

**THE ERWIN BOARD OF COMMISSIONERS  
SEPTEMBER 2025 REGULAR WORKSHOP  
MONDAY, SEPTEMBER 22, 2025 @ 6:00 P.M.  
ERWIN MUNICIPAL BUILDING BOARDROOM**

**AGENDA**

**1. MEETING CALLED TO ORDER**

- A. Invocation
- B. Pledge of Allegiance

**2. AGENDA ADJUSTMENTS /APPROVAL OF AGENDA**

**3. NEW BUSINESS**

- A. Solid Waste RFP **(Page 2)**
- B. Existing All-Way Stop Sign Evaluation Study **(Page 4)**
- C. FAMPO MOU **(Page 12)**
- D. Chapter 16- Flood Plain Development Ordinance **(Page 38)**
- E. ZT-2025-005 **(Page 65)**

**4. GOVERNING COMMENTS**

**5. CLOSED SESSION**

- A. Pursuant to General Statute 143-318.11(a) (5) To establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating (i) the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease; or (ii) the amount of compensation and other material terms of an employment contract or proposed employment contract.
- B. Pursuant to General Statute 143-318.11(a) (6) for the Purpose of Discussing Personnel

**6. ADJOURNMENT**

# Erwin Board of Commissioners

## REQUEST FOR CONSIDERATION

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To: The Honorable Mayor and Board of Commissioners

From: Snow Bowden, Town Manager

Date: September 22, 2025

Subject: Solid Waste RFP

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The Town of Erwin issued a Request for Proposals (RFP) for Solid Waste collection services. Our current contract for Solid Waste and Recycling collection services is with GFL and will expire on 6/30/2026. In RFP we proceeded with the same level of service that we currently offer, which is weekly collection of solid waste (96-gallon carts) and once a month collection of recyclables (96-gallon carts).

Over the last few years, we have had a few discussions about our recycling service. Over the last few years, the recycling industry has changed a lot. They have had to get stricter at the dumping sites when it comes to loads that are contaminated. Contaminated loads mean loads that have items in them that are not recyclable items. Contamination in recyclables has always been an issue but as standards have increased it has become more of an issue.

If a certain percentage of a load is considered contaminated, it will end up in the landfill. We have issues with contaminated loads of recyclables in Erwin due to various factors. In the RFP, Town Staff included an Alternate Bid for just weekly solid waste collection.

There was a lot of interest in the Town of Erwin and this RFP. We were fortunate to receive five (5) proposals. The proposals came from reputable companies.

### Attachments:

- Summary of RFP prices
- Carolina Trash and Septic proposal
- GFL proposal
- Republic Industries Proposal
- Forever Clean Proposal
- Liberty Waste Solutions Proposal

**Carolina Trash and Septic**

Option A:

\$8.32/m per can trash

\$3.85/m per can recycle

Option B:

\$8.32/m per can trash

**GFL**

Option A:

\$7.75/m per can trash

\$3.00/m per can recycle

Option B:

\$7.75/m per can trash

**Republic Industries**

Option A:

\$9.50/m per can trash

\$3.25/m per can recycle

Option B:

\$9.50/m per can trash

**Forever Clean**

Option A:

\$10.50/m per can trash

\$2.00/m per can recycle

Option B:

\$10.80/m per can trash

**Liberty Waste Solutions**

Option A:

\$7.92/m per can trash

\$3.02/m per can recycle

Option B:

\$7.92/ m per can trash

# Erwin Board of Commissioners

## REQUEST FOR CONSIDERATION

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To: The Honorable Mayor and Board of Commissioners

From: Snow Bowden, Town Manager

Date: September 22, 2025

Subject: Existing All-Way Stop Sign Evaluation Study

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The Town has a proposed task order from WithersRavenel to provide a traffic analysis for five intersections in our Town Limits that are all-way stop intersections. Town Staff have gone back and forth with the staff at WithersRavenel to include all the information that we have discussed which should be included in a traffic analysis study. The data that will be collected can be found on page #2 in the agreement and on page # ? in your agenda. The proposed traffic analysis does include a lot of data collection. The proposed traffic analysis includes the following all-way stop intersections:

1. St. Matthews Road and Pope Street
2. St. Matthews Road and Wondertown Drive
3. West F Street and North/ South 17th Street
4. West E Street and South 15<sup>th</sup> Street
5. North 14<sup>th</sup> Street and West M Street

The total costs for the analysis of the five intersections is \$23,500. I just want to point out that this list includes all the all-way stop intersections that are on roads that are maintained by the Town of Erwin.

Attachments:

- Task Order #1 from WithersRavenel

August 14, 2025

Snow Bowden, Town Manager  
Town of Erwin  
100 West F Street  
Erwin, NC 28339

**RE: Agreement for Professional Services – Task Order No. 1  
Town of Erwin Traffic Analysis  
Erwin, North Carolina  
WR Project No. 25-0430-001**

Dear Mr. Bowden,

WithersRavenel is pleased to provide the enclosed Task Order for delivery of the Traffic Analysis for the five (5) intersections listed in the Scope of Services.

Founded in 1983, WithersRavenel is an Employee Stock Ownership Plan (ESOP) company. Our 430+ employee-owners excel at providing services in the areas of asset management, environmental, funding and finance, geomatics and surveying, land and site development, planning and landscape architecture, stormwater, and water and sewer utilities. We are headquartered in Cary and have branch offices in Asheville, Charlotte, Downtown Cary, Greensboro, Pittsboro, Powells Point, Raleigh, Southern Pines, and Wilmington. WithersRavenel is equipped with more than 40 years of serving an array of clients and projects through innovative and cost-effective engineering solutions across North Carolina.

Thank you for the opportunity to serve the Town of Erwin. We look forward to working with you on this project. Please feel free to contact me with any questions or to discuss any aspect of the attached Task Order. My contact information is below.

Sincerely,  
WithersRavenel



Ted Kallam, PE  
Senior Project Manager, Funding and Asset Management

tkallam@withersravenel.com  
Ph. 336.809.2059

Attachment: Agreement for Professional Services – Task Order No. 1

# **Town of Erwin, North Carolina Agreement for Professional Services – Task Order No. 1 Town of Erwin Traffic Analysis**

## **A. Preliminary Matters**

This Task Order is hereby included as an addition to and incorporated as part of the Master Agreement for On-Call Services entered on July 10, 2025, between The Town of Erwin and WithersRavenel, Inc. for professional services to be rendered in connection with Erwin Traffic Analysis (Project).

## **B. Project Description**

This scope and fee proposal is intended to provide the scope of services and associated fees to provide consulting services per request of Town of Erwin and formalize an agreement for the implementation and logistics for these services.

This proposal is based on the project being located within the town limits of Erwin, North Carolina.

Listed below is a summary of several key aspects of the project based on discussions and preliminary research. Refer to the Scope of Services and Additional Services/Exclusions for further detailed information.

For the purposes of this proposal and any subsequent agreements the following references apply:

1. Town of Erwin shall be known as the "Client" or "Town";
2. WithersRavenel shall be known as the "Consultant" or "WR";
3. The overall project shall be known as the "Project";
4. The executed proposal shall be known as the "Agreement".
5. Subconsultant shall be known as the "Subconsultant" or "JMTE".

## **C. Timeline for Services**

WithersRavenel will begin work upon receipt of this executed agreement and written notice to proceed from the Client. The schedule shall be mutually agreed upon in writing by the Client and the Consultant.

## **D. Scope of Services**

Consultant shall provide the services identified under each task below as its "Basic Services" under the Agreement.

### **Task 1 - Project Management**

#### **A. Coordination with Design Team**

1. Consultant will coordinate activities with the Client as needed. Coordination will include appropriate correspondence and exchange of information. The exchange of information will include timely communications from the Consultant or the Client whenever either sees the need to deviate from the basics of the Agreement. Consultant will depend upon the Client to provide overall coordination of the Client's staff, confirmation of any instructions received from other staff members, and resolution of any discrepancies in information received from other staff.

## B. Meetings

1. Consultant will attend 'virtual' (Teams) and field meetings to coordinate activities as needed. Estimated meetings include one (1) virtual kickoff meeting to discuss the expected deliverables, two (2) onsite meetings during the preliminary data collection phase, and three (3) virtual status update meetings.

## Task 2 - Traffic Analysis (by JMTE, Inc.)

JMTE will conduct a traffic analysis.

### A. An all-way stop study will be performed and data collected for the following intersections:

1. St. Matthews Road at Pope Street - 3-Way Stop.
  2. St. Matthews Road at Wondertown Drive - 4-Way Stop.
  3. West F Street at South 17<sup>th</sup> Street - 4-Way Stop.
  4. West E Street at South 15<sup>th</sup> Street - 4-Way Stop.
  5. North 14<sup>th</sup> Street at West M Street - 4-Way Stop.
- Intersections 1 and 2 are to be analyzed prior to completing analysis of Intersections 3, 4, and 5.
    - o However, JMTE may collect traffic counts and geometric data at all five (5) intersections during the same collection effort.
  - The data to be collected includes:
    - o Traffic counts at each intersection.
    - o Crash history for each intersection.
    - o Field verification of sight distance using AASHTO guidelines.
    - o Roadway geometry.
      - Number and width of approach lanes.
      - Existing Right of Way.
        - Dependent on available sources (such as observing Right of Way Markers, inferring the Right of Way from field conditions, or from the County GIS system).
      - Sidewalks.
        - Existing shoulder to be evaluated if no existing sidewalk.
      - ADA Ramps.
      - Bicycle Lanes.
      - Configuration of turn lanes (if present).
      - Traffic Control Devices.
      - Street Classification (by federal functional classification).
      - Special Conditions (e.g., nearby parks, schools, transit stops, pedestrian and bicycle acuity).
        - This falls under current version of the MUTCD.
          - o Section 2B.07 Multi-Way Stop Applications.
    - o Documenting pavement condition, approach grades, visual obstructions (e.g., vegetation, signage, structures, or parked vehicles).

- B. Analyze existing conditions to verify if 3-Way or 4-Way Stop is warranted.
  - 1. Collect existing traffic data.
- C. Summarize findings in this task in electronic (MS Word or PDF) and tabular (MS Excel or PDF) format. Some recommendations may be printed/summarized in simple, color-coded mapping (PDF) with legend.

## **E. Exclusions/Additional Services**

Services that are not included in the Scope of Services shall be considered Additional Services. Additional Services can be performed by Consultant and/or its agents if requested in writing by the Client and accepted by Consultant. Additional Services shall be paid by the Client in accordance with the Fee & Expense Schedule in place at the time the services are requested.

## **F. Client Responsibilities**

The following are responsibilities of the Client, and Consultant will rely upon the accuracy and completeness of this information:

- a. Provide representative for communications and decisions;
- b. Coordination and designation of a primary contact;
- c. Provide any information needed to complete the Project not specifically addressed in the Scope of Services;
- d. Provide all available information pertinent to the Project, including any reports, maps, and any other data relative to the Project;
- e. Examine all proposals, reports, sketches, estimates and other documents presented by the Consultant and render in writing decisions pertaining thereto within a reasonable period so as not to delay the services of the Consultant;
- f. Give prompt written notice to Consultant whenever Client observes or otherwise becomes aware of any defect in a project or the services of Consultant;
- g. Attend meetings as required/needed;
- h. Information concerning Client's objectives, requirements, and constraints relative to the Project;
- i. Upon request, all available information pertinent to the services to be provided, including previous studies, reports, maps, correspondence, etc.;
- j. Designation of the individual who has: the authority to act on behalf of the Client with respect to services Consultant is providing and the responsibility of coordinating the activities of any other entities involved with the Project;
- k. Any legal representation requiring an attorney at law.

## G. Compensation for Services

Consultant proposes to provide the Basic Services outlined in the Scope of Services on a lump sum basis with budgets as shown below plus reimbursable expenses in accordance with Exhibit I. The amounts set forth below have been determined based on the nature, scope, and complexity of the Project as represented in the information provided to Consultant by Client prior to submitting this proposal; subsequent changes thereto may result in additional fees.

Task No.	Task Name	Fee
1	Project Management	\$5,000
2	Traffic Analysis for 5 Intersection Locations	\$18,500
<b>TOTAL</b>		<b>\$23,500</b>

*(Hourly) Denotes hourly tasks. The fee budgets represented with hourly tasks are good faith estimates of what can be reasonably expected during the performance of this contract.*

1. The Lump Sum includes compensation for Consultant's services. Appropriate amounts have been incorporated in the Lump Sum to account for labor costs, overhead, profit, expenses, and Consultant charges.
2. Invoices will be issued monthly, based on the percentage of completion for each lump sum task and the hourly rate for Consultant personnel in accordance with Exhibit I for hourly tasks, as accomplished during the billing period. Payment is due upon receipt of invoice.
3. The above fees are based on the estimated timelines noted in the Timeline for Services. Any adjustments to those timelines may result in additional fees.
4. Consultant may alter the distribution of compensation between individual Tasks noted herein to be consistent with services rendered but shall not exceed the total Lump Sum amount unless approved in writing by the Client.
5. The attached Exhibit I, Fee & Expense Schedule, is based on Consultant's rates as of the date of this proposal and may be subject to change for hourly tasks and any Additional Services that occur after any adjustments to such rates go into effect.

