § 165.99

§ 165.06 PERMITTED PROCESS.

(A) *Permit application.* A person seeking a permit for an electronic gaming operation shall file an application with the Planning Board for review as follows. The name of the owner of the property, the owner of the machines used in the proposed electronic gaming operation, the type and number of machines to be used in the proposed electronic gaming operation and the addresses for both the owner of the property, the owner of the machines.

(B) *Site information.* The applicant shall include the following information and must be accompanied by a signed and sealed survey from a professional land surveyor showing that the proposed location complies with the setbacks of § 165.08 about the site proposed for the electronic gaming operation and any associated facilities:

- (1) The surveyed boundaries of the site proposed for the electronic gaming operation;
- (2) The location of other electronic gaming operations within 1,000 feet by a horizontal, straight line distance from the close point on the closest boundary line of the property occupied by the electronic gaming operations; and
- (3) The location of any church, school, day care, public park, or playground within 1,000 feet as measured by a horizontal, straight line distance from the close point on the closest boundary line of the property occupied by the electronic gaming operations.

(Ord. passed 7-16-12)

§ 165.07 PERMIT ISSUED.

If the Planning Board determines that the application meets all of the requirements of this chapter, that all of the information in § 165.06 above are truthfully and correctly made and can reasonably be complied with and that the application does not violate the provisions of this chapter including § 165.08, the Planning Board shall issue a permit to the applicant. The permit shall note thereon the effective date of issuance.

(Ord. passed 7-16-12)

§ 165.08 OPERATION REQUIREMENTS.

- (A) All electronic gaming operations shall be operated only on the ground floor of a building, and plate glass windows shall be in those parts of the building facing any street, so that a clear view inside may be had from the street.
- (B) No screens, curtains, blinds, partitions, or other obstructions shall be placed between the entrance to the room where games are played and the rear wall of the room, so that a clear view of the interior may be had from the street.
- (C) No loud noises shall be allowed to emanate beyond the licensed premises.
- (D) The maximum number of machines/ terminals/computers for any electronic gaming operations business is twenty.
- (E) No alcoholic beverages shall be served or consumed on the premises of the electronic gaming operations.
- (F) No electronic gaming operation shall be located within 1,000 feet (determined by a straight line and not a street distance) of any point on the closest property line of any church, school, day care, public park, or playground as measured by a horizontal, straight line distance from the closest point on the closest boundary line of the property occupied by the electronic gaming operation.
- (G) No electronic gaming operation shall be located within 1,000 feet (determined by a straight line and not a street distance) of any other electronic gaming operation as measured by a horizontal, straight line distance from the closest building occupied by each.

(Ord. passed 7-16-12) Penalty, see § 165.99

§ 165.09 NON-CONFORMING USE.

- (A) Any electronic gaming operation lawfully operating on July 16, 2012, that is in violation of this chapter shall be deemed a non-conforming use. Any use which is determined to be non conforming by application of the provisions of this section shall be permitted to continue for a period not to exceed three years. Such non-conforming use shall not be increased, enlarged, extended, or altered except that the use may be changed to a conforming use.
- (B) If a non-conforming use is discontinued for a period of 180 days or more, it may not be reopened as an electronic gaming operation.
- (C) If two or more electronic gaming operations are within 1,000 feet of one another and otherwise in a permissible location, the electronic gaming operation which was first operated and continuously operated at its present location shall be considered the conforming use and the one created later shall be considered non-conforming.
- (D) An electronic gaming operations lawfully operating as a conforming use shall not be rendered non-conforming by the subsequent location of a structure or facility designated in § 165.08.

(Ord. passed 7-16-12) Penalty, see § 165.99

§ 165.10 VARIANCES.

Where, because of conditions peculiar to the site, strict adherence to the provisions to this chapter would cause an unnecessary hardship, a written petition for a variance shall be considered by the Planning Board, which may authorize a variance if it can be made in fairness to other applicants and without destroying the intent and purposes of this chapter. Before granting a variance from the separation requirements set forth in this chapter the Ashe County Planning Board shall find that thoroughfares, traffic circulation patterns, structures or other natural or man-made geographic or topographic features are likely to provide an adequate measure of protection for the community or from any secondary effects of the electronic gaming operation. Any authorized variance shall be entered in writing in the official minutes of the Planning Board with the reasons described for which the exception was made.

(Ord. passed 7-16-12)

§ 165.99 PENALTY.

- (A) *Misdemeanor.* Any person who violates a provision of this chapter shall be guilty of a misdemeanor and shall be subject to punishment as provided by G.S. § 14-4. Each day of a violation of this chapter shall be a separate offense.

(B) *Financial penalties.* In addition to criminal penalties for a violation of this chapter, the Board of County Commissioners may impose civil penalties for each day's continuation of the offense. The amount shall be limited to \$500 per day. A penalty unpaid 30 days after the offender has been cited for violation of this chapter may be recovered in a civil action in the General Court of Justice.

(C) *Other remedies.* All appropriate remedies for relief authorized by G.S. § 153A-123, including orders for mandatory and prohibitory injunctions and for abatements, may be used to enforce this chapter.

(Ord. passed 7-16-12)

CHAPTER 158: COMMUNICATIONS TOWERS

Section

- 158.01 Title
- 158.02 Purpose
- 158.03 Authority
- 158.04 Jurisdiction and exclusions
- 158.05 Definitions
- 158.06 Permits required to erect tower
- 158.07 Application submission and review process
- 158.08 Criteria for issuance of permit
- 158.09 Fees
- 158.10 Expiration of permit
- 158.11 Abandonment
- 158.12 Variance process
- 158.13 Severability clause
- 158.14 Conflict with other laws
- 158.15 Effective date

- 158.99 Penalty

§ 158.01 TITLE.

This chapter shall be known as the Communications Tower Chapter of Ashe County, North Carolina.

(Ord. passed 6-2-97; Am. Ord. passed 4-20-15)

§ 158.02 PURPOSE.

The purpose of this chapter is to establish rules and standards for the location and construction of towers and antennas for wireless telecommunications in order to:

- (A) Protect the health, safety, and welfare of the citizens of Ashe County;
- (B) Avoid potential damage to adjacent properties;
- (C) Minimize potential hazards to aircraft;
- (D) Maximize the use of existing towers and structures to reduce the number of towers; and
- (E) Restrict the location of towers that detract from the natural beauty of the county without providing outweighing economic advantages for Ashe County citizens and the tourism industry.

§ 158.03 AUTHORITY.

This chapter is adopted under the authority and provision of the G.S. Chapter 153A-121, Article 6.

(Ord. passed 6-2-97; Am. Ord. passed 4-20-15)

§ 158.04 JURISDICTION AND EXCLUSIONS.

(A) *Jurisdiction.* This chapter shall apply to all areas of unincorporated Ashe County which are not included in the extraterritorial jurisdiction of any municipalities.

(B) *Exclusions.* This chapter shall not apply to non-commercial towers which are for personal use and for which the owner makes no charge for use by others; to a tower owned by a government agency and utilized only for noncommercial emergency communications; to a tower under 40 feet in height owned and operated by a federally-licensed amateur radio station operator; or to a tower used exclusively for a receive-only antenna.

(Ord. passed 6-2-97; Am. Ord. passed 4-20-15)

§ 158.05 DEFINITIONS.

When used in this chapter, the following words, terms and phrases shall be interpreted to have the meaning described in this section. All other words, terms and phrases shall be interpreted as they are commonly used in everyday language.

CERTIFIED FALL ZONE. A measured distance outward from the base of the tower established by a document submitted by a professional engineer registered with the State of North Carolina, in which a distance less than the standard Fall Zone is represented as sufficient to protect adjacent property from collapse of the tower resulting from structural failure or acts of nature.

CONCEALMENT TECHNOLOGY. Use of artificial trees, clock towers, bell steeples, light poles and similar mounting structures that camouflage or conceal the presence of antennas or towers.

FALL ZONE. A circular area of land with its radius measured from the outer edge of a communication tower structural component. The standard for radius measurement is the height of the tower. The area shall be sufficiently large to contain any ice or debris that may fall from the tower or one of its structural components.

MAJOR MOUNTAIN RIDGE OR PEAK. A major mountain ridge or peak is any, according to the USGS 1:24,000 Topographic Map, that is 3,000 feet or over in elevation and an elevation 500 feet or more above the adjacent valley floor, including all land within 100 feet below the elevation of any portion of such line or surface along the crest.

TOWER. A structure erected solely for the purpose of supporting one or more antennas designed to wirelessly transmit or receive any form of electronic communication.

TOWER HEIGHT. The vertical distance measured from the ground at the base to the upper most point of the tower, including any attached antenna. The maximum height for any tower is 200 feet.

TOWER SITE. The real property that an applicant(s) is required to have ownership of, leasehold of interest in, easement over pursuant to § 158.07(B).

VIEWSHED. Those lands seen from a known location forming a visual composition, with foreground, middleground and background areas. Foreground is the area within one mile of the known location close enough to a viewer so that individual plant types, smells, colors, and forms are extremely vivid.

(Ord. passed 6-2-97; Am. Ord. passed 2-7-05; Am. Ord. passed 4-20-15)

§ 158.06 PERMITS REQUIRED TO ERECT TOWER.

It shall be unlawful for any person, corporation, partnership or other entity to erect a tower or to replace an existing tower without first obtaining a permit from the Ashe County Planning Department. An additional permit will be required from the Ashe County Building and Inspection Department before construction begins.

(Ord. passed 6-2-97; Am. Ord. passed 4-20-15)

§ 158.07 APPLICATION SUBMISSION AND REVIEW PROCESS.

(A) A tower application submitted to the Ashe County Planning Department will be reviewed by the Department and when deemed complete will be presented to the Ashe County Planning Board at its next regularly scheduled meeting.

(B) The tower application must include a site plan containing the following information:

(1) A description of sufficient land area surrounding the tower to contain any ice debris or debris that happens to fall from the tower, antenna, or guy wires.

(2) A statement of reasons the applicant cannot utilize existing towers (co-location) to achieve the results desired.

(3) A statement of reasons the applicant has rejected lease of county-owned property upon which the county could co-locate antennas for emergency communications.

(4) A description of the distance of the proposed site from the Blue Ridge Parkway, and if within its viewshed a copy of all communication with the Community Planner for the Blue Ridge Parkway regarding the proposed tower site.

(5) A description of access routes to the proposed tower site.

(6) A description of the nearest recorded residential subdivisions, along with distances from those within one-half mile of the proposed tower site.

(7) Proof of authority to use the tower site and any necessary right-of-way to the tower site.

(8) Names and contact information for the professional who prepared the design, the company owning the tower and the company responsible for maintaining the tower.

(9) The name and contact information for the property owner of the proposed site location, the parcel ID number of the location, and a copy of the section of the 1:24,000 USGS quadrangle showing the proposed site.

(10) All existing facilities and infrastructure, to include all overhead and underground power lines; federal, state, and local roads; any water courses, to include perennial streams; and any existing communications equipment on the property.

(11) Location of a four feet by four feet sign, clearly visible, identifying the owner and operator of the tower site and a local emergency phone number for each.

(C) The tower application must include a design plan containing the following information:

(1) Certification by a qualified professional engineer licensed by the State of North Carolina, with contact information for that person.

(2) A locations of the base of the tower and the foundations for all guy-line anchors and support structures, all proposed auxiliary buildings and any other proposed improvements, including the utilities connections within and to the proposed site.

(3) A description of engineering or construction methods that will allow for additional antennas to be located on the proposed tower for future co-location or additional expansion of services.

(4) Certification that the tower is designed to meet the standards of Table 1606.1 of the North Carolina State Building Code for wind velocities.

(5) Certification that the tower meets the ANSI/EIA/TIA-222 standards of a minimum 100 year return wind speed and a minimum one-half inch of solid radial ice.

(Ord. passed 6-2-97; Am. Ord. passed 4-20-15)

§ 158.08 CRITERIA FOR ISSUANCE OF PERMIT.

(A) The Planning Department shall review the application for compliance with the requirements of § 158.07. The Planning Board shall review the application and consider the necessity of the proposed tower to accomplish the objectives of this chapter, the effect of the proposed tower on neighboring properties, the effect on views of any Major Mountain Ridge, and the effect of the proposed tower on financial concerns for the county such as tourism and development.

(B) A tower shall not be located on a Major Mountain Ridge without consideration of concealment technology, and shall be designed to utilize the minimum height for its intended purpose, but shall not be greater in height than 195 feet.

(C) A tower shall not be located in a recorded residential subdivision without a petition from the property owners requesting a tower by specific description of its height and any use of concealment technology.

(D) A tower shall be constructed according to the North Carolina Utilities Commission construction standards.

(E) A chain link fence with a minimum height of eight feet, topped with one or two feet of razor wire, and with a minimum of a 15 feet radius from the tower center, shall be constructed to improve safety and discourage vandalism.

(F) Any necessary communications tower lighting shall meet, but not exceed, the minimum standards of the Federal Aviation Administration (FAA) for a red obstruction lighting system.

(G) The tower owner shall provide proof of general liability insurance in at least the amount of \$500,000. This requirement for proof of insurance shall be required as part of the permit application process and again at the time of each biennial inspection.

(H) Co-location is a highly desirable feature of a tower, potentially reducing the number of towers needed in the county.

(Ord. passed 6-2-97; Am. Ord. passed 4-20-15)

§ 158.09 FEES.

(A) All tower permit fees shall be set by the Ashe County Board of Commissioners. Fees shall be paid to the Ashe County Planning Department.

(B) A biennial (every two years) inspection renewal fee, set by the Ashe County Board of Commissioners, shall be required to maintain the tower permit. The Ashe County Planning Department shall notify the permit holder at renewal time and schedule an inspection of the communication site and tower.

(C) In the case of co-location, only the permit holder shall be required to renew the permit and pay the renewal permit fee.

(Ord. passed 6-2-97; Am. Ord. passed 4-20-15)

§ 158.10 EXPIRATION OF PERMIT.

A permit issued pursuant to this chapter expires six months after the date of issuance if the work authorized has not commenced. If after commencement the work is discontinued for a period of 12 months, the permit immediately expires. No work authorized by a permit that has expired may thereafter be performed until a new permit has been secured.

(Ord. passed 6-2-97; Am. Ord. passed 6-6-05; Am. Ord. passed 4-20-15)

§ 158.11 ABANDONMENT.

If the permitted use of any communications tower ceases for a consistent period of 12 months, the owner shall have 90 days from notice of violation of this chapter provision in which to dismantle and remove the entire communications tower from the existing site. (See § 158.14 of the chapter.)

(Ord. passed 6-2-97; Am. Ord. passed 4-20-15)

§ 158.12 VARIANCE PROCESS.

(A) Where because of strict adherence to the provisions of this chapter, would cause an unnecessary hardship, the Ashe County Planning Board may authorize a variance. Any authorizing of the variance shall not destroy the intent of this chapter. Any authorized variance shall be recorded both on the permit and in the minutes of the Ashe County Planning Board meeting. The reasoning(s) for the granting of the variance shall be duly noted.

(B) All request from an applicant for a variance shall be made in writing and submitted to the Ashe County Planning Department ten days before the next regularly scheduled Ashe County Planning Board meeting.

(Ord. passed 6-2-97; Am. Ord. passed 4-20-15)

§ 158.13 SEVERABILITY CLAUSE.

Should any section or provision of this chapter be decided by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the chapter as a whole or a part thereof other than the part so declared to be unconstitutional or invalid.

(Ord. passed 2-7-05; Am. Ord. passed 4-20-15)

§ 158.14 CONFLICT WITH OTHER LAWS.

Whenever the regulations of this chapter conflict with the requirements of another federal or state statute, or county ordinance, the more restrictive standard shall govern.