### **Payment**


The Client will pay Consultant for services and expenses in accordance with periodic invoices to Client and a final invoice upon completion of the services. Each invoice is due and payable in full upon presentation to Client. Invoices are past due after 30 days. If the Project is reliant on State and/or Federal Funds, then the Client will pay Consultant for all invoices within three (3) banking days of receipt of those State or Federal Funds. The Client is ultimately responsible for payment of all invoices with or without receipt of State or Federal Funds.

## H. Acceptance

This proposal is valid 60 days from the date it is transmitted to Client. Receipt of an executed copy of this proposal will serve as the written Agreement between WithersRavenel and Town of Erwin. All Exhibits identified after the signature blocks below, including the Fee & Expense Schedule (Exhibit I), are incorporated herein and are integral parts of the Agreement.

OFFERED BY:

WITHERSRAVENEL

 Digitally signed by Ted Kallam  
Date: 2025.08.14 11:27:23 -04'00'

\_\_\_\_\_  
Signature Date

Ted Kallam, P.E.  
Name

Senior Project Manager,  
Funding & Asset Management  
Title

ACCEPTED BY:

TOWN OF ERWIN

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

***PREAUDIT STATEMENT:*** This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act (NC G.S. 159-28(a)).

Signature of Finance Officer: \_\_\_\_\_

Printed Name: \_\_\_\_\_

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

Attachment:

Exhibit I – Fee & Expense Schedule



**EXHIBIT I**

**2025 Fee & Expense Schedule**

Description	Rate
<b>Engineering, Landscape Architecture &amp; Planning</b>	
Construction Project Professional	\$ 160
Construction Manager I	\$ 165
Construction Manager II	\$ 180
Senior Construction Manager	\$ 205
CAD Technician I	\$ 110
CAD Technician II	\$ 125
Senior CAD Technician	\$ 150
Designer I	\$ 140
Designer II	\$ 160
Senior Designer	\$ 180
Landscape Architect I	\$ 160
Landscape Architect II	\$ 185
Landscape Architect III	\$ 205
Senior Landscape Architect	\$ 230
Landscape Designer I	\$ 140
Landscape Designer II	\$ 150
Landscape Designer III	\$ 155
Planning Technician	\$ 125
Planner I	\$ 135
Planner II	\$ 155
Planner III	\$ 180
Senior Planner	\$ 190
Project Engineer I	\$ 180
Project Engineer II	\$ 190
Project Engineer III	\$ 210
Senior Project Engineer	\$ 245
Assistant Project Manager	\$ 190
Project Manager I	\$ 210
Senior Project Manager	\$ 230
Resident Project Representative I	\$ 110
Resident Project Representative II	\$ 130
Resident Project Representative III	\$ 145
Senior Resident Project Representative	\$ 155
Staff Professional I	\$ 95
Staff Professional II	\$ 150
Staff Professional III	\$ 165
Senior Technical Consultant	\$ 270
Client Experience Manager	\$ 245
Director	\$ 265
Principal	\$ 280
Zoning Specialist	\$ 360
<b>Project Coordinators</b>	
Project Coordinator I	\$ 100
Project Coordinator II	\$ 120
Project Coordinator III	\$ 130
Senior Project Coordinator	\$ 140
Lead Project Coordinator	\$ 150
<b>Other</b>	
Implementation Consultant	\$ 160
Senior Implementation Consultant	\$ 170

Description	Rate
<b>Funding &amp; Asset Management</b>	
GIS Senior Specialist	\$ 180
GIS Specialist	\$ 160
GIS Technician	\$ 105
GIS Analyst I	\$ 130
GIS Analyst II	\$ 145
GIS Project Manager	\$ 180
F&AM Assistant Project Manager	\$ 175
Intern I	\$ 70
Intern II	\$ 95
F&AM Project Consultant I	\$ 130
F&AM Project Consultant II	\$ 140
F&AM Project Consultant III	\$ 145
F&AM Project Consultant IV	\$ 150
F&AM Senior Project Consultant I	\$ 160
F&AM Senior Project Consultant II	\$ 165
F&AM Project Manager	\$ 180
F&AM Principal	\$ 280
F&AM Director	\$ 250
F&AM Staff Professional I	\$ 75
F&AM Staff Professional II	\$ 125
F&AM Staff Professional III	\$ 165
F&AM Staff Professional IV	\$ 205
F&AM Senior Project Manager	\$ 230
F&AM Senior Technical Consultant	\$ 265
<b>Geomatics</b>	
Geomatics CAD I	\$ 110
Geomatics CAD II	\$ 130
Geomatics CAD III	\$ 145
GIS Survey Technician I	\$ 85
GIS Survey Technician II	\$ 110
GIS Survey Technician III	\$ 130
GIS Survey Lead	\$ 145
Geomatics Project Manager I	\$ 180
Geomatics Project Manager II	\$ 190
Geomatics Project Manager III	\$ 220
Geomatics Project Professional I	\$ 160
Geomatics Project Professional II	\$ 185
Geomatics Principal	\$ 260
Geomatics Remote Sensing Crew I	\$ 230
Geomatics Remote Sensing Crew II	\$ 325
Geomatics Survey Crew I	\$ 165
Geomatics Survey Crew II (2 Man)	\$ 195
Geomatics Survey Crew III (3 Man)	\$ 245
Geomatics Senior Manager	\$ 230
Geomatics Survey Tech I	\$ 65
Geomatics Survey Tech II	\$ 100
Geomatics Survey Tech III	\$ 130
Geomatics Survey Tech IV	\$ 140
Geomatics Sr. Technical Consultant	\$ 235
Geomatics SUE Crew 1	\$ 195
Geomatics SUE Crew 2	\$ 275

Description	Rate
<b>Environmental</b>	
Environmental Technician I	\$ 90
Environmental Technician II	\$ 105
Environmental Technician III	\$ 110
Environmental Senior Technician	\$ 125
Environmental Project Geologist I	\$ 160
Environmental Project Geologist II	\$ 175
Environmental Project Geologist III	\$ 200
Environmental Senior Project Geologist	\$ 220
Environmental Assistant Project Manager	\$ 175
Environmental Project Manager	\$ 200
Environmental Senior Project Manager	\$ 220
Environmental Director	\$ 250
Environmental Project Engineer I	\$ 160
Environmental Project Engineer II	\$ 175
Environmental Project Engineer III	\$ 200
Environmental Senior Project Engineer	\$ 220
Environmental Principal	\$ 280
Environmental Project Scientist I	\$ 160
Environmental Project Scientist II	\$ 175
Environmental Project Scientist III	\$ 200
Environmental Senior Project Scientist	\$ 220
Environmental Scientist I	\$ 115
Environmental Scientist II	\$ 140
Environmental Scientist III	\$ 150
Environmental Geologist I	\$ 115
Environmental Geologist II	\$ 140
Environmental Geologist III	\$ 150
Environmental Professional I	\$ 115
Environmental Professional II	\$ 140
Environmental Professional III	\$ 150
Environmental Senior Technical Consultant	\$ 245
<b>Administrative</b>	
Administrative Assistant	\$ 70
Administrative Assistant I	\$ 90
Administrative Assistant II	\$ 100
Administrative Assistant III	\$ 110
Marketing Administration I	\$ 100
Marketing Administration II	\$ 130
Director of Marketing	\$ 160
Office Administration	\$ 75
Office Administrator I	\$ 130
Office Administrator II	\$ 135
Office Administrator III	\$ 140
<b>Expenses</b>	
Bond Prints (Per Sheet)	\$ 1.75
Mylar Prints (Per Sheet)	\$ 11.00
Mileage	Per IRS
Delivery – Project Specific (Distance & Priority)	
Subcontractor Fees (Markup)	1.15
Expenses / Reprod. / Permits (Markup)	1.15

# Erwin Board of Commissioners

## REQUEST FOR CONSIDERATION

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To: The Honorable Mayor and Board of Commissioners

From: Snow Bowden, Town Manager

Date: September 22, 2025

Subject: FAMPO MOU

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The Town of Erwin is a member of the Fayetteville Area Metropolitan Planning Organization (FAMPO). When the Town of Erwin joined FAMPO we approved a Memorandum of Understanding (MOU). FAMPO Staff has prepared an updated MOU that needs to be approved by all its member governments. There are no major changes in the updated MOU. Most of the changes are minor changes. The attached updated MOU has the proposed changes in red font.

#### Attachments:

- FAMPO Memo from Executive Director Hank Graham
- FAMPO MOU (updated 5/2025)

## MEMORANDUM

**To:** TAC Member Jurisdictions

**From:** Hank Graham, AICP, Executive Director ([hgraham@cumberlandcountync.gov](mailto:hgraham@cumberlandcountync.gov))

**Subject:** FAMPO Boundary Assessment Update and Memorandum of Understanding

**Date:** August 21, 2025

### BACKGROUND

The Fayetteville Area Metropolitan Planning Organization (FAMPO) Memorandum of Understanding (MOU) was previously presented, updated, and adopted with minor changes at your May 2025 TAC Meeting to address several items that required an update to the MOU. Major changes are outlined below:

- Fort Liberty's name change back to Fort Bragg,
- Additional TAC Membership to include a representative of the Fayetteville Area System of Transit (FAST),
- Additional information regarding Establishment and Membership of the TAC Board,
- Establishment of and Roles and Responsibilities of the Executive Committee, and
- Additional clarification regarding the hiring and performance review of the Executive Director.

Attached, please find the redlined MOU which outlines the proposed changes/modifications to the previously approved MOU and a copy of the final MOU with accepted changes/modifications. The changes were required by the Federal Highway Administration and NCDOT including FAMPO board membership requirements and general language clarification.

### STAFF ASK

Staff request that this item be placed on your next available Board or Commission's agenda as a consent item to be approved with a new Chief Elected Official signature. If additional details are required, please do not hesitate to contact me.

Memorandum  
Of  
Understanding



*Fayetteville Area Metropolitan  
Planning Organization  
(FAMPO)*

*May 28, 2025*

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MEMORANDUM OF UNDERSTANDING FOR COOPERATIVE,  
COMPREHENSIVE, AND CONTINUING TRANSPORTATION PLANNING  
FOR THE FAYETTEVILLE URBAN AREA

AMONG

THE CITY OF FAYETTEVILLE, THE TOWN OF EASTOVER, THE TOWN OF HOPE MILLS, THE TOWN OF PARKTON, THE CITY OF RAEFORD, THE TOWN OF SPRING LAKE, THE TOWN OF ERWIN, THE FORT ~~BRAGG LIBERTY~~ MILITARY RESERVATION, THE COUNTY OF CUMBERLAND, THE COUNTY OF HARNETT, THE COUNTY OF HOKE, THE COUNTY OF MOORE, THE COUNTY OF ROBESON, AND THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION IN COOPERATION WITH THE UNITED STATES DEPARTMENT OF TRANSPORTATION

WITNESSETH:

WHEREAS, certain of the parties hereto have previously entered into a Memorandum of Understanding for cooperative, comprehensive, and continuing transportation planning through the Fayetteville Area Metropolitan Planning Organization (FAMPO), which agreement was last amended in ~~July, 2024 to add new membership reflective of the expanded FAMPO MPA, December 2014 and amended in May 2021 to add membership for the Fort Liberty Military Reservation~~; and

WHEREAS, the parties desire to continue that transportation planning through the FAMPO and amend and expand the agreement to include additional parties and clarify their respective roles and responsibilities; and

WHEREAS, each Metropolitan Planning Organization (MPO) is required to develop a Metropolitan Transportation Plan in cooperation with NCDOT and in accordance with 23 U.S.C. §134, any amendments thereto, and any implementing regulations; and a Comprehensive Transportation Plan in accordance with North Carolina General Statute §136-66.2; and

WHEREAS, the Metropolitan Transportation Plan serves as the basis for future transportation improvements within the Metropolitan Planning Area; and

WHEREAS, the parties intend that this Memorandum of Understanding shall supersede all prior memoranda of understanding among any of them pertaining to the FAMPO.

NOW THEREFORE, in consideration of the mutual benefits afforded to each party, the parties agree as follows:

**Section 1. Boundary of the Metropolitan Planning Area**

The Fayetteville Urban Metropolitan Planning Area consists of the Fayetteville Urban Area as defined by the United States Department of Commerce, Bureau of the Census, plus that area beyond the existing urbanized area boundary that is expected to become urbanized within a twenty-year planning period. This area is hereinafter referred to as the Metropolitan Planning Area. Per federal regulation, a Metropolitan Planning Organization, in cooperation with the NCDOT and public transit operators, is required to review the Metropolitan Planning Area (MPA) after each Census to determine if the existing MPA boundary meets the minimum statutory requirements for new and updated urbanized areas and shall adjust the boundary as

necessary. This MOU recognizes the FAMPO's adherence to this regulation and has fulfilled its requirements by completing a formal Boundary Assessment which has involved collaboration and engagement with all agencies within the NCDOT 2050 Travel Demand Model Boundary. ~~Upon adoption of this MOU and its establishment of the FAMPO Boundary, there shall be no additional member agencies of the FAMPO Planning Boundary until the next review of the FAMPO Boundary.~~

## **Section 2. Planning Responsibility within the Metropolitan Planning Area**

Cooperative, continuing and comprehensive transportation planning shall be undertaken in the Metropolitan Planning Area by the FAMPO in accordance with all applicable federal and state statutes. The FAMPO shall coordinate any transportation planning it undertakes which may have a regional impact with the Capital Area Metropolitan Planning Organization, Sandhills Metropolitan Planning Organization, Central Pines Rural Planning Organization, Mid-Carolina Rural Planning Organization and the Lumber River Rural Planning Organization.

## **Section 3. Establishment of the FAMPO Transportation Advisory Committee**

The FAMPO shall be governed by a Transportation Advisory Committee (TAC) which shall be the policy making board for the MPO and shall be constituted as follows:

The voting members of the FAMPO TAC shall **generally** consist of Elected Officials. An Elected Official will represent each member Local Government party to this agreement, plus **two additional an-additional** representatives from the City Council of Fayetteville appointed by the Chief Elected Official (**Mayor**), a representative of the Transit Operator for the City of Fayetteville (**FAST**), **and** a representative from the Fort **Bragg Liberty** Military Reservation. A member of any local elected board may serve as an alternate to the designated TAC member for each member. The MPO staff shall be notified of changes in TAC members and TAC alternate members each year and/or as changes are made. As established in its Bylaws, the TAC may create subcommittees to assist it in carrying out its responsibilities. TAC will meet with the necessary regularity to ensure adequate performance of duties as described herein.

In addition, the board of directors of the FAMPO shall include a non-voting representative from the Federal Highway Administration-North Carolina Division, and a non-voting representative from the Federal Transit Administration-Region IV. The members representing the Fort **Bragg Liberty** Military Reservation and the state and federal agencies shall be selected as determined by the agencies they are representing.

### TAC Voting members:

1. County of Cumberland
2. County of Harnett
3. County of Hoke
4. County of Moore
5. County of Robeson
6. Town of Eastover
7. Town of Erwin
8. City of Fayetteville
9. City of Fayetteville
10. Fort **Bragg Liberty** Military Reservation

11. Town of Hope Mills
12. Town of Parkton
13. City of Raeford
14. Town of Spring Lake
15. North Carolina Board of Transportation - Division 6
16. North Carolina Board of Transportation - Division 8
17. Fayetteville Area System of Transit

#### **Section 4. Conduct of Business by the Transportation Advisory Committee (TAC)**

The FAMPO Transportation Advisory Committee will meet as often as it deems appropriate and advisable. The Transportation Advisory Committee will adopt by-laws and select a Chair and Vice-Chair and conduct its business in accordance with its adopted by-laws. All meetings of the board of directors shall be subject to the Open Meetings Law.

#### **Section 5. Role and Responsibilities of the FAMPO**

The FAMPO board of directors will be responsible for carrying out the provisions of 23 U.S.C. §134 (Federal Highway Administration); and 49 U.S.C. §§5303, 5304, 5305, 5306 and 5307(Federal Transit Administration); including the following duties and responsibilities:

5.1. Review and approval of the annual transportation Unified Planning Work Program and any subsequent amendments;

5.2. Review and approval of the Transportation Improvement Program for multimodal capital and operating expenditures to insure coordination between local and State capital and operating improvement programs and any subsequent amendments.

5.3 Review and approval of the Metropolitan Transportation Plan, and subsequent changes thereto, and the Comprehensive Transportation Plan as required by the N.C.G.S. §136-66.2(d). Revisions in the transportation plans must be jointly approved by the FAMPO board of directors and the North Carolina Department of Transportation.

5.4. Endorsement, review and approval of changes to the Federal Highway Administration Functional Classification System, the Adjusted Urbanized Area Boundary and the Metropolitan Planning Area Boundary.

5.5. Endorsement, review and approval of a Prospectus for Transportation Planning which defines work tasks and responsibilities for the various agencies participating in the transportation planning process.

5.6. Establishment of goals and objectives for the transportation planning process reflective of and responsive to such comprehensive plans for growth and development in the Metropolitan Planning Area as adopted by FAMPO Local Government Boards.

5.7. Approval and distribution of federal funds designated for the Metropolitan Planning Area under the provisions of Infrastructure Investment and Jobs Act (IIJA) and any other subsequent transportation funding authorizations.

## **Section 6. Establishment of the Executive Committee**

There shall be an Executive Committee comprised of TAC Members present at the meeting who shall enter into a separate session to meet as required. ~~the TAC members representing the City of Fayetteville (2), Cumberland County, Harnett County, and Hoke County (5 Total) and the TAC Chair and Vice-Chair (for a potential total of 7 if neither the Chair or Vice-Chair represents one of the five (5) jurisdictions listed above).~~

## **Section 7. Role and Responsibilities of the Executive Committee**

The Executive Committee shall approve recommendations made by the Executive Director as they pertain to the hiring of FAMPO staff members and other organizational changes within the MPO, including but not limited to the structure of FAMPO, and other major decisions in coordination with the Executive Director. The Executive Committee shall develop and carry out an annual performance review process for the Executive Director, which will include a documented assessment of the performance, and recommend changes to the responsibilities and duties of, and salary adjustments for the position.

The Executive Committee shall approve recommendations developed by the Executive Director for other MPO Staff as well, to be prepared by the Executive Director, including hiring decisions, approval of an annual performance review process, changes in job descriptions, salary ranges and adjustments, and recommended changes to the responsibilities and duties of other MPO staff positions. The Executive Committee shall also approve such recommendations as they pertain to the selection and contracting of professional services from time to time as required and recommended.

## **Section 8. Establishment of the Technical Coordinating Committee (the TCC)**

8.1. The parties acknowledge that transportation planning is a specialized field. In order to give the FAMPO, through its duly constituted Transportation Advisory Committee (the TAC), access to the technical expertise necessary to meet the requirements of federal and state law, a Technical Coordinating Committee (the TCC) shall be established with the responsibility for advising the FAMPO on the technical aspects of the transportation planning process, performing such technical analysis as necessary to support transportation planning and making recommendations to the FAMPO and local and State governmental agencies for any necessary actions relating to the continuing transportation planning process.

8.2. Membership of the TCC shall include technical representation from all local and State governmental agencies directly related to and concerned with the transportation planning process for the Metropolitan Planning Area and shall consist of the following:

### Voting members:

1. City Manager, City of Raeford
2. County Manager, County of Cumberland
3. County Manager, County of Hoke
4. County Manager or Director of Planning and Inspections, County of Moore
5. County Manager, County of Robeson
6. Town Manager, Town of Eastover

7. Manager, Town of Hope Mills
8. Manager, Town of Spring Lake
9. Town Manager, Town of Erwin
10. Director, Cumberland County Planning and Inspections Department
11. Director, Fayetteville Area System of Transit (FAST)
12. Director, Fayetteville -Cumberland County Parks and Recreation Department
13. Director, City of Fayetteville, Public Services
14. Director, Cumberland County Engineering and Infrastructure Department
15. Director, Fayetteville Regional Airport
16. Director, City of Fayetteville, Development Services
17. City Traffic Engineer, City of Fayetteville
18. Director, Central Pines Rural Planning Organization
19. Director, Mid Carolina Rural Planning Organization
20. Planner, Lumber River Rural Planning Organization
21. Regional Planner, IMD NCDOT
22. Director of Development Services, Harnett County
23. Supervisor, Cumberland County Schools Planning Department
24. Supervisor, Hoke County Schools Planning Department
25. Supervisor, Harnett County Schools Planning Department
26. Transportation Planning Division, NCDOT
27. Executive Director, Mid-Carolina Council of Governments
28. Executive Director, Sustainable Sandhills
29. Assoc. Vice-Chancellor for Facilities Management, Fayetteville State University
30. Facilities Director, Methodist University
31. Facilities Director, Fayetteville Technical Community College
32. Directorate of Facilities, Fort Liberty Military Reservation
33. Division Engineer, Division Six, Division of Highways, NCDOT
34. Division Engineer, Division Eight, Division of Highways, NCDOT
35. County Manager, County of Harnett

At Large Voting Members, selected by the agency they represent:

1. President/C.E.O. of the Fayetteville -Cumberland County Chamber of Commerce
2. Director of Cumberland County Transportation Program

Non-voting members, serving ex-officio:

1. Transportation Planner, FHWA, NC Division
2. Region IV, Federal Transit Administration (FTA)

**Section 9. Conduct of Business by the TCC**

The TCC will meet as often as it deems appropriate and advisable. The TCC will adopt by-laws and select a Chair and Vice-chair and conduct its business in accordance with its adopted by-laws. All meetings of the TCC shall be subject to the Open Meetings Law.

**Section 10. Role and Responsibilities of the TCC**

The TCC shall be responsible for development, review, and recommendation for approval of the Prospectus, Transportation Improvement Program, Federal-Aid Urban System and Boundary, revisions to the Transportation Plan, planning citizen participation, and documentation reports on

the transportation study.

### **Section 11. Establishment of the Citizens Advisory Committee (the CAC)**

There shall also be a Citizens Advisory Committee (the CAC) established consisting of no less than 11 and not more than 17 interested citizens who reside within the Metropolitan Planning Area. The members of the CAC shall be appointed by the FAMPO board of directors and shall be selected to represent areas of interest and interest groups, including traditionally underrepresented members of the community, to address such interests as bicycle paths, pedestrian greenways, environmental concerns, road safety, traffic congestion, freight, rail and transit and with representatives including advocates for the disabled, seniors and minorities.

### **Section 12. Conduct of Business by the CAC**

The CAC will meet as often as it deems appropriate and advisable to make recommendations to the TAC and the TCC. The CAC will adopt by-laws and select a Chair and Vice-chair and conduct its business in accordance with its adopted by-laws. All meetings of the CAC shall be subject to the Open Meetings Law.

### **Section 13. The Executive Director**

Administrative coordination for the FAMPO TAC, the TCC and the CAC will be performed by an Executive Director. The Executive Director shall be selected by a panel consisting of the Development Services Director and the Public Services Director for the City of Fayetteville, the Director of Planning and Inspections for Cumberland County, the managers or the designees of the managers ~~of Harnett and Hoke Counties, and the TAC Chair and Vice – Chair (if not one of the previously mentioned positions) of the towns of Hope Mills and Spring Lake.~~ The Executive Director shall become an employee of Cumberland County (LPA) and shall be subject to the provisions ~~established by the FAMPO Executive Committee. of Cumberland County's personnel rules and policies. assigned to the Cumberland County Planning and Inspections Department and report to the county's Director of Planning and Inspections.~~ The Executive Director shall select such other staff as may be budgeted in accordance with the selection and recruitment rules and policies ~~set forth by the FAMPO Executive Committee. of Cumberland County.~~ All staff selected by the Executive Director shall become employees of Cumberland County. ~~assigned to the Cumberland County Planning and Inspections Department and subject to the provisions of the County's personnel rules and policies.~~ The Executive Director shall have authority over the selection of staff and assigned job duties as well as authority over starting and adjusting salaries of all FAMPO staff members with the approval of the Executive Committee.

### **Section 14. Role and Responsibilities of the Executive Director**

14.1. The Executive Director shall serve *ex officio* as the Secretary of the FAMPO Board of Directors (the TAC), the TCC and the CAC and shall be responsible to arrange the meetings and agendas and maintain the minutes and records of each. In addition, the Executive Director shall prepare the Prospectus, the Unified Planning Work Program the (UPWP), a Transportation Improvement Program in accordance with federal and state regulations and requirements; develop a Transportation Plan in accordance with federal and state regulations; maintain the Transportation Plan; execute the transportation planning process in accordance with federal and state laws and regulations; prepare invoices and progress reports in accordance with federal, state, and local requirements; structure the public involvement process needed to ensure that the UPWP, Transportation Plan, Transportation Improvement Program, and any transportation

conformity determinations meet federal requirements; and consult with the FAMPO TAC, TCC and CAC regarding the best approaches to performing the duties listed above.