(Ord. passed 6-2-97; Am. Ord. passed 2-7-05; Am. Ord. passed 4-20-15)

§ 158.15 EFFECTIVE DATE.

This chapter shall take effect and be in force on the date of enactment.

(Ord. passed 4-20-15)

§ 158.99 PENALTY.

(A) *Misdemeanor.* Any person who violates a provision of this chapter shall be guilty of a misdemeanor and shall be subject to punishment as provided for by G.S. § 14-4. Each day of a violation of this chapter shall be a separate offense.

(B) *Financial penalties.* In addition to criminal penalties for a violation of this chapter, the Board of County Commissioners may impose civil penalties for each day's continuation of the offense. The amount shall be limited to \$500 per day. A penalty unpaid 30 days after the offender has been cited for violation of this chapter may be recovered in a civil action in the General Court of Justice.

(C) *Other remedies.* All appropriate remedies for relief authorized by G.S. § 153A-123, including orders for mandatory and prohibitory injunctions and for abatements, may be used to enforce this chapter.

(Ord. passed 6-2-97; Am. Ord. passed 2-7-05; Am. Ord. passed 3-5-12; Am. Ord. passed 4-20-15)

CHAPTER 160: ADULT ESTABLISHMENTS.

Section

- 160.01 Title
- 160.02 Purpose
- 160.03 Authority
- 160.04 Jurisdiction
- 160.05 Definitions
- 160.06 Prohibited activities
- 160.07 Nonconforming use
- 160.08 Permits
- 160.09 Separability
- 160.10 Variances

- 160.99 Penalty; enforcement

§ 160.01 TITLE.

This chapter shall be known as the Adult Establishments Chapter.

(Ord. passed 3-19-12)

§ 160.02 PURPOSE.

For the purpose of promoting the health, safety, morals, and general welfare of the citizenry of Ashe County, this chapter is adopted by the Board of Commissioners to regulate adult establishments, as defined in this chapter, located in the county. The regulations of this chapter have been made with reasonable consideration given to the character of the county and its areas and the unique suitability of certain areas for location of these establishments. Studies have shown that lowered property values and increased crime rates tend to accompany and are brought about by the concentration of adult establishments as defined in this chapter. Regulation of these uses is necessary to ensure that these effects do not contribute to the blighting of surrounding neighborhoods and to protect the integrity of the county's schools, churches, child care centers, parks and playgrounds which are typically areas in which juveniles congregate. It is the intent of this provision to establish reasonable regulations to prevent a concentration of adult establishments within the County of Ashe and to separate adult establishments from those sensitive uses listed in this chapter.

(Ord. passed 3-19-12)

§ 160.03 AUTHORITY.

The provisions of this chapter are adopted by the Board of Commissioners under authority granted by the General Assembly of the State of North Carolina in G.S. §§ 153A-45 through 153A-50, 153A-135, and 14-202.11(c).

(Ord. passed 3-19-12)

§ 160.04 JURISDICTION.

From and after March 19, 2012, this chapter shall apply to every geographic area within the county, except as to locations within the jurisdiction of an incorporated municipality.

(Ord. passed 3-19-12)

§ 160.05 DEFINITIONS.

As used in this chapter:

ADULT BOOKSTORE. A bookstore:

(1) Which receives a majority of its gross income during any calendar month from the sale or rental of publications (including books, magazines, other periodicals, videotapes, compact discs, photographic, electronic, magnetic, digital, or other imaging medium) which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, as defined in this chapter; or

(2) Having as a preponderance (either in terms of the weight and importance of the material or in terms of greater volume of materials) of its publications (including books, magazines, other periodicals, videotapes, compact discs, photographic, electronic, magnetic, digital, or other imaging medium) which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, as defined in this chapter.

ADULT ESTABLISHMENT. A business as defined in G.S. § 14-202.10(2). This definition includes adult bookstores, adult motion picture theaters, adult mini-motion picture theaters, adult live entertainment businesses as defined in this chapter.

ADULT LIVE ENTERTAINMENT. Any performance of or involving the actual presence of real people which exhibits specified sexual activities or specified anatomical areas, as defined in this chapter.

ADULT LIVE ENTERTAINMENT BUSINESS. Any establishment or business wherein adult live entertainment is shown for observation by patrons.

ADULT MINI-MOTION PICTURE THEATER. An enclosed building with viewing booths used for presenting motion pictures, a preponderance of which are distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas as defined in this chapter, for observation by patrons therein.

ADULT MOTION PICTURE THEATER. An enclosed building or premises used for presenting motion pictures, a preponderance of which are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, as defined in this chapter, for observation by patrons therein.

SEXUALLY ORIENTED DEVICE. Without limitation, any artificial replica or simulation of a specified anatomical area or other device or paraphernalia that is designed principally for specified sexual activities, but shall not include any contraceptive device.

SPECIFIED ANATOMICAL AREAS.

(1) Less than completely and opaquely covered:

- (a) Human genitals, public region,
- (b) Buttock, or
- (c) Female breast below a point immediately above the top of the areola; or

(2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES.

- (1) Display of human genitals in a state of sexual stimulation or arousal;
- (2) Acts of human masturbation, sexual intercourse or sodomy; or
- (3) Fondling or other erotic touching of specified anatomical areas.

§ 160.06 PROHIBITED ACTIVITIES.

(A) No person shall create or operate an adult establishment in any location:

- (1) Within 1,320 feet in any direction from an established residential dwelling structure;
- (2) Within 1,320 feet in any direction from a structure in which an adult establishment is located;
- (3) Within 1,320 feet in any direction from a structure used as a church, synagogue, or other house of worship;
- (4) Within 1,320 feet in any direction from a structure used as a public school or as a state- licensed day care center;
- (5) Within 1,320 feet in any direction from any lot or parcel on which a public playground, public swimming pool, or public park is located; or
- (6) Within 1.5 miles of the Blue Ridge Parkway, the distance to be measured horizontally from the roadway centerline of the Blue Ridge Parkway.

(B) No person shall authorize or create a display of the contents or the activity of an adult establishment which is visible from outside the confines of an adult entertainment structure.

(C) A live entertainment establishment is prohibited from any display of specified sexual activities as defined in this chapter, and is prohibited from allowing indecent exposure as defined in G.S. § 14-190.9.

(D) For purposes of enforcement of this chapter, the term **PERSON** shall mean an individual and shall include:

- (1) The manager of an establishment; the owner of an establishment;
- (2) The agent in charge of a building, premises, structure or facility; or
- (3) The owner of a building, premises, structure or facility when that owner knew, or reasonably should have known, the nature of the enterprise operated there, and that owner refused to cooperate with public officials in taking reasonable measures designed to terminate a proscribed use. Provided, however, that if there is an agent in charge, and if the owner did not have actual knowledge of a proscribed use, the owner shall not be prosecuted under § 160.99(A).

(E) Nothing in this chapter shall be construed to authorize or allow any adult establishment to operate within Ashe County if prohibited by some provision of North Carolina or federal law.

(Ord. passed 3-19-12)

§ 160.07 NONCONFORMING USE.

(A) Any adult establishment lawfully operating on March 19, 2012, that is in violation of this chapter shall be deemed a nonconforming use. Any use which is determined to be nonconforming by application of the provisions of this section shall be permitted to continue for a period not to exceed two years. Such nonconforming use shall not be increased, enlarged, extended, or altered except that the use may be changed to a conforming use.

(B) If a nonconforming use is discontinued for a period of 180 days or more, it may not be reopened as an adult establishment.

(C) If two or more adult establishments are within 1,320 feet of one another and otherwise in a permissible location, the adult establishment which was first operated and continuously operated at its present location shall be considered the conforming use and the one created later shall be considered nonconforming.

(D) An adult enterprise lawfully operating as a conforming use shall not be rendered nonconforming by the subsequent location of a structure or facility designated in § 160.06.

(Ord. passed 3-19-12)

§ 160.08 PERMITS.

A permit is required to operate an adult establishment. Application shall be made to the Ashe County Planning Department. The application will be on a form approved by the Ashe County Board of Commissioners, and must be accompanied by a signed and sealed survey from a professional land surveyor showing that the proposed location complies with the setbacks of § 160.06. Denial of an application by the Planning Department may be appealed to the Ashe County Planning Board.

(Ord. passed 3-19-12)

§ 160.09 SEPARABILITY.

Should any section or provision of this chapter be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of this chapter as a whole or any part thereof which is not specifically declared to be unconstitutional or invalid.

(Ord. passed 3-19-12)

§ 160.10 VARIANCES.

Where, because of conditions peculiar to the site, strict adherence to the provisions to this chapter would cause an unnecessary hardship, a written petition for a variance shall be considered by the Planning Board, which may authorize a variance if it can be made in fairness to other applicants and without destroying the intent and purposes of this chapter. Before granting a variance from the separation requirements set forth in this chapter the Ashe County Planning Board shall find that thoroughfares, traffic circulation patterns, structures or other natural or man-made geographic or topographic features are likely to provide an adequate measure of protection for the community or from any secondary effects of the adult establishment. Any authorized variance shall be entered in writing in the official minutes of the Planning Board with the reasons described for which the exception was made.

(Ord. passed 3-19-12)

§ 160.99 PENALTY; ENFORCEMENT.

(A) *Misdemeanor.* Any person who violates a provision of this chapter shall be guilty of a misdemeanor and shall be subject to punishment as provided by G.S. § 14-4. Each day of a violation of this chapter shall be a separate offense.

(B) *Financial penalties.* In addition to criminal penalties for a violation of this chapter, the Board of County Commissioners may impose civil penalties for each day's continuation of the offense. The amount shall be limited to \$500 per day. A penalty unpaid 30 days after the offender has been cited for violation of this chapter may be recovered in a civil action in the General Court of Justice.

(C) *Other remedies.* All appropriate remedies for relief authorized by G.S. § 153A-123, including orders for mandatory and prohibitory injunctions and for abatements, may be used to enforce this chapter.

(Ord. passed 3-19-12)

Appendix C

Model Stormwater Ordinance Developed by High Country
Council of Governments

MODEL
LOCAL GOVERNMENT STORMWATER
MANAGEMENT ORDINANCE

PURPOSE

The purpose of this ordinance is to protect, maintain and enhance the public health, safety, environment and general welfare by establishing minimum requirements and procedures to control the adverse effects of increased post-development stormwater runoff and nonpoint and point source pollution associated with new development and redevelopment as well as illicit discharges into municipal stormwater systems. It has been determined that proper management of construction-related and post-development stormwater runoff will minimize damage to public and private property and infrastructure; safeguard the public health, safety, and general welfare; and protect water and aquatic resources.

APPLICABILITY AND JURISDICTION

- (A) The provisions of this ordinance shall apply within the Town Limits and any Extraterritorial Jurisdiction (ETJ).
- (B) The following development activities are exempt from the provisions of this ordinance:
 - (1) Construction of a single-family or two-family residence
 - (2) Redevelopment, or change in use of a structure, that does not involve more than 5,000 square feet of land disturbance
 - (3) Redevelopment, or change in use of a structure, that does not involve construction of more than 5,000 square feet of additional impervious surface
 - (4) Agriculture and forestry practices

RELATIONSHIP TO OTHER LAWS, REGULATIONS AND PRIVATE AGREEMENTS

This ordinance is not intended to modify or repeal any other ordinance, rule, regulation or other provision of law. The requirements of this ordinance are in addition to the requirements of any other ordinance, rule, regulation or other provision of law. Where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human or environmental health, safety, and welfare shall control.

EFFECTIVE DATE AND TRANSITIONAL PROVISIONS

- (A) This Ordinance shall take effect on _____, 201____.
- (B) All development and redevelopment projects for which all necessary permits were issued prior to the effective date of this ordinance and which remain valid, unexpired, unrevoked and not otherwise terminated at the time of development or redevelopment shall be exempt from complying with all provisions of this ordinance dealing with the control and/or management of post-construction runoff, but shall be required to comply with all other applicable provisions (including but not limited to illicit discharge provisions).

DRAINAGE PLAN REQUIRED

Any development or redevelopment subject to the provisions of this ordinance shall submit a Drainage Plan for review by the Town in conjunction with application for a Zoning Permit. The Town shall review the Drainage Plan for compliance with the provisions of this ordinance. The Drainage Plan shall be prepared and bear the seal of a licensed professional engineer, and include the following:

- (A) Topographic Map of the total drainage area that includes the project site. The Topographic Map shall have a scale not smaller than 1 inch = 50 feet, and include the following:
 - (1) Contours at two-foot intervals
 - (2) Property lines
 - (3) Project construction elements (structures, parking lots, driveways, and other impervious surfaces)
 - (4) Existing perennial and intermittent streams; wetlands; and springs
 - (5) Existing man-made stormwater facilities
- (B) Engineering drawings depicting design and details of proposed piping, drainage structures, retention/detention structures, and channels connecting to a network of man-made or natural drainage features
- (C) Specifications of piping, drainage structures, permanent erosion control measures, and retention/detention structures
- (D) Computations to support the design and specifications

GENERAL PROVISIONS

- (A) To the extent practical, lot lines in subdivisions shall follow natural and existing man-made drainage features
- (B) Stormwater shall not be channeled into a sanitary sewer system

DEVELOPMENT STANDARDS

- (A) Stormwater runoff from the development shall be transported from the development by vegetated conveyances to the maximum extent practicable.
- (B) All built-upon area shall be at a minimum of 30 feet landward of all perennial and intermittent surface waters.
- (C) Post-development runoff rate shall not exceed pre-development runoff rate. Runoff rates must be based on the same calculation method.
- (D) Stormwater management facilities shall have a minimum design capacity of the 10-year discharge. The design capacity for cross drainage facilities in public streets shall be the 25-year discharge.
- (E) Stormwater management facilities shall be designed in accordance with 15A NCAC 2H .1008
- (F) Stormwater management facilities shall be permanent, shall be protected with easements or covenants that run with the land, and shall be provided with public access

(G) Projects that drain to Class Tr waters shall include stormwater management measures that do not result in a sustained increase in water temperature of the receiving stream

(H) Minimum pipe diameter shall be 18 inches for open-ended culverts and 15 inches for closed systems and driveway culverts. Minimum pipe diameter for portions of closed systems outside the public right-of-way shall be 12 inches.

MAINTENANCE

The owner (or other responsible party) of each stormwater management facility installed pursuant to this ordinance shall maintain and operate it so as to preserve and continue its function in controlling stormwater quality and quantity at the degree or amount of function for which the facility was designed.

PERFORMANCE SECURITY FOR INSTALLATION AND MAINTENANCE

The Town may, at its discretion, require the submittal of a performance security or bond with surety, cash escrow, letter of credit or other acceptable legal arrangement prior to issuance of a permit in order to ensure that the stormwater management facilities are:

- (A) Installed as indicated in the Drainage Plan
- (B) Maintained by the owner as required by this ordinance

REMEDIES AND PENALTIES

(A) The remedies and penalties provided for violations of this ordinance, whether civil or criminal, shall be cumulative and in addition to any other remedy provided by law, and may be exercised in any order.

(B) The Town may refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the site and served by the stormwater practices in question until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.

(C) As long as a violation of this ordinance continues and remains uncorrected, the Town may disapprove any request for permit or development approval or authorization on the land on which the violation occurs.

(D) If the violation is deemed dangerous or prejudicial to the public health or public safety and is within the geographic limits prescribed by North Carolina G.S. § 160A-193, the Town may cause the violation to be corrected and the costs to be assessed as a lien against the property.

(E) The Town may issue a stop work order to the person(s) violating this ordinance. The stop work order shall remain in effect until the person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein. The stop work order may be withdrawn or modified to enable the person to take the necessary remedial measures to cure such violation or violations.

(F) Violation of this ordinance may be enforced as a misdemeanor subject to the maximum fine permissible under North Carolina law.