14.2. In advance of making any proposal or recommendation to the TAC, the TCC or the CAC, the Executive Director shall provide such recommendation to the chief planning official for every jurisdiction within the Metropolitan Planning Area which may be impacted by such proposal or recommendation in sufficient time for the chief planning official to review and comment on the proposal or recommendation.

### **Section 15. Additional Responsibilities of Member Governments**

15.1. The representative from each Local Government on the FAMPO board of directors shall be responsible for instructing the clerk of his/ her local government to provide to the Executive Director copies of the minutes of any action taken by his/her local government which involves any MPO plan.

15.2. Each member signatory local government shall coordinate zoning and subdivision approval in their respective jurisdictions in accordance with the FAMPO adopted transportation plan.

15.3. As the host agency, the Cumberland County Planning and Inspections Department will serve as the Lead Planning Agency for transportation planning in the Metropolitan Planning Area. All other member signatory local governments will assist in the transportation planning process by providing planning assistance, data, and inventories in accordance with the Prospectus for Transportation Planning.

### **Section 16. Funding and Fiscal Matters**

16.1. All transportation and related federal aid planning grant funds available to promote the cooperative transportation planning process will be expended in accordance with the Unified Planning Work Program adopted by the TAC. Administration of funding in support of the Transportation Planning Process on behalf of the TAC will be conducted by the County of Cumberland as the host planning agency. Cumberland County will execute appropriate agreements with funding agencies as provided by the Planning Work Program.

16.2. The local match for the Federal Aid planning funds will be determined based on the current federal matching requirements. The signatory General Purpose Local Governments will contribute to the local match requirement based on their percentage of the population within the Metropolitan Planning Area at the most recent decennial census. Only the non-municipal population of those portions of counties located within the Metropolitan Planning Area shall be counted for counties. Member governments may also be asked to contribute additional local funding for projects wholly within their jurisdictional limits.

~~16.3. The fair market rental value of the office space provided by Cumberland County Planning and Inspections Department as the host agency will be counted toward Cumberland County's match as an in-kind contribution. The fair market value of the rent shall be figured as the same annual rate per square foot that Cumberland County receives from the State of North Carolina for any other county owned office space rented by the State.~~

**Section 17. Duration of the Agreement**

Any party may terminate its participation in the MPO and remove itself from this Agreement by giving sixty days' advance notice in a writing signed by the Chief Elected Official, if a local government, or by the chief executive officer of the agency, if not a local government. This notice shall be delivered to the Chairman of the FAMPO Board of Directors and to the Executive Director.

IN WITNESS WHEREOF, the parties to this Memorandum of Understanding have been authorized by appropriate action to sign the same, the City of Fayetteville by its Mayor, the Town of Eastover by its Mayor, the Town of Erwin by its Mayor, the Town of Hope Mills by its Mayor, the Town of Parkton by its Mayor, the City of Raeford by its Mayor, the Town of Spring Lake by its Mayor, Fort Bragg Liberty Military Reservation by its Director of Public Works, the County of Cumberland by its Chair, the County of Harnett by its Chair, the County of Hoke by its Chair, the County of Moore by its Chair, the County of Robeson by its Chair and the North Carolina Department of Transportation by the Secretary of Transportation.

(Seal)

City of Fayetteville

\_\_\_\_\_

Clerk

By \_\_\_\_\_

Mayor

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

IN WITNESS WHEREOF, the parties to this Memorandum of Understanding have been authorized by appropriate action to sign the same, the City of Fayetteville by its Mayor, the Town of Eastover by its Mayor, the Town of Erwin by its Mayor, the Town of Hope Mills by its Mayor, the Town of Parkton by its Mayor, the City of Raeford by its Mayor, the Town of Spring Lake by its Mayor, Fort Bragg Liberty Military Reservation by its Director of Public Works, the County of Cumberland by its Chair, the County of Harnett by its Chair, the County of Hoke by its Chair, the County of Moore by its Chair, the County of Robeson by its Chair and the North Carolina Department of Transportation by the Secretary of Transportation.

(Seal)

Town of Eastover

\_\_\_\_\_

Clerk

By \_\_\_\_\_

Mayor

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

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(Seal)

Town of Erwin

By

\_\_\_\_\_

\_\_\_\_\_

Clerk

Mayor

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

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(Seal)

Town of Hope Mills

\_\_\_\_\_  
Clerk

By \_\_\_\_\_  
Mayor

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

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(Seal)

Town of Parkton

\_\_\_\_\_

Clerk

By \_\_\_\_\_

Mayor

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

IN WITNESS WHEREOF, the parties to this Memorandum of Understanding have been authorized by appropriate action to sign the same, the City of Fayetteville by its Mayor, the Town of Eastover by its Mayor, the Town of Erwin by its Mayor, the Town of Hope Mills by its Mayor, the Town of Parkton by its Mayor, the City of Raeford by its Mayor, the Town of Spring Lake by its Mayor, Fort Bragg Liberty Military Reservation by its Director of Public Works, the County of Cumberland by its Chair, the County of Harnett by its Chair, the County of Hoke by its Chair, the County of Moore by its Chair, the County of Robeson by its Chair and the North Carolina Department of Transportation by the Secretary of Transportation.

(Seal)

City of Raeford

\_\_\_\_\_

By \_\_\_\_\_

Clerk

Mayor

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

IN WITNESS WHEREOF, the parties to this Memorandum of Understanding have been authorized by appropriate action to sign the same, the City of Fayetteville by its Mayor, the Town of Eastover by its Mayor, the Town of Erwin by its Mayor, the Town of Hope Mills by its Mayor, the Town of Parkton by its Mayor, the City of Raeford by its Mayor, the Town of Spring Lake by its Mayor, Fort Bragg Liberty Military Reservation by its Director of Public Works, the County of Cumberland by its Chair, the County of Harnett by its Chair, the County of Hoke by its Chair, the County of Moore by its Chair, the County of Robeson by its Chair and the North Carolina Department of Transportation by the Secretary of Transportation.

(Seal)

Town of Spring Lake

\_\_\_\_\_

Clerk

By \_\_\_\_\_

Mayor

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

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Fort Bragg Liberty Military Reservation

By \_\_\_\_\_

Director of Public Works on behalf of the Garrison Commander

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

IN WITNESS WHEREOF, the parties to this Memorandum of Understanding have been authorized by appropriate action to sign the same, the City of Fayetteville by its Mayor, the Town of Eastover by its Mayor, the Town of Erwin by its Mayor, the Town of Hope Mills by its Mayor, the Town of Parkton by its Mayor, the City of Raeford by its Mayor, the Town of Spring Lake by its Mayor, Fort Bragg Liberty Military Reservation by its Director of Public Works, the County of Cumberland by its Chair, the County of Harnett by its Chair, the County of Hoke by its Chair, the County of Moore by its Chair, the County of Robeson by its Chair and the North Carolina Department of Transportation by the Secretary of Transportation.

(Seal)

County of Cumberland

\_\_\_\_\_

Clerk

By \_\_\_\_\_  
Chairman, Board of Commissioners

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

IN WITNESS WHEREOF, the parties to this Memorandum of Understanding have been authorized by appropriate action to sign the same, the City of Fayetteville by its Mayor, the Town of Eastover by its Mayor, the Town of Erwin by its Mayor, the Town of Hope Mills by its Mayor, the Town of Parkton by its Mayor, the City of Raeford by its Mayor, the Town of Spring Lake by its Mayor, Fort Bragg Liberty Military Reservation by its Director of Public Works, the County of Cumberland by its Chair, the County of Harnett by its Chair, the County of Hoke by its Chair, the County of Moore by its Chair, the County of Robeson by its Chair and the North Carolina Department of Transportation by the Secretary of Transportation.

(Seal)

County of Harnett

\_\_\_\_\_

Clerk

By \_\_\_\_\_  
Chairman, Board of Commissioners

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

IN WITNESS WHEREOF, the parties to this Memorandum of Understanding have been authorized by appropriate action to sign the same, the City of Fayetteville by its Mayor, the Town of Eastover by its Mayor, the Town of Erwin by its Mayor, the Town of Hope Mills by its Mayor, the Town of Parkton by its Mayor, the City of Raeford by its Mayor, the Town of Spring Lake by its Mayor, Fort ~~Bragg Liberty~~ Military Reservation by its Director of Public Works, the County of Cumberland by its Chair, the County of Harnett by its Chair, the County of Hoke by its Chair, the County of Moore by its Chair, the County of Robeson by its Chair and the North Carolina Department of Transportation by the Secretary of Transportation.

(Seal)

County of Hoke

\_\_\_\_\_

Clerk

By

\_\_\_\_\_

Chairman, Board of Commissioners

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

IN WITNESS WHEREOF, the parties to this Memorandum of Understanding have been authorized by appropriate action to sign the same, the City of Fayetteville by its Mayor, the Town of Eastover by its Mayor, the Town of Erwin by its Mayor, the Town of Hope Mills by its Mayor, the Town of Parkton by its Mayor, the City of Raeford by its Mayor, the Town of Spring Lake by its Mayor, Fort ~~Bragg Liberty~~ Military Reservation by its Director of Public Works, the County of Cumberland by its Chair, the County of Harnett by its Chair, the County of Hoke by its Chair, the County of Moore by its Chair, the County of Robeson by its Chair and the North Carolina Department of Transportation by the Secretary of Transportation.

(Seal)

County of Moore

\_\_\_\_\_ By \_\_\_\_\_  
Clerk Chairman, Board of Commissioners

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

IN WITNESS WHEREOF, the parties to this Memorandum of Understanding have been authorized by appropriate action to sign the same, the City of Fayetteville by its Mayor, the Town of Eastover by its Mayor, the Town of Erwin by its Mayor, the Town of Hope Mills by its Mayor, the Town of Parkton by its Mayor, the City of Raeford by its Mayor, the Town of Spring Lake by its Mayor, Fort Bragg Liberty Military Reservation by its Director of Public Works, the County of Cumberland by its Chair, the County of Harnett by its Chair, the County of Hoke by its Chair, the County of Moore by its Chair, the County of Robeson by its Chair and the North Carolina Department of Transportation by the Secretary of Transportation.

(Seal)

County of Robeson

\_\_\_\_\_  
Clerk

By \_\_\_\_\_  
Chairman, Board of Commissioners

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

IN WITNESS WHEREOF, the parties to this Memorandum of Understanding have been authorized by appropriate action to sign the same, the City of Fayetteville by its Mayor, the Town of Eastover by its Mayor, the Town of Erwin by its Mayor, the Town of Hope Mills by its Mayor, the Town of Parkton by its Mayor, the City of Raeford by its Mayor, the Town of Spring Lake by its Mayor, Fort Bragg Liberty Military Reservation by its Director of Public Works, the County of Cumberland by its Chair, the County of Harnett by its Chair, the County of Hoke by its Chair, the County of Moore by its Chair, the County of Robeson by its Chair and the North Carolina Department of Transportation by the Secretary of Transportation.

North Carolina Department of Transportation

By \_\_\_\_\_  
Secretary of Transportation

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

# Erwin Board of Commissioners

## REQUEST FOR CONSIDERATION

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To: The Honorable Mayor and Board of Commissioners

From: Snow Bowden, Town Manager

Date: September 22, 2025

Subject: Chapter 16- Flood Prevention Development Ordinance

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Our Town Planner Dylan Eure has prepared several updates to our Flood Damage Prevention Ordinance (Chapter 16). All the updates follow updated North Carolina legislation. The updates have been reviewed and approved for recommendation by our Planning Board. These updates need to be approved to keep the Town of Erwin in good standing with the Federal Emergency Management Agency (FEMA) and North Carolina Emergency Management. We have a public hearing scheduled for our October 9th Board Meeting.

**Attachments:**

- Proposed text amendments to Chapter 16 “Flood Damage Prevention”

# Erwin Planning Board

## REQUEST FOR CONSIDERATION

---

To: The Honorable Mayor and Board of Commissioners

From: Snow Bowden, Town Manager

Date: September 22, 2025

Subject: Chapter 16- Flood Prevention Development Ordinance

---

The Town Staff of Erwin wishes to amend Chapter 16 of the Code of Ordinances entitled “Flood Damage Prevention” in order to bring Erwin’s Code of Ordinances to North Carolina state standards since the passing of North Carolina General Statute 160D.

### **Sec. 16-1. Statutory authorization.**

The legislature of the state has in part 6, article 21 of chapter 143; ~~parts 3,5,8 of article 19 of Chapter 160A of the North Carolina General Statutes~~ Article 6 of Chapter 153A; Article 8 of chapter 160A; and article 7,9, and 11 of chapter 160D of the North Carolina General Statutes, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety and general welfare of its citizenry.

Therefore, the Governing Board of the Town of Erwin, North Carolina, does ordain as follows:

(Ord. No. 2013-2014:007, § 9-5001, 1-9-2014)

### **Sec. 16-2. Findings of fact.**

- (a) The floodprone areas within the jurisdiction of the Town of Erwin 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 floodprone areas of uses vulnerable to floods or other hazards.

(Ord. No. 2013-2014:007, § 9-5002, 1-9-2014)

### **Sec. 16-3. 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 floodprone areas by provisions designed to:

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

- (2) Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;
- (3) Control the alteration of natural floodplains, stream channels and natural protective barriers, which are involved in the accommodation of floodwaters;
- (4) Control filling, grading, dredging and all other development that may increase erosion or flood damage; and
- (5) Prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or which may increase flood hazards to other lands.

(Ord. No. 2013-2014:007, § 9-5003, 1-9-2014)

#### **Sec. 16-4. Objectives.**

The objectives of this chapter are to:

- (1) Protect human life, safety and health;
- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business losses and interruptions;
- (5) Minimize damage to public facilities and utilities (i.e., water and gas mains, electric, telephone, cable and sewer lines, streets and bridges) that are located in floodprone areas;
- (6) Minimize damage to private and public property due to flooding;
- (7) Make flood insurance available to the community through the National Flood Insurance Program;
- (8) Maintain the natural and beneficial functions of the floodplains;
- (9) Help maintain a stable tax base by providing for the sound use and development of floodprone areas; and
- (10) Ensure that potential buyers are aware that property is in a special flood hazard area.

(Ord. No. 2013-2014:007, § 9-5004, 1-9-2014)

#### **Sec. 16-5. Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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

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

*Alteration of a watercourse* means a dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or other forms of

modification which may alter, impede, retard, or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

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

*Area of shallow flooding* means a designated zone AO on a community's flood insurance rate map (FIRM) with base flood depths determined to be from one 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)*.

*Base flood* means the flood having a one percent chance of being equaled or exceeded in any given year.

*Base flood elevation (BFE)* means a determination of the water surface elevations of the base flood as published in the flood insurance study. When the BFE has not been provided in a special flood hazard area, it may be obtained from engineering studies available from a federal, state or other source using FEMA-approved engineering methodologies. This elevation, when combined with the freeboard, establishes the regulatory flood protection elevation.

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

*Building.* See *Structure*.

*Certified local government (CLG) programs* are approved by the U.S. Department of the Interior in cooperation with the state 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.

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

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

*Development activity* means any activity defined as development which will necessitate a floodplain development permit.

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

*Disposal* means, 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* means a nonbasement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings or columns.

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

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

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

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

*Flood boundary and floodway map (FBFM)* means an official map of a community, issued by FEMA, 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)* means an official map of a community, issued by FEMA, where the boundaries of the special flood hazard areas have been defined as Zone A.

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

*Flood insurance rate map (FIRM)* means an official map of a community, issued by FEMA, on which both the special flood hazard areas and the risk premium zones applicable to the community are delineated.

*Flood insurance study (FIS)* means an examination, evaluation and determination of flood hazards, corresponding water surface elevations, if appropriate, flood hazard risk zones and other flood data in a community issued by FEMA. The flood insurance study report includes flood insurance rate maps (FIRMs) and flood boundary and floodway maps (FBFMs), if published.

*Flood zone* means a geographical area shown on a flood hazard boundary map or flood insurance rate map that reflects the severity or type of flooding in the area.

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

*Floodplain administrator* means the individual appointed to administer and enforce the floodplain management regulations.

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

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

*Floodplain management regulations* mean this chapter and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances and other applications of police power. The term "floodplain management regulations" describes federal, state or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

*Floodprone area.* See *Floodplain*.

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

*Flood-resistant material* means any building product (material, component, or system) capable of withstanding direct and prolonged contact (minimum of 72 hours) with floodwaters without sustaining damage that requires more than low-cost cosmetic repair. Any material that is water soluble or is not resistant to alkali or acid in water, including normal adhesives for above grade use, is not flood resistant. Pressure-treated lumber or naturally decay resistant lumbars are acceptable flooring materials. Sheet-type flooring coverings that restrict evaporation from below and materials that are impervious, but dimensionally unstable are not acceptable. Materials that absorb or retain water excessively after submergence are not flood-resistant. Please refer to

Technical Bulletin 2, Flood Damage-Resistant Materials Requirements, and available from the FEMA. Class 4 and 5 materials, referenced therein, are acceptable flood resistant materials.

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

*Floodway encroachment analysis* means an engineering analysis of the impact a proposed encroachment into a floodway or nonencroachment area is expected to have on the floodway boundaries, base flood elevations and floodway surcharge elevations. The evaluation shall be prepared by a qualified state-licensed engineer using standard engineering methods and models.

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

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

*Hazardous waste management facility*, as defined in G.S. ch. 130A, art. 9, means a facility for the collection, storage, processing, treatment, recycling, recovery or disposal of hazardous waste.

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

*Historic structure* means any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the 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.

*Letter of map change (LOMC)* means an official determination issued by FEMA that amends or revises an effective flood insurance rate map or flood insurance study. Letters of map change include:

*Conditional letter of map revision (CLOMR)* means a formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective flood insurance rate map or flood insurance study; upon submission and approval of certified as-built documentation, a letter of map revision may be issued by FEMA to revise the effective FIRM.

*Letter of map amendment (LOMA)* means an amendment based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective flood insurance rate map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.

*Letter of map revision (LOMR)* means a revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations and other planimetric features.

*Letter of map revision based on fill (LOMR-F)* means a determination that a structure or parcel of land has been elevated by fill above the base flood elevation and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.

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

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

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

*Manufactured home park or subdivision* means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

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

*Mean sea level* means, for purposes of this chapter, the National Geodetic Vertical Datum (NGVD) as corrected in 1929, the North American Vertical Datum (NAVD), as corrected in 1988, or other vertical control datum used as a reference for establishing varying elevations within the floodplain, to which base flood elevations (BFEs) shown on a FIRM are referenced. Refer to each FIRM panel to determine datum used.

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

*New manufactured home park or subdivision* means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed, including, at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete slabs is completed on or after February 6, 1997.

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

*Post-FIRM* means construction or other development for which the start of construction occurred on or after the effective date of the initial flood insurance rate map.

*Pre-FIRM* means construction or other development for which the start of construction occurred before the effective date of the initial flood insurance rate map.

*Principally above ground* means that at least 51 percent of the actual cash value of the structure is above ground.

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

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

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

*Reference level* means the top of the lowest floor for structures within special flood hazard areas designated as zone A-1, A30, AE, A, A99 or AO. Alternative acceptable language for reference level: The term "reference level" refers to the bottom of the lowest horizontal structure member of the lowest floor, excluding the foundation system, for structures within all special flood hazard areas.

*Regulatory flood protection elevation* means the base flood elevation, plus the freeboard. In special flood hazard areas where base flood elevations (BFEs) have been determined, this elevation shall be the BFE, plus two feet of freeboard. In special flood hazard areas where no BFE has been established, this elevation shall be at least two feet above the highest adjacent grade.

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

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

*Salvage yard* means any nonresidential property used for the storage, collection, and/or recycling of any type of equipment, and including, but not limited to, vehicles, appliances and related machinery.

*Solid waste disposal facility* means any facility involved in the disposal of solid waste, as defined in G.S. 130A-290(a)(35).

*Solid waste disposal site* means, 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)* means the land in the floodplain subject to a one percent or greater chance of being flooded in any given year, as determined in this chapter.

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

structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

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

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

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

- (1) Any correction of existing violations of state or community health, sanitary or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to ensure 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 and the alteration is approved by variance issued pursuant to section 16-26.

**Technical Bulletin and Technical Fact Sheet Means a FEMA publication that provides guidance concerning the building performance of the NFIP, which are contained in Title 44 of the U.S. Code of Federal Regulations at Section 60.3. The bulletins and fact sheets are intended for use primarily by State and local officials responsible for interpreting and enforcing NFIP regulations and by members of the development community, such as design professionals and builders. New bulletins as well as updates of existing bulletins are issued periodically as needed. The bulletins do not create regulations, rather they provide specific guidance for complying with the minimum requirements of existing NFIP regulations.**

*Variance* means a grant of relief from the requirements of this chapter.

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

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

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

(Ord. No. 2013-2014:007, § 9-5011, 1-9-2014)

**Secs. 16-6—16-21. Reserved.**

## **ARTICLE II. ADMINISTRATION**

### **Sec. 16-22. Designation of floodplain administrator.**

The town manager, or designee, hereinafter referred to as the "floodplain administrator," is hereby appointed to administer and implement the provisions of this chapter. **In instances where the flood plain administrator receives assistance from others to complete tasks to administer and implement this ordinance, the floodplain administrator shall be responsible for the coordination and community's overall compliance with the National Flood Insurance Program and the provisions of this ordinance.**

(Ord. No. 2013-2014:007, § 9-5031, 1-9-2014)

### **Sec. 16-23. Floodplain development application, permit and certification requirements.**

- (a) *Application requirements.* Application for a floodplain development permit shall be made to the floodplain administrator prior to any development activities located within special flood hazard areas. The following items shall be presented to the floodplain administrator to apply for a floodplain development permit:
- (1) A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:
    - a. The nature, location, dimensions and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities and other development;
    - b. The boundary of the special flood hazard area as delineated on the FIRM or other flood map as determined in section 16-59, or a statement that the entire lot is within the special flood hazard area;
    - c. Flood zone designation of the proposed development area as determined on the FIRM or other flood map as determined in section 16-59;
    - d. The boundary of the floodways or nonencroachment areas as determined in this chapter;
    - e. The base flood elevation (BFE) where provided as set forth in section 16-59, 16-24 or 16-117;
    - f. The old and new location of any watercourse that will be altered or relocated as a result of proposed development; and
    - g. The 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 nonresidential structure in zone AE, A or AO will be floodproofed; 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 086-0-34 (7/12)) with supporting data, an operational plan, and an inspection and maintenance plan that include, but are not limited to, installation, exercise, and maintenance of floodproofing measures.
  - (4) A foundation plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this article are met. These details include, but are not limited to:
    - a. The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls); and
    - b. Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with section 16-116(4)c, elevated buildings, when solid foundation perimeter walls are used in zones A, AO, AE, and A1-30.
  - (5) Usage details of any enclosed areas below the lowest floor.
  - (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) Certification that all other local, state and federal permits required prior to floodplain development permit issuance have been received.
  - (8) Documentation for placement of recreational vehicles and/or temporary structures, when applicable, to ensure that the provisions of section 16-116(6) and (7), 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 is not 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 in accordance with available data specified in section 16-60.
  - (3) The regulatory flood protection elevation required for the reference level and all attendant utilities.
  - (4) The regulatory flood protection elevation required for the protection of all public utilities.
  - (5) All certification submittal requirements with timelines.
  - (6) A statement that no fill material or other development shall encroach into the floodway or nonencroachment 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, if applicable (i.e., parking, building access and limited storage only).
- (c) *Certification requirements.*
- (1) *Elevation certificates.*
    - a. An elevation certificate (FEMA Form 086-0-33 (7/12)) 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 086-0-33 (7/12)) 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. Any work done within the seven-day calendar period and prior to submission of the certification shall be at the permit holder's risk. The floodplain administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being permitted to proceed. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop work order for the project.
- c. A final as-built elevation certificate (FEMA Form 086-0-33 (7/12)) is required after construction is completed and prior to certificate of compliance/occupancy issuance. It shall be the duty of the permit holder to submit to the floodplain administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The floodplain administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to certificate of compliance/occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a certificate of compliance/occupancy. The use of the FEMA elevation certificate is required for the purchase of flood insurance, and mandatory for CRS participation.

(2) *Floodproofing certificate.*

(a) If nonresidential floodproofing is used to meet the regulatory flood protection elevation requirements, a floodproofing certificate (FEMA Form 086-0-34 (7/12)), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the floodplain administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to mean sea level. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The floodplain administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a certificate of compliance/occupancy.

(b) A final Finished Construction Floodproofing Certificate (FEMA Form 086-0-34), with supporting data, an operational plan and an inspection and maintenance plan are required prior to the issuance of a Certificate of Compliance/Occupancy. 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 NAVD 1988. Floodproofing certificate shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance of plan. Deficiencies detected by such review shall be corrected by the applicant prior to the Certificate of Occupancy. 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 deny a Certificate of Compliance/ Occupancy.