Appendix D

Ashe County Sign Ordinance

CHAPTER 164: SIGN CONTROL

Section

General Provisions

- 164.01 Short title
- 164.02 Authority
- 164.03 Purpose
- 164.04 Jurisdiction
- 164.05 Definitions

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- 164.20 Sign regulations
- 164.21 Signs exempted
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- 164.23 Off-premises sign regulations
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- 164.40 Maintenance
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- 164.55 Permits
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- 164.75 Administration and enforcement
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Legal Status Provisions

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- 164.92 Noncommercial messages
- 164.93 Severability

- 164.99 Violations; penalty

GENERAL PROVISIONS

§ 164.01 SHORT TITLE.

This chapter shall be known and cited as the Sign Control Chapter of Ashe County, North Carolina.

(Ord. passed 1-22-08)

§ 164.02 AUTHORITY.

Pursuant to the authority and provision conferred in G.S. § 153A-121(a), the Ashe County Board of Commissioners hereby ordains and enacts into law this chapter.

(Ord. passed 1-22-08)

§ 164.03 PURPOSE.

(A) To guide and regulate the construction and placement of signs in Ashe County in order to preserve the scenic and aesthetic features and the quality of life for the residents and visitors. The Board of Commissioners is aware of, and sensitive to, the need for local businesses to adequately identify their products and services and is committed to safeguarding the interests of local businesses while providing reasonable regulations.

(B) To ensure the safety of the local and visiting motorist on the roads in Ashe County by reducing the distracting influence of uncontrolled signs throughout the county.

(Ord. passed 1-22-08)

§ 164.04 JURISDICTION.

This chapter shall apply to all areas of Ashe County located outside any incorporated city or town planning or extraterritorial jurisdiction. Municipalities within Ashe County may elect to allow this chapter to be effective within their corporate limits.

(Ord. passed 1-22-08)

§ 164.05 DEFINITIONS.

For the purpose of this chapter, the following definitions apply:

COPY. The characters, letters or illustrations displayed on a sign face.

DIRECTIONAL SIGN. All off-premises signs providing directions to a business, office or other activity. If a sign contains any

additional message or exceeds the maximum area, it shall be construed as an off-premises advertising sign.

DIRECTLY ILLUMINATED SIGN. A sign designed to give forth artificial light directly (or through transparent or translucent material) from a light source within or attached to such sign.

DWELLING UNIT. A house, apartment or a group of homes occupied or intended for occupancy as separate living quarters for one or more humans.

EXEMPT SIGN. Any sign which is specifically listed as exempt from this chapter. Exempt signs are not regulated by the terms of this chapter and shall not require a permit.

FREESTANDING SIGN. The general term for any sign which is supported from the ground and not attached to a building.

INDIRECTLY ILLUMINATED SIGN. A sign designed to have illumination from a detached light source, shielded so that no direct rays from the light source are visible elsewhere than on the lot where said illumination occurs.

NONCONFORMING SIGN. Existing signs that are constructed and in place prior to the adoption of this chapter and which do not conform to the provisions of this chapter, as amended, are declared **NONCONFORMING SIGNS**. An illegal sign is not a **NONCONFORMING SIGN**.

OFF-PREMISES SIGN. Any sign advertising a product, service, business or activity, located or conducted elsewhere than on the premises where the sign is located.

ON-PREMISES SIGN. A sign that draws attention to or communicates information about a business, service or commodity, that exists or is conducted, sold, offered, maintained or provided at a location on the premises where the sign is located.

PERMANENT SIGN. A sign is permanently affixed to the ground if its supporting elements are set in a concrete base in the ground or the sign is otherwise securely fastened to the ground or another permanent structure and is intended to remain in one location for an indefinite period.

PORTABLE SIGN. Any freestanding sign that is not permanently affixed to the ground. Without limiting the generality of the foregoing, portable signs shall include any sign mounted on a trailer or on wheels as well as V-shaped or sandwich signs that can with little difficulty be moved from place to place.

SETBACK. The shortest horizontal distance from the property line or right-of-way to the nearest point (leading edge) of the sign or its supporting member.

SHOPPING CENTER. A development having five or more establishments located on the same parcel or on abutting parcels and planned as an integrated development.

SIGHT DISTANCE TRIANGLE. The land adjoining a road intersection that is kept clear of obstructions between three and seven feet above ground as measured along the road flow lines above ground to ensure visibility and the safety of motorists and pedestrians. The protected sight distance area is the triangle with sides that are the intersecting flow lines of two roads at an intersection. Where local roads meet, the legs shall extend at least 35 feet each way from the intersection of the edge of the traveled way.

SIGN. Any display of letters, words, numbers, figures, devices, emblems, pictures, logos or any other means whereby the same are made visible for the purpose of making anything known, whether such display be made on, or attached to or as a part of a structure, surface or any other object whether natural or man-made.

SIGN AREA or SIGN FACE. The area of a sign shall be considered to be that of the smallest rectilinear figure which encompasses all lettering, wording, design or symbols, together with any background difference on which the sign is located, if such background is designed as an integral part of and related to the sign. All cut-outs or extensions shall be included in the area of a sign. Supports and bracing which are not intended as part of the sign shall be excluded.

SIGN HEIGHT. Sign height shall be measured from the ground directly below the center of the sign or from the road grade of the closest point in the road the sign is located along, whichever is higher, to the sign or sign structure's highest point.

TEMPORARY SIGN. A sign that is displayed only for a specific period of time. If a sign display area is permanent but the copy displayed is subject to change, that sign shall not be regarded as temporary.

§ 164.20 SIGN REGULATIONS.

Signs constructed, placed or maintained, except as otherwise prohibited, exempted or not permitted by this subchapter, require a sign permit. Signs permitted by this subchapter shall be constructed in accordance with the North Carolina State Building Codes, as amended.

(Ord. passed 1-22-08)

§ 164.21 SIGNS EXEMPTED.

The following signs are exempt from this subchapter:

- (A) Government signs including, but not limited to, traffic warning or regulatory signs including building identification, directional, information and welcome signs.
- (B) Trade names and graphics which are located on newspaper, soft drink, gasoline pumps and similar vending devices.
- (C) Flags or insignia of any governmental or non-profit organization when not displayed as an advertising device.
- (D) Warning signs posted by utility or construction companies.
- (E) Commemorative tablets, markers or monuments constructed by or with the permission of the Ashe County Board of Commissioners.
- (F) Signs on operational motor vehicles indicating the name of a business, when the vehicle is not intended to be used solely for a display of signs.
- (G) Signs required by law, statute or ordinance.
- (H) Directional signs to commercial business or direction for sale of real estate or personal property, such as temporary realtors' signs, agricultural signs and yard sale signs.
 - (1) Directional signs shall not exceed 16 square feet in area per sign face and shall not exceed eight feet in height or length per sign face and shall have a maximum height of 12 feet.
 - (2) Not more than three off-premises directional signs shall contain directions to the same activity or business location on the same road.
 - (3) Garage sale and/or yard sale signs may be posted for a maximum of seven days.
 - (4) Temporary signs, decorations or displays which are associated with any national, local or religious holiday or celebration for a maximum time period of 30 calendar days before and ten calendar days after.

(Ord. passed 1-22-08)

§ 164.22 SIGNS PROHIBITED.

The following signs are prohibited:

- (A) Signs obstructing the view of motorists entering or exiting roads or highways, or interfering with the driver's view of approaching, merging or intersecting traffic.
- (B) Signs creating unsafe distractions to motorists by incorporating flashing or blinking lights or signs with moving parts or parts which simulate movement, not including signs having only time and temperature messages. Signs with beams or rays of light which are directed on any residential dwelling or at any portion of a roadway and are of such intensity as to impair a driver's vision thereby interfering with the operation of a motor vehicle. No illuminated sign shall interfere with or obscure an official traffic sign, device or signal.

(C) Any non-governmental sign resembling a public safety warning or traffic sign.

(D) Signs, whether temporary, permanent or directional, within any road or highway right-of-way, with the exception of governmental signs.

(E) Signs constructed or maintained upon trees and utility poles or painted or drawn upon natural rock formations or other natural features.

(F) Off-premises signs (including directional signs, but not temporary signs) designed to be visible from a road, or a portion thereof, designated as a Scenic Corridor by the Ashe County Board of Commissioners.

(G) Signs containing words or graphics that are obscene, as defined in G.S. Chapter 15.

(Ord. passed 1-22-08; Amended 8-15-11)

§ 164.23 OFF-PREMISES SIGN REGULATIONS.

(A) Off-premises signs shall not exceed 32 square feet per sign face, shall not exceed eight feet in horizontal length per sign face and shall have a total height no greater than 12 feet.

(B) Off-premises signs shall be no closer than the edge of the right-of-way or no closer than 20 feet from the edge of the traveled way, whichever is greater. All signs and sign structures shall be located at least 25 feet from abutting property lines and outside of all sight distance triangles.

(C) (1) Off-premises signs shall be at least 1,000 linear feet as measured along any roadway center line from any other off-premises sign; at least 75 linear feet from any intersection of the center line of all roads, at-grade railroad crossings or bridges; and at least 100 linear feet from the nearest point of any church or building used for worship or any residential dwelling unit located within 660 linear feet of the right-of-way.

(2) A property owner may have an off-premises sign placed on his or her property closer than 100 feet from his or her personal residence provided that he or she submit a written and notarized statement identifying him or her as the property owner and that the proposed sign will meet all other requirements of this subchapter.

(D) Off-premises signs shall not be attached to or painted onto any building or structure.

(E) Off-premises signs shall have only one sign face per side for no more than a total of two sign faces per sign structure.

(F) No off-premises sign shall be located on the same parcel as an on-premise sign or within 50 feet of an on-premises sign.

(G) Off-premises temporary portable signs are prohibited.

(Ord. passed 1-22-08)

§ 164.24 ON-PREMISES SIGN REGULATIONS.

(A) On-premises freestanding signs shall not exceed 150 square feet per sign face and shall have a total height no greater than 25 feet.

(B) On-premises attached signs shall not exceed a cumulative area of 150 square feet per sign face and shall have a total height no greater than 25 feet.

(C) On-premises freestanding signs shall have only one sign face per side for no more than a total of two sign faces per sign structure.

(D) On-premises signs shall be no closer than the edge of the right-of-way or no closer than 20 feet from the edge of the traveled way, whichever is greater. All signs and sign structures shall be located at least 50 feet from abutting property lines and outside of all sight distance triangles.

(E) Single parcels with one establishment may have one freestanding sign and one sign attached to the building per public road frontage.

(F) Multiple establishments on a single parcel or shopping centers may construct one freestanding group or identification sign per public road frontage. In addition, each establishment may construct one attached sign to the building per public road frontage of each establishment.

(Ord. passed 1-22-08)

§ 164.25 TEMPORARY PORTABLE SIGN REGULATIONS.

(A) On-premises temporary portable signs shall be allowed for a maximum of 14 consecutive calendar days and may be displayed once at six-month-period intervals.

(B) Only one temporary portable sign shall be allowed per establishment. In no instance shall any two portable signs be closer than 75 feet apart.

(C) Temporary portable signs shall be located no closer than the edge of the right-of-way or no closer than 20 feet from the edge of the traveled way and outside of all sight distance triangles.

(D) Temporary portable signs shall not exceed an area of 32 square feet or a height of five feet.

(E) Temporary portable signs shall not be illuminated or employ flashing lights or have intermittent or moving parts.

(F) Temporary portable off-premises signs are prohibited.

(Ord. passed 1-22-08)

SIGN MAINTENANCE; ABANDONED SIGNS; TREE CUTTING

§ 164.40 MAINTENANCE.

(A) All signs and their structures shall be maintained by the sign owner and/or the owner of record of the real property upon which the sign is located in good repair, and safe condition and shall conform to the standards in this section. Maintenance carried out in accordance with this section shall not require a sign permit, provided the sign is not enlarged, moved or altered in any manner which would create or increase a nonconforming condition. Any sign violating these requirements shall be repaired or removed as required.

(B) No sign shall be allowed to have more than 20% of its total surface area covered with disfigured, cracked, ripped or peeling paint or poster paper, or any combination of these conditions for more than 30 consecutive days.

(C) No sign shall be allowed to stand with bent or broken sign facing, broken supports, loose appendages or struts which cause the sign to stand more than 15 degrees from the perpendicular for more than 30 consecutive days.

(D) No sign or sign structure shall be allowed to have weeds, vines or other vegetation obscuring more than 20% of the sign from the road or highway from which it is intended to be viewed for more than 30 consecutive days.

(E) No illuminated sign shall be allowed to stand with only partial illumination for more than 30 consecutive days.

(F) No sign or sign structure shall be allowed to stand if a business no longer exists and the issued permit is not transferred within one year.

(G) No sign shall be allowed to emit beams or rays of light which are directed on any residential dwelling or at any portion of a roadway and are of such intensity as to impair a driver's vision, thereby interfering with the operation of a motor vehicle.

(Ord. passed 1-22-08)

§ 164.41 UNLAWFUL CUTTING OF TREES OR SHRUBS.

No person may, for the purpose of increasing or enhancing the visibility of any sign, damage, trim or remove any trees, shrubs or other vegetation located within any public road or highway right-of-way, except where a legal permit has been obtained from the North Carolina Department of Transportation.

§ 164.42 MODIFICATION OF SUPPORT STRUCTURES.

A sign's structure may be modified by removing wooden poles and replacing them with a single metal support pole. If a nonconforming sign's support structure is modified, the entire sign structure and sign face shall be made to conform to all requirements of this chapter except for the established minimum spacing distance. Before such modification can take place, the sign owner must obtain a permit for the proposed modification.

(Ord. passed 1-22-08)

PERMITS, FEES AND NONCONFORMING SIGNS

§ 164.55 PERMITS.

All signs, except as otherwise provided in § 164.21 shall require a sign permit prior to being constructed, placed or repaired. Sign permits shall be issued by the Sign Enforcement Officer. If a sign permit is denied, the decision may be appealed to the Ashe County Planning Board within 30 days of the decision.

(Ord. passed 1-22-08)

§ 164.56 PERMIT APPLICATION.

No permit shall be issued until an application for each separate sign or sign structure is completed, submitted and approved by the Sign Enforcement Officer. The initial permit shall be valid until revoked by the Sign Enforcement Officer.

(Ord. passed 1-22-08)

§ 164.57 PERMIT AND PERMIT EMBLEM.

A permit along with a permit emblem shall be issued upon proper application and approval. New sign structure construction shall not commence until a permit and emblem are issued. The sign structure must be completely constructed and erected with the permit emblem affixed within 180 days from the date of the permit issuance. The permit emblem shall be placed on sign structures in such a position as to be visible from the nearest adjacent road.

(Ord. passed 1-22-08)

§ 164.58 PERMIT FEES.

A fee schedule shall be determined by the Ashe County Board of Commissioners and posted in the Ashe County Building Inspections Office.

(Ord. passed 1-22-08)

§ 164.59 REGISTERING EXISTING SIGNS.

(A) The owners of all existing off-premises advertising signs constructed and in place prior to January 15, 2008, shall be required to obtain a permit by the procedures set forth in this subchapter and affix a permit emblem within 30 days after issuance of the permit. The permit shall be obtained within a period of 180 days beginning with the effective date of this chapter.

(B) All existing signs that require a permit that have not been registered within 180 days shall be in violation of this section and subject to the enforcement provisions of this chapter. Signs that are not registered in 180 days beginning with the effective date of this

chapter must be permitted as new signs, and not permitted nonconforming signs and meet requirements for new signs.

(Ord. passed 1-22-08)

§ 164.60 PERMIT REVOCATIONS.