- (3) *Engineering foundation certificate.* If a manufactured home is placed within zone A, AO, or AE and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required in accordance with the provisions of section 16-116(3)b.
- (4) *Watercourse alteration requirements.* 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, or AE are exempt from the elevation/floodproofing certification requirements specified in subsections (c)(1) and (2) of this section:
  - a. Recreational vehicles meeting requirements of section 16-116(6)a;
  - b. Temporary structures meeting requirements of section 16-116(7); and
  - c. Accessory structures less than 150 square feet meeting requirements of section 16-116(8).
- (d) *Determinations for existing buildings and structures.* For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage and any other improvement of or work on such buildings and structures, the floodplain administrator, in coordination with the building official, shall:
  - (1) Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;
  - (2) Compare the cost to perform the improvement, the cost to repair a damaged building to its predamaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;
  - (3) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and
  - (4) Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the state building code and this article is required.

(Ord. No. 2013-2014:007, § 9-5032, 1-9-2014)

## **Sec. 16-24. Duties and responsibilities of the floodplain administrator.**

The floodplain administrator shall perform, but is not limited to, the following duties:

- (1) Review all floodplain development applications and issue permits for all proposed development within special flood hazard areas to ensure that the requirements of this article have been satisfied.
- (2) Review all proposed development within special flood hazard areas to ensure that all necessary local, state and federal permits have been received, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1334.

- (3) Notify adjacent communities and the state department of public safety, division of emergency management, and state coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to FEMA.
- (4) Ensure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained.
- (5) Prevent encroachments into floodways and nonencroachment areas, unless the certification and flood hazard reduction provisions of section 16-26 are met.
- (6) Obtain actual elevation, in relation to mean sea level, of the reference level, including basement, and all attendant utilities of all new and substantially improved structures, in accordance with the provisions of section 16-23, certification requirements.
- (7) Obtain actual elevation (in relation to mean sea level) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with the provisions of section 16-23(c), certification requirements.
- (8) Obtain actual elevation (in relation to mean sea level) of all public utilities in accordance with the provisions of section 16-23(c), certification requirements.
- (9) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the provisions of section 16-23(c), Certification requirements, and section 16-116(2), nonresidential construction.
- (10) Where interpretation is needed as to the exact location of boundaries of the special flood hazard areas, floodways, or nonencroachment areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.
- (11) When base flood elevation (BFE) data has not been provided in accordance with the provisions of section 16-59 obtain, review and reasonably utilize any BFE data, along with floodway or nonencroachment area data available from a federal, state or other source, including data developed pursuant to section 16-117(2)b, in order to administer the provisions of this article.
- (12) When base flood elevation (BFE) data is provided but no floodway or nonencroachment area data has been provided in accordance with the provisions of section 16-59, obtain, review and reasonably utilize any floodway data or nonencroachment area data available from a federal, state or other source in order to administer the provisions of this article.
- (13) When the lowest floor and the lowest adjacent grade of a structure or the lowest ground elevation of a parcel in a special flood hazard area is above the base flood elevation (BFE), 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.
- (14) Permanently maintain all records that pertain to the administration of this article and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.
- (15) Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the floodplain administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the floodplain administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.

- (16) Issue stop work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered or repaired in violation of this article, the floodplain administrator may order the work to be immediately stopped. The stop work order shall be in writing and directed to the person doing or in charge of the work. The stop work order shall state the specific work to be stopped, the specific reason for the stoppage, and the conditions under which the work may be resumed. Violation of a stop work order constitutes a misdemeanor.
- (17) Revoke floodplain development permits as required. The floodplain administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans and specifications; for refusal or failure to comply with the requirements of state or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable state or local law may also be revoked.
- (18) Make periodic inspections throughout the special flood hazard areas within the jurisdiction of the community. The floodplain administrator and each member of the inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.
- (19) Follow through with corrective procedures of section 16-25.
- (20) Review, provide input and make recommendations for variance requests.
- (21) Maintain a current map repository to include, but not limited to, the FIS report, FIRM and other official flood maps and studies adopted in accordance with the provisions of section 16-59, including any revisions thereto, including letters of map change, issued by FEMA. Notify state and FEMA of mapping needs.
- (22) Coordinate revisions to FIS reports and FIRMs, including letters of map revision based on fill (LOMR-Fs) and letters of map revision (LOMRs).

(Ord. No. 2013-2014:007, § 9-5033, 1-9-2014)

### **Sec. 16-25. Corrective procedures.**

- (a) *Violations to be corrected.* When the floodplain administrator finds violations of applicable state and local laws, it shall be the floodplain administrator's duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.
- (b) *Actions in event of failure to take corrective action.* If the owner of a building or property shall fail to take prompt corrective action, the floodplain administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:
  - (1) That the building or property is in violation of the floodplain management regulations;
  - (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 applicable.

- (c) *Order to take corrective action.* If, upon a hearing held pursuant to the notice prescribed in this section, the floodplain administrator shall find that the building or development is in violation of this chapter, the floodplain administrator 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 90 calendar days. Where the floodplain administrator finds that there is imminent danger to life or other property, the floodplain administrator 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. No. 2013-2014:007, § 9-5034, 1-9-2014)

### **Sec. 16-26. Variance procedures.**

- (a) The board of adjustment as established by the town, hereinafter referred to as the "appeal board," shall hear and decide requests for variances from the requirements of this article.
- (b) Any person aggrieved by the decision of the appeal board may appeal such decision to the court, as provided in G.S. ch. 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 dependent facilities if determined to meet the definition as stated in article II of this chapter, provided provisions of subsections (i)(2), (3) and (5) of this section have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety; or
  - (3) Any other type of development provided it meets the requirements of 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 article, 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 a functionally dependent facility, where applicable;
  - (6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

- (7) The compatibility of the proposed use with existing and anticipated development;
  - (8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  - (9) The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - (10) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
  - (11) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems and streets and bridges.
- (e) A written report addressing each of the above factors shall be submitted with the application for a variance.
  - (f) Upon consideration of the factors listed above and the purposes of this article, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this article.
  - (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 BFE increases risks to life and property, and that the issuance of a variance to construct a structure below the BFE will result in increased premium rates for flood insurance up to \$25.00 per \$100.00 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 FEMA and the state upon request.
  - (i) Conditions for variances include the following:
    - (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 nonencroachment 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 or sites, hazardous waste management facilities, salvage yards and chemical storage facilities that are located in special flood hazard areas provided that all of the following conditions are met:
    - (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 town has notified the secretary of the state department of public safety of its intention to grant a variance at least 30 calendar days prior to granting the variance.

(Ord. No. 2013-2014:007, § 9-5035, 1-9-2014)

**Secs. 16-27—16-57. Reserved.**

***ARTICLE III. GENERAL PROVISIONS***

**Sec. 16-58. Lands to which this article applies.**

This article shall apply to all special flood hazard areas within the jurisdiction, including extraterritorial jurisdictions (ETJs), of the town.

(Ord. No. 2013-2014:007, § 9-5021, 1-9-2014)

**Sec. 16-59. 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 and FEMA in its FIS dated October 3, 2006, for the county and associated DFIRM panels (0586J, 0596J, 0597J, 0598J, 1506J), including any digital data developed as part of the flood insurance study, which are adopted by reference and declared a part of this article. Future revisions to the FIS and DFIRM panels that do not change flood hazard data within the jurisdictional authority of the town are also adopted by reference and declared a part of this article, **and all revisions thereto.**

(Ord. No. 2013-2014:007, § 9-5022, 1-9-2014)

**Sec. 16-60. Establishment of floodplain development permit.**

A floodplain development permit shall be required, in conformance with the provisions of this article, prior to the commencement of any development activities within special flood hazard areas determined in accordance with the provisions of section 16-59.

(Ord. No. 2013-2014:007, § 9-5023, 1-9-2014)

**Sec. 16-61. 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 article and other applicable regulations.

(Ord. No. 2013-2014:007, § 9-5024, 1-9-2014)

**Sec. 16-62. Abrogation and greater restrictions.**

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

(Ord. No. 2013-2014:007, § 9-5025, 1-9-2014)

**Sec. 16-63. Interpretation.**

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

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

(Ord. No. 2013-2014:007, § 9-5026, 1-9-2014)

**Sec. 16-64. Warning and disclaimer of liability.**

The degree of flood protection required by this article 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 manmade or natural causes. This article 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 article shall not create liability on the part of the town or by any officer or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made hereunder.

(Ord. No. 2013-2014:007, § 9-5027, 1-9-2014)

**Sec. 16-65. Penalties for violation.**

Violation of the provisions of this article 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 article or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$50.00 or imprisoned for not more than 30 days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the town from taking such other lawful action as is necessary to prevent or remedy any violation.

(Ord. No. 2013-2014:007, § 9-5028, 1-9-2014)

**Secs. 16-66—16-114. Reserved.**

***ARTICLE IV. PROVISIONS FOR FLOOD HAZARD REDUCTION***

**Sec. 16-115. General standards.**

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

- (1) All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse and lateral movement of the structure.
- (2) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (3) All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.
- (4) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding to the regulatory flood protection elevation. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, hot water heaters and electric outlets/switches.

(a) Replacements part of a substantial improvement, electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall also meet the above provisions.

(b) Replacements that are for maintenance and not part of a substantial improvement, may be installed at the original location provided the addition and/or improvements only comply with the standards for new construction consistent with the code and requirements for the original structure.
- (5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.
- (7) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- (8) Any alteration, repair, reconstruction, or improvements to a structure, which is in compliance with the provisions of this article, shall meet the requirements of new construction as contained in this article.
- (9) Nothing in this article shall prevent the repair, reconstruction or replacement of a building or structure existing on the effective date of the ordinance from which this article is derived and located totally or partially within the floodway, nonencroachment area, or stream setback, provided there is no additional encroachment below the regulatory flood protection elevation in the floodway, nonencroachment area, or stream setback, and provided that such repair, reconstruction or replacement meets all of the other requirements of this chapter.
- (10) New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted, except by variance as specified in this chapter. A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a special flood hazard area only if the structure or tank is either elevated or floodproofed to at least the regulatory flood protection elevation and certified in accordance with the provisions of section 16-23(c).
- (11) All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.
- (12) All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
- (13) All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.

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

(Ord. No. 2013-2014:007, § 9-5041, 1-9-2014)

### **Sec. 16-116. Specific standards.**

In all special flood hazard areas where base flood elevation (BFE) data has been provided, as set forth in section 16-59 or 16-117, the following provisions, in addition to the provisions of section 16-115, are required:

- (1) *Residential construction.* New construction and substantial improvement of any residential structure, including manufactured homes, shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in article II of this chapter.
- (2) *Nonresidential construction.* New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in article II of this chapter. 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 section 16-120(2). A registered professional engineer or architect shall certify that the floodproofing standards of this subsection are satisfied. Such certification shall be provided to the floodplain administrator as set forth in section 16-23(c), along with the operational plan and the inspection and maintenance plan.
- (3) *Manufactured homes.*
  - a. New and replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the regulatory flood protection elevation, as defined in article II of this chapter.
  - b. Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse and lateral movement, either by certified engineered foundation system or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes, adopted by the commissioner of insurance pursuant to 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.
  - c. All enclosures or skirting below the lowest floor shall meet the requirements of subsection (4) of this section.
  - d. An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within

floodprone areas. This plan shall be filed with and approved by the floodplain administrator and the local emergency management coordinator.

- (4) *Elevated buildings.* Fully enclosed area of new construction and substantially improved structures, which is below the lowest floor:
- a. Shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas;
  - b. Shall be constructed entirely of flood resistant materials at least to the regulatory flood protection elevation; and
  - c. Shall include, in Zones A, AO, AE, and A1-30, flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria:
    1. A minimum of two flood openings on different sides of each enclosed area subject to flooding;
    2. 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;
    3. If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;
    4. The bottom of all required flood openings shall be no higher than one foot above the adjacent grade;
    5. 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
    6. Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.
- (5) *Additions/improvements.*
- a. Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
    1. Not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more nonconforming than the existing structure.
    2. A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
  - b. Additions to post-FIRM structures that are a substantial improvement with no modifications to the existing structure other than a standard door in the common wall shall require only the addition to comply with the standards for new construction.
  - c. Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

1. Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction.
  2. A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
- d. Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a three-year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started must comply with the standards for new construction. For each building or structure, the three-year period begins on the date of the first improvement or repair of that building or structure subsequent to the effective date of the ordinance from which this article is derived. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The requirement does not, however, include either:
1. Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to ensure safe living conditions.
  2. Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.
- (6) *Recreational vehicles.* Recreational vehicles shall either:
- a. *Temporary placement.*
    1. Be on site for fewer than 180 consecutive days; or
    2. Be fully licensed and ready for highway use. (A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions.)
  - b. *Permanent placement.* Recreational vehicles that do not meet the limitations of temporary placement shall meet all the requirements for new construction.
- (7) *Temporary nonresidential 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 in the event of a hurricane, flash flood or other type of flood warning notification. The following information shall be submitted in writing to the floodplain administrator for review and written approval:
- a. A specified time period for which the temporary use will be permitted. Time specified may not exceed three months, renewable up to one year;
  - b. The name, address, and phone number of the individual responsible for the removal of the temporary structure;
  - c. The time frame prior to the event at which a structure will be removed (i.e., minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);
  - d. A copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and
  - e. Designation, accompanied by documentation, of a location outside the special flood hazard area, to which the temporary structure will be moved.
- (8) *Accessory structures.* When accessory structures (sheds, detached garages, etc.) are to be placed within a special flood hazard area, the following criteria shall be met:

- a. Accessory structures shall not be used for human habitation, including working, sleeping, living, cooking or restroom areas;
- b. Accessory structures shall not be temperature-controlled;
- c. Accessory structures shall be designed to have low flood damage potential;
- d. Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
- e. Accessory structures shall be firmly anchored in accordance with the provisions of section 16-115(1);
- f. All service facilities such as electrical shall be installed in accordance with the provisions of section 16-115(4); and
- g. Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below regulatory flood protection elevation in conformance with the provisions of subsection (4)(c) of this section.

An accessory structure with a footprint less than 150 square feet or that is a minimal investment of \$3,000.00 or less and satisfies the criteria outlined in this section is not required to meet the elevation or floodproofing standards of subsection (2) of this section. Elevation or floodproofing certifications are required for all other accessory structures in accordance with section 16-23(c).

- (9) *Tanks.* When gas and liquid storage tanks are to be placed within a special flood hazard area, the following criteria shall be met:
- a. *Underground tanks.* Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty.
  - b. *Above-ground tanks, elevated.* Above-ground tanks in flood hazard areas shall be attached to and elevated to or above the design flood elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area.
  - c. *Above-ground tanks, not elevated.* Above-ground tanks that do not meet the elevation requirements of subsection (9)b of this section shall be permitted in flood hazard areas provided the tanks are anchored or otherwise designed and constructed to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty and the effects of flood-borne debris.
  - d. *Tank inlets and vents.* Tank inlets, fill openings, outlets and vents shall be:
    - 1. At or above the design flood elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and
    - 2. Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.
- (10) *Other development.* 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 in the event of a hurricane, flash flood or other type of flood warning notification. The

following information shall be submitted in writing to the floodplain administrator for review and written approval:

- a. *Fences in regulated floodways and NEAs.* Fences that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of section 16-119.
- b. *Retaining walls, sidewalks and driveways in regulated floodways and NEAs.* Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of section 16-119.
- c. *Roads and watercourse crossings in regulated floodways and NEAs.* Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of section 16-119.

(Ord. No. 2013-2014:007, § 9-5042, 1-9-2014)

### **Sec. 16-117. Standards for floodplains without established base flood elevations.**

Within the special flood hazard areas designated as approximate Zone A and established in section 16-59, where no base flood elevation (BFE) data has been provided by FEMA, the following provisions, in addition to the provisions of section 16-115 shall apply:

- (1) 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 five times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- (2) The BFE used in determining the regulatory flood protection elevation shall be determined based on the following criteria:
  - a. When base flood elevation (BFE) data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this article and shall be elevated or floodproofed in accordance with standards in sections 16-115 and 16-116.
  - b. When floodway or nonencroachment data is available from a federal, state or other source, all new construction and substantial improvements within floodway and nonencroachment areas shall also comply with the requirements of sections 16-116 and 16-119.
  - c. All subdivision, manufactured home park and other development proposals shall provide base flood elevation (BFE) data if development is greater than five acres or has more than 50 lots/manufactured home sites. Such base flood elevation (BFE) data shall be adopted by reference in accordance with section 16-59 and utilized in implementing this article.
  - d. When base flood elevation (BFE) data is not available from a federal, state or other source as outlined in this section, the reference level shall be elevated or floodproofed (nonresidential) to or above the regulatory flood protection elevation, as defined in article II of this chapter. All other applicable provisions of section 16-116 shall also apply.

(Ord. No. 2013-2014:007, § 9-5044, 1-9-2014)

**Sec. 16-118. Standards for riverine floodplains with base flood elevations but without established floodways or nonencroachment areas.**

Along rivers and streams where base flood elevation (BFE) data is provided by FEMA or is available from another source, but neither floodway nor nonencroachment areas are identified for a special flood hazard area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:

- (1) Standards of sections 16-115 and 16-116; and
- (2) Until a regulatory floodway or nonencroachment 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. No. 2013-2014:007, § 9-5045, 1-9-2014)

**Sec. 16-119. Floodways and nonencroachment areas.**

Areas designated as floodways or nonencroachment areas are located within the special flood hazard areas established in section 16-59. The floodways and nonencroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in sections 16-115 and 16-116, shall apply to all development within such areas:

- (1) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless:
  - a. It is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the floodplain administrator prior to issuance of floodplain development permit; or
  - b. A conditional letter of map revision (CLOMR) has been approved by FEMA. A letter of map revision (LOMR) must also be obtained within six months of completion of the proposed encroachment.
- (2) If subsection (1) of this section is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this article.
- (3) Manufactured homes may be permitted provided the following provisions are met:
  - a. The anchoring and the elevation standards of section 16-116(3); and
  - b. The encroachment standards of subsection (1) of this section.

(Ord. No. 2013-2014:007, § 9-5046, 1-9-2014)

**Sec. 16-120. Standards for areas of shallow flooding (zone AO).**

Located within the special flood hazard areas established in section 16-59, 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 sections 16-115 and 16-116, all new construction and substantial improvements shall meet the following requirements:

- (1) The reference level shall be elevated at least as high as the depth number specified on the flood insurance rate map (FIRM), in feet, plus a freeboard of two feet, above the highest adjacent grade; or at least two feet above the highest adjacent grade if no depth number is specified.
- (2) Nonresidential structures may, in lieu of elevation, be floodproofed to the same level as required in the provisions for flood hazard reduction so that the structure, together with attendant utility and sanitary facilities, below that level shall be watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required in accordance with sections 16-23(c) and 16-116(2).
- (3) Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

(Ord. No. 2013-2014:007, § 9-5047, 1-9-2014)

**Secs. 16-121—16-140. Reserved.**

## ***ARTICLE V. LEGAL STATUS PROVISIONS***

### **Sec. 16-141. Effect on rights and liabilities under the existing flood damage prevention ordinance.**

This article, in part, comes forward by reenactment of some of the provisions of the flood damage prevention ordinance enacted February 6, 1997, as amended, and it is not the intention to repeal but rather to reenact 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 the ordinance from which this article is derived shall not affect any action, suit or proceeding instituted or pending. All provisions of the flood damage prevention ordinance of the town enacted on February 6, 1997, as amended, which are not reenacted herein are repealed.

(Ord. No. 2013-2014:007, § 9-5049, 1-9-2014)

### **Sec. 16-142. 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 authorized agents before the time of passage of the ordinance from which this article is derived; 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 article.

(Ord. No. 2013-2014:007, § 9-5050, 1-9-2014)

# Erwin Board of Commissioners

## REQUEST FOR CONSIDERATION

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To: The Honorable Mayor and Board of Commissioners

From: Snow Bowden, Town Manager

Date: September 22, 2025

Subject: ZT-2025-005

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Our Town Planner Dylan Eure has prepared a proposed zoning map amendment for your consideration. The proposal includes 19 parcels. The parcels are located on 4<sup>th</sup> and 3<sup>rd</sup> Street. The 19 parcels are currently zoned R-10, and the proposed text amendment would change them to R-6. Most of the parcels included in this proposal do not meet the minimum standards for our R-10 Zoning District. The proposed zoning change would create more conforming lots in this area. Most of these parcels were platted before the Town of Erwin was incorporated. This is a proactive measure that our Town Planner Dylan Eure has prepared to prevent any future need for hardship variance requests.

The Planning Board recommended this proposed zoning map amendment for approval. As a reminder we recently approved a rezoning request for the parcel located at 209 4<sup>th</sup> Street from R-10 to R-6. The proposed changes are in line with our 2023 Land Use Plan. Mr. Eure has spoken to all of the property owners and they have no issue with the proposed changes.



# TOWN OF ERWIN

P.O. Box 459 • Erwin, NC 28339  
Ph: 910-897-5140 • Fax: 910-897-5543  
www.erwin-nc.org

**Mayor**  
Randy L. Baker  
**Mayor Pro Tem**  
Ricky W. Blackmon  
**Commissioners**  
Alvester L. McKoy  
Timothy D. Marbell  
Charles L. Byrd  
David L. Nelson  
William R. Turnage

8/18/2025

## ZT-2025-005 Memorandum

### Rezoning Description

The Town of Erwin has initiated a town-sponsored rezoning request to rezone the left side of 3<sup>rd</sup> Street and the Right Side of 4<sup>th</sup> Street from residential R-10 to residential R-6 to make parcels more conforming to current zoning districts and standards. This is due to the current characteristics of many lots along the aforementioned streets matching that of R-6 zoning. The lots on the right side of 3<sup>rd</sup> St. and the entirety of 2<sup>nd</sup> St. have similar dimensions and are already under R-6 zoning. According to map book 3 page 35 at the Harnett County Register of Deeds many of the current lots were created back in 1924 well before Erwin's incorporation which includes the similar sized lots on 2<sup>nd</sup> and right side of 3<sup>rd</sup>. Said rezoning contains 19 properties, totaling approximately 5.7 acres, and are listed below.

1. 104 3RD ST ERWIN, NC 28339 (HC Tax Pin: 1507-13-3097.000)
2. 106 3RD ST ERWIN, NC 28339 (HC Tax Pin: 1507-13-4121.000)
3. 108 3RD ST ERWIN, NC 28339 (HC Tax Pin: 1507-13-4156.000)
4. 110 3RD ST ERWIN, NC 28339 (HC Tax Pin: 1507-13-4280.000)
5. 112 3RD ST ERWIN, NC 28339 (HC Tax Pin: 1507-13-5214.000)
6. 202 3RD ST ERWIN, NC 28339 (HC Tax Pin: 1507-13-5340.000)
7. HC Tax Pin: 1507-13-5387.000
8. 204 3RD ST ERWIN, NC 28339 (HC Tax Pin: 1507-13-6445.000)
9. 206 3RD ST ERWIN, NC 28339 (HC Tax Pin: 1507-13-6570.000)
10. 208 3RD ST ERWIN, NC 28339 (HC Tax Pin: 1507-13-7526.000)
11. 210 3RD ST ERWIN, NC 28339 (HC Tax Pin: 1507-13-7675.000)
12. 301 4TH ST ERWIN, NC 28339 (HC Tax Pin: 1507-13-6752.000)
13. 201 4TH ST ERWIN, NC 28339 (HC Tax Pin: 1507-13-4328.000)
14. 111 4TH ST ERWIN, NC 28339 (HC Tax Pin: 1507-13-3372.000)
15. HC Tax Pin: 1507-13-3236.000
16. HC Tax Pin: 1507-13-3201.000
17. 107 4TH ST ERWIN, NC 28339 (HC Tax Pin: 1507-13-2187.000)
18. 105 4TH ST ERWIN, NC 28339 (HC Tax Pin: 1507-13-2153.000)
19. 103 4TH ST ERWIN, NC 28339 (HC Tax Pin: 1507-13-2100.000)

Regards,

Dylan Eure  
Town Planner





**REZONING MAP REQUEST  
STAFF REPORT**

Case: ZT-2025-005

Dylan Eure, Town Planner

deure@erwin-nc.org

Phone: (910) 591-4201 Fax: (910) 897-5543

Planning Board: 08/18/2025

Town Commissioners: 10/09/2025

The Town of Erwin has initiated a town-sponsored rezoning request to rezone the left side of 3<sup>rd</sup> Street and the Right Side of 4<sup>th</sup> Street from residential R-10 to residential R-6 to make parcels more conforming to current zoning districts and standards. Said rezoning contains 19 properties, totaling approximately 5.7 acres, and are listed below.

103 4<sup>th</sup> St.

- Harnett County Tax Pin: 1507-13-2100.000
- Harnett County Map Book: 2021 pg. 209 (most recent survey)
- .27 acres
- R-10: 100%

105 4<sup>th</sup> St.

- Harnett County Tax Pin: 1507-13-2153.000
- Harnett County Map Book: 2021 pg. 209
- .13 acres
- R-10: 100%

107 4<sup>th</sup> St.