Sign permits for new and permitted nonconforming signs may be revoked for any one of the following reasons:

- (A) Misrepresenting material facts by the applicant on the permit application form.
- (B) Failing to construct the sign structure and affix the permanent emblem within 180 days from the permit issue date.
- (C) Altering, enlarging or relocating a permitted sign structure, except in conformance with the requirements of this chapter.
- (D) Allowing a sign to remain blank for a period of 12 consecutive months or reaching a state of dilapidation or disrepair as determined by the Sign Enforcement Officer.

(Ord. passed 1-22-08)

§ 164.61 NONCONFORMING SIGNS.

Legal nonconforming signs may continue to exist provided that:

- (A) The sign is not changed or replaced with another nonconforming sign, except that copy may be changed on an existing sign.
- (B) The sign is not expanded or modified in any way which increases the sign's nonconformity.
- (C) Relocated, except in conformance with the requirements of this chapter.
- (D) Reestablished after it has been removed or has been abandoned for 180 days or more.

(E) Reestablished after damage or destruction if such damage to the sign exceeds 50% of the sign's current assessed tax value. The extent of damage shall be determined by the Sign Administrator.

(Ord. passed 1-22-08)

§ 164.62 NOTICE GIVEN FOR REFUSING TO ISSUE PERMIT.

The Sign Enforcement Officer shall refuse to issue a permit for a proposed sign structure that will not conform to this chapter and shall notify the owner of the proposed sign structure by first class mail as to why the proposed sign does not comply.

(Ord. passed 1-22-08)

§ 164.63 RECONSTRUCTION OF DAMAGED SIGNS OR SIGN STRUCTURES.

(A) Any conforming sign or sign structure which has been damaged may be repaired or replaced and used as before, by the sign owners and/or the owners of record of the real property where the sign is located, provided all repairs are initiated within 30 working days and completed within 60 working days of such damage. However, if the sign should be declared unsafe by the Sign Enforcement Officer, the owner of the sign or the owner of record of the real property whereon the sign is located, shall immediately correct all unsafe conditions to the Sign Enforcement Officer's satisfaction.

(B) As a courtesy to the sign owner, if the Sign Enforcement Officer discovers that a sign is damaged or is in an unsafe condition, the Sign Enforcement Officer will promptly notify either the sign owner or the owner of record of the real property whereon the sign is located. The affirmative duty and liability shall, however, remain with the owner of each sign to keep each sign in a safe and undamaged condition in accordance with the terms of this chapter.

(Ord. passed 1-22-08)

§ 164.75 ADMINISTRATION AND ENFORCEMENT.

The Board of Commissioners has appointed the Building Permitting and Enforcement Department to administer this chapter. The Building Director or his or her appointee shall be known as the Enforcement Officer. The Enforcement Officer shall enforce all provisions of this chapter. The Enforcement Officer shall also have the following authority:

(A) *Violation Notice.* A Violation Notice shall be delivered by certified mail, return receipt requested, or by such other method as allowed by law, to the owner of the sign in violation of the chapter. Whenever the owner of the sign cannot be located and notified, said notice shall be delivered to the owner of record of the real property whereon the sign is located. The time period provided herein shall commence upon receipt of such Violation Notice. The Violation Notice shall identify the sign and shall describe the nature of the violation, refer to the section of the chapter violated, specify in detail what action must be taken to correct the violation and specify all potential enforcement penalties that may apply. Violations shall be corrected within 15 calendar days unless the Enforcement Officer grants an extension.

(B) *Compliance Order.* A Compliance Order for any sign or sign structure not corrected within the time allotted under the Violation Notice or for a prohibited sign or any temporary portable sign not permitted as established by this chapter. A Compliance Order shall be delivered to the sign owner and to the owner of record of the real property whereon the sign is located in the same manner as set out for a Violation Notice and shall not be effective until received. The Compliance Order recipient shall be allowed 30 calendar days to correct or remove the subject sign at owner's expense. Owners of temporary portable signs shall have five working days to remove the subject sign at owner's expense. The Compliance Order shall identify the sign and refer to the section of the chapter violated. Any reoccurring temporary portable sign violation(s) occurring within a six-month time period shall be deemed, for purposes of assessing a penalty, a continued violation.

(C) *Unsafe Sign Notice.* Should any sign or sign structure become imminently unstable or in danger of falling or otherwise unsafe, an Unsafe Sign Notice shall be delivered to the sign owner or to the owner of record of the real property whereon the sign is located in the same manner as set out for a Violation Notice except that the recipient of the notice shall immediately, in the case of imminent danger, secure or remove the sign in a manner to be approved by the Sign Enforcement Officer in conformance with the provisions of this chapter. If the condition prompting the notice is not corrected within 24 hours after receipt of the notice, the Sign Enforcement Officer shall have the authority to remove the sign at the recipient's expense.

(Ord. passed 1-22-08)

§ 164.76 APPEALS.

Violation Notices and Compliance Orders issued by the Sign Enforcement Officer may be appealed to the Ashe County Planning Board within 30 working days of receipt of notice. Pending appeal, the time limits set out in the notice or order shall be suspended. If the Planning Board finds that the action of the Sign Enforcement Officer has been taken for good cause and in accordance with this chapter, it shall so declare and the time period for compliance shall run from the issuance of that Board's finding. If the Planning Board sustains the appeal of the petitioner, no further action will be taken by the Sign Enforcement Officer.

(Ord. passed 1-22-08)

LEGAL STATUS PROVISIONS

§ 164.90 CONFLICT WITH OTHER LAWS.

Whenever the regulations of this chapter conflict with the requirements of another statute, the more restrictive standard shall govern.

(Ord. passed 1-22-08)

§ 164.91 VARIANCES.

Where strict adherence to the provisions of this chapter would cause an unnecessary hardship, the Planning Board may authorize a variance, if such variance can be made without destroying the intent of this chapter. Any variance thus authorized is required to be entered in writing in the minutes of the meeting of the Planning Board and the reasoning on which the departure was justified set forth.

(Ord. passed 1-22-08)

§ 164.92 NONCOMMERCIAL MESSAGES.

Any sign, display, or device allowed under this chapter may contain, in lieu of any other copy, any otherwise lawful noncommercial message that does not direct attention to a business operated for profit, or to a commodity or service for sale, and that complies with size, lighting and spacing, or other requirements of this chapter.

(Ord. passed 1-22-08)

§ 164.93 SEVERABILITY.

Should any section of provision of this chapter be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of the chapter as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.

(Ord. passed 1-22-08)

§ 164.99 VIOLATIONS; PENALTY.

(A) *Misdemeanor.* Any person who violates a provision of this chapter shall be guilty of a misdemeanor and shall be subject to punishment as provided for by G.S. § 14-4. Each day of a violation of this chapter shall be a separate offense.

(B) *Financial penalties.* In addition to criminal penalties for a violation of this chapter, the Board of County Commissioners may impose civil penalties for each day's continuation of the offense. The amount shall be limited to \$500 per day. A penalty unpaid 30 days after the offender has been cited for violation of this chapter may be recovered in a civil action in the General Court of Justice.

(C) *Other remedies.* All appropriate remedies for relief authorized by G.S. § 153A-123, including orders for mandatory and prohibitory injunctions and for abatements, may be used to enforce this chapter.

(Ord. passed 1-22-08; Am. Ord. passed 3-5-12)

Appendix E

Lansing Pedestrian Plan
Developed by NCDOT

Town of Lansing Pedestrian Plan

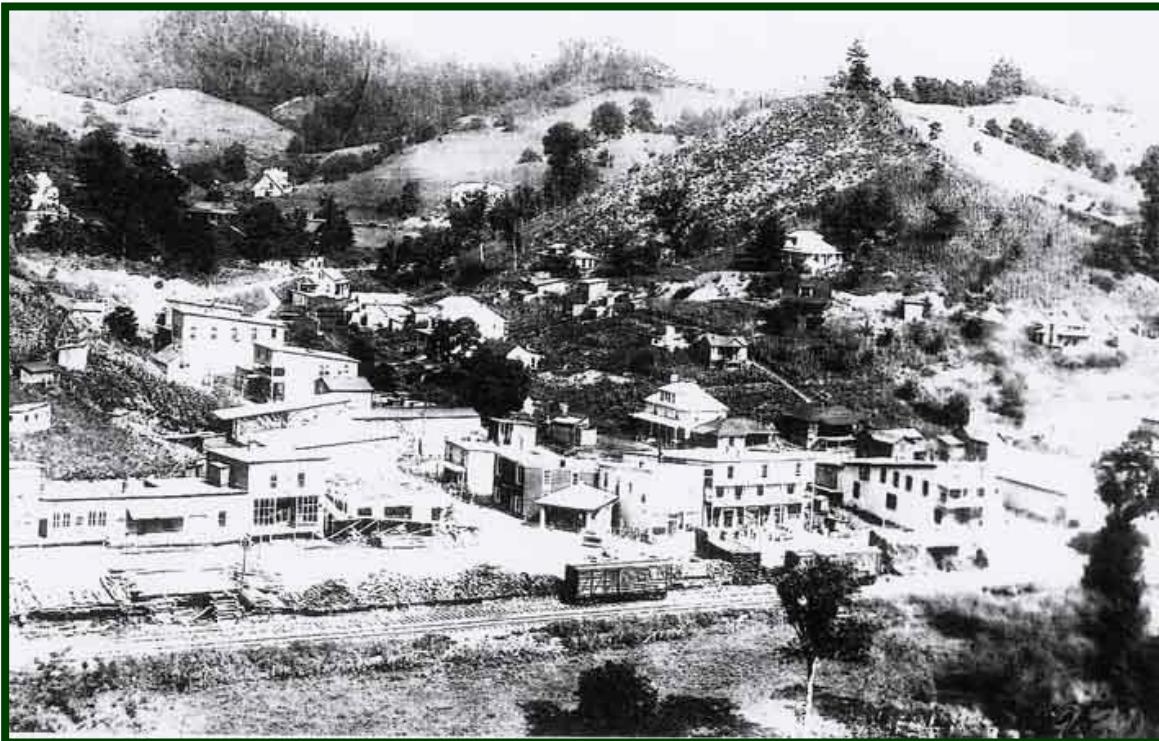


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LANSING PEDESTRIAN PLAN

Purpose

The purpose of this plan is to improve safety (especially in the central business district), make walking a viable transportation option, expand pedestrian facilities, and provide a basis for future Town decisions and funding requests related to pedestrian needs.

Need

The Town has expressed a desire to enhance the transportation network as well as the community by planning a series of sidewalks and trails between key origins and destinations along with traffic calming measures to reduce traffic speeds along NC 194 and South Big Horse Creek Road. Concerns about the speed of traffic through the central business district have been identified as an issue for a while. Connections to the Virginia Creeper Walking and Biking Trail, extension of the Virginia Creeper Walking and Biking Trail, pedestrian connections to the Old Lansing School and ball field, and to the central business district have been recognized as needs for the town. A lack of sidewalks and designated walking areas limits opportunities for citizens to walk, jog, or hike. By providing accessible, inviting facilities the Town can provide opportunities for everyone to improve their health and prevent disease through exercise. A well planned pedestrian and bicycle network that connects the previously mentioned points of interest not only enhances the community but meets a transportation need.

Background

The Town of Lansing has been seeking to improve conditions for residents and visitors within and around the town limits for many years. Some planning efforts are underway that may also address aesthetics, mobility, and community development, including:

- Ashe County Comprehensive Transportation Plan
- North Carolina Small Towns Economic Prosperity (NC STEP) Master Plan
- Greater Lansing Area Development (GLAD)

These community efforts were consulted during the development of the pedestrian plan, along with stakeholder and public input and incorporated to provide the Town with a guide to achieving many of the goals and objectives that were developed in those planning efforts.

Vision and Goals

According to the "Vision of Lansing in 2020" (a document prepared as part of the NC STEP) program, the Town envisions growth continuing in the retiree and second home populations. However, incomes, which are less than half the state median, are not anticipated to increase. For these reasons it is vital to the health of the Town to find ways to be good a steward with their limited resources. One way to do this is to improve the pedestrian environment, so that residents can park their cars and safely walk to their destinations and thus saving on automotive expense. A few of the recommendations from the NC STEP program include:

- Sidewalks connecting the town to the current park and walking trail and leading into residential areas.
- Benches along sidewalks in downtown.
- Appropriately “quaint” solar powered street lights consistent with the concept of Lansing as a green community.
- Gathering and kickoff place for outdoor activities.
- Old football field and the park along Big Horse Creek can anchor festival activity on each side of town, which will encourage visitors to stroll through the downtown area.
- Sufficient parking to allow area residents and visitors to walk into the village.

Process

The Lansing Pedestrian Plan was developed utilizing the following process:

- Scoping meeting with Town of Lansing Board of Aldermen
- Workshop with the Town of Lansing Board of Aldermen
- Distribution and collection of Pedestrian/ Traffic Calming survey
- Posting of plan for public comment
- Public workshop
- Presentation of draft plan to Town Lansing Board of Aldermen
- Consideration and public hearing

Surveys were distributed to citizens to gather their input about what characteristics should be included in the pedestrian network and to develop a list of desirable origins and destinations along with potential routes.

Accident data, traffic volumes, and future road improvement data were examined to identify potential conflicts and solutions prior to identifying potential routes and destinations. Routes were then mapped along with the origins and destinations that would be served. A map along with supporting documentation was then prepared for public comment and Board consideration.

EXISTING CONDITIONS

This section is intended to provide information on the road network, safety, landscape and existing pedestrian system in Lansing. This information will be used to make specific recommendations for pedestrian and traffic calming improvements.

Road Network

Five state roads are located in the plan area: NC 194, South Big Horse Creek Road, Teaberry Road, Patton Road, and Piney Creek Road.

NCDOT claims only maintained areas for right-of-way along these routes. Local streets have a right of way based on the maintenance area as well. The typical maintained right-of-way is between 25 and 30 ft.

Right-of-way or easements will need to be acquired before any sidewalk or path is constructed along a local or state road.

Traffic Counts

- NC 194 (Southern Town Limits) = 5,500 AADT
- NC 194 (Northern Town Limits) = 3,400 AADT
- South Big Horse Creek Road = 1900 AADT

AADT = Annual Average Daily Traffic

Speeds

Speed studies were conducted in conjunction with the traffic counts on NC 194 and South Big Horse Creek Road. The primary area of concern for speeding is the area of NC 194 located in front of the Post Office. The posted speed limit is 20 mph along the section of NC 194 and a majority (75%) of those abide by the posted speed limit. However, there were 2,412 vehicles out of 23,836 during the one week study period that were exceeding 35 mph. Also, there were 149 vehicles that were moving at 50 mph or greater. Of particular concern is the traffic traveling southbound on NC 194 from the intersection with South Big Horse Creek Road which accounted for two thirds of the 149 violators. The Board of Aldermen had commented at the initiation of the planning process that they were concerned about speeding in the area along NC 194 between South Big Horse Creek Road and the southern town limits, and requested that studies be performed to determine if there was a speeding problem.



Existing speed limits:

- NC 194 : 20 mph (35 mph at the town limits)
- South Big Horse Creek Road: 20 mph
- Town Streets: 20 mph

Accidents

Accident analyses were prepared for NC 194 south of the stop light, South Big Horse Creek Rd, and NC 194 northwest of the stoplight for the time period July 1, 2007 through June 30, 2010. Crash rates along these facilities did not exceed statewide crash rates for these types of facilities. There were a total of 6 accidents within the study area during the study period and none involved pedestrians.

Existing Pedestrian Facilities

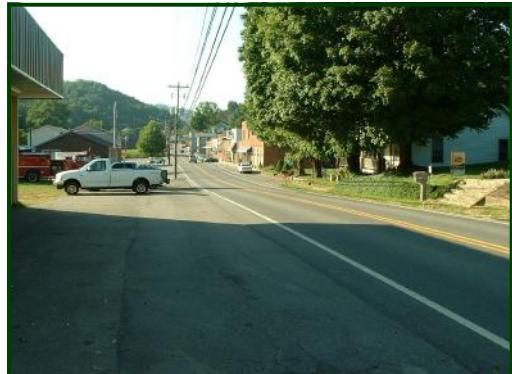
- Intermittent sidewalk along NC 194 from Lansing Foods to the intersection with South Big Horse Creek Road.
- Sidewalk extending north along the east side of South Big Horse Creek Road from the intersection with NC 194 for approximately 250 ft.
- Sidewalk along NC 194 extending east from the intersection with South Big Horse Creek Road for 150 feet.
- The beginning of the Virginia Creeper Walking and Bike Trail is located on the south side of the Lansing Volunteer Fire Department. The trail is a little over 4/10 of a mile long and has a 10 foot wide asphalt surface.



Barriers / Obstacles

The following barriers / obstacles exist and were considered when recommendations were prepared:

- There is a lack of publicly owned right of way. Any sidewalk or trail construction will require the acquisition of right of way or easements which can delay construction. However, 60% of those who completed the survey indicated that they would be willing to dedicate right of way or easement for a sidewalk or trail.
- Many of the existing town streets are narrow with limited building setbacks. The existing right of way only includes the maintained areas of the roadway.
- Large open driveways and parking dominate the primary roads through town and will provide challenges when constructing sidewalks. Reducing driveway sizes and access will need to be addressed at some point.
- Much of the Town is located in the flood zone and floodway and may require permits to construct trails with an impervious surface such as asphalt or concrete. Any proposed sidewalk or trail construction will need to be reviewed by the county planning office to assure compliance with the County's Flood Damage ordinances.
- Construction of planters or other features within the floodway will require a "No Rise Certificate" from Ashe County.
- Development of the Warrensville - Lansing Connector along the old Virginia Creeper rail bed will be limited because of the residential development that has taken place along that passageway.
- At the time this plan was prepared, there was a lack of ideal crossing areas along NC 194 or South Big Horse Creek Road. The intersection of NC 194 at South Big Horse Creek is the only logical crossing point of these two roads until other pedestrian amenities are constructed.



Topography

The elevation of Lansing is 2,664 ft above sea level. Topography in the area consists of steep slopes with many streams in the lower lying areas. Areas immediately adjacent to many of the roads have steep slopes, which will increase the cost of sidewalk/path construction along many of the roads in town.

While the speed limit in Lansing is 35 mph or less, sight distances on town streets are very limited due to the topography and development pattern of the area.



Origins, Destinations and Points of Interests

The following are origins, destinations, and points of interests for pedestrians in Lansing or destinations that residents and survey respondents would like to be able to access by walking from various sections of town:

- Lansing School
- Liars Bench
- Creeper Trail
- Country House Restaurant
- Main Street Discount
- Post Office
- Pie on the Mountain
- Lansing Laundry
- Lansing Methodist Church
- American Legion Ball Field
- Hoosiers T-shirt Outlet
- New River Winery
- American Legion Hut
- American Legion Ball Field
- Lansing Town Hall
- Lansing Foods
- Lansing Fire Department
- Lansing Presbyterian Church
- Virginia Creeper Walking and Bike Trail



There are typically six festivals that bring a large amount of visitors to the Town. They include: the Ola Belle Reed Festival, Memorial Day Rubber Duck Race and Festivities, Haunted Hayride, Easter Egg Hunt, the outdoor Christmas Play, and the Greater LA Festival. Visitors park at various locations in Town while attending these festivals.

Public Parking

Public Parking is available at the following locations:

- Creeper Walking and Biking Trail: 9 spaces
- South of Creeper Walking and Biking Trail to Restaurant: 16 spaces and 1 handicap space
- NC 194 (from southern town limits to NC 194 at South Big Horse Creek intersection on east side): 29 spaces
- Both sides of South Big Horse Creek (from intersection with NC 194 to end of central business area): 39 spaces
- Town lot in front of Lansing Hardware: 34 spaces, with 15 spaces fronting NC 194
- NC 194 (South of intersection with S. Big Horse Creek Rd): 5 spaces along the road
- Lansing Town Hall: 6 spaces and 1 handicap space
- Country House Restaurant: 11 spaces
- NC 194 east of the intersection with S. Big Horse Creek Rd: 19 spaces on the south side of the highway (Lansing Methodist Church, ADAP, and Lansing Laundry)



Survey Results

A survey was made available to the Lansing area residents to gather public input concerning pedestrian facilities, safety, walking habits, trip origins and destinations, and input regarding methods of implementation. The survey was advertised in the community events section of the Jefferson Post and the paper also placed a small article providing information about the survey and pedestrian plan on the front page at the beginning of the survey. The survey was available for comment from October 18, 2010 until November 12, 2010. Surveys were available for download at the High Country Council of Governments website and hard copies were available at the Lansing Post Office and Lansing Town Hall. There were 13 surveys submitted.

Most respondents indicated that they were walking for exercise, social interaction, and stress relief. There were some that indicated that they were walking for errands or work. Reasons for not walking primarily included safety concerns. Less than half stated that a lack of sidewalks was their reason for not walking. Of those that cited safety as a concern, they noted dangerous intersections and speeding traffic as specific concerns. Speeding was not listed in the choice of concerns but three of the thirteen respondents listed it under the "Other" option.

Speed enforcement was listed as the most preferred traffic calming device. Respondents indicated that other traffic calming devices/ methods would be acceptable. Six respondents expressed support for a three way stop at the NC 194/ South Big Horse Creek Road intersection, speed humps, raised intersections, and high visibility cross-walks. All devices/methods that received support were considered in the development of this plan. A poster with information pertaining to traffic calming devices was made available to respondents, but traffic calming is still a relatively new idea that will require additional education efforts prior to implementation.

RECOMMENDATIONS

(All recommendations are identified on the Recommendations Map.)

Trails and Sidewalks

Recommendations for trails and sidewalks were developed analyzing public input, deficiencies in the current pedestrian system, growth patterns, and input from the key stakeholders. Recommendations have been prioritized in an order that would facilitate expansion of the network in a logical manner. The prioritization is reflected in the order that the recommendations are presented.

Cost estimates are included as guidance for making recommendations. Prices can change over time, and will vary significantly based on terrain, necessary utility relocation, soil condition, etc. The facility prices below do not include any right-of-way acquisition or engineering services. It is recommended that the town not pay to acquire any right of way, but request property owners donate it in exchange for the enhancement to their property. Once the town begins to pay for right of way or easements, all property owners will expect payment no matter what the benefit to their property.

1

NC 194 (West side of NC 194): Central Business District

A streetscape improvement that includes the installation of crosswalks (with center island refuges) and planting of street trees/shrubbery in front of the town owned parking lot creating a pedestrian area as well as attractive public space. Because this is in the floodway, trees will not be allowed to be placed in planters but will need to be planted in the ground. This project will require removing existing asphalt in the project area to construct new sidewalks and to plant suitable street trees and/or shrubbery. The improvement will make the street feel narrower and more urban, thus potentially slowing motorists. It will also remove direct parking access from the west side of the street forcing vehicles to enter at one of the access points on either end of the parking lot. It is also recommended that the parking spaces be reversed to accommodate the new pedestrian area. Direct parking access from the street is a hazard to pedestrians who may be walking between the street and the parking spaces. Cost Estimate: 240 ft. x \$100/ft. (12 ft. pedestrian/landscape area) = \$24,000 (There may be additional costs associated with the asphalt removal, relocation of utilities, and landscaping.)



2

NC 194 (East side): Central Business District

Extend the existing sidewalk on the east side of NC 194 south to A Street. It appears that the existing residential frontage was constructed anticipating sidewalk construction in this area. The extension of the sidewalks will also make NC 194 seem narrower to motorist and the sidewalks will also alert drivers to the potential of pedestrians in the area.

Cost Estimate: 500 ft. x \$50/ft. = \$25,000



3

NC 194 (South side): E Street to the pedestrian culvert under NC 194

Construct a pathway/greenway/walking trail to the pedestrian culvert that passes under NC 194 to connect the Old Lansing School with the American Legion Ballfield. A trail or greenway type walking path will maintain the rural character of this part of Lansing and will not require the added expense of curb and gutter. This improvement would facilitate a connection of the central business district with the school, which would be very helpful during festivals or special events at either location.

Cost Estimate: 710 ft. x \$10/ft (5 ft. gravel walking trail) = \$7,100 (The estimate does not account for any potential need for retaining walls or additional grading)



4

South Big Horse Creek Rd (East side): Existing sidewalk to G Street

Extend the existing sidewalk from G Street to facilitate pedestrian access to the existing sidewalk which will also narrow the travel way for motorists causing them slow down through this pedestrian area. Sidewalk is recommended on the east side to preserve the parking on the west side. The parking serves three groups:

- 1) Customers shopping at businesses located along this section of South Big Horse Creek Rd.



- 2) Residents who live in the apartments located above the businesses
- 3) Visitors coming to Lansing to attend special events.

Cost Estimate: 515 ft. x \$50/ft. = \$25,750

5

Warrensville - Lansing Connector Trail

The Town should pursue development of a trail connection between Lansing and Warrensville as described in the High Country Regional Trail Plan. The trail would extend from the southern tip of the Lansing Creeper Walking and Biking Trail to Warrensville following Big Horse Creek and the New River. The trail does not necessarily have to be completely offroad. Low volume secondary or dirt roads can bridge gaps in the trail to assist in making the connection. The Town will need to partner with Ashe County and other organizations to develop ways to facilitate construction and maintenance of the trail.

Cost Estimate: The cost for a 10 ft wide asphalt trail would be approximately \$35 per linear foot. A gravel trail would be approximately \$10 per linear foot. The prices may vary depending on topography and vegetation.



6

B Street - Alley - NC 194 Connector Trail

Construct a path/trail between the south side of Old Fields Branch and the former Dr. Kurtz's Office to connect B Street and the back alley to NC 194. According to the Ashe County Planning Department, the path should be constructed of pervious materials (gravel, sandstone, or mulch) because it is located in the non-encroachment zone of Old Field Branch. Also, the path will require a ramp or steps because of the existing difference in elevation between NC 194 and ground next to the building. The path/trail will provide residents in the B Street area with another pedestrian connection to NC 194 without having to travel an excessive distance.

Cost Estimate: 165 ft. x \$10/ft = \$1,650

(The estimate does not account for any potential need for retaining walls or additional grading)



OTHER RECOMMENDATIONS

Signage

Signage and mapping should be developed to direct pedestrians to the safest and most efficient routes to the various points of interests around town. The Board of Aldermen can decide which points to include on the map and what signage will be appropriate. There are many pedestrian friendly streets like E Street in town that do not have sidewalks, but are very pedestrian oriented. The goal is to provide pedestrians with a safe, inviting, and efficient walking environment, not construct sidewalks everywhere. Appropriate NCDOT approvals should be requested, prior to the installation of any signage. Maps should be made available at a kiosk at Town Hall and also at the Creeper Trail Park.



Bike Route Lanes and other improvements

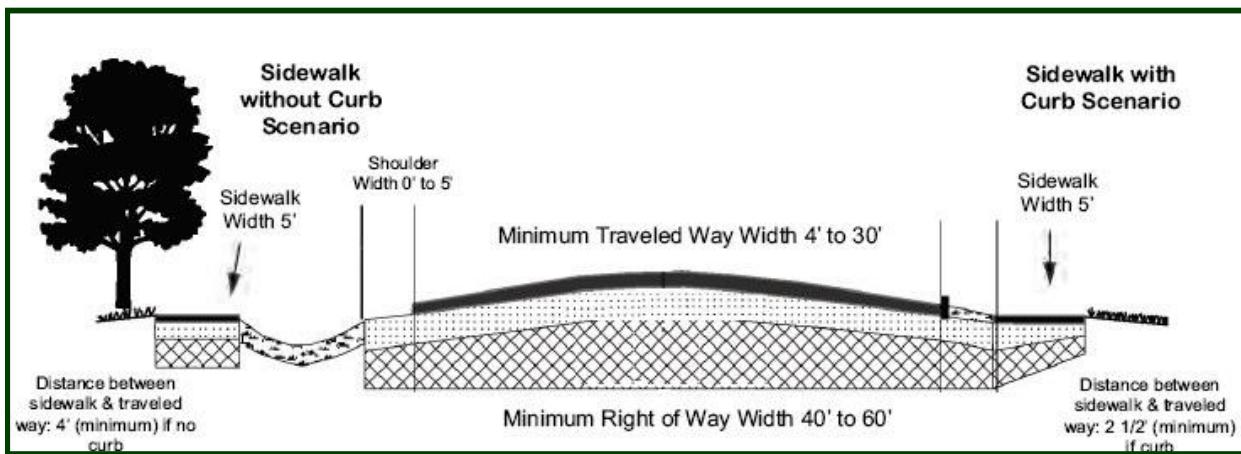
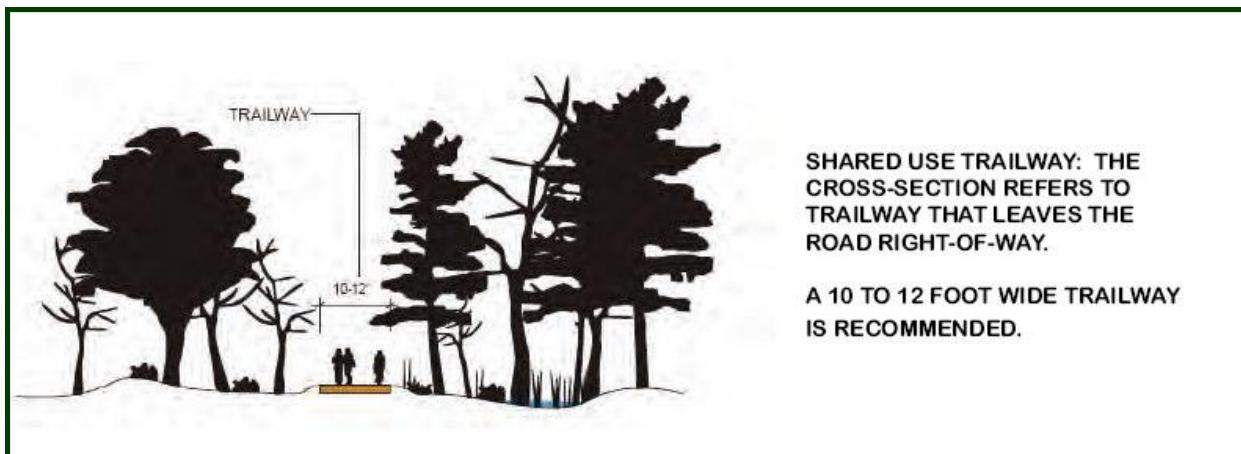
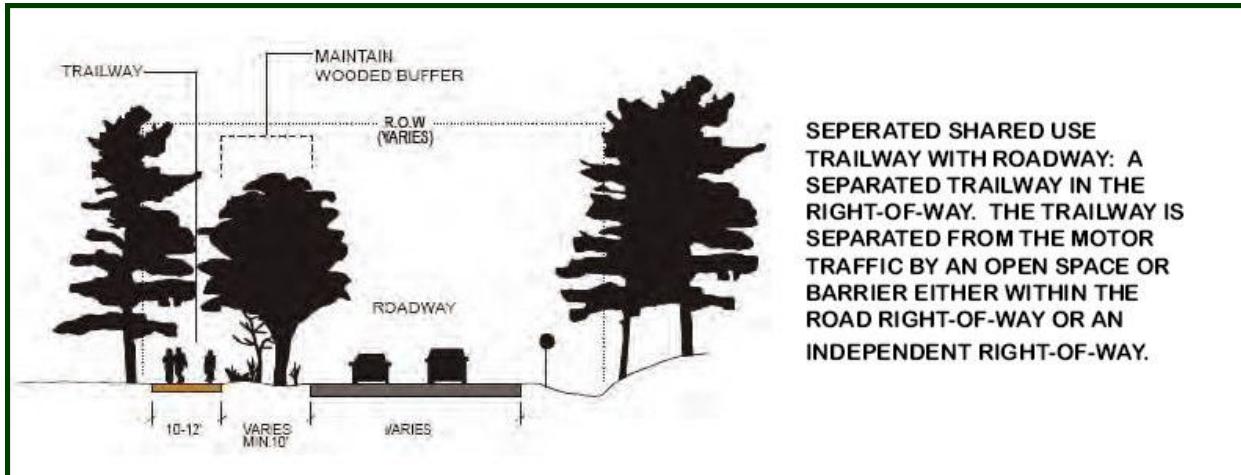
While this plan does primarily focus on pedestrian improvements, the Town would be remiss if it did not take the opportunity to acknowledge a bicycle improvement that has been mentioned in the Ashe County Comprehensive Transportation Plan (CTP). Bike lanes have been identified as a need along NC 194 from West Jefferson to Lansing in the Ashe County CTP. This improvement was included in the CTP because cyclists identified this transportation link as a need. The Town should request that any improvements to NC 194 between Lansing and West Jefferson include the construction of bike lanes or additional paved shoulders to accommodate bicycles. The High Country RPO and Ashe County have identified the need for improvements to NC 194 between Warrensville and Sturgills and these are listed on the High Country RPO Priority Needs List that is submitted to NCDOT bi-annually.