- Harnett County Tax Pin: 1507-13-2187.000
- Harnett County Map Book: 3 pg. 35
- .17 acres
- R-10: 100%

HC Tax Pin: 1507-13-3201.000

- Harnett County Map Book: 3 pg. 35
- .17 acres
- R-10: 100%

HC Tax Pin: 1507-13-3236.000

- Harnett County Map Book: 3 pg. 35
- .16 acres
- R-10: 100%

111 4<sup>th</sup> St.

- Harnett County Tax Pin: 1507-13-3372.000
- Harnett County Map Book: 3 pg. 35
- .35 acres
- R-10: 100%

201 4<sup>th</sup> St.

- Harnett County Tax Pin: 1507-13-4328.000

- Harnett County Map Book: 3 pg. 35
  - .18 acres
  - R-10: 100%
- 301 4<sup>th</sup> St.
- Harnett County Tax Pin: 1507-13-6752.000
  - Harnett County Map Book: 2006 pg. 882
  - .57 acres
  - R-10: 100%
- 210 3<sup>rd</sup> St.
- Harnett County Tax Pin: 1507-13-7675.000
  - Harnett County Map Book: 3 pg.35
  - .34 acres
  - R-10: 100%
- 208 3<sup>rd</sup> St.
- Harnett County Tax Pin: 1507-13-7526.000
  - Harnett County Map Book: 210 pg. 92
  - .34 acres
  - R-10: 100%
- 206 3<sup>rd</sup> St.
- Harnett County Tax Pin: 1507-13-6570.000
  - Harnett County Map Book: 3 pg. 35
  - .26 acres
  - R-10: 100%
- 204 3<sup>rd</sup> St.
- Harnett County Tax Pin: 1507-13-6445.000
  - Harnett County Map Book: 3 pg. 35
  - .17 acres
  - R-10: 100%
- HC Tax Pin: 1507-13-5387.000
- Harnett County Map Book: 3 pg. 35
  - .34 acres
  - R-10: 100%
- 202 3<sup>rd</sup> St.
- Harnett County Tax Pin: 1507-13-5340.000
  - Harnett County Map book: 3 pg. 35
  - .35 acres
  - R-10: 100%
- 112 3<sup>rd</sup> St.
- Harnett County Tax Pin: 1507-13-5214.000
  - Harnett County Map Book: 3 pg. 35
  - .16 acres
  - R-10: 100%
- 110 3<sup>rd</sup> St.
- Harnett County Tax Pin: 1507-13-4280.000

- Harnett County Map Book: 3 pg. 35
- .17 acres
- R-10: 100%

108 3<sup>rd</sup> St.

- Harnett County Tax Pin: 1507-13-4156.000
- Harnett County Map Book: 3 pg. 35
- .18 acres
- R-10: 100%

106 3<sup>rd</sup> St.

- Harnett County Tax Pin: 1507-13-4121.000
- Harnett County Map Book: 3 pg 35
- .17 acres
- R-10: 100%

104 3<sup>rd</sup> St.

- Harnett County Tax Pin: 1507-13-3097.000
- Harnett County Map Book: 3 pg.35
- .26 acres
- R-10 100%

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**Applicant Information:**

Name: Town of Erwin  
Address: 100 W F St.  
City/State/Zip: Erwin, NC 28339

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**Property Description:**

- See above property description.

**Type of Decision:**

- Legislative

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**Vicinity Map**

- See Attached Harnett County GIS Image with zoning districts
- See Attached Harnett County GIS Image without zoning districts

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**Physical Characteristics**

### Site Description:

The proposed rezoning contains 19 properties. Currently, 16 of the 19 properties have primary structures already placed on the said properties, with the majority of them being built prior to Erwin’s incorporation. That said, 10 out of the 19 parcels do not have sufficient width and square footage to conform to the current zoning classification of R-10. This means if an existing home on a non-conforming lot was destroyed or if a vacant non-conforming lot wished to be developed, they would have to seek a hardship variance to rebuild/develop the property, therefore delaying the approval process and potentially denying the rebuild or development. By rezoning the said properties to be R-6, this would ensure all property owners have sufficient land to either conform to R-6 square footage and width requirements, or said property would fall under Erwin’s “Substandard of Lot” ordinance. In terms of utilities available to the properties, both Harnett Regional water and sewer lines are available to all the properties, with all of the developed lots already connected to the service. As far as environmental concerns on the property, there are no flood zones or wetlands on the property.

### Surrounding Land Uses:

The surrounding land uses are comprised of primarily single-family residences. That said, there are some differing land uses, such as a mobile home park on E H St and the Redemption Hill Church property under R-10 zoning. As well as all of the single-family homes to the direct west of 4<sup>th</sup> St. At the beginning of 4<sup>th</sup> St., there is B-2 zoning with businesses such as McLamb Upholstery and the Open Door Church of Christ. At the beginning of 3<sup>rd</sup> St, there are additional B-2 properties such as Shear EFX Salon and Teienda Hispana. To the north of the properties, there are additional B-2 zoning that contains businesses such as Miller’s and Bradham Chiropractic. The closest R-6 zoning is on the right side of 3<sup>rd</sup> St, approximately 50ft away. This said, all of the lots within 1<sup>st</sup>, 2<sup>nd</sup> and right side of 3<sup>rd</sup> are already zoned as R-6, and said lots were created at the same time as the lots on the left side of 3<sup>rd</sup> St. and right side of 4<sup>th</sup> St. They also have similar dimensions as the previously stated properties. According to the Erwin 2023 Land Use Plan, the proposed parcel is identified to be medium-density residential, which can be interpreted as R-6.

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### Services Available

- Harnett Regional Water & Sewer
  - Erwin Fire & Rescue
  - Erwin Police
  - Duke Energy for electric
  - Brightspeed for telecommunications
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### Staff Evaluation

Yes  No The IMPACT to the adjacent property owners and the surrounding community is reasonable, and the benefits of the rezoning outweigh any potential inconvenience or harm to the community

- **Reasoning:** The rezoning is compatible with the surrounding community and would not cause any inconvenience to those within the area, as all of the lots on 1<sup>st</sup>, 2<sup>nd</sup>, and right side of 3<sup>rd</sup> are already zoned under residential R-6 and were created at the same time as the lots on the right side of 4<sup>th</sup> and left side of 3<sup>rd</sup>.

Yes  No The requested zoning district is COMPATIBLE with the existing Land Use Classification.

- **Reasoning:** According to Erwin’s current Land Use Plan, done in 2023, the properties are assigned to be zoned as medium-density, which includes small residential lots such as R-6.

Yes  No The proposal does ENHANCE or maintain the public health, safety, and general welfare.

- **Reasoning:** This rezoning would ensure that the current and future property owners of said properties have the ability to redevelop/develop without having to obtain a hardship variance.

Yes  No The request is for a SMALL SCALE REZONING and should be evaluated for reasonableness.

- **Reasoning:** This rezoning contains 19 properties totaling approximately 5.7 acres, all of which are contiguous and are a part of the same area.

<p>There is a convincing demonstration that all uses permitted under the proposed district classification would be in the general public interest and not merely in the interest of an individual or small group. <b>YES</b></p>	<p>The only difference in permitted uses between R-6 and R-10 is that R-6 allows for manufactured class A homes while R-10 allows for public facilities.</p>
<p>There is a convincing demonstration that all uses permitted under the proposed district classification would be appropriate in the area included in the proposed change. (When a new district designation is assigned, any use permitted in the district is allowable, so long as it meets district requirements, and not merely uses which applicants state they intend to make of the property involved.) <b>YES</b></p>	<p>All uses currently permitted in the R-10 zoning district are allowable in the R-6 district besides public facilities and the only permitted use added would be manufactured class A.</p>
<p>There is a convincing demonstration that the character of the neighborhood will not be materially and adversely affected by any use permitted in the proposed change. <b>YES</b></p>	<p>Many lots in the area match R-6 dimensional requirements.</p>
<p>The proposed change is in accord with the Land Development Plan and sound planning principles. <b>YES</b></p>	<p>The Erwin 2023 Land Use Plan has this parcel of land to be zoned under a medium-density classification such as R-6.</p>

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**Statement of Consistency**

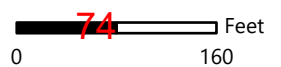
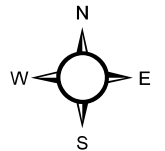
The requested rezoning from R-10 to the R-6 classification is compatible with all of the Town of Erwin’s regulatory documents. According to Erwin’s 2023 Land Use Plan and layout of the surrounding area the R-6 zoning classification would best serve the described properties. Therefore, it is recommended that **ZT-2025-004 is approved.**

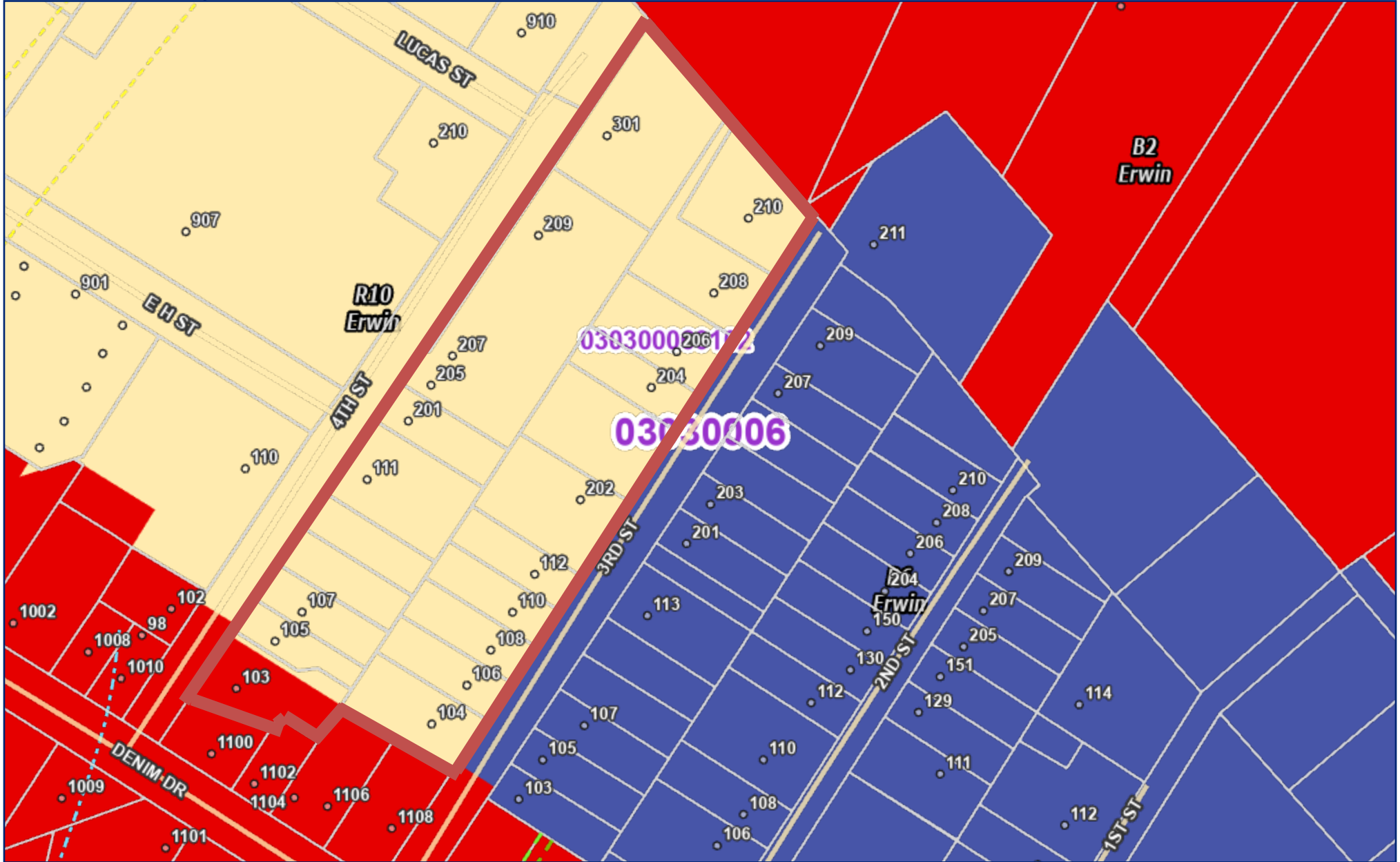


-  County Boundary
-  City Limits
-  Address Numbers
-  Road Centerlines

-  Ingress\_Egress
-  Electric
-  Parcels
-  Watershed HUC12

-  Watershed HUC8
-  Unamed Flowline





County Boundary	Ingress_Egress	Watershed HUC8	R6
City Limits	Electric	Unnamed Flowline	B2
Address Numbers	Parcels	B2	R10
Road Centerlines	Watershed HUC12	B2	ETJ