Maintenance

Since sidewalks are predominately located within the public right-of-way, maintenance is a responsibility of the municipality. Typical maintenance activities include snow removal, trimming of trees/shrubs along sidewalks, litter removal, and resurfacing or replacement. Part of safety includes compliance with the Americans with Disabilities Act (ADA). Any existing sidewalks at intersections that don't have ADA compliant ramps will need to be improved to ADA standards as part of maintenance or improvements in that area.



CROSS SECTIONS



Traffic Calming

Due to motorists exceeding the posted speed limits within the town limits, especially in those areas where the town has expressed a desire to construct pedestrian facilities, it is recommended that traffic calming devices be considered on NC 194 and South Big Horse Creek Road. Areas of primary concern include but are not limited to NC 194 from A Street north to the intersection of South Big Horse Creek Road at G Street and near the eastern edge of town at the intersection of NC 194 with A Street. The following traffic calming devices should be considered:

Gateways / Entryways with Center Island Median

Gateways include decorative signing and/or landscaping to visually identify the entrance to a neighborhood or commercial district. This measure helps to make the area appear more as a destination rather than a connection to another area. Gateways are often incorporated into a median island. Small signs, plants, or some other vertical delineator will need to be installed to draw the attention of drivers and also to avoid damage to the islands during snow plowing. The center island median can also be used as a pedestrian refuge for pedestrians who require a greater amount of time to cross the road. The center island pedestrian refuges should be used in conjunction with the gateways to maintain a consistent appearance throughout town.

Location(s): South Big Horse Creek Rd near G Street, NC 194 north of Teaberry Road, NC 194 @ A Street near the eastern town limits, and two located between the vehicle entrances to the town parking lot.

Cost Estimate: Varies depending on size and material.



Advantages	Disadvantages
<ul style="list-style-type: none">• May reduce speeds and volumes• Positive aesthetic effect• Good functionality• Improves quality of life for area• Makes area appear to be a destination• Increases pedestrian safety	<ul style="list-style-type: none">• Can create vehicular hazards• Can create poor visibility• Can be expensive• Loss of on-street parking• Can impact emergency response vehicles if lanes are made too narrow• Should not be used in areas with frequent driveways

Speed Enforcement

Temporary targeted speed limit enforcement in areas where residents are concerned.

Location(s): Town limits

Cost Estimate: Varies



Advantages	Disadvantages
<ul style="list-style-type: none">• May be implemented immediately with little planning• No impact to emergency response times• Effective for reducing speeds in a short span• Secondary benefits include reduced crime and a high sense of security	<ul style="list-style-type: none">• May only be effective for a short time• May only be effective for short distances• Expensive to maintain for an extended period of time

High Visibility Crosswalk

High intensity paint or plastic can be used in a dense pattern to clearly delineate a crosswalk. The crosswalk should be accompanied by appropriate signage. This would provide a safe crossing from the Town parking lot to the Post Office.

Location(s): Multiple locations on NC 194 in the vicinity of D Street.

Cost Estimate: \$200 per Crosswalk per lane.



Advantages	Disadvantages
<ul style="list-style-type: none">• Inexpensive• No impact to emergency response times• Helps collect and distribute pedestrians at one point along the street• Increases visibility of pedestrian	<ul style="list-style-type: none">• Requires more maintenance than a normal crosswalk• May provide pedestrian with false sense of security, especially when used at mid-block locations or uncontrolled approaches to an intersection

Multi-Way Stops

Multi-way stops involve placing stop signs on all approaches to an intersection. Considerations for multi-way stops should follow the guidelines as described in the Manual on Uniform Traffic Control Devices. This improvement is recommended in conjunction with a raised intersection to prevent northbound vehicles from using the three way stop as a continuous flow right turn.

Location(s): NC 194 @ South Big Horse Creek Road.

Cost Estimate: \$300-600 per intersection (Cost may be more because of signal removal.)



Advantages	Disadvantages
<ul style="list-style-type: none">• Smoother than humps for larger vehicles• Effective in reducing speeds• Increases visibility for pedestrians• Slows vehicular traffic at conflict point with pedestrians	<ul style="list-style-type: none">• Increased noise• Increased maintenance costs• Slows emergency vehicles and buses• Can be very uncomfortable to vehicle occupants with certain disabilities

Raised Intersections

Raised intersections are equivalent to speed tables, only they are applied over the entire intersection with ramps on all sides. They are normally at or near the same elevation as the sidewalk. Often include textured and/or colored pavements. This improvement is recommended in conjunction with the Multi-Way Stop Intersection to prevent vehicles from using the three way stop as a continuous flow right turn. A study will need to be conducted by NCDOT to justify the need for the improvement.

Location(s): NC 194 @ South Big Horse Creek Road.

Cost Estimate: Varies depending on materials, and intersection size.



Advantages	Disadvantages
<ul style="list-style-type: none">• If traffic signals are warranted, can be used as a temporary measure• Can reduce intersection collisions• Little impact to emergency response times• May be implemented quickly with little planning• May provide a safer crossing for pedestrians	<ul style="list-style-type: none">• Speeds between intersections often increase• If stop signs are not warranted, disregard for the measure can create dangerous situations

Speed Hump

Raised hump (pavement undulation) in the roadway with a parabolic top which extends across the road at right angles to the direction of traffic flow.

Location(s): Town streets where speeding problems have been documented and enforcement has not made an impact.

Cost Estimate: \$1500-\$2000



Advantages	Disadvantages
<ul style="list-style-type: none">• Effective in reducing speeds• Compatible with pedestrian and bicycle movements• May also decrease cut-through traffic by increasing travel time• Inexpensive	<ul style="list-style-type: none">• Increased noise when vehicles travel over them• Increased maintenance costs• Slows emergency vehicles and buses• Aesthetics• Can be very uncomfortable to vehicle occupants with certain disabilities.

Forced Turn Islands (i.e. no left turns)

Forced Turn Islands are raised islands that block certain movements on approaches to an intersection. They are good for local street connections to main streets where through traffic volume along the continuing local street is a problem, and main streets where left-turns or through movements out of the side street are unsafe. Delineators should be used to identify the location of the islands for snow plows.

Location(s): On A Street @ NC 194 near the eastern town limits.

Cost Estimate: \$3,000 - 5,000



Advantages	Disadvantages
<ul style="list-style-type: none">• Can improve safety at an intersection by prohibiting critical turning movements• Reduces traffic volumes	<ul style="list-style-type: none">• If designed improperly, drivers can maneuver around the island to make an illegal movement• May divert a traffic problem to a different street

Street Closure

Diversion measures such as street closures change the flow of traffic and limit or eliminate certain movements. Diversion measures should only be used as a final option when any of the previously mentioned measures have not yielded the desired results. Even in these cases, diversion measures should not be considered on primary emergency routes unless provisions can be made to maintain access for emergency vehicles.

The street closure includes either the removal of pavement or installation of a barrier intended to block all vehicle access on a street. Pedestrian and bicycle access is typically maintained. Closures are often designed to allow emergency vehicles to “break through” the closure. Cul-de-sacs are a common form of this measure.

If a closure of some type is installed along A Street, it is recommended that it allow vehicle access during emergencies. This will be important for instances where there are accidents blocking other streets or flooding in the lower lying areas of town.

As an alternative to the street closure, barrier gates can be installed that would only allow emergency access or that would open as a vehicle approaches forcing the vehicle to come to a stop before proceeding through. The requirement to stop at the gate may deter some traffic from “cutting through” and speeding to move ahead of slower traffic on NC 194. Even though A Street is not maintained by NCDOT, they should be consulted prior to the installation of any barrier device.

Location(s): A Street near its intersection with NC 194 on the eastern side of town or at the midpoint of A Street between the intersections with NC 194.

Cost Estimate: \$6,000-\$10,000



Advantages	Disadvantages
<ul style="list-style-type: none">• Eliminates through traffic• Reduces speeds• Improves safety for all modes of transportation	<ul style="list-style-type: none">• Limits access• Can create problems for emergency vehicles• Often need to construct turn-arounds or cul-de-sacs near closure point

NOTE: Any installation of traffic calming measures should be accompanied by appropriate signage.

Funding Sources

Federal

The National Recreational Trails Fund Program

The National Recreational Trails Fund Program is funded in the federal transportation bill and is administered in North Carolina by the Division of Parks and Recreation. The funds can be used for off-road trail construction. Grants range from \$10,000 to \$50,000, and must be matched at 20%.

Land and Water Conservation Fund

The Land and Water Conservation Fund Program provides funds to local governments for conservation and recreation purposes. Off-road trail construction is an eligible use of funds. The grants require a 50% match, with a maximum grant amount of \$250,000.

NCDOT

Independent Projects

NCDOT's Division of Bicycle and Pedestrian Transportation (DBPT) programs funding through the TIP process for bicycle and pedestrian projects. 80% of the funding is from the federal Transportation Enhancement program and the remaining 20% comes from a local match. Projects must be requested through the TIP process described below. Projects may include off-road pedestrian facilities, pedestrian bridges or underpasses, and intersection treatments.

At a minimum a project request should include the following information:

- Location of the project
- Route on which the project is located, or name of facility as appropriate
- Termini (beginning and ending points on the route/facility)
- Description of the work
- Estimated costs and proposed delivery schedule for right of way, utility work, and construction phases

Incidental Projects

NCDOT's Pedestrian Policy Guidelines establish the process for inclusion of pedestrian improvements in programmed highway projects.

Pedestrian and bicycle projects incidental to scheduled highway improvements are included in the highway project cost, programmed in the TIP. Local governments can request inclusion of pedestrian and bicycle improvements when the highway project enters the Program Development and Environmental Analysis (PDEA) Branch. Local governments must commit to a 20% local match, maintenance, and liability for the project.

NCDOT pays the entire costs of replacing sidewalk that is removed for a road-widening project.

Spot Improvements

NCDOT's Division Offices receive discretionary funds for small projects and spot improvements which can include pedestrian facilities. Local governments can make requests through the Division Engineer and Division Traffic Engineer.

Sidewalk Program

Each highway division is given \$100,000 for the purpose of sidewalk construction, maintenance, and repair. Interested municipalities should contact their division engineer for application guidelines.

Governor's Highway Safety Program (GHSP)

The mission of the Governor's Highway Safety Program is to promote highway safety awareness and reduce the number of traffic crashes and fatalities in the state of North Carolina through the planning and execution of safety programs. Funding for the program is provided through an annual program, upon approval of specific project requests. Amounts of GHSP funds vary from year to year, according to the specific amounts requested. Communities may apply for a GHSP grant to be used as seed money to start a program to enhance highway safety. Once a grant is awarded, funding is provided on a reimbursement basis. Evidence of reductions in crashes, injuries, and fatalities is required. For information on applying for GHSP funding, visit

www.ncdot.org/programs/ghsp .

Enhancement Projects

Transportation Enhancement funding is administered by the NCDOT's Enhancement Unit and serves to strengthen the cultural, aesthetic, and environmental aspects of the transportation system.

Transportation Enhancement grants are awarded through the North Carolina Call for Projects process and must benefit the traveling public and help communities increase transportation choices and access, enhance the built or natural environment and create a sense of place. Transportation Enhancement Projects must meet the following two federal requirements:

1. Have a relationship to surface transportation
2. Be one of twelve qualifying activities listed below:
 - Bicycle and pedestrian facilities
 - Bicycle and pedestrian safety
 - Acquisition of scenic easements, scenic or historic sites
 - Scenic or Historic Highway Programs (including tourist or welcome centers)
 - Landscaping and other scenic beautification
 - Historic preservation
 - Rehabilitation of historic transportation facilities
 - Preservation of abandon rail corridors
 - Control of outdoor advertising
 - Archaeological planning and research

- Environmental mitigation
- Transportation museums

The last call for projects was issued in 2004. While a call is not anticipated, potential applicants are encouraged to have projects ready to submit for when a call is issued.

Other State Funding

Adopt-A-Trail Program

North Carolina's Adopt-A-Trail (AAT) program provides grants annually for trail construction, renovation, and repair. Maximum grants are \$5,000, with no match required. Grants are administered by the NC Division of Parks and Recreation.

Land and Water Conservation Fund (LWCF)

The LWCF program is a reimbursable, 50% matching grant program to states for conservation and recreation purposes, and through the states to local governments to address "close to home" outdoor recreation needs. LWCF grants can be used by communities to build a trail within one park site, if the local government has fee-simple title to the park site. Grants for a maximum of \$250,000 in LWCF assistance are awarded yearly to county governments, incorporated municipalities, public authorities and federally recognized Indian tribes. The local match may be provided with in-kind services or cash.

NC Health and Wellness Trust Fund

The NC Health and Wellness Trust Fund was created by the General Assembly to use revenue from the Tobacco Master Settlement to improve the health of NC citizens. The fund currently offers grants through the Fit Together program for health promotion, which may include promotion, education, and policy measures to encourage walking.

NC Conservation Tax Credit

This program is managed by the North Carolina Department of Environment and Natural Resources and provides an incentive in the form of an income tax credit for land-owners that donate interests in real property for conservation purposes. Property donations can be fee simple or in the form of conservation easements or bargain sale. The goal of this program is to manage storm water, protect water supply watersheds, retain working farms and forests, and set-aside greenways for ecological communities, public trails, and wildlife corridors. More information can be found at http://www.onencnaturally.org/pages/CTC_Overview.html .

Small Cities Community Development Block Grants

Funds are allocated through the NC Department of Commerce, Division of Community Assistance to be used to promote economic development and to serve low income and moderate income neighborhoods. Greenways that are part of a community's economic development plans may qualify for assistance under this program. Recreational areas that serve to improve the quality of life in lower income areas may also qualify. Approximately \$50 million is available to fund a variety of projects. More information can be found at www.hud.gov/offices/cpd/communitydevelopment/programs/stateadmin/.

Private

Blue Cross Blue Shield of NC Foundation

The Blue Cross Blue Shield of NC Foundation offers grants to local communities for health promotion. Grant funds may be used for pedestrian facilities, or pedestrian education and encouragement programs.

Private Donations

Private donations can be used for specific municipal purposes, including construction of pedestrian facilities. Fundraising through a non-profit organization is common.

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Mauvine Shepherd
Jason Ring

NCDOT

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High Country Council of Governments

Phil Trew, Director of Planning
Craig Hughes, Transportation Planner

Appendix F

Ashe County Flood Damage Prevention Ordinance

CHAPTER 151: FLOOD DAMAGE PREVENTION

Section

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- 151.02 Findings of fact
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- 151.04 Objectives
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- 151.09 Compliance
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- 151.11 Interpretation
- 151.12 Warning and disclaimer of liability

Administration

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- 151.42 Standards for floodplains without established base flood elevations
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Legal Status Provisions

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GENERAL PROVISIONS

§ 151.01 STATUTORY AUTHORIZATION.

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

(Ord. passed 9-21-09)

§ 151.02 FINDINGS OF FACT.

(A) The flood prone areas within the jurisdiction of Ashe County are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

(B) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities and by the occupancy in flood prone areas of uses vulnerable to floods or other hazards.

(Ord. passed 9-21-09)

§ 151.03 STATEMENT OF PURPOSE.

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

(A) Restrict or prohibit uses that are dangerous to health, safety, and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights or velocities;

(B) Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;

(C) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;

(D) Control filling, grading, dredging, and all other development that may increase erosion or flood damage; and

(E) Prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or which may increase flood hazards to other lands.

(Ord. passed 9-21-09)

§ 151.04 OBJECTIVES.

The objectives of this chapter are:

(A) To protect human life and health;

(B) To minimize expenditure of public money for costly flood control projects;

(C) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the

general public;

- (D) To minimize prolonged business losses and interruptions;
- (E) To minimize damage to public facilities and utilities (i.e. water and gas mains, electric, telephone, cable and sewer lines, streets, and bridges) that are located in flood prone areas;
- (F) To help maintain a stable tax base by providing for the sound use and development of flood prone areas; and
- (G) To ensure that potential buyers are aware that property is in a special flood hazard area.

(Ord. passed 9-21-09)

§ 151.05 DEFINITIONS.

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

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

ADDITION (TO AN EXISTING BUILDING). An extension or increase in the floor area or height of a building or structure.

APPEAL. A request for a review of the Floodplain Administrator's interpretation of any provision of this chapter.

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

AREA OF SPECIAL FLOOD HAZARD. See **SPECIAL FLOOD HAZARD AREA (SFHA)**.

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

BASE FLOOD. The flood having a 1% chance of being equaled or exceeded in any given year.

BASE FLOOD ELEVATION (BFE). A determination of the water surface elevations of the base flood as published in the Flood Insurance Study. When the BFE has not been provided in a special flood hazard area, it may be obtained from engineering studies available from a federal or state or other source using FEMA approved engineering methodologies. This elevation, when combined with the freeboard, establishes the regulatory flood protection elevation.

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

BUILDING. See **STRUCTURE**.

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

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

DISPOSAL. As defined in G.S. § 130A-290(a)(6), the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

ELEVATED BUILDING. A non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns in conformance with the provisions of this chapter.

ENCROACHMENT. The advance or infringement of uses, fill, excavation, buildings, permanent structures or development into a

floodplain, which may impede or alter the flow capacity of a floodplain.

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

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR MANUFACTURED HOME SUBDIVISION. The preparation of additional sites by the construction of facilities for servicing the lots on which the homes are to be affixed, including, but not limited to, the installation of utilities, the construction of streets, final site grading or pouring of concrete.

FLOOD or **FLOODING.** A general and temporary condition of partial or complete inundation of normally dry land areas from:

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

FLOOD BOUNDARY AND FLOODWAY MAP (FBFM). An official map of a community, issued by the Federal Emergency Management Agency or a Cooperating Technical State, on which the special flood hazard areas and the floodways are delineated. This official map is a supplement to and shall be used in conjunction with the Flood Insurance Rate Map (FIRM).

FLOOD HAZARD BOUNDARY MAP (FHBM). An official map of a community, issued by the Federal Emergency Management Agency or a Cooperating Technical State where the boundaries of the special flood hazard areas have been defined as Zone A.

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

FLOOD INSURANCE RATE MAP (FIRM). An official map of a community, issued by the Federal Emergency Management Agency or a Cooperating Technical State, on which both the special flood hazard areas and the risk premium zones applicable to the community are delineated.

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

FLOOD PRONE AREA. See **FLOODPLAIN**.

FLOODPLAIN. Any land area susceptible to being inundated by water from any source.

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

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

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

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

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

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

FLOOD ZONE. A geographical area shown on a flood hazard boundary map or flood insurance rate map that reflects the severity or type of flooding in the area.

FREEBOARD. The height added to the base flood elevation (BFE) to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge openings, and the hydrological effect of urbanization on the watershed. The base flood elevation plus the freeboard establishes the regulatory flood protection elevation.

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

HAZARDOUS WASTE FACILITY. As defined in G.S. Chapter 130A, Article 9, a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.

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

HISTORIC STRUCTURE. Any structure that is:

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

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

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

LEVEE. A man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

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

MANUFACTURED HOME. A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term **MANUFACTURED HOME** does not include a recreational vehicle.

MANUFACTURED HOME PARK OR SUBDIVISION. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

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

MEAN SEA LEVEL. The National Geodetic Vertical Datum (NGVD) as corrected in 1929, the North American Vertical Datum (NAVD) as corrected in 1988, or other vertical control datum used as a reference for establishing varying elevations within the floodplain, to which base flood elevations (BFEs) shown on a FIRM are referenced. Refer to each FIRM panel to determine datum used.

NATIONAL GEODETIC VERTICAL DATUM (NGVD). A vertical control as corrected in 1929 used as a reference for establishing varying elevations within the floodplain.

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

NEW MANUFACTURED HOME PARK OR SUBDIVISION. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including installation of utilities, the construction of streets, and either final site grading or the pouring of concrete footers) is completed on or after the effective date of the original version of the community's Flood Damage Prevention Ordinance.

NONCONFORMING BUILDING OR USE. Any legally existing building or use which fails to comply with the provisions of this chapter.

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

NON-ENCROACHMENT WIDTH. The distance between the mapped center of a stream and the boundary of the non-encroachment area.

NORTH AMERICAN VERTICAL DATUM OF 1988. The vertical control datum established for vertical control surveying in the United States of America based upon the General Adjustment of the North American Datum of 1988.

PARK MODEL TRAILER. A unit that is built upon a single chassis mounted on wheels, and having a gross trailer area not exceeding 400 square feet in the set-up mode. A **PARK MODEL TRAILER** is intended for seasonal use and is not intended as a permanent dwelling unit or for commercial uses such as banks, clinics or offices.

POST-FIRM. Construction or other development for which the start of construction occurred on or after the effective date of the initial flood insurance rate map for the area.

PRE-FIRM. Construction or other development for which the start of construction occurred before the effective date of the initial flood insurance rate map for the area.

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

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

RECREATIONAL VEHICLE (RV). A vehicle which is:

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

REFERENCE LEVEL. The bottom of the lowest horizontal structural member of the lowest floor, excluding the foundation system, for structures within all special flood hazard areas.

REGULATORY FLOOD PROTECTION ELEVATION. The base flood elevation plus the freeboard. In special flood hazard areas where base flood elevations (BFEs) have been determined, this elevation shall be the BFE plus four feet of freeboard. In special flood hazard areas where no BFE has been established, this elevation shall be at least four feet above the next highest adjacent grade.

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

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

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

SOLID WASTE DISPOSAL FACILITY. As defined in G.S. § 130A-290(a)(35), any facility involved in the disposal of solid waste.

SOLID WASTE DISPOSAL SITE. As defined in G.S. § 130A-290(a)(36), any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.

SPECIAL FLOOD HAZARD AREA (SFHA). The land in the floodplain subject to a 1% or greater chance of being flooded in any given year, as determined in § 151.07.

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

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

SUBSTANTIAL DAMAGE. Damage of any origin sustained by a structure during any one-year period whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred. See definition of **SUBSTANTIAL IMPROVEMENT**. **SUBSTANTIAL DAMAGE** also means flood-related damage sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25% of the market value of the structure before the damage occurred.

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

(1) Any correction of existing violations of state or community health, sanitary, or safety code specifications which have been identified by community code enforcement official(s) and which are the minimum necessary to assure safe living conditions; or,

(2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

VARIANCE. A grant of relief from the requirements of this chapter.

VIOLATION. The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required under §§ 151.25 through 151.29 and provisions for flood hazard reduction portions of this chapter, §§ 151.40 through 151.45, is presumed to be in violation until such time as that documentation is provided.

WATER SURFACE ELEVATION (WSE). The height, in relation to mean sea level, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

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

(Ord. passed 9-21-09)

This chapter shall apply to all special flood hazard areas within the jurisdiction, including extra-territorial jurisdictions (ETJs) if applicable, of Ashe County and within the jurisdiction of any other community whose governing body agrees, by resolution, to such applicability.

(Ord. passed 9-21-09)

§ 151.07 BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS.

The special flood hazard areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its Flood Insurance Study (FIS) and its accompanying Flood Insurance Rate Maps (FIRM), for Ashe County dated November 4, 2009 which are adopted by reference and declared to be a part of this chapter. The initial Flood Insurance Rate Maps for the jurisdictional areas are Ashe County Unincorporated Area dated August 16, 1988. Some panels were updated in October, 1999.

(Ord. passed 9-21-09)

§ 151.08 ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT.

A floodplain development permit shall be required in conformance with the provisions of this chapter prior to the commencement of any development activities within special flood hazard areas determined in accordance with § 151.07.

(Ord. passed 9-21-09)

§ 151.09 COMPLIANCE.

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

(Ord. passed 9-21-09) Penalty, see § 151.99

§ 151.10 ABROGATION AND GREATER RESTRICTIONS.

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

(Ord. passed 9-21-09)

§ 151.11 INTERPRETATION.

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

- (A) Considered as minimum requirements;
- (B) Liberally construed in favor of the governing body; and
- (C) Deemed neither to limit nor repeal any other powers granted under state statutes.

(Ord. passed 9-21-09)

§ 151.12 WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur. Actual flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the special flood hazard areas or uses permitted within such areas will be free

from flooding or flood damages. This chapter shall not create liability on the part of Ashe County or by any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

(Ord. passed 9-21-09)

ADMINISTRATION

§ 151.25 DESIGNATION OF FLOODPLAIN ADMINISTRATOR.

The County Manager or his or her designee, hereinafter referred to as the "Floodplain Administrator", is hereby appointed to administer and implement the provisions of this chapter.

(Ord. passed 9-21-09)

§ 151.26 FLOODPLAIN DEVELOPMENT APPLICATION, PERMIT AND CERTIFICATION REQUIREMENTS.

(A) *Application requirements.* Application for a floodplain development permit shall be made to the Floodplain Administrator prior to any development activities located within special flood hazard areas. The following items shall be presented to the Floodplain Administrator to apply for a floodplain development permit:

(1) A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:

(a) The nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;

(b) The boundary of the special flood hazard area as delineated on the FIRM or other flood map as determined in § 151.07, or a statement that the entire lot is within the special flood hazard area;

(c) Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in § 151.07;

(d) The boundary of the floodway(s) or non-encroachment area(s) as determined on the FIRM noted in § 151.07;

(e) The base flood elevation (BFE) where provided on the FIRM or the accompanying flood profiles;

(f) The old and new location of any watercourse that will be altered or relocated as a result of proposed development; and

(g) Certification of the plot plan by a registered land surveyor or professional engineer.

(2) Proposed elevation, and method thereof, of all development within a special flood hazard area including but not limited to:

(a) Elevation in relation to mean sea level of the proposed reference level (including basement) of all structures;

(b) Elevation in relation to mean sea level to which any non-residential structure in Zone AE, A or AO will be flood-proofed; and

(c) Elevation in relation to mean sea level to which any proposed utility systems will be elevated or floodproofed;

(3) If floodproofing, a Floodproofing Certificate (*FEMA Form 81-65*) with supporting data and an operational plan and an inspection and maintenance plan that include, but are not limited to, installation, exercise, and maintenance of floodproofing measures.

(4) An engineered foundation/building plan for the Building Code Official to review, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this chapter are met. These details include but are not limited to:

(a) The proposed method of elevation, if applicable (i.e., solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls); or

(b) Openings to facilitate equalization of hydrostatic flood forces on walls in accordance

with § 151.41(D)(3), when solid foundation perimeter walls are used in Zones A, AO, AE, and A1-30;

(5) Usage details of any enclosed areas below the regulatory flood protection elevation;

(6) Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage;

(7) Copies of all other local, state and federal permits required prior to floodplain development permit issuance (wetlands, endangered species, erosion and sedimentation control, riparian buffers, mining, etc.);

(8) Documentation for placement of recreational vehicles and/or temporary structures, when applicable, to ensure § 151.41(F) and (G) are met;

(9) A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.

(B) *Permit requirements.* The floodplain development permit shall include, but not be limited to:

(1) A description of the development to be permitted under the floodplain development permit;

(2) The special flood hazard area determination for the proposed development per available data specified in § 151.07;

(3) The regulatory flood protection elevation required for the reference level and all attendant utilities;

(4) The regulatory flood protection elevation required for the protection of all public utilities;

(5) All certification submittal requirements with general timelines;

(6) A statement that no materials, including fill material or other development of any type shall encroach into the floodway or non-encroachment area of any watercourse, as applicable;

(7) The flood openings requirements, if in Zones A, AO, AE or A1-30;

(8) Limitations of below BFE enclosure uses (i.e., parking, building access and limited storage only); and

(9) A statement that no fill will be placed in the SFHA except for limited construction purposes (e.g. to backfill a structure or cover a septic system placement), or for engineered roads and bridges.

(C) *Certification requirements.*

(1) *Elevation certificates.*

(a) An elevation certificate (*FEMA Form 81-31*) is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to mean sea level. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit.

(b) An elevation certificate (*FEMA Form 81-31*) is required after the reference level is established. Within seven calendar days of establishment of the reference level elevation, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to mean sea level. The Building Code Official and the Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being permitted to proceed. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop-work order for the project.

(c) A final as-built elevation certificate (*FEMA Form 81-31*) is required after construction is completed and prior to final inspection and certificate of compliance/occupancy issuance. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to certificate of compliance/occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a certificate of compliance/occupancy.

(2) *Floodproofing certificate.* If non-residential floodproofing is used to meet the regulatory flood protection elevation requirements, a floodproofing certificate (*FEMA Form 81-65*), with supporting data and an operational plan, is required prior to the

actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to mean sea level. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data and plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a certificate of compliance/ occupancy.

(3) *Manufactured homes.* If a manufactured home is placed within Zone A, AO, AE, or A1-30 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required per § 151.41(C)(2).

(4) *Watercourses.* If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; a professional engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.

(5) *Certification exemptions.* The following structures, if located within Zone A, AO, AE or A1-30, are exempt from the elevation/ floodproofing certification requirements specified in division (C)(1) and (2) of this section:

- (a) Recreational vehicles meeting requirements of § 151.41(F)(1);
- (b) Temporary structures meeting requirements of § 151.41(G); and
- (c) Accessory structures less than 150 square feet meeting requirements of § 151.41(H).

(Ord. passed 9-21-09) Penalty, see § 151.99

§ 151.27 DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR.

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

(A) Review all floodplain development applications and issue permits for all proposed development within special flood hazard areas to assure that the requirements of this chapter have been satisfied.

(B) Advise permittee that additional federal or state permits (wetlands, endangered species, erosion and sedimentation control, riparian buffers, mining, etc.) may be required, and require that copies of such permits be provided and maintained on file with the floodplain development permit.

(C) Notify adjacent communities and the North Carolina Department of Crime Control and Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA). Assure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained.

(D) Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of § 151.44 are met.

(E) Obtain actual elevation (in relation to mean sea level) of the reference level (including basement) and all attendant utilities of all new or substantially improved structures, in accordance with § 151.26(C).

(F) Obtain actual elevation (in relation to mean sea level) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with § 151.26(C).

(G) Obtain actual elevation (in relation to mean sea level) of all public utilities in accordance with § 151.26(C).

(H) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with §§ 151.26(C) and 151.41(B).

(I) Where interpretation is needed as to the exact location of boundaries of the special flood hazard areas, floodways, or non-encroachment areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this subchapter.

(J) When base flood elevation (BFE) data has not been provided in accordance with § 151.07, obtain, review, and reasonably utilize any BFE data, along with flood way data or non-encroachment area data available from a federal, state, or other source, including data developed pursuant to § 151.42(B)(2), in order to administer the provisions of this chapter.

(K) When BFE data is provided but no floodway nor non-encroachment area data has been provided in accordance with § 151.07, obtain, review, and reasonably utilize any floodway data or non-encroachment area data available from a federal, state, or other source in order to administer the provisions of this chapter. The preferred method of determining non-encroachment widths between cross sections is numerical interpolation.

(L) When the lowest ground elevation of a parcel or structure in a special flood hazard area is above the base flood elevation, advise the property owner of the option to apply for a Letter of Map Amendment (LOMA) from FEMA. Maintain a copy of the LOMA issued by FEMA in the floodplain development permit file.

(M) Permanently maintain all records that pertain to the administration of this chapter and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.

(N) Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the Floodplain Administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the Floodplain Administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.

(O) Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this chapter, the Floodplain Administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.

(P) Revoke floodplain development permits as required. The Floodplain Administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of state or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable state or local law may also be revoked.

(Q) Make periodic inspections throughout all special flood hazard areas within the jurisdiction of the community. The Floodplain Administrator and each member of his or her department or designee shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.

(R) Follow through with corrective procedures of § 151.28.

(S) Review, provide input, and make recommendations for variance requests.

(T) Maintain a current map repository to include, but not limited to, the FIS Report, FIRM and other official flood maps and studies adopted in accordance with the provisions of this chapter, including any revisions thereto including letters of map change, issued by FEMA. Notify state and FEMA of mapping needs.

(U) Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision (LOMR).

(Ord. passed 9-21-09)

§ 151.28 CORRECTIVE PROCEDURES.

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

(B) *Actions in event of failure to take corrective action.* If the owner of a building or property shall fail to take prompt corrective action, the Floodplain Administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:

- (1) That the building or property is in violation of this chapter;
- (2) That a hearing will be held before the Floodplain Administrator at a designated place and time, not later than ten days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and,
- (3) That following the hearing, the Floodplain Administrator may issue an order to alter, vacate, or demolish the building; or to remove fill as appears appropriate.

(C) *Order to take corrective action.* If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator shall find that the building or development is in violation of this chapter, they shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than 60 calendar days, nor more than 180 calendar days. Where the Floodplain Administrator finds that there is imminent danger to life or other property, they may order that corrective action be taken in such lesser period as may be feasible.

(D) *Appeal.* Any owner who has received an order to take corrective action may appeal the order to the local elected governing body by giving notice of appeal in writing to the Floodplain Administrator and the clerk within ten days following issuance of the final order. In the absence of an appeal, the order of the Floodplain Administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.

(E) *Failure to comply with order.* If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a misdemeanor and shall be punished at the discretion of the court.

(Ord. passed 9-21-09) Penalty, see § 151.99

§ 151.29 VARIANCE PROCEDURES.

(A) The County Appeal Board as established by the County Board of Commissioners, hereinafter referred to as the "Appeal Board", shall hear and decide requests for variances from the requirements of this chapter. In the event an appeal board is not designated, the County Board of Commissioners shall act as the appeal board.

(B) Any person aggrieved by the decision of the Appeal Board may appeal such decision to the Court, as provided in G.S. Chapter 7A.

(C) Variances may be issued for:

(1) The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure.

(2) Functionally dependant facilities if determined to meet the definition as stated in § 151.05, provided provisions of division (I) (2), (3), and (5) of this section have been satisfied, and such facilities are protected by methods that minimize flood damages.

(3) Any other type of development, provided it meets the requirements stated in this section.

(D) In passing upon variances, the Appeal Board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter, and:

(1) The danger that materials may be swept onto other lands to the injury of others;

(2) The danger to life and property due to flooding or erosion damage;

(3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(4) The importance of the services provided by the proposed facility to the community;

(5) The necessity to the facility of a waterfront location as defined in § 151.05 as a functionally dependant facility, where applicable;

(6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

- (7) The compatibility of the proposed use with existing and anticipated development;
- (8) The relationship of the proposed use to the floodplain management program for that area;
- (9) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (10) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
- (11) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

(E) A written report addressing each of the above factors may be submitted with the application for a variance.

(F) Upon consideration of the factors listed above and the purposes of this chapter, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

(G) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Base Flood Elevation (BFE) and the elevation to which the structure is to be built and that such construction below the base flood elevation increases risks to life and property, and that the issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance up to \$25 per \$100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.

(H) The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the State of North Carolina upon request.

(I) Conditions for variances:

- (1) Variances shall not be issued when the variance will make the structure in violation of other federal, state, or local laws, regulations, or ordinances.
- (2) Variances shall not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge.
- (3) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (4) Variances shall only be issued prior to development permit approval.
- (5) Variances shall only be issued upon:
 - (a) A showing of good and sufficient cause;
 - (b) A determination that failure to grant the variance would result in exceptional hardship; and
 - (c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(J) A variance may be issued for solid waste disposal facilities, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in special flood hazard areas provided that all of the following conditions are met.

- (1) The use serves a critical need in the community.
- (2) No feasible location exists for the use outside the special flood hazard area.
- (3) The reference level of any structure is elevated or floodproofed to at least the regulatory flood protection elevation.
- (4) The use complies with all other applicable federal, state and local laws.
- (5) The county has notified the Secretary of the North Carolina Department of Crime Control and Public Safety of its intention to grant a variance at least 30 calendar days prior to granting the variance.

§ 151.40 GENERAL STANDARDS.

In all special flood hazard areas the following provisions are required:

- (A) All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.
- (B) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (C) All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.
- (D) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding to the regulatory flood protection elevation. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, appliances (washers, dryers, refrigerators, freezers, etc.), hot water heaters, and electric outlets/switches.
- (E) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (F) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into flood waters.
- (G) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- (H) Any alteration, repair, reconstruction, or improvements to a structure, which is in compliance with the provisions of this chapter, shall meet the requirements of new construction as contained in this chapter.
- (I) Nothing in this chapter shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this chapter and located totally or partially within the floodway, non-encroachment area, or stream setback, provided there is no additional encroachment below the regulatory flood protection elevation in the floodway, non-encroachment area, or stream setback; provided that such repair, reconstruction, or replacement meets all of the other requirements of this chapter; and provided that if possible, the building or structure be re-located outside the floodway or non-encroachment area.
- (J) New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted, except by variance as specified in § 151.29(J). A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a special flood hazard area only if the structure or tank is either elevated or floodproofed to at least the regulatory flood protection elevation and certified according to § 151.26(C).
- (K) All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.
- (L) All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- (M) All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- (N) All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. § 1334.
- (O) Base flood elevation data shall be provided for each lot in all subdivision proposals and delineated accurately on preliminary and final plats. Recorded plats should contain a disclaimer statement stipulating that if base flood elevation data is revised in the future, the revisions, if more stringent, may take precedence over those displayed on the plat. Flood hazard boundary map numbers and dates shall be displayed on the plat.
- (P) All new subdivisions shall, if possible, have access roads located outside the 100-year floodplain. All roads within the 100-year

floodplain shall be pre-approved by the NC Emergency Management Floodplain Mapping Division and engineered and constructed to minimize flood damage.

(Q) No fill material will be placed in the SFHA except for limited construction purposes (e.g. to backfill a structure or cover a septic system placement), or for engineered roads and bridges.

(R) When a structure is partially located in a special flood hazard area, the entire structure shall meet the requirements for new construction and substantial improvements.

(S) When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard zone and the highest base flood elevation shall apply.

(Ord. passed 9-21-09) Penalty, see § 151.99

§ 151.41 SPECIFIC STANDARDS.

In all special flood hazard areas where base flood elevation data has been provided, as set forth in § 151.07, or § 151.27(K) and (L), the following provisions, in addition to § 151.40, are required:

(A) *Residential construction.* New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than four feet above the base flood elevation.

(B) *Non-residential construction.* New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than four feet above the base flood elevation. Structures located in A, AE, AO, and A1-30 Zones may be floodproofed to the regulatory flood protection elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the regulatory flood protection elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. For AO Zones, the floodproofing elevation shall be in accordance with § 151.45(C). A registered professional engineer or architect shall certify that the standards of this division are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in § 151.26(C), along with the operational and maintenance plans.

(C) *Manufactured homes.*

(1) New or replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than four feet above the base flood elevation.

(2) Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by engineer certification, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance pursuant to G.S. § 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis 36 inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above 36 inches in height, an engineering certification is required.

(3) All enclosures or skirting below the lowest floor shall meet the requirements of division (D) of this section.

(4) An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the Floodplain Administrator and the local emergency management coordinator.

(D) *Elevated buildings.* Fully enclosed area of new construction and substantially improved structures, which is below the lowest floor:

(1) Shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas;

(2) Shall be constructed entirely of flood resistant materials below the regulatory flood protection elevation;

(3) Shall include, in Zones A, AO, AE, and A1-30, flood openings to automatically equalize hydrostatic flood forces on walls by

allowing for the entry and exit of floodwaters. To meet this requirement, the openings must be certified by a professional engineer or architect to meet or exceed the following minimum design criteria;

- (a) A minimum of two flood openings on different sides of each enclosed area subject to flooding;
- (b) The total net area of all flood openings must be at least one square inch for each square foot of enclosed area subject to flooding;
- (c) If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;
- (d) The bottom of all required flood openings shall be no higher than one foot above the adjacent grade;
- (e) Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and
- (f) Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.

(E) *Additions/improvements.*

- (1) Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
 - (a) Not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure.
 - (b) A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
- (2) Additions to post-FIRM structures with no modifications to the existing structure other than a standard door in the common wall shall require only the addition to comply with the standards for new construction.
- (3) Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
 - (a) Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction.
 - (b) A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

- (4) Where an independent perimeter load-bearing wall is provided between the addition and the existing building, the addition(s) shall be considered a separate building and only the addition must comply with the standards for new construction.

(F) *Recreational vehicles.* Recreational vehicles shall either:

- (1) Be on site for fewer than 180 consecutive days and be fully licensed and ready for highway use at all times (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions); or
- (2) Meet all the requirements for new construction.

(G) *Temporary non-residential structures.* Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the Floodplain Administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning notification. The following information shall be submitted in writing to the Floodplain Administrator for review and written approval:

- (1) A specified time period for which the temporary use will be permitted. Time specified may not exceed three months, renewable up to one year;
- (2) The name, address, and phone number of the individual responsible for the removal of the temporary structure;
- (3) The time frame prior to the event at which a structure will be removed (i.e., minimum of 72 hours before landfall of a

hurricane or immediately upon flood warning notification);

(4) A copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and

(5) Designation, accompanied by documentation, of a location outside the special flood hazard area, to which the temporary structure will be moved.

(H) *Accessory structures.*

(1) When accessory structures (sheds, detached garages, etc.) are to be placed within a special flood hazard area, the following criteria shall be met:

(a) Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);

(b) Accessory structures shall not be temperature-controlled;

(c) Accessory structures shall be designed to have low flood damage potential and shall not be within the floodway;

(d) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;

(e) Accessory structures shall be firmly anchored in accordance with § 151.40(A);

(f) All service facilities such as electrical shall be installed in accordance with § 151.40(D); and

(g) Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below regulatory flood protection elevation in conformance with division (D)(3) of this section.

(2) An accessory structure with a footprint less than 150 square feet that satisfies the criteria outlined above does not require an elevation or floodproofing certificate. Elevation or floodproofing certifications are required for all other accessory structures in accordance with § 151.26(C).

(Ord. passed 9-21-09) Penalty, see § 151.99

§ 151.42 STANDARDS FOR FLOODPLAINS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS.

Within the special flood hazard areas designated as Approximate Zone A and established in § 151.07, where no base flood elevation (BFE) data has been provided by FEMA or a Cooperating Technical State, the following provisions, in addition to §§ 151.40 and 151.41, shall apply:

(A) No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of 20 feet each side from top of bank or three times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(B) The BFE used in determining the regulatory flood protection elevation shall be determined based on one of the following criteria set in priority order:

(1) If BFE data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this chapter and shall be elevated or floodproofed in accordance with standards in §§ 151.40 and 151.41.

(2) When floodway or non-encroachment data is available from a federal, state, or other source, all new construction and substantial improvements within floodway and non-encroachment areas shall also comply with the requirements of §§ 151.41 and 151.44.

(3) All subdivision, manufactured home park and other development proposals shall provide BFE data. Such BFE data shall be adopted by reference per § 151.07 to be utilized in implementing this chapter.

(4) When BFE data is not available from a federal, state, or other source as outlined above, the reference level shall be elevated or floodproofed (non-residential) to or above the regulatory flood protection elevation, as defined in § 151.05. All other applicable provisions of § 151.41 shall also apply.

§ 151.43 STANDARDS FOR RIVERINE FLOODPLAINS WITH BFE BUT WITHOUT ESTABLISHED FLOODWAYS OR NON-ENCROACHMENT AREAS.

Along rivers and streams where BFE data is provided by FEMA or a Cooperating Technical State, or is available from another source but neither floodway nor non-encroachment areas are identified for a special flood hazard area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:

- (A) Standards outlined in §§ 151.40 and 151.41; and
- (B) Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

(Ord. passed 9-21-09) Penalty, see § 151.99

§ 151.44 FLOODWAYS AND NON-ENCROACHMENT AREAS.

(A) Areas designated as floodways or non-encroachment areas are located within the special flood hazard areas established in § 151.07. The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions shall apply to all development within such areas.

(B) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted, with the exception of roads and bridges. Road and bridge projects shall demonstrate that:

(1) The proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the Floodplain Administrator prior to issuance of floodplain development permit; or

(2) A Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained upon completion of the proposed encroachment.

(Ord. passed 9-21-09) Penalty, see § 151.99

§ 151.45 STANDARDS FOR AREAS OF SHALLOW FLOODING (AO ZONES).

Located within the special flood hazard areas established in § 151.07, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to §§ 151.40 and 151.41, all new construction and substantial improvements shall meet the following requirements:

(A) The reference level shall be elevated at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, plus a freeboard of two feet, above the highest adjacent grade; or at least two feet above the next highest adjacent grade plus a freeboard of two feet if no depth number is specified.

(B) Non-residential structures may, in lieu of elevation, be floodproofed to the same level as required in division (A) of this section so that the structure, together with attendant utility and sanitary facilities, below that level shall be watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required as per §§ 151.26(C) and 151.41(B).

(C) Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

(Ord. passed 9-21-09) Penalty, see § 151.99

§ 151.60 EFFECT ON RIGHTS AND LIABILITIES UNDER THE EXISTING FLOOD DAMAGE PREVENTION CHAPTER.

This chapter in part comes forward by re-enactment of some of the provisions of the flood damage prevention ordinance enacted March 7, 1994, as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this chapter shall not affect any action, suit or proceeding instituted or pending. All provisions of the flood damage prevention ordinance of Ashe County enacted on March 7, 1994, as amended, which are not reenacted herein are repealed.

(Ord. passed 9-21-09)

§ 151.61 EFFECT UPON OUTSTANDING FLOODPLAIN DEVELOPMENT PERMITS.

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

(Ord. passed 9-21-09)

§ 151.99 PENALTY.

Violation of the provisions of this chapter or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$50 or imprisoned for not more than 30 days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent Ashe County from taking such other lawful action as is necessary to prevent or remedy any violation.

(Ord. passed 9-21-09)